

Paper 11

Media Bias and Censorship in Conflict Reporting in Sri Lanka

by Mr. Dharmaretnam Sivaram (Taraki)

The bases for repressing the media and restricting the freedom of expression in Sri Lanka are ensconced in the country's constitution itself. The Public Security Ordinance and the Sixth Amendment to the Sri Lankan Constitution have proved to be very effective instruments for throttling the independent media in the island. Needless to say the same constitutional instruments have been liberally applied and extensively abused to oppress the Tamil population in the northern and eastern parts of the island and also to trample on the rights of Sinhala civilians during the leftist insurrections in 1971 and 1988. Let me first set out briefly the effects of these two constitutional tools.

1. The sixth amendment to the Sri Lanka's constitution inserted as Article 157A hangs like the sword of Damocles over Tamil journalists. The threat of civic disability, the forfeiture of property etc., for 16 years since the introduction of sixth amendment in 1983 has created a generation of Tamil journalists for who, over the years, have taken it for granted that the freedom of expression is a concept that does not apply to them. The owners of mainstream Tamil media have contributed in no small measure to

this state of affairs.

2. The Public Security Ordinance (PSO) operates in numerous ways to strangle the free press and suppress the freedom of expression. One of the better known facts about Sri Lanka is that it has been ruled under Emergency for a cumulative total of over 20 years since it gained independence from the British.

Censorship has been imposed many times and in many forms in Sri Lanka under the emergency regulations. It has been exercised both selectively and comprehensively. Under what I have termed comprehensive censorship, it was possible in theory for the government censor to delete anything from a paper and to totally ban publications and seal printing presses. The *Saturday Review*, the English paper published in Jaffna and the *Aththa*, the Communist Sinhala language daily were banned in the early eighties under the PSO. When the *Aththa* was banned its press was also sealed. In the seventies the government sealed the printing press of the Independent Newspapers Ltd. (Davasa Group) using the emergency regulations.

The selective imposition of the censorship under the Emergency Regulations (ER): All mate-

rial relating to a subject specified in a gazetted presidential proclamation has to be submitted for perusal and censoring by a 'competent authority.' Normally the so-called 'competent authority' (a preposterous euphemism) is a politically favored civil servant. The PA regime made history by appointing a military officer as the government censor last year. Between 1977 and 1989 the UNP regime imposed selective censorship on subjects such as the proceedings of the all party conference in 1984, protests against the establishment of an Israeli interest section in Colombo, "the actions of or actions relating to students of Universities." It is in principle possible under the ER to subject any topic deemed an anathema by a Sri Lankan regime to censorship by a competent authority. The ER provides the legal foundation for the arbitrariness that has invariably characterized censorship in Sri Lanka. The committee appointed by the PA to 'Advise on the Reform of Laws Affecting Media Freedom and Freedom of Expression' comprising eminent lawyers and legal experts, including R. K. W. Goonesekere (chairman), Dr. Shirani Bandaranayake (supreme court judge), Dr. Rohan Edirisinha, Suriya Wickeremasinghe and Dr. Jayampathi Wickramaratne, says in its report "The exercise of his discretion by the competent authority has often been erratic and illogical." The report further observes that "At other times, all editorial comment has been required to be submitted to the competent authority before publication. Material censored under such provisions has included comment on the high cost of living, on the dismissal of an employee of a state corporation allegedly for an article he wrote for his trade union journal, on the marketing problems of passion fruit growers, criticism of a minister's statement in Parliament about a public corporation and reference to an alleged assault

on two civilians in the north."

Setting out the terms of reference of the 'Committee to Advise on the Reform of Laws Affecting Media Freedom and Freedom of Expression,' in the letter of its appointment dated 5 January, 1995, the PA government's Minister of Media, Tourism and Aviation directed the committee to:

- study all existing legislation and regulations affecting media freedom, freedom of expression and the public's right to information, with a view to identifying the areas which need to be rescinded, amended or reformed in order to ensure media freedom, freedom of expression and the public's right to information;
- make recommendations as to the amendments and/or repeal of existing legislation as well as new legislation required to strengthen media freedom in general and to ensure the freedom of expression and the public's right to information.

The preamble to the letter appointing the committee referred to the PA's statement on media policy as accepted by the cabinet in which it was said, among other things, "Media freedom is one of the key issues which dominated the general election campaign, particularly among the youth, and the hope that there would be greater media freedom under a PA administration led to the strengthening of the pro-democracy vote in the general election. The PA in its election manifesto has promised media freedom, as an integral component of the policy towards renewal of democracy in Sri Lanka. Media democracy can be best ensured by:

1. freeing the existing media from government political control,

2. creating new institutions, aimed at guaranteeing media freedom as well as raising the quality and standards of free media both print and electronic,
3. promoting a new democratic media culture, through new practices. Such was the sublime vein in which the PA instructed the committee to study the legal and other restrictions on the media and the freedom of expression in Sri Lanka at the time.

