

# Under Fire

Press Freedom in South Asia 2008-2009



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See Annex: Incidents of Press Freedom Violations by Country, May 2008 – April 2009 at <http://asiapacific.ifj.org> for a listing of specific cases of violations of press freedom.

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## UNDER FIRE: PRESS FREEDOM IN SOUTH ASIA 2008-2009

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Cover photo: Journalists in Peshawar, Pakistan, led by the Khyber Union of Journalists, demand authorities take action on the murder of Musa Khankel, a correspondent for *The News* and GEO TV, whose bullet-riddled body was found in war-torn Swat on February 17. Photo: Courtesy of Khuram Pervez, of *The News*.

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## FOREWORD

Journalism in South Asia continued to be trapped in the crossfire of political instability, insurgency and internal conflict through the year under review. Indeed, the situation in some of the countries in the region could be described as an outright war – though undeclared – against journalism. The 2007-08 review left some room for optimism that the challenge of press freedom was being met in South Asia, despite the harsh realities on the ground. The sharp deterioration witnessed this year makes a compelling case for the media community and civil society to stand together, to reaffirm the fundamentals of the right to free speech and the public right to information.

The International Federation of Journalists' seventh annual assessment of press freedom in South Asia, prepared with the South Asia Media Solidarity Network (SAMSAN), finds that extremely serious attacks on journalists, their organisations and media institutions increased across the region. The negative trend mirrors the intensification of internal and cross-border conflicts in the region, and brings to the fore the difficult political transitions underway in some of these countries.

The report highlights a volatile mix of anti-media attitudes held not only by state authorities and the non-state actors who contest their legitimacy by force of arms, but also by ordinary citizens frightened by insecurity and sceptical about the promise of positive change. Although not systematically documented, it is evident that some people feel let down or marginalised by transitional processes because they are not seeing a rapid return for their investment in democratic change and the attendant rights to freedom of expression, freedom of the press and freedom of association. Journalists and the media are regarded as culpable for the wide range of views they present in their reporting,

with which some individuals or social groups may disagree.

These anti-media trends underscore the essential need for journalists and their unions and professional associations to stand together in a strong regional alliance that is committed to defending and upholding press freedom in a way that ensures that ordinary people recognise and feel the benefits of these hard-won freedoms.

While the situation varies from country to country, the assessments in this report – based on information provided by IFJ partners and SAMSAN members in Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka – make it clear that the most challenging issues for journalists and media workers in the region are violence directed by state and non-state actors engaged in war, and bureaucratic and legislative efforts by power-holders seeking to silence dissenters and to ward off rivals.

State-directed efforts to thwart press freedom are most clear-cut in **Sri Lanka**, where journalists and the media suffered systematic repression, intimidation by government members and security personnel, and the application of draconian counter-terror laws. The sadly predicted murder in January of prominent editor Lasantha Wickramatunge was followed by the departure of up to 30 journalists and activists seeking safe refuge abroad. Intimidation tactics also targeted the leadership of journalists' unions and associations. While it cannot be said, for lack of investigations and prosecutions, that physical assaults and kidnappings of media personnel have been state-directed, there is no doubt of the Government's desire to shut down expert commentary about the war effort. Unfortunately, this effort is succeeding, as the war in the north rages without any independent media scrutiny.

Last year, there was qualified optimism about the



The IFJ organised several safety training programs for journalists and media workers in Pakistan and Nepal through 2008, in partnership with local organisations. Radio journalist Tara Tamang (left) leads a session in Birtamod, Nepal, in May while journalists and camera operators from Baluchistan (right) learn to assist wounded colleagues at a workshop in Karachi in October. Photos: Courtesy of Banaras Khan and IFJ Asia-Pacific

move to democratic rule in Nepal and Pakistan. In **Nepal**, however, the year witnessed a particularly brutal murder of a young woman journalist, Uma Singh. The Maoist-led Government has not yet proved able to shift the thinking of its cadres towards peaceful means of resolving rivalries and conflict. Likewise, elements in the wider population are disaffected by certain aspects of the transition process and the failure of the political system to deliver on what they see as non-negotiable and immediate demands. The media, being an easy target, often find themselves facing the brunt of this new public mood. The Maoist leadership, not to mention the other major parties that are in government and in opposition, must undertake an awareness-raising program among cadres and the wider society, including in regard to the role of an independent and critical media in a democratic order.

With all its troubling features, the picture in Nepal is still more positive than in **Pakistan**, where the media community justly feels besieged. As the democratic government seeks, unsteadily, to grapple with the entrenched power of security forces and a growing challenge from fundamentalist militant groups, media personnel are caught in the middle. The increasing intensity of Pakistan's complex conflicts and rivalries has made it ever more dangerous for journalists and media outlets to report on events and issues of national and international significance. The stakes are especially high for media personnel trying to report from the conflict zones in Pakistan's border regions and across into Afghanistan. With few journalists now able to live and work in Afghanistan's southern war zone, most reporting along the border areas is being done from the Pakistan side. But in Pakistan, too, many journalists have been forced to flee with their families from tribal districts such as Bajaur, Swat and South Waziristan. Those who remain or dare to venture into these areas run the risk of targeted attacks and crossfire injuries.

In **Afghanistan**, where conflict with al-Qaeda-aligned Taliban forces in the south is becoming more entrenched, the Government is under enormous pressure from multiple political factions and religious hardliners vying to shape the future of the national polity. As the country prepares for presidential and parliamentary elections in 2009-10, the Government appears unable to find a way out of the morass, and instead bows to these pressures to achieve short-term respite - at the expense of progress on media freedoms and the personal well-being of individual journalists. Efforts to implement a media law are stalled, and journalists and writers are imprisoned to appease clerical

councils deeply resistant to the free exchange of ideas and information that are integral to democracy.

While journalists and media outlets in **India** have enjoyed relative safety and freedom in comparison with regional neighbours, there were repeated alarms over the year gone by, with a surge in murders of media personnel in insurgency-hit states of the North-East. Journalists in Jammu and Kashmir and the North-Eastern states also faced other threats. At the same time, there were questions raised about the weakening ethical standards of the Indian media in the context of its massive quantitative growth, as sensationalist and saturation coverage of incidents such as the Mumbai siege fuelled public anxiety about the manner in which the media exercises the freedoms it enjoys. This provided the context in which the debate on the limits of media self-regulation gained further traction. As elsewhere in the region, the global recession is hitting home, and the already tenuous job security and poor working conditions of journalists and media workers will likely worsen as the industry expansion of recent years is reversed.

Meanwhile, in **Bangladesh**, restrictions on the media continued through the year but were eased somewhat as the country moved from an emergency administration into elections late in 2008. While journalists and media workers continue to ward off legal actions intended to block free and critical reporting, the introduction of a new community radio policy and a draft law on the right to information are positive signs for a more free media environment in the year ahead.

In **Bhutan**, it remains difficult to access information despite the transition away from absolute monarchy. Even so, a slow shift to openness is evident as the media expands, though there are job losses and continuing restrictions on information. Bhutan's press freedom challenges are to enshrine the right to information and to provide an open and secure environment in which independent media can operate.

Overall, the negative picture of South Asia's media environment outlined in this report only drums home the need for independent journalists, their unions and professional associations, as well as media businesses and power-holders, to work together to defend freedom of the press, of expression and of association. The benefits of solidarity will accrue not just to one's own country but across the entire region. This requires concerted action, to which SAMSUN and the IFJ are committed, to develop skills and promote links among South Asia's media community.

Jacqueline Park  
IFJ Asia-Pacific Director

## OVERVIEW

### Media Under Fire As Crises Take Hold

The headwinds from the global financial meltdown have been gusting about the South Asian region. It is generally agreed that the most serious consequences have not yet been felt. For all countries in this region – home to a fifth of the world's population – the inclemency of the global economic environment is an unwelcome complication, introducing a further twist in the delicate economic and political transitions that they are undergoing.

As in previous years, security remains the single most important challenge facing media personnel in South Asia. The situation, if anything, has deteriorated rather sadly and dramatically since last year's edition of the *South Asia Press Freedom Report* was published. With all the mobilisations over the year by journalists' unions and associations on the core issue of safety, attacks and intimidation have been common. With the exception of Bangladesh, where emergency rules for much of the year ironically made it impossible for the media to take even its normal level of risks, all other countries in South Asia produced unremitting catalogues of violence against journalists.

In India, the largest country in the region and the pivot of the regional economy, the main worry today is the economic slowdown, which is taking a heavy toll on media fortunes. As part of their derived and second-order impacts, India's economic travails could begin to

tell upon Nepal and Bhutan, two landlocked Himalayan nations dependent for most essential supplies and business investment on their giant neighbour. Sri Lanka, which is the only country in the region that has what could be described as a "normal" relationship with India – complete with a free trade agreement – has had massive inflation and other economic woes. And its relationship with India in both the political and economic realms could be scarred by the virulent course that its civil war against Tamil separatists has taken in recent months, as it approaches what seems to be a final phase. The hazards could be multiplied if the consummation of the war effort is not followed by a successful pursuit of the peace.

Pakistan and Bangladesh have already begun feeling the heat from the global downturn, with exports slipping and remittances from workers abroad falling. Both these sectors have played a key role in ensuring relative economic buoyancy over recent years. Their adverse fortunes now could foretell a broader series of challenges for these two economies, with implications for their media industries.

**Afghanistan** continued to be a focus of international interest, though the past year has brought about an explicit recognition that the border it shares with Pakistan bristles with the potential for a cataclysm that could engulf both countries. Within Afghanistan, the media sector continues to expand and diversify, though long-term questions about sustainability and credibility remain. Presidential and parliamentary elections due before early 2010 will likely be fiercely contested. There is a strong possi-



Journalists clash with police as a protest by the Federation of Nepali Journalists against attacks on the media heats up in December 2008. Photo: Courtesy of Bikash Karki and *Republika*.



Journalists in Manipur, in India's North-East, demand justice and a full police investigation into the murder of their young colleague, Rishikanta on November 17 2008. Photo: Courtesy of Sobhapati Samom

bility of an escalation in the insurgency in parts of the country and a ramping-up of United States-led combat operations. With all sides in the conflict being in default on honouring agreed rules of engagement as far as media access and safety are concerned, much work remains to be done to ensure an environment that is at least halfway conducive to the pursuit of critical and public-spirited journalism in the electoral environment.

With the mass media law, for all the public debate and excitement that has surrounded it, remaining in a limbo between the competing interests of Afghanistan's presidency and its numerous political power groups, clear rules for eligibility and entry are yet to be laid down. In this policy vacuum, the media has become a battleground for political factions and will likely be used in the elections for partisan ends. The overt politicisation of the media is a matter of worry for Afghanistan's small but energetic group of media professionals.

Ambiguities with Afghanistan's constitutional guarantees of the right to free speech remain to be dispelled. A provision that allows for the application of customary law, where the constitution is silent, has in particular been used with chilling effect on the free speech right. Two convictions for disrespect to the majority faith in Afghanistan were upheld during the year, both perhaps pointing to infirmities in the judicial enforcement of fundamental rights and to a persistent

popular sentiments to the attention of those holding the reins of governance. But critical reporting was always frowned upon and frequently punished. The caretaker administration was, from the first days of the emergency, committed to the restoration of democracy, but sought actively to mould the shape of the democratic order that would emerge. This was reflected in the guidance often issued to the media on the quantum and character of coverage that would be appropriate for certain individuals and political parties.

In part because the media was kept on a tight leash, instances of overt violence against journalists perhaps declined in Bangladesh. But legal proceedings continued to be initiated against media organisations and journalists on the basis of complaints by those with contingent grievances. The large-scale arrests of top executives and editors of media houses, which had seriously destabilised the functioning of several of these, began to be reversed after the restoration of civilian rule. Several journalists continue to face the threat of prosecution as a direct legacy of cases registered during the emergency. How these are dealt with will prove a key test of the newly installed government's commitment to free speech rights.

**Bhutan** formally stepped into a democratic order under a constitutional monarchy in March 2008. With a written constitution being adopted, there are expect-

problem with the process of the law, particularly when it comes to an individual's rights to a fair trial.

Three journalists have been murdered in Afghanistan over the course of the year and several have been victimised for their critical reporting by both government and non-government actors. Newspapers have been shut down and journalists sacked for breaching what are deemed the limits of free speech.

**Bangladesh** emerged from a two-year state of national "emergency" and returned to civilian rule during the period under review. Through the entire period when normal political processes were suspended, there were frequent verbal concessions to the importance of a free media in bringing

tations that the right to free speech and the right to information will be widened and that the media will begin growing and functioning as a source of relevant information for larger sections of Bhutan's population. Media outlets have grown over the year under review, but numerous controls on access and content remain in place. A media regulator formed under newly enacted laws has made its presence felt, but without managing yet to establish a consensus among all stakeholders on norms that should guide media functioning. Though the right to information has been much debated within civil society in Bhutan, it remains to be enacted into law.

In **India**, the past year has been one of increasing violence against journalists, particularly in the conflict-prone areas of Jammu and Kashmir and the North-East. A new spirit of intolerance of public criticism was evident among certain office-holders and political formations, manifest in overt violence and legal actions against the media. The vigorous growth that has been seen in the media over the past decade or so has shown signs of moderation, as advertising spending declines in response to economic realities. Job losses in journalism and other sectors of the media have accelerated. The statutory wage negotiation process remains in a state of official neglect.

The year also posed significant ethical challenges for India's media, connected in particular to the issues of crime and terrorism. The merits of a statutorily enforced system of regulation – as against a voluntary code – were publicly debated in various forums. The broadcast sector came up with a voluntary program code but as yet seems unable to build a consensus within its own constituents over its main features or the mode of its enforcement.

Three years into its democratic transition, **Nepal** continues to function under an interim constitution that enshrines guarantees on the right to free speech. Yet media rights remain weakly institutionalised and in a period of flux, government authorities have not hesitated to take a stridently adversarial posture toward the assertion of these rights. The relative calm of the first years of the transition has given way,

since the elections of April 2008, to a spirit of contention. Media rights have been one of the casualties, with attacks on the media increasing in various forms.

The legacy of Nepal's decade-long insurgency lingers in the form of numerous vigilante groups, remnants of the armed groups that until recently contested fiercely for space. The demobilisation process has made only fitful progress and these groups still retain the ability to function as parallel systems of coercive power. The media is often the target and critical reporting often invites a harsh vendetta.

Nepal is a country of micro-communities and many languages. In the new democratic dispensation, each of these groups has been vying to establish its specific set of entitlements. The consequences are most apparent in the southern plains, where serious discord has broken out over issues of indigenous peoples' rights against those of the settlers from the hills. With public attitudes changing slowly and the interim government yet to assume the post-partisan attitude that alone can ensure credible leadership in the cause of the free speech right, Nepal's media community and its journalists' unions have stepped up vigorously to the challenge.

The intensifying insurgency in parts of **Pakistan** and the unsettled security situation cast a long shadow over the media in the year under review. Early hopes that the restoration of an elected govern-



Sri Lankans hold a vigil in memory of Lasantha Wickrematunge just days after his murder in January 2009. Photo: Courtesy of Robert Shaw



In Peshawar, Pakistan, journalists and media workers protest the mass sackings of media personnel across the country. Photo: Courtesy of Zafar Goyria, of the *Daily Times*

ment would lead to a significant improvement in official attitudes toward the media have been belied. And as open strife broke out between Pakistan's two main parties in the course of the year, concerns grew that the media could suffer serious damage. The long-running dispute over judicial appointments has also impinged on the autonomy of the media to report events in the country in an independent and open manner.

Pakistan's civilian government, in office now for more than a year, began with a progressive legislative agenda, repealing the many curbs on the media by Pervez Musharraf's "emergency" regime in November 2007. But it then seemed to backtrack, introducing sweeping amendments to the press registration law in January 2009 that set the clock back to an ill-remembered military regime. Though withdrawn within days of being notified, the proposed law damaged the trust that had emerged between the political parties and the Pakistan media during the struggle for the restoration of democracy.

With cuts in advertising spending seemingly inevitable as a result of wider economic difficulties, several media organisations, particularly the more recently established television channels, sharply reduced expenditures and cut staff. Though data on job losses are sporadic, the Pakistan Federal Union of Journalists estimates that at least 250 media jobs have been lost in the past year. The year 2009 has been grim so far, with the tempo of job losses picking

up pace. Pakistan's journalists, already embattled by the growing sway of militants, especially in the northern tribal regions, are among the professional communities at most serious risk in South Asia, perhaps next only to counterparts in Sri Lanka.

A quarter century of armed conflict in **Sri Lanka** has taken a heavy toll of freedom of expression, especially in terms of the functioning of the media and the security of journalists and other media staff. In tandem with a deteriorating political climate, attacks and threats against journalists and media institutions have increased sharply. The year 2009 opened on an ominous note with the daylight murder of *Sunday*

*Leader* editor Lasantha Wickramatunge in a busy suburb of Colombo and the kidnap-style arrest of *Sudar Oli* editor N. Vidyatharan, who continues to be detained, ostensibly on "terrorism" charges. Another Tamil journalist, J.S. Tissainayagam, completed a year in detention in March 2009. He was formally charged under the country's draconian Prevention of Terrorism Act in August 2008 and hearings have since proceeded fitfully.

Apart from these specific cases, a signal has been sent from the highest political level that verbal abuse of media workers and physical intimidation and attacks are fair tactics. Since Wickramatunge's murder in January, scores of Sri Lanka's most well-known journalists have left the country to seek safe haven abroad. Just when it is most in need of all available talent to ensure that the public is informed and engaged with the momentous political changes that are imminent, Sri Lanka's media is being depleted of valuable human capital. The problems are especially acute in the country's north, where fighting in recent times has been relentless.

As with other countries in the region, the Sri Lankan media community, represented by the five main journalists' organisations, has shown admirable fortitude in facing these adversities. Their struggles have become emblematic of the range of strategies available for South Asia's journalists as they seek to cope with national situations that are steadily becoming more complex and dangerous.

## AFGHANISTAN

### Growth Under Hostile and Adverse Conditions

Independent media has expanded and diversified in Afghanistan, although the country remains a precarious and hazardous place for journalists and media organisations. The months ahead will be a testing time for the country's newly established media organisations. Aside from the presidential and parliamentary elections that are likely to be fiercely contested, there is a strong possibility of an escalation in the insurgency in parts of the country and a ramping up of United States-led combat operations. Threats to the media come from all sides, since there has been a general failure to honour agreed rules of engagement as far as media access and safety are concerned.

Since World Press Freedom Day in 2008, three journalists have been killed in Afghanistan. Several have reported being threatened and harassed. Two received harsh penalties after being convicted on charges of causing religious offence. And in a rela-

tively new development, several have been threatened with dire consequences by official security agencies, for criticising foreign powers.

Afghanistan's mass media law, introduced in Parliament in 2003 and vigorously debated since then, continues to be trapped in a limbo, with the competing interests of the President and numerous political factions preventing a quick resolution. Meanwhile, with no clear parameters laid down to judge eligibility for entering the media industry, many political factions – some of them associated with armed groups – have become major media players. This overt politicisation of the media could become an explosive issue as elections approach.

With levels of poverty still high and mass consumption depressed, the kind of growth in advertising spending that could underpin an independent media, is yet to materialise. This raises serious questions about the long-term viability of the Afghan media. Current advertising spending in the Afghan economy is estimated at about 1250 million Afghanis (or USD 25 million). This figure however, includes the vast amounts spent by the International Security Assis-



Young photojournalist Jawed Ahmed Yazmi, known as Jojo, was shot dead on March 10, less than six months after his release from military custody at the United States Bagram airbase in Afghanistan. Photo: Hamed Zalmy, AFP



Abdul Samad Rohani, found dead in the southern province of Helmand in June, believed to have been murdered for his stories on drug smuggling. Photo: Courtesy of AIJA

ance Forces (ISAF) in their so-called “psychological operations” or “psy-ops” campaigns, and in overt propaganda. This calls into question the Afghan media’s long-term financial viability.

Aside from the broader economic worries, safety issues for the media remain a serious concern. Journalist Abdul Samad Rohani was found dead near the city of Lashkar Gah in the southern province of Helmand on June 8, 2008. He had gone missing the day before while travelling in his car to Lashkar Gah on assignment. His body bore three bullet wounds as well as marks of torture. Since 2006, Rohani had been working for the Pashtu language service of the BBC, besides being a facilitator for the English language service. Government officials put the blame for his killing on the Taliban, but a spokesman for the Taliban in Helmand province denied involvement.

A cross-section of opinion within Afghanistan believes that Rohani’s murder was engineered as an act of vendetta by the flourishing drug-smuggling networks in the country’s south.

On March 10, 2009, Jawed Ahmad Yazmi, also known as Jojo, was shot dead by unknown gunmen who pulled up in a vehicle alongside his car as he was driving in the southern city of Kandahar. Jawed was well known internationally after being taken into custody by western coalition forces on September 2, 2007, in Kandahar, on allegations of “improper” contact with Taliban forces. He was then working with Canadian TV (CTV). He was kept in military detention

at the Bagram airbase near Kabul until August 2008 and then released unconditionally. The US military had at various points denied that Jawed’s arrest had anything to do with his journalistic work. However, Jawed’s family believed that US agencies had taken him into custody because he had, in a journalistic sense, been maintaining contacts with the Taliban and was carrying a Taliban-related video recording at the moment of his arrest.

Following his release from the Bagram prison, Jawed had resumed his work and was on assignment in Kandahar for Canadian media when he was killed.

The day after Jawed’s murder, Munir Ahmad Amil, a journalist in the news division of Emroze TV, was shot dead at an army checkpoint in Kabul.

### Democratic debate stifled

Worryingly, there has also been an increasing trend of official and governmental authorities, not to mention the various armed groups that continue to have immense influence in the national houses of parliament, threatening and harassing media workers. The threats are clearly intended to silence debate about the new Afghanistan, and to stifle the development of an independent and critical media through which such debate could be conducted.

Religious hardliners continue to apply pressure on the Government of President Hamid Karzai to impose or support harsh measures against individuals and institutions who do not bow to fundamentalist ideas about the current and future direction of Afghan society. This is despite the clear guarantee in Afghanistan’s Constitution of the right of citizens to freedom of expression. The most prominent example is of Sayed Parvez Kambakhsh, a young journalist with the *Jahan-e-Naw* weekly and a student at Balkh University, Mazar-e-Sharif, who was sentenced to death after a four-minute closed-door hearing in January 2008, on charges of blasphemy.

A Kabul court began hearing Kambakhsh’s appeal in May 2008, but adjourned successively, only deciding the case on October 21, when it confirmed the conviction but commuted his sentence to 20 years’ imprisonment. A further appeal in Afghanistan’s

## JUSTICE DENIED

Harsh penalties imposed on Sayed Parvez Kambakhsh and Ahmad Ghous Zelmay in Afghanistan in the past year contravene constitutional rights to freedom of expression.

Journalist and student Sayed Parvez Kambakhsh was originally sentenced to death on accusations of insulting Islam. In 2008, his sentence was commuted to 20 years’ jail, similar to a sentence imposed on independent publisher Ahmad Ghous Zelmay.

In October 2008, following an international outcry against Kambakhsh’s death sentence, a Kabul appeals court upheld his conviction but commuted the sentence to a jail term.

Kambakhsh was detained in October 2007 in the northern city of Mazar-e-Sharif, where he was a student of journalism and a reporter for the *Jahan-e-Naw* weekly. He was accused of insulting Islam by downloading material from the internet about women’s rights under Islam, and sharing the material among students. He was 23 when he was detained.

In January 2008, a closed hearing of the primary court in Balkh province, of which Mazar-e-Sharif is the capital, sentenced Kambakhsh to death. He was denied legal representation in a trial that reportedly lasted four minutes.

Calls by international and local media and human rights organisations, including the Afghan Independent Journalists’ Association (AIJA) and the Committee for the Protection of Afghan Journalists (CPAJ), for clemency and for the case to be quashed were ignored by the Government of President Hamid Karzai.

Supreme Court fared no better. Kambakhsh’s lawyer, Mohamad Afzal Nuristani, who went to the Supreme Court registrar on March 8, 2009 to deliver some material related to the case, was only then informed that the decision on the case had been rendered a month before. Neither the journalist nor his lawyer was informed of a decision in February 2009 to confirm the appeal court’s sentence of 20 years.

In a similar case, Ahmad Ghous Zelmay, an independent publisher and former spokesman for Afghanistan’s Attorney-General – arrested by Afghan National Police on November 4, 2007 – was sentenced in September 2008 to 20 years in prison. He was charged with publishing an inauthentic translation of



Sayed Parvez Kambakhsh addresses the Kabul Appeals Court at the only open hearing of his trial in June 2008. Photo: Courtesy of AIJA

There are similarities in the case of Zelmay, a former spokesman for the Attorney-General, who was arrested by police in the Torkhum area near the border with Pakistan in November 2007. Zelmay is accused of publishing a Dari translation of the Qur’an which was not accompanied by Arabic script.

In September 2008, Zelmay was sentenced by a primary court in Kabul to 20 years’ jail. His colleague, Mullah Qari Mushtaq, received the same sentence.

Before the sentencing, AIJA and CPAJ had reported that Zelmay was held in confined quarters, without regular access to daylight, and was suffering acute depression.

Article 34 of Afghanistan’s Constitution states, “Freedom of expression shall be inviolable.”

The harsh sentences against Kambakhsh and Zelmay highlight a serious malfunction in the Afghan justice system’s application of constitutionally guaranteed rights to freedom of expression, as well as to justice, a fair trial and a fair appeal process.

the Islamic scripture into Dari, one of Afghanistan’s two official languages. The accusation arose, in part because the translation was not accompanied by the original Arabic text. A collaborator of Zelmay’s, Qari Mushtaq, who certified the Dari translation before publication, was given an identical sentence. The Afghanistan Independent Journalists’ Association (AIJA) and the Committee to Protect Afghan Journalists (CPAJ) report that Zelmay is being detained in a very narrowly confined space and has been suffering acute depression. His conviction is believed to have more to do with the politics of Afghanistan, which pitted the office of the Attorney-General against the Presidency for a while, compelling the resignation of the country’s top law officer.



Rahimullah Samander, president of the Afghanistan Independent Journalists' Association, speaks to the media at a demonstration against the murder of Jawed Ahmad. Photo: Courtesy of AIJA

The sentencing of both Kambakhsh and Zelmay points to a serious malfunction in the application of an individual's rights to a fair trial and an appeals process under Afghanistan's justice system.

In February 2009, *Payman*, a popular daily newspaper published from Kabul, suffered the mass arrest of its editorial staff after it published what was admittedly a poorly written and researched article about a medieval oracle's false prophecies about the major world religions. The daily was prompt to apologise and to offer the plea that the article was published only on account of a technical malfunction in its storage and retrieval system for editorial matter. The paper's staff were set free after a few days but continued to face constant harassment and threats by security officials. Soon afterwards, the management shut down the newspaper.

The Government in Afghanistan has also frequently displayed an intolerance of criticism, setting it on a collision course with the functioning of a free media. In July 2008, the Afghanistan National Security Directorate (ANSD) phoned in to Ariana TV's broadcast station while a program was on the air in which news anchor Mohammed Nasir Fayaz was hosting a critical commentary on the performance of President Karzai's administration. The program was discontinued and Fayaz was arrested shortly afterwards and held for a day. He was released following a recommendation by the Attorney-General, who also referred his case for prosecution on the grounds that his criticism of the President was devoid of a factual basis.

Fayzi Zadran, a news presenter with the state-controlled Radio Television Afghanistan (RTA), was reportedly pressured to quit his job after participating in a studio discussion over a private channel in May 2008, in which he was sharply critical of the functioning of the state broadcaster and questioned the Government's commitment to free speech.

### Legal ambiguities

These cases illustrate several of the ambiguities shrouding the right to free speech in the new Afghanistan. In the Kambakhsh case, the Primary Court relied on Article 130 of the Constitution of Afghanistan in arriving at its ruling. This allows judicial

discretion where Islamic law can be deemed to apply in areas where the Constitution is silent. However, Article 34 also defends the right to freedom of expression, in line with the Universal Declaration of Human Rights: "Freedom of expression shall be inviolable. Every Afghan shall have the right to express thoughts through speech, writing, illustrations as well as other means in accordance with provisions of this Constitution."

The community of Afghan journalists has been working hard through campaign efforts to dispel these ambiguities. Although they have gained an international audience and considerable global sympathy, they are yet to obtain a fair hearing in their own country.

A media law was issued by presidential decree in 2005 and subsequently worked on by local organisations of journalists and civil society groups, before being put in circulation in early 2007 for public discussion. It was taken up by the lower house of Afghanistan's Parliament, the Wolesi Jirga, in May 2007. To the consternation of most media freedom advocates, the Wolesi Jirga sought to reverse many of the ironclad guarantees of a free press that the draft law embodied. It sought to bring the state-owned RTA under greater government control and exert a high degree of scrutiny over content even in privately owned media.

It also provided for several prohibitions on content that left considerable leeway for arbitrary interpretation, such as:

- Content that goes against the principles of Islam;
- Material humiliating and offensive to real or legal entities;
- Material inconsistent with Afghanistan's Constitution;
- Anything that is considered a crime by the penal code;
- Publicising and promotion of religions other than Islam;
- Broadcasting images of victims of violence and rape in a way that causes damage to their social dignity;
- Topics that harm the physical, spiritual and moral well-being of people, especially children and adolescents.

Apart from all these prohibitions on media content, the law also contained several prescriptions on mandatory content.

Following intense lobbying and public awareness campaigns by press freedom bodies, the draft was modified in certain important respects. For instance, RTA was put under the direct control not of the government, but of an independent commission that would be nominated with equal representation from professional organisations, government agencies and civil society.

When the law as passed by the Wolesi Jirga went before Parliament's upper house, or the Meshrano Jirga, there was widespread apprehension of a further erosion of its press freedom clauses. However, with energetic campaign and advocacy work by professional bodies, the law that went to President Karzai for his assent retained several of the positive features of the earlier draft.

Political compulsions intervened at this stage. On December 26, 2007, President Karzai declined to endorse the media law that had been arrived at after much deliberation and public debate. The presidential office put out an explanation which indicated that Article 13 of the law was the specific reason for its displeasure. This clause, which conceived of the transformation of the state-controlled RTA into a public service broadcaster, was seen to contradict the Government's supposed prerogative to use RTA as "a vehicle for implementing (its) cultural programs ... across the country, under the structure of the Ministry of Information and Broadcasting".

In September 2008, the two parliamentary houses voted by a two-thirds margin to override the presidential veto and enact the media law. In accordance with legislative procedure, the bill was sent to the Minister for Parliamentary Affairs, to be notified formally as law. Months later, media freedom groups are still unsure of

the status of the law. Few are prepared to believe that the law would be officially notified before the cycle of elections in Afghanistan begins in August 2009.

In this regulatory vacuum various political interest groups, members of parliament and leaders of non-state militias have begun their own media operations. Reality is diverging ever more sharply from the scenarios envisaged in the media law. Without a major act of statesmanship by President Karzai and other key players in Afghan politics, it seems likely that a media controlled increasingly by big business and political interest groups could defeat the much-cherished objective of media freedom.

### Politics to the fore

Many of the new broadcast stations have been known to follow an overt political agenda. Two channels, Emroze and Tamadun, recently engaged in a fierce round of mutual recrimination, mirroring a political dispute between their respective owners, both Members of Parliament. Similarly, when political acrimony erupted over the movement of the nomadic Kuchi tribes into areas where the Shia Hazara ethnic group has been a dominant majority, Farda TV station – a channel owned by Hazara leader and Member of Parliament Haji Mohammad Mohaqiq – forcibly took up the issue. The channel provided saturation coverage of the Hazara protests against the nomadic tribes, with Mohaqiq often leading the demonstrations. A private Pashtu language channel, Shamshad, meanwhile, took up the cause of the Kuchi tribes.

Independent media, in the strict sense, have very slender chances of survival because of the lack of advertising support. Provincial Reconstruction Teams (PRTs) that are promoted by western coalition forces, have set up several radio stations across the country. These are sustained entirely through the PRT budgets. Journalists are paid through military budgets and the messages conveyed through these stations tend to be tailored to the dictates of the western coalition. This is known to have seriously undermined the credibility of the stations and to have endangered the physical security of journalists associated with them.

Neighbouring states, notably Iran, are also known to have funnelled volumes of funds into the Afghan media. In an alarming development as recently as March 2009, three journalists were either arrested or picked up for interrogation by the ANSD, allegedly for broadcasting or publishing material critical of Iran. The chief editor of Emroze TV, Fahim Kohdamani, was arrested on March 23 following allegations that the station broadcast anti-Islamic sentiments offensive to some Shia clerics.

## BANGLADESH

### Newly Elected Government Promises Hope

Over nearly two years of an “emergency regime” which was a thinly disguised facade for a state of military rule, the media in Bangladesh occupied a curious and ambivalent position. On the one side, critical reporting was frowned upon and frequently met with overt threats, active harassment and persecution by the security agencies. On the other side, the caretaker government that was administering the country through the period of the emergency was aware that with all democratic processes suspended, it had few ways of gauging public moods and attitudes, except by allowing the media a degree of freedom.

Both the chief of staff of the Bangladesh Army and the chief adviser to the President – who functioned with the powers of a Prime Minister – were prone to affirm at every opportunity that, while Parliament remained under suspension, they would regard the media as an effective parliament. However, their first actions under the emergency regime included setting up a special cell to deal with the media, which became a means of establishing control. Unwritten advisories were issued to the media on the permissible limits of critical commentary in newspapers. As for broadcast media, the strategy was not so subtle, with specific written orders being issued at frequent intervals on the topics that could be covered in live talk-shows and the people who could be invited.

With the partial relaxation of the state of emergency in November 2008, Bangladesh went into full election mode. Media freedoms were beginning to be restored by then, in part because one source of contention – the voter rolls – had been dealt with. The new electronic voter rolls that were the basis for the polls have been described as the single-most important achievement of the emergency administration.

The country’s main political parties – the Awami League and the Bangladesh National Party (BNP) – remained the main contenders, despite the prolonged incarceration of their leaderships. The caretaker government had made little secret of its intent to ensure that the elections would be fought on a “minus two” basis, that is, without the leaders of the two parties being in the fray. The manoeuvre failed, in part because it never had the popular legitimacy that would come from media endorsement.

Once the caretaker government reconciled itself to this reality, it adopted a “plus two, minus several”

The same day, Ajmal Alamzai, a news anchor and reporter for Ariana TV, was arrested and questioned about the content of one of his programs. He was set free after several hours.

On March 28, Syed Dawood Yaqubi, a well-known satirist who edits the *Aaine-e-Roz* weekly, was taken from his home in Kabul by the ANSD. He was questioned closely for several hours about an article published a few days before in his paper, which raised serious doubts about the Iranian Government’s commitment to free speech rights.

The new media law as passed in September 2008 makes it mandatory for all media organisations to reveal their funding sources. This is a touchy issue for the Afghan media, which depends to varying degrees upon donor finance for survival. There have been notable success stories such as the Pajhwork News Agency, which now meets close to 60 percent of operating costs through current revenue. But the vast majority of media organisations continue to depend on donor finance and western coalition advertising for survival.

This raises several questions about the sustainability of the Afghan media, which has expanded rapidly in recent years. Apart from the consequences of a drying up of military advertising, it is also the case that the media organisations that benefit from donor support are often not the best – only those that are best able to write the funding proposals that will attract interest. This sets up a growing divergence between competence and professionalism on one side and financial sustainability on the other, with grave long-term implications for the free media in Afghanistan.

While the new media continues to cope with numerous tensions and policy ambiguities, the insurgent groups that operate under the broad rubric of the term “Taliban” have reportedly been making rapid strides in their use of media for political propaganda. A July 2008 report by the International Crisis Group, a reputed think tank, spoke of the “sophisticated communications apparatus” that the Taliban had put together to project “an increasingly confident movement”. Taliban were using the “full range of media” to tap successfully into “strains of Afghan nationalism”. Policy failures by the Karzai administration and frequent errors in coalition military tactics and strategy – typically involving heavy loss of civilian life – were being ruthlessly exploited for political advantage.

It is a grim reminder that if they do not get their media strategy right, the new rulers of Afghanistan may find themselves outflanked by the insurgents in the not too distant future.



The mutiny of border guards in Bangladesh and army crackdown that followed in February 2009 highlighted the risks for local media reporting on violent events. Photo: Zia Islam, AP

strategy. It allowed the top leaders of both parties to contest, but barred as many from the second-rung leadership as possible. Following the initiation of the electoral process, the caretaker government reportedly applied great pressure on the media to ensure the popular endorsement of this strategy.

As the emergency administration drew to a close, the media was allegedly given lists of candidates that were “preferred” by the caretaker government, and pressured to see that those actively disfavoured were given little coverage.

Elections were successfully conducted at the end of 2008, after intense last-phase negotiations between the military brass and the leadership of the main parties. The Awami League won a decisive victory, but the BNP has not shown much inclination to adapt to its assigned role as an opposition party. This has raised concerns that the media could once again relapse into its bitter partisanship, which more than any other factor has contributed to Bangladesh’s failure to evolve an agreed charter on media rights.

The new elected administration of the Awami League under Sheikh Hasina Wajed has got off to a rocky start. Late-February 2009, a mutiny broke out in

the Dhaka headquarters of the Bangladesh Rifles, a paramilitary force led by professional army officers and normally assigned to guarding the bristling border with India. The rebellion spread rapidly to eight other locations. Several top commanders of the force, on secondment from the army, were killed in what appeared to be premeditated and brutal fashion. Shaken badly, the Sheikh Hasina Government managed to bring the situation under control after days of turmoil. But apprehensions remain that the mutiny was part of a wider plot to destabilise the incipient democratic dispensation and bring in another phase of authoritarian rule.

In the aftermath, the Government clamped down on the YouTube video-sharing website and several blog-sites, which had posted visuals and other material connected to the mutiny. All users of the internet in Bangladesh were denied access to these sites, though the effort was not entirely successful. The sites remained available outside Bangladesh and the internet allowed sufficient avenues for the determined many to access the information.

The mainstream media in Bangladesh though, escaped serious impediments during and after the



Newspaper sellers tout their wares as Bangladesh shifts from an emergency regime to an elected government at the end of 2008. Photo: Courtesy of Grzegorz Komar

mutiny. This was partly because – when the scale of the atrocities committed by the mutineers became clear – everyone fell in line and fully backed the newly installed government’s effort to bring the perpetrators to justice.

**Emergency rule’s limits on the media**

On December 5, 2008, when residual emergency regulations were on the verge of being dismantled, *New Age*, one of Bangladesh’s leading English-language newspapers, commented editorially that the “interference and intimidation faced by the news media in general and harassment faced by newsmen in particular” had been “significantly higher” under the emergency administration than “anything experienced in the previous 15 years”.

The human rights organisation, Odhikar, in its report published in January 2009, noted that “overt and covert restrictions” continued to be imposed on the press and the electronic media all through 2008. Ironically, due to these various restraints, the true extent of the repression of the media could not be accurately determined.

A legislative development that had a chilling effect on all exercises of the right of free speech was the promulgation of an Anti-Terrorism Ordinance by the caretaker government in June 2008. With a definition of terrorism that was very broad, the ordinance criminalised all acts of omission and commission that could be construed as a threat to the unity, integrity, security or sovereignty of Bangladesh. The ordinance vested

the Government with the power to summarily ban any organisation that was purportedly involved in terrorism. It made a criminal offence out of any statement made in support of such organisations, without the need to establish that such statements could be read as incitement to criminal or terrorist action.

**Two significant ordinances**

Yet, despite the adverse overall environment, the emergency administration did come up with at least two significant ordinances that were conspicuously media-friendly. A community radio policy was announced in March 2008 and applications invited from eligible entities for starting broadcast operations. Then a draft law

on the right to information (RTI) was introduced early in 2008, publicly discussed (even if rather cursorily), and formally notified as law in October.

Although far from perfect in terms of eligibility criteria and the positive and negative stipulations on the range of broadcast content, Bangladesh’s community radio policy is regarded as a good start in making media accessible to wider sections of the country. But by November 2008, with the partial relaxation of the state of emergency, Bangladesh went into election mode and the licensing of community radio stations was temporarily placed on hold.

The community radio licensing process has not been completed yet. More than 200 applications have been submitted. Of these, 116 reportedly have been scrutinised by the technical committee of the Ministry of Information and sent on to the Ministry of Home Affairs for security clearance. Initial indications are that between 10 and 15 licences will be granted in the first round. The Awami League had made a campaign issue out of liberalising the rules for community radio licensing. But with the troubles afflicting the early days of the new Government, there is a likelihood that licensing will be delayed indefinitely.

The RTI ordinance will have to be ratified by the new parliament to become law. There is a likelihood that, given the political turbulence following the Bangladesh Rifles mutiny, these legislative priorities may get pushed into relative obscurity.

In relation to the RTI ordinance, the dominant opinion among media freedom groups and other civil

rights defenders in Bangladesh has been that the ordinance promulgated by the caretaker government needs to be improved considerably. In the course of the public debate over the draft law, journalists’ organisations submitted several suggestions which were almost completely ignored. Some human rights organisations described the ordinance as a “black law”.

Journalists’ organisations were principally concerned about the cost imposed by the RTI law on those seeking information, and the procedures involved in filing applications for information. For someone not familiar with the systems of information gathering and classification within the institutions of governance, achieving a successful application would be virtually impossible. And since each request required the payment of a fee, the seeker of information could conceivably be drained and exhausted by the process. The issue was considered to be of special concern for journalists.

Odhikar says the number of grounds on which information can be denied is too expansive. These include national security, the integrity and sovereignty of Bangladesh, and friendly relations with foreign states. Although these are standard exemptions under most national systems of law in the South Asian region for the public exercise of the right to free speech, and the correlative right to know, Odhikar argued that the law in Bangladesh is undefined and potentially leaves excessive scope for arbitrary denials of information.

Another significant basis for uneasiness among human rights organisations is the number of state and security agencies that have been exempted from application of the RTI law. Most of these agencies have had serious allegations of human rights violations levelled against them, particularly over the period of emergency rule.

**Journalists on trial**

Journalists who investigated and sought to report on these allegations have been especially vulnerable over the past two years. Of particular concern is the case of Jahangir Alam Akash, a print and television journalist who carried out some impressive reporting on extra-judicial killings by a unit of Bangladesh’s elite



Nurul Kabir, the editor of the Dhaka-based *New Age*, continues to contend with threats for his reporting on Bangladesh’s emergency regime. Photo: Courtesy of DRIKNews

anti-terrorism squad, the Rapid Action Battalion (RAB). Arrested in October 2007 on extortion charges, Akash suffered torture in jail before being released after four weeks. His trial has since dragged on. Amid numerous legal complexities, he has also been indicted in another case filed by a politically connected individual with grievances against his reporting.

Although free on bail, Akash has sought police protection against the frequent threats he has faced from two of the complainants against him. He has also had reason to believe that the trial court has not been sufficiently attentive to legitimate requests from his side on the schedule of hearings, particularly when circumstances have compelled his defence counsel to stay away from court. Akash has also noted that public prosecutors have often prompted witnesses.

On March 5, a car belonging to Nurul Kabir, editor of the Dhaka-based English daily *New Age*, was chased as it was being driven to his home. Kabir was not in the vehicle at the time and the driver disregarded demands by his motorcycle-borne pursuers to pull up. According to the driver, three men wearing thick jackets and crash-helmets were on each of the two motorcycles involved in the chase. Kabir has said that his consistent opposition to the emergency regime that seized power in January 2007 may have provoked vengeful instincts among certain circles. He also is on record saying that his disinclination to blame the BDR mutiny entirely on the subaltern ranks of the force may have excited some resentment.

Atiqullah Khan Masud, editor of the Bengali daily *Janakantha*, was released on January 20, 2009, after 22 months in prison, on bail granted by the Supreme Court of Bangladesh. Taken into custody in March 2007 by Bangladesh special forces and charged with corruption under the emergency regulations then in force, he was convicted in six separate cases to a total of 48 years' imprisonment, by special courts set up under the emergency regulations.

In September 2008, editors of some of Bangladesh's most prominent newspapers joined a call for Masud's release. They urged the caretaker government to take into account the irregularities in his arrest and the tenuous nature of the charges against him. Masud's health, they said, had deteriorated seriously. And his prolonged imprisonment was further depleting the delicate finances of his newspaper group.

Masud was among at least 11 editors, directors and senior executive officers of media houses detained during the emergency, on charges of corruption in

their business activities. Most of these media operations fell into serious financial turbulence on account of the imprisonment of their senior editors and executives. This pointed to the weakly institutionalised nature of the Bangladesh media and its existence as part of a larger business agglomeration. In most cases, the corruption allegations did not directly touch upon the media operations, but on other business activities of the editors and executives, strongly suggesting the need for a legally mandated separation, or a voluntary "arm's length" relationship, between media and other business interests.

Following Masud's release, the newly installed Government held out assurances that freedom of the press would be a high priority and that it would pay close attention to issues concerning safety and security for media personnel. The Government has also committed itself to reviewing the cases against all the editors and media executives imprisoned under the emergency administration.

## BHUTAN

### Political Transparency and the Democratic Transition

With nation-wide elections on March 24, 2008, Bhutan formally stepped into democracy, ending its centuries-old absolute monarchy. There were expectations that with a written constitution being adopted, the right to free speech and the right to information would be widened and that the media would begin growing and functioning as a source of relevant information for larger sections of Bhutan's estimated 680,000 population.

For reasons to do with terrain and the state of basic services, radio is the most accessible media for most of Bhutan's population. A media impact study by the Center for Media and Democracy (CMD) revealed that radio still is the primary source of information for all Bhutanese though the print media has a degree of influence over decision-making at the governmental level.

Private radio stations have emerged in recent years, but are not, under the national broadcasting law, allowed to air news and current affairs

programs. The government-owned Bhutan Broadcasting Service (BBS) preserves its monopoly over news broadcasts.

Of the respondents to the media impact study published in January 2009, 49.4 percent reported BBS radio as a source of information and 37.6 percent mentioned BBS TV. *Kuensel*, Bhutan's first newspaper, begun in 1960 as a government-owned enterprise, which in 2006 floated a minority public issue of shares, was reported as a source of information for 27.5 percent of respondents. (All figures were gathered on a non-exclusive basis, and the totals add up to well over 100 percent for this reason.)

Private radio stations are almost exclusively a source of entertainment. With local stations being established, the audience for foreign broadcasters fell from 33.7 to 9 percent between 2003 and 2008. BBS TV, launched in 1999, has also overtaken international channels, increasing its audience from 30 to 54 percent in this period of time.

Newspapers have the most modest reach among all major media. Among newspaper readers, 34.6 percent read *Kuensel*, 21.7 percent read the *Bhutan Times* and 20.9 percent read the *Bhutan Observer*. The broadcast sector uses mostly the Dzongkha language, while English is preferred in the newspapers.



Members of the Bhutanese refugee community and the Bhutan Press Union, an association of about 35 journalists living in exile in refugee camps in Nepal, welcome the IFJ to Goldhab camp in Jhapa district in May 2008. The journalists publish newspapers in Nepali and English, although distribution is restricted. Photo: IFJ Asia-Pacific

Although Bhutan's Constitution guarantees the right to free speech and expression, there have been a few events over the year that have shown that the new Government is yet to accept the practices and norms of an independent and critical media. In one instance in December, the government imposed a fine of BTN (Bhutanese Ngultrum) 18,000 (about USD 370) on the state-owned BBS Corporation for televising a discussion where one participant criticised certain government authorities and officials.

#### Complaints process

The Bhutan InfoComm and Media Authority (BICMA), which is the regulatory authority for all media, stated in its ruling that the panel discussion on the quality of a pre-paid taxi service, was contrary to the media code of conduct, partly since there was no official representative to speak on behalf of the Government. The panel discussion did not meet the criteria of "fairness, decency and balance" as required under the Code of Ethics of Journalists. The BBS management clarified however that a representative of the Road Safety and Transport Authority was given ample opportunity to state the official viewpoint. He left shortly afterwards of

his own volition and was not present at the time the criticisms against his agency were aired, for no fault of the broadcaster.

Following a critical write-up by *Kuensel* about the fine levied on the BBS, government authorities also interrogated the staff of the newspaper.

A bus driver and his assistant filed a case against the *Bhutan Observer* weekly on January 21, alleging that a false report published in the paper resulted in the loss of their jobs. The case was filed at the Thimphu district court and is still pending. They said they were sacked from their jobs on January 17 following a report which said the bus carried passengers beyond the permitted number and that the crew overcharged and abused passengers.

BICMA formed a tribunal to look into complaints, both by the media and about it, in February. The formal notification states that the BICMA Appellate Tribunal, in accordance with section 198 of the Bhutan Information, Communication and Media Act, 2006, will be presided over by a retired or sitting high court judge. It would have two other members, who would be well versed in the field of information technology, law or administration.

The Tribunal has so far received only one complaint, filed by a Paro-based cable operator - Sigma - against BICMA, for imposing a fine of BTN 9000 for allegedly providing eight channels beyond the permitted number to viewers. Along with Sigma, BICMA had also fined another Paro-based operator, TD Meto, a sum of BTN 3000. Meto paid up, while Sigma refused.

During a press meeting in July 2008 to mark 100 days in office of the Government, Prime Minister Jigme Y. Thinley criticised the media for being over-critical and not ascertaining the facts that would enable them to interpret government actions in the proper context.

The CMD has been active in bridge-building between the new Government and the media. At a seminar organised by the CMD in March 2009, the Secretary of the Ministry of Information and Communication, Kinley Dorji, who until the previous month was the editor of *Kuensel*, said policies would be formulated to strengthen the media in three areas: quality, infrastructure and independence of content. He promised government support to the media in "capacity enhancement" of journalists and urged media personnel to be mindful of their "social responsibility".

### Expansion and losses

FM broadcasting will expand in the months ahead, with one of Bhutan's oldest educational institutions, Sherubtse College, announcing in March that it will soon have its own FM radio. The college would be the first among Bhutanese educational institutions to host FM broadcasting and the operation would be the first radio station in eastern Bhutan. Programs will be managed and produced by the students themselves.

Job losses have affected the Bhutanese print media, with the country's first private newspaper, *Bhutan Times*, laying off 15 of 80 employees in a bid to deal with adverse market conditions. The media house also shut down its book publishing unit during the year.

After almost five years of government restrictions, allowing the broadcast of a maximum of 33 television channels within Bhutan, BICMA approved over the past year of the airing of additional music and sports channels by Thimphu's cable operators. The ban decreed on certain channels, allegedly showing excessive violence and explicit content, was lifted, though several others continue to be proscribed.

On the day of Hinduism's major festival, Deepavali, Bhutan got its first daily newspaper, *Bhutan Today*. Buddhist monks were invited to pray for its success at the formal launch ceremony on October 31. The first daily, an eight-page morning paper, is

priced at BTN 5. In its first editorial, the daily complained of unfair competition and said other papers asked the Government to deny the daily a licence to operate. Tenzin Dorji, the newspaper's 32-year-old managing director, said that *Bhutan Today* would begin with a print run of 18,000 copies, though total readership of English periodicals at the national level is as low as 13,000.

### Limits to freedom

The implications of the large-scale displacement of ethnic Nepalis from Bhutan – a long-running sore in political ties within the South Asian region – were highlighted by the case of Shantiram Acharya, a journalist once associated with the *Bhutan Reporter*, a newspaper published by Bhutanese exiles in Nepal. Acharya was arrested in January 2007 while seeking to enter Bhutan from India and convicted shortly afterwards to seven-and-a-half years' imprisonment on "terrorism" charges. It was only in January 2009 that the verdict against him was made public. Global human rights groups and media freedom bodies believe that he may have fallen victim to a draconian Bhutanese law that criminalises the return of Nepali exiles to the country.

The right to information is still denied in Bhutan, though it has been the focus of public debate since 2007. Two sessions of parliament failed to take up the issue. A news report in *Kuensel* in July 2008 spoke of the "sophisticated and sinister" manner in which ministries and government agencies made use of the restrictions on information flow: "Many of our ministries and government agencies are fortresses of information and laws unto themselves, keeping out anybody not in the circle of access. Many juniors are left wondering why they never hear from their seniors of trainings or foreign trips until it is too late. Many accountants are left wondering how an officer sitting in his office the whole week just made a travel claim of countless ngultrums. Honest businessmen scratch their heads when fronting companies do well and get away under the nose of authority. Common people shake their heads in disbelief when infrastructure projects turn into expensive and rundown white elephants to be repeated over and over again. Even some of the new private media, claiming to represent our times, are thinly veiled money-making and flexible ventures, more worried about advertisement revenue and revealing pictures."

In its passage to democracy, Bhutan faces numerous challenges. Enshrining the right to information and providing a relatively open and secure environment for the media, are key among these.

## INDIA

### Growing Violence Amid Fears of Recession

Economic growth rates in India have been among the world's highest over the past six years and these have underpinned a robust growth of the media. But as overall growth rates flag, there are concerns that several new media entities could vanish and that the ambitious expansion plans mooted in recent years could be indefinitely shelved.

A leading business lobby, the Federation of Indian Chambers of Commerce and Industry (FICCI), has estimated that the Indian media industry registered revenues of INR 584 billion (about USD 11.7 billion) in 2008. After adjusting for inflation, this represents a growth rate of 12.4 percent over 2007. The optimistic forecast is that this rate of growth will be sustained over the next five years, on the back of increased advertising spending of a like magnitude, despite the widespread expectation that global financial turbulence will take a heavy toll of overall growth rates in the Indian economy.

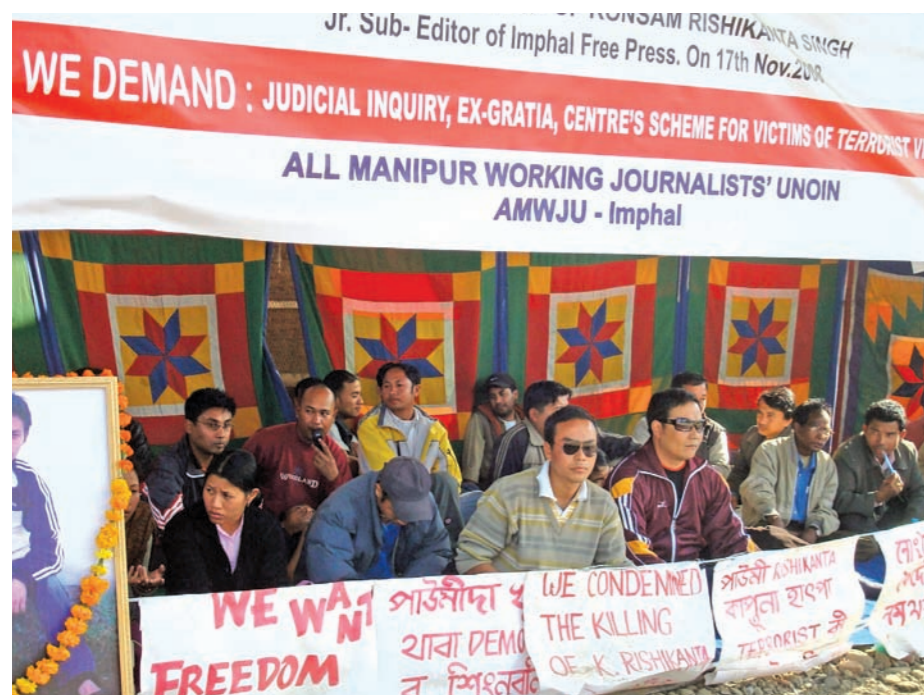
There are several forecasts that are not quite so confident. Signs of a crunch in advertising spending are already evident and this in turn is exacting a heavy toll of media fortunes. An authoritative recent estimate – the Pitch-Madison Media Advertising Outlook – puts the total advertising spending in the Indian economy, excluding classifieds, at INR 207 billion in 2008. At 17 percent in 2008, growth in advertising spending has been much below the 22 percent registered in the preceding two years. Early forecasts had put the rate of growth in 2008 at possibly 20 percent, but these came undone by a severe slowdown in the second half of the year. Forecasts for 2009 are not optimistic, with some agencies pegging the growth in advertising spending at half that of the previous year.

In terms of share in total advertising, print media has held its own against television and new media, though signs of erosion have been evident in the year of the downturn. The share of print has been dominant and steady at 48 percent of the total since 2001. Over the year gone by though, there was a small contraction in its share to 47 percent. The television share has correspondingly gone up from 40 to 41 percent. Radio and internet advertising remain small, though rates of growth, particularly in recent years, have been high.

An immediate fallout of the slowdown in the media industry is spiralling job losses and a stagnation in remuneration levels for journalists.



The November 2008 siege of the Taj Mahal Hotel in Mumbai is a reminder of the dangers faced by journalists when reporting on violent events across India, as well as the essential need for sensitive and balanced reporting in times of crisis. Photo: Courtesy of United News of India



The All Manipur Working Journalists' Union holds a sit-down demonstration in memory of their colleague, Konsam Rishikanta, who was shot dead on November 17, Photo: Courtesy of Sobhapati Samom

In March 2009, Bennett Coleman and Co Ltd (BCCL), India's biggest media group, with annual revenues of more than USD 1 billion, issued notices warning its 8,000 staff that salaries would be cut in varying degrees. A complicated formula was announced for salary cuts, which reversed the gains employees had made over the most recent years of the media boom. The reasons given for this extraordinary measure were the crunch in advertising spending within the Indian economy, as also a rise in newsprint prices.

This notice seemed to overlook the fact that since peaking in September 2008, newsprint prices had indeed been steadily declining. Media managements though are inclined to take the argument that this decline has been devoid of any substantive benefit, since advertising spending too has been in free fall over this time. It is estimated that since September, newsprint prices fell by close to 40 percent, temporarily ceasing to be a serious burden on newspaper economics. But BCCL – which publishes *The Times of India* and the *Economic Times*, owns the top-rated Times Now satellite news channel and has interests in outdoor advertising, web portals and FM broadcasting – reported a fall in advertising revenue of almost 25 percent. *The Hindu*, which publishes the third-largest English language newspaper in India from its headquarters in the southern city of Chennai, reported a 30 percent decline in advertising revenue in the same period.

The media companies that are listed in the stockmarkets and hence have relatively transparent accounts all reported drops in profitability of between 30 and 40 percent over the last quarter of calendar 2008. These included HT Media, Jagaran Prakashan and the Deccan Chronicle.

In February 2009, a delegation from India's newspaper industry, including the chairperson of HT Media and the editors of *Business Standard* and *Indian Express*, called on the Minister for Information and Broadcasting to apprise him of the parlous condition of the industry. A week later, the Minister announced the elimination of customs duty on newsprint and an increase in the rate paid on Government advertising by about 24 percent.

Since general elections to the Indian Parliament, though not formally notified then, were widely expected to begin in April, the timing of the Minister's announcement seemed a transparent concession to the power of the print media.

Earlier petitions from the newspaper industry for the elimination of customs duty on newsprint had been partially met in April 2008, when the rate was cut from 5 to 3 percent. This was followed in September by an upward revision of 24 percent in the rates paid by the Government for its advertising placements. Until February, the Ministry had rebuffed further demands for an upward revision on the grounds that the softening of newsprint prices had taken a great deal of pressure off newspaper industry bottom lines.

The timing of the twin decisions – on eliminating the newsprint duty and raising the rate of government spending on advertising – meant that the newspaper industry went into the 2009 election season with an assurance that the expected surge in government advertising would be greatly more profitable than before. The bigger newspapers customarily have been averse to taking too many government advertisements since they yield roughly a quarter of the rate they normally charged. But with the revision in rates and the overall stringency in the advertising market, it has become worth the while of the larger newspapers to take government advertising. The entitlement of small and medium newspapers to government advertisements would

be kept fixed at a total of 50 percent in terms of number, in accordance with a policy change initiated in October 2007.

Election rules in India restrain government advertising once elections are notified, since this would be a means for the incumbent party to gain electoral mileage through the use of public money. But political advertising by the main parties has increased enormously. For India's media, this has been a period of welcome relief from the severity of the recession, which had otherwise begun to bite deep.

A possible setback for the media is the shifting of the Indian Premier League (IPL) cricket tournament – an extravagant success in 2008, its inaugural year – out of the country for the current season on account of security worries. The coincidence of the IPL tournament, now being played in South Africa, and the national general elections still represents a potential embarrassment of riches for the Indian media. How the space and time devoted to news and editorial content responds to this expected advertising bonanza is a matter to which media analysts need to devote serious attention.

### Bleak economic outlook

The outlook in terms of job security for journalists remains grim. In December 2008, *Sakaal Times*, an English language daily launched just six months prior, announced that its Delhi operations would be shut down and that the 61 journalists recruited for the purpose would be laid off. Staff members had no warning of the decision, which was conveyed through a notice pasted to the door of the newspaper's office on November 30, signed by an unnamed "authorised signatory". The Sakaal Media group has its headquarters in Pune, in the western state of Maharashtra. Its premier publication, *Sakaal*, enjoys a significant share of Marathi language print readership in the state. At the time of its launch in Pune city, which has a substantial English-language audience, *Sakaal Times* spoke of a new approach to content generation through outsourcing. Asia Pacific Communications Associates (APCA), an enterprise with direct and indirect interests in print media operations in other South Asian countries, was contracted to provide a large part of the daily content for the newspaper.

More traditional enterprises in the newspaper industry have also been feeling the heat. In February 2009, HT Media announced the large-scale retrenchment of journalists employed in its Hindi language daily, *Hindustan*. These journalists were all contractual employees who hesitated to speak out for fear

that their severance packages would be jeopardised. But according to information gathered by the Delhi Union of Journalists (DUJ) – a constituent unit of the Indian Journalists' Union (IJU) – and the All-India Newspaper Employees' Federation (AINEF), 11 journalists were dismissed in February from the Delhi office of *Hindustan*. Simultaneously, an estimated 40 from other centres in the Hindi-speaking region were asked to leave.

HT Media's English language newspaper, the *Hindustan Times*, the second-largest in the category, was also retrenching journalists at the same time, as too was its business daily, *Mint*.

*Mail Today*, the Delhi-based daily newspaper published as a joint venture between the India Today Group and Britain's *Daily Mail*, laid off eight editorial staff from its Delhi newsroom in March. In December 2008, the group, which publishes India's largest circulated English weekly, *India Today*, had shut down its Bengali edition, at the cost of 17 editorial jobs.

In February 2009, the executive editor of the *Economic Times* told his staff that job cuts in the editorial department were imminent. Although not carried out at this writing, the threat remains real.

In March 2009, the weekly magazine *Outlook*, next to *India Today* the largest in the English market, announced pay cuts for its staff by an average of 10 percent. DNA, or *Daily News and Analysis*, an English daily owned partly by the dominant Hindi-language newspaper group, *Dainik Bhaskar*, also announced layoffs of journalists.

The broadcast media has been feeling the heat as well. In March 2009, NDTV Ltd, India's largest broadcast enterprise by market valuation, announced the shut-down of MetroNation, a lifestyle channel targeting the higher-end demographic strata in Delhi city. This involved job losses for 17 journalists. Plans to launch similar channels for other cities are on hold.

### Working conditions

The past decade of very rapid media growth in India was a feature largely of what could be called the unregulated sector, where the legal framework of the Indian Working Journalists' and Other Newspaper Employees' (Conditions of Service) Act (abbreviated as the Working Journalists' Act or WJA) does not apply. The competition among rival companies for scarce skills led to a rapid growth in wages. Employment, though, was governed in the main by short-term contracts and, inevitably, rapid personnel turnover was part of the growth pattern in this sector.

## HAZARDS IN CONFLICT ZONES

On March 25, Anil Mozumdar, executive editor of the Assamese daily *Aaji*, was shot dead near his home in Guwahati, capital of the North-Eastern Indian state of Assam.

On November 22, Jagajit Saikia, a correspondent for the Assamese daily *Amar Asom*, was shot dead outside his office in a busy commercial area of Kokrajhar, a district headquarters town in Assam.

Just five days before, Kongsam Rishikanta, junior sub-editor with the *Imphal Free Press* daily in Imphal, capital of the North-Eastern state of Manipur, was found shot dead in a secluded part of the city.

The media community in Manipur, led by the All Manipur Working Journalists' Union (AMWJU), declared a general closure of all newspapers in the state for six days from November 20 to protest Rishikanta's murder. With the authorities proving unresponsive at the six-day mark, the strike was extended indefinitely. It was only after 11 days that local authorities conceded a key demand – that investigation into Rishikanta's murder be entrusted to the police agency controlled by the Union Government, the Central Bureau of Investigation (CBI). At this writing, the CBI has reported little progress in the investigation.

The security needs of journalists in Manipur, which has an estimated 35 insurgent groups in a population of three million, have always been a significant concern. Security and intelligence agencies often make strategic use of rivalries and shifting allegiances between insurgent groups. This has created a volatile mix, with journalists often

being pressured by insurgent groups to suppress information about rivals, or to portray them in an unfavourable light.

On the reverse side, government forces and the security and intelligence apparatus seek to ensure that any mention of militant groups is promptly punished. This measure is often used inconsistently, depending upon the nature of insurgent allegiances at the moment in question. The situation is made additionally complex by the large number of special security laws in force.

Similar factors are in play in the murders of Saikia and Mozumdar.

In Assam alone, 17 journalists have been killed since 1991. The long-running guerrilla campaign by the United Liberation Front of Assam (ULFA) has taken a heavy toll among media workers. Elements of this group which have surrendered and been constituted into a counter-insurgency force (called the Surrendered ULFA or SULFA) are also intolerant of media criticism and objective reporting.

The situation for the media in the North-East illustrates the tendency that parties locked in conflict often display: to deny opposing sides a voice and to target journalists suspected of harbouring contacts with rival groups, even if these are of a professional nature.

In the state of Jammu and Kashmir, the legislative assembly elections in November and December saw the Government and parties that have accepted the constitutional scheme locked in contention with political forces that believe the status of the region is yet unresolved. Government pressure on the media to suppress alternative points of view was strong. The media had to

unclear from the outset, there have been a host of cross-cutting legal challenges at various levels of the judicial hierarchy.

In July 2008, the Wage Boards announced an interim award, which increased wages and salaries by 30 percent. The boards' chairman resigned shortly afterwards, for what he termed were "personal" reasons. The Government is yet to formally notify the interim wage award or to state its mind on the issue. Meanwhile, both Wage Boards went into a prolonged limbo and it was only in March 2009 that the Government announced a new chairman, who, like his predecessor, is a former

balance this out against pressure from armed militant groups, which were determined to deny the electoral process all legitimacy.

Early in November, the State Government warned all media organisations within its jurisdiction to "refrain from publication of ... objectionable and seditious material". Failure to comply would invite Government "action" under rules which allow for the withdrawal of official advertising. The warning came just as the nominations process for the elections was opening, amid calls for a boycott by certain political elements.

Two decades since the militancy in Kashmir erupted, the media has gone through different phases in a fraught relationship with state agencies. In 1996, when elections were underway in the state, the only means the media had to deal with the multiple pressures it faced was to shut down. By the 2002 electoral cycle, the media had evolved a credible survival strategy.

The 2008 elections occurred in the aftermath of massive civil disturbances, following a controversy over the allotment of land in the Kashmir valley to a religious trust. A blanket curfew was imposed in the valley on August 23. Newspapers in the capital, Srinagar, failed to print for two consecutive days because the movement of journalists and other media employees was severely restricted. Security agencies also compelled local cable news channels to suspend

high court judge. The future of the Wage Board process for determining a fair level of compensation for journalists remains uncertain.

### Threats on the rise

Through all this turbulence on the livelihood front, journalists in the insurgency-prone areas of Jammu and Kashmir (J&K) and the North-Eastern states have faced serious physical and legal threats.

In J&K, journalists found themselves trapped in the crossfire of a bitter polarisation over the allotment of land to a religious trust in the Kashmir valley. They also faced serious challenges in the general elections



Journalists in Manipur, North-East India, rally in force to demand action for the murder of Rishikanta. Photo: Courtesy of Sobhapati Samom

broadcasts or to air only entertainment programs.

Fifteen journalists and media workers were reported injured on August 24 in attacks by personnel of the Central Reserve Police Force, a paramilitary force controlled by the Union Government and deployed in Srinagar since 2005.

The militancy in Kashmir has imposed its own code of conduct on journalism, amounting to self-censorship in order to appease forces from all sides. But despite the difficulties, Kashmir's media has continued to grow. As in the North-East, journalists in Kashmir have proved through years of conflict that they have the resources of courage and commitment to brave the worst of adversities.

that were held in November.

The North-East has been an especially difficult area for journalism. Three journalists were murdered in this region in the past year – two of them in the state of Assam, where two major serial bombings over the past year have claimed more than 80 lives.

Apart from the overt violence that arises from insurgency situations, the media in India has also suffered from a new vengefulness on the part of those in authority, in what is a serious outbreak of intolerance.

In June 2008, charges of sedition and criminal conspiracy were brought against the *Times of India*

## ETHICAL CHALLENGES

The past year was one of significant ethical challenges for India's media, especially in its coverage of urban middle-class crime and terrorism. The categories of "crime" and "law and order", which also include "terrorism", accounted for almost 30 percent of news coverage by India's main satellite news channels, according to a 40-day survey by a well-known market research agency beginning September 14. Sport, politics and entertainment enjoyed rough parity, though individually each of these categories clocked less than half the time devoted to crime and terrorism.

The survey followed a series of bombings in Delhi, and the media coverage reflected the level of public concern over a traumatic event. But when terrorists laid siege to three landmark buildings in Mumbai on November 26, the media's saturation coverage of a three-day long trauma become the vehicle for ventilating the most extreme views.

There were few restraints as the media reported on Mumbai, except for one brief moment when police, worried about a news channel's live phone contact with gunmen who had commandeered a building, ordered all channels to cease live coverage. The ban was soon rescinded.

A parliamentary committee took up this range of issues in a report submitted in December. Responding to a petition filed in 2006, on the alleged misuse of the right to free speech by the electronic and print media, the committee urged that statutory regulations be introduced on the media "in the larger interest of society". The committee ruled out self-regulation, arguing that competition within the media made departures from agreed norms the rule rather than the exception.

A deeper concern was underlined by K.G. Balakrishnan, India's Chief Justice, in a public

address shortly afterwards. "The symbolic impact of terrorist attacks has been considerably amplified by the role of pervasive media coverage," he said. This manner of "unrestrained coverage" may have the effect of "provoking anger amongst the masses" and fuelling "an irrational desire for retribution". "Furthermore, the trauma resulting from the terrorist attacks may be used as a justification for undue curtailment of individual rights and liberties."

Fighting to retrieve credibility, a consortium of channels called the News Broadcasters' Association (NBA) issued a set of "guidelines for telecast of news during emergency situations". A grievance cell headed by a former Chief Justice of India was set up to enforce the guidelines. Unconvinced, the Ministry for Information and Broadcasting drafted a law that would statutorily require all news channels to carry pre-authorized content during designated emergency situations. The proposal was drafted and set to be notified when broadcasters went in a delegation to the highest political leaders. Soon afterwards, Prime Minister Manmohan Singh said the Government did not intend in the short term to notify any changes in the law.

It was the second instance within a year, of an overt official attempt to lay down rules for India's media. The first was in response to the great public disquiet occasioned by the sensationalist coverage of the murder of a teenage girl, Aarushi Talwar, in her family home in the township of Noida near Delhi, in May 2008.

In August 2008, India's Supreme Court said it would lay down norms for media coverage of ongoing criminal investigations. The court, hearing a public interest petition filed by an independent lawyer, determined that media coverage of the investigation into the Aarushi Talwar murder had seriously

breached all norms of responsible journalism. The court sought the opinions of the Press Council of India and explanations from two Delhi newspapers and three major 24-hour news channels. These have reportedly been given, but the case remains undecided.

As reported in Delhi's newspapers, the court in its observations, held: "Nobody is trying to gag the media. They must play a responsible role. By investigation, the media must not do anything which will prejudice either the prosecution or the accused. Sometimes the entire focus is lost. A person is found guilty even before the trial takes place."

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The Aarushi murder coverage had still more profound ramifications for the media. On August 14, the Ministry of Information and Broadcasting of the Indian Government issued notices to three channels to show cause why they should not be penalised for violating the "program code" in their coverage of the story

It is another matter that the code is a loosely worded text drawn up in 1995 as an annex to the sole existing law on cable television broadcasting. It has never been subject to public scrutiny or won the endorsement of journalists. Indeed, efforts by the Ministry since 2006 to evolve a "content code" in consultation with the media industry have failed to produce an agreed text, in part because professional journalists have not been involved in any significant way. But as it confronts one crisis after another, the Indian media is seemingly being compelled to face up to the core issues of journalistic ethics, long neglected in the euphoria of the decade-long boom.

In April 2009, the first known attempt to enforce the NBA's voluntary programming code ended with ambiguous results. The NBA's public grievance cell, after considering a news broadcast involving a "voice-over"



Protesters call into question the dangerously sensationalist coverage of the murder of Aarushi Talwar in Delhi, India. Photo: Courtesy of United News of India

on an interview that distorted the subject's meaning and intent, held India TV, a widely-watched Hindi news channel, in breach of its ethical norms. A fine of INR 100,000 (about USD 2000) was imposed on the channel, which however refused to comply and walked out of the NBA accusing it of "bias". Despite the eminence of the NBA's grievance redress body, a consensus on the norms of self-regulation still seems to elude India's broadcast sector.

and two of its journalists, by a newly-appointed police commissioner in Ahmedabad city, in the western state of Gujarat. This followed a series of reports run by the *Times of India*, soon after the appointment was announced, that documented several serious complaints within the police department against the individual concerned. The news reports suggested that until questions about the official's service record were resolved through appropriate departmental and judicial processes, his appointment as police commissioner should be kept in abeyance.

Again in June 2008, the editor and two reporters of *Andhra Jyoti*, a Telugu-language daily published from Hyderabad and various other cities of the southern state of Andhra Pradesh, were arrested under a law preventing insults to the dignity of people of lower ritual status in the Indian caste hierarchy. The police reportedly had no arrest warrant and merely said they had evidence of a violation under the law when they took the journalists into custody, as they were working late in the evening to make the next day's edition.

In January 2009, B.V. Seetaram, chairman and

chief editor of Chitra Publications, was arrested in Udupi district in the state of Karnataka, on a two-year old defamation complaint. This incident conformed closely with a pattern of harassment the editor has faced since long. In March 2007, both he and his wife were arrested on charges of fomenting animosity on grounds of religion. That case was not brought to trial. In the case of his most recent arrest, Seetaram was freed after six weeks, with the Karnataka High Court directing the police department to pay a fine of INR 10,000 (about US\$ 200) for

wrongful confinement. At the same time, Ravindra Kumar and Anand Sinha, respectively the editor and publisher of *The Statesman* in India's eastern metropolis of Kolkata, were arrested on charges of promoting enmity between people on grounds of religion. This followed the reprinting on February 5 of an article originally carried in the British daily *The Independent*, under the heading "Why should I respect these oppressive religions?" The article prompted some community leaders in Kolkata to organise protests outside the

newspaper office. Copies of the newspaper were burnt and a riotous situation prevailed for a few days. The arrests of the editor and the publisher were widely viewed as an attempt by the ruling party in the state of West Bengal, of which Kolkata is the capital, to earn political mileage when crucial national general elections were due.

These apart, the year witnessed attacks on media personnel and organisations by non-state actors and civil society groups irked by the media's coverage of issues of particular concern to them. These assaults were witnessed as far afield as the western metropolis of Mumbai and the southern states of Tamil Nadu and Kerala. India's media also faced significant ethical challenges in its coverage of crime and terrorism, which prompted an attempt – both by the Government and by private citizens operating through the judiciary – to enforce an intrusive process of regulation of media content. These attempts remain in abeyance for now. But the challenges for the Indian media in a time of recession and political turbulence are numerous and demand responses that are creative and long-term in their perspective.

## NEPAL

### A Difficult Transition and its Tensions

Three years after the mass upsurge of 2006 toppled monarchical absolutism and initiated Nepal's transition to democracy, the country continues to function under an interim constitution that guarantees the right to free speech. Yet media rights remain weakly institutionalised and public attitudes toward the media are problematic. The first steps of the transition are now complete. A Constituent Assembly (CA) is in place to lay the foundations of a new republican order, and an elected government is in authority. But the relative calm as the transition began has given way to a spirit of contention. Media rights have been a casualty, with attacks on the media increasing in various forms since the CA elections in April 2008 and the subsequent swearing in of a coalition government headed by the United Communist Party of Nepal (Maoist), or UCPN(M).

In January 2009, a young woman journalist, Uma Singh, was murdered in the most traumatic manifestation of the new turbulence in Nepal's media environment. Uma Singh was a broadcast and print journalist working in Janakpur, Dhanusha district, in the southern

plains (the Terai). Late on January 11, her modest rented room was raided by a group of perhaps 15 men. She was dragged out onto the veranda and brutally hacked.

This was not the only murder of a journalist in the past year. The remains of J.P. Joshi, alias "Pandit", reported missing from his home since October 8, were found in a forest in the far-western district of Kailali and identified by his family almost two months later. Joshi was the editor of the far-western editions of the Nepali language daily *Janadisha*. He was a member of the Federation of Nepali Journalists (FNJ) and also president of the Kailali district chapter of the Revolutionary Journalists' Organisation, a body closely allied with the ruling Maoists.

Much of the legacy of Nepal's decade-long civil war, which formally ended with the November 2006 ceasefire agreement between the Maoist insurgents and the interim government formed after the popular upsurge earlier that year, still remains to be dealt with. This was highlighted by the identification on June 25 of the body of Dekendra Raj Thapa, which was exhumed in the far-western town of Dailekh. The exhumation took place on the basis of information gathered by the FNJ, in the presence of officials of the National Human Rights Commission of Nepal.

Thapa, a Dailekh-based reporter for Radio Nepal, disappeared while on assignment in June 2004. The FNJ has established through its own investigations that Thapa may have died under torture on August 10, 2004. Krishna Bahadur Mahara, then spokesman for the Maoist insurgency, had publicly expressed remorse over Thapa's killing. In a tacit admission of responsibility, he called the murder a violation of his party's central policy directives. Now Minister for Information and Communications, Mahara has been a consistent voice in support of media freedom. He also has the authority, seemingly, to ensure the full disclosure of the truth behind the murder of Thapa, as part of Nepal's process of reconciliation and the institutionalisation of media rights.

### Political pressures undermine freedom

There is a new pattern of violence in Nepal related to the grievances of minorities and marginalised groups. While editors are still pressured through discriminatory allocation of advertising revenues, and media proprietors often come under pressure to dismiss some journalists because of their political allegiance or ethnicity, anger among the wider public is increasingly directed against journalists and media outlets for their coverage (or lack of it) of events and issues related to the political transition and minority interests.



Journalists including FNJ President Dharmendra Jha congregate behind a barbed wire cordon at a police standoff during nation-wide protests organised by the Federation of Nepali Journalists from December 22. Photo: Courtesy of Bikash Karki and *Republica*.

In 2008, newspapers in some districts were forced to close temporarily because of violence arising from frustration among some groups about information they were transmitting in their news reports. It seems that the veracity of the information was not so much the issue as what the newspapers said about group interests. Though much of the anger and mistrust that targets the media is recognised as misdirected and misinformed, it is also the case that a good deal of media output is aligned with political interests and inattentive to the needs, views and sensitivities of all groups.

Political partisanship seems to have spread through Nepal's media, resulting in heavy-handed tactics by some Maoist-aligned house unions which undermine prospects for reconciliation and the efforts of national journalists' organisations to negotiate improved working conditions on behalf of the entire media workforce. Several bitter disputes during the year highlight the difficulties.

At the Himalmedia group, which publishes the Nepali language fortnightly magazine *Himal Khabar Patrika* (HKP) and the English language weekly *Nepali*

*Times*, violence erupted as a newly registered union opposed cost-cutting measures. The car of Himalmedia's chief executive was attacked in October. In an attack that seemed motivated by content issues rather than the labour dispute, copies of HKP were seized and set alight in November as they were being prepared for distribution in the media group's premises. On December 21, cadre of the youth wing of the UCPN(M), the Young Communist League, raided the Himalmedia office, inflicting considerable damage to property and injuring several staffers.

The violence was provoked by the content of HKP over the preceding months, but with the labour dispute also simmering at the time, these lines became blurred. Early in 2008, the Himalmedia directors made the decision to close the company's subscriptions department, with voluntary retirement offered to 18 personnel. The decision followed an assessment of the group's cumulative losses in the previous eight years. By 2009, the losses amounted to NPR 95 million (about USD 1 million). Of the 18 employees, 11 accepted retirement on terms including one month's salary for each year of service. Others held out for

## FEARLESS, OUTSPOKEN AND A ROLE MODEL



Investigative reporter Uma Singh was murdered in January. Photo: Courtesy of Bikash Dware

The murder of Uma Singh in Janakpur, Dhanusha district, in January reverberated across Nepal and beyond. Police quickly arrested five suspects, who continue to be detained awaiting charges. Political authorities have meanwhile suggested that the murder is linked to a property dispute within the family.

Inquiries by the Federation of Nepali Journalists (FNJ) and the South Asia Media Solidarity Network (SAMSN) found that Uma Singh's work as a journalist, in particular her investigative reporting on the expropriation of land during Nepal's insurgency, was a major factor behind her murder.

Uma Singh's father and brother disappeared in 2007 from their village in Siraha district, adjoining Dhanusha. Most people hold the Maoists responsible and believe the motive to be land, since Uma Singh's was a relatively affluent land-owning family. Uma Singh left her hometown for Janakpur shortly after this family trauma, and joined *Janakpur Today*, a daily newspaper which also runs an

FM station by the same name.

As a journalist, Uma Singh began to document instances of land-grabbing during the insurgency and afterwards. With the transition to a democratic government, public pressure has been building up for seized land to be returned to prior owners. This is deemed an essential part of the process of national reconciliation until lawful land reforms are instituted. But the Maoist-led national government has often proved unable or unwilling to enforce its writ on local cadres.

In an article for the monthly *Sarokar* in October 2008, published in English translation at [www.dainikee.com](http://www.dainikee.com) on January 6, 2009 -- five days before she was murdered -- Uma Singh reported, "The Maoists have not returned the seized land in Siraha district even three months after Maoist chairman and Prime Minister Pushpa Kamal Dahal directed his party cadres to do so."

She followed with a catalogue of land seizures and an enumeration of the people affected. Her intent was clear: To render justice to all people who had been dispossessed and displaced by land seizures. The evidence suggests a direct link between Uma Singh's journalism and her murder. She may have had a personal stake in the issue of land seizures, but her journalism was exercised in the larger public interest.

Uma Singh was also fearless in her reporting on

the numerous armed groups operating in the Terai.

The problems faced by women journalists were a special focus of her work and she was an example for many younger women who chose to enter the profession. Her murder has left women journalists in Janakpur thoroughly bereft. Their sense of loss is profound.

The growth in FM broadcasting has provided new opportunities for younger women. Most women journalists work both as reporters and as anchors, but many of them report lower salaries than men of equivalent experience and education.

Since Uma Singh's murder, many women report pressures from their families to give up journalism and settle for relatively low-risk professions. Indeed, there have been credible reports since February that many women have dropped out of the profession.

Professional morale among journalists in the Terai was severely dented by the Uma Singh murder. There is a palpable sense of anger at the impunity enjoyed by those responsible for killing,



The room from which Uma Singh was dragged to her murder. Photo: Courtesy of Sukumar Muralidharan

kidnapping and threatening journalists. Over the course of 2008, there have been two cases of journalists being brutally attacked in Janakpur. Freelancer