The committee put out its report on May 27, 1996 (it was published by the government printer). In its recommendations it states, among other things, "Past and present practices with regard to the application of censorship has (sic) often been arbitrary and erratic, and in violation of the public's right to know. They have also been in violation of international standards of freedom and expression. Several examples have been given in our report. The committee is perturbed at the fact that censorship is imposed by emergency measures without public announcement or explanation. The committee therefore recommends that all emergency regulations which restrict freedom of expression, assembly or association be published immediately in the Sinhala, Tamil and English press. They should be tabled in parliament and lapse if not specifically approved by resolution within two weeks."

No sooner had it mandated the committee to examine restrictions on media freedom and freedom of expression and recommend changes, the PA, in an act that can only be described as unabashed hypocrisy, introduced a total prohibition on the publication of material relating to the official conduct of the armed forces or the police.

And then the ink was hardly dry on the committee's report when the PA clamped down censorship on reporting the activities of the military in the north and east and appointed a 'competent authority' to 'ax' news copies and articles sent in by news papers and other publications. The incomparably ludicrous manner in which the 'competent authority' has used his power to chop and mangle reports has been exposed in the Sri Lankan press time and again. Here I have to note that the general sense of fear which the ER inspire innately is such that papers often send to the competent authority news copies and articles that do not touch on matters specified in the Emergency Regulation relating to the censorship of reporting on military matters. Under the ER relating to reporting on military affairs introduced by the PA regime in 1996, only write ups containing references and details of a planned military operation or purchase of weaponry had to be sent to the competent authority for censoring. But out of fear or a sense of loyalty to the army's cause, there was a patent tendency in some newspapers to send all copies that even slightly smacked of the military situation in the north and east, including what the Tigers were doing or were saying, copies that said absolutely nothing about procurements or operations intended by the army. This flows from a very fundamental tendency among some Sinhala journalists to tacitly, and sometimes openly, accept the operations of the Public Security Ordinance and the sixth amendment.

Herein lies a pointer to understanding the silences in sections of the Sri Lankan free media and those organizations that were established to protect it at times when Tamil journalists fell victim to the ER. Mr. B. Sivakumar, the editor of *Sarinihar*, the respected Tamil paper published by the Movement for Inter Racial Jus-

tice and Equality, says "The organizations in Colombo that are supposed to protect the rights of journalists do not come out in protest when Tamil media people are arrested or harassed. Or they put out carefully worded statements reluctantly. These are the very organizations that agitate against the state very vociferously when non-Tamil journalists are arrested or intimidated. This is due to a feeling among them that all Tamils may somehow be linked to the LTTE."

The gist of what the editor of *Sarinihar* says constitutes a fundamental contradiction which in my view, perpetuates, and perhaps multiplies, the general condition for oppressing the free media in Sri Lanka.

The media has played an integral role in precipitating the ethnic polarization in Sri Lanka. Historians of the ethnic conflict in the island have well documented the manner in which the independent and state run media have done their part to fan the passions and suspicions which have led to several bloody pogroms against the Tamil people. The assumption and portrayal of the Tamils by sections of the mainstream Sinhala media as suspects, aliens and hostile interlopers in a Sinhala Buddhist nation has also been well researched and reported by scholars such as Serena Tennakone. This assumption appears to be so entrenched that we often find that many Sinhala journalists writing in their own language or in English tacitly or as a matter of principle accepting or even supporting those features of the Sri Lankan constitution which lie at the root of the system for oppressing the freedom of expression.

One instance would suffice to illustrate my point. All members of the committee appointed by the PA to 'Advise on the Reform of Laws Affecting Media Freedom and Freedom of Expression'

held the view that the Sixth Amendment to the Sri Lankan constitution "prohibits even the peaceful advocacy of separatism, and furthermore provides the most draconian penalties. It is a limitation on the freedom of expression." The committee with one dissent recommended that the Sixth Amendment should be repealed. It also urged that no prohibition of the peaceful advocacy of separatism should be included in the new constitutional provisions proposed by the PA government. The committee member who opposed this was Mr. Victor Gunawardena, a veteran English language journalist in Sri Lanka who is currently the course director for journalism at the Sri Lanka Foundation Institute.

Mr. A. Sivaneshelvan one of Sri Lanka's senior Tamil news paper editors and the only active Tamil member of the Editor's Guild of Sri Lanka described the condition of journalism in the island aptly "The media in Sri Lanka is ethnically segmented because of the discrimination against the minorities."

Problems faced by Tamil journalists in media unions such as the Working Journalists's Association led to an attempt in the early nineties to the formation *Thesiya Thamizh Pathirihalar Sangam* (National Tamil Journalists' Association). Proceedings in the media unions are generally in Sinhala which is inevitable given the preponderance of Sinhala language journalists in them. Younger generation Tamil journalists from the north and east have little or no knowledge of the Sinhala language. It was also felt that these unions scarcely took note of the problems faced by Tamil journalists. Senior Tamil journalists such as long time editor R. Sivagurunathan who were active in Sri Lankan media unions in the early eighties had to leave due to rising Sinhala chauvinism in the ranks.

The reaction of the non-Tamil media to the

arrests of *Virakesari's* Vavuniya correspondent and senior Tamil journalist P. Manickavasagam, subeditor Sri Gajan and others and the inaction or reluctance of media unions on their issue was the last straw for many Tamil journalists as it were. This is what led to the formation of the Sri Lanka Tamil Media Alliance on May 10 in Colombo. Does this mean that the blame for the problems faced by Sri Lankan Tamil journalists be placed squarely at the door step of Sinhala nationalism? No. As I said at the outset it has become an ingrained habit among Tamil journalists to take for granted the potential and traditional inclination of the Sri Lankan security forces and Police to oppress. This naturally gave rise to fear and self-censorship. Senior Tamil journalists in Colombo who had grown over-cautious and sometimes despicably timid due to working for more than two decades under the constant threat of the Emergency Regulations, PTA, censorship, indiscriminate arrest and detention, were, and are, quick to quench the desire among younger Tamil journalists to speak out fearlessly.

The owners of 'national' Tamil papers have done more than their part to stifle the voice of independent journalism in their establishments. I shall here quote Mr. P. Manickavasagam who works for the BBC, Reuters, the Tamil dailies *Virakesari* and *Thinakkural* to illustrate my point. "Tamil regional correspondents in Sri Lanka are far worse off than ordinary laborers. Newspaper companies do not even give regional correspondents the respect due to a coolie. They have good respect and respect in society as journalists. The salary given to a regional correspondent is less than that of a manual wage laborer. The *Virakesari* and *Thinakkural* pay less than three US Dollars for an article. Payment for news is still on the basis of column centimeters.

The news paper companies do not give us ac-

creditation cards which are a must in the war zones. We are employed as temporary workers. We are totally responsible for any adverse consequences of news stories we file. The newspaper company takes the credit for the good that may come from the stories we send. But when we are threatened or arrested they rush to say that they have nothing to do with us. They abandon us to our fate inhumanly. This is due to the fact that these companies are run by *mudalalis* (owners) who have absolutely no knowledge of journalism and who have scant respect for journalists."

The despicably shameful manner in which the *Virakesari* management completely shirked its responsibility when Mr. Manickawasagam and Mr. Sri Gajan were arrested and detained by the Terrorism Investigation Unit of the Sri Lankan Police is a case in point.

This state of affairs in the Tamil media has created a situation where journalists are not aware of their fundamental rights or that they should and can take action either individually or collectively against the arbitrary violation of these rights as very basic means of ensuring their security and carrying out their duties as professionals. The manner in which Tamil journalists submit to army restrictions on travel to certain areas in the north and east, including the home villages of some of these, is a consequence of this. The army has banned journalists from entering areas held in the Vanni region in the northern province and in the Mutur area in the eastern province of the island. Journalists who want to visit other areas here have to obtain special permission from the Ministry of Defense. Permitting local Tamil journalists to enter areas controlled by the Liberation Tigers in the Batticaloa district is solely at the discretion of the army. (Foreign reporters have to obtain clearance from the Ministry of Defense in Colombo.) The freedom of move-

ment within Sri Lanka is a fundamental right of a Sri Lankan citizen entrenched in country's constitution as set out in Article 14.1 (h). Tamil journalists are scarcely aware of this. This right, like many others, is but a travesty of justice and equality. It's been a long time since they had stopped taking note of such rights promised to Sri Lankan citizens. Such is the nature of the ethnic polarization in Sri Lanka.

About the author: Mr. Dharmaretnam Sivaram is a columnist of the Sri lankan newspapers, *Sunday Times* and *Midweek Mirror*. He has been writing extensively on the political and military situation in Sri lanka. His reporting of the war situation has won the admiration of readers both within and outside Sri lanka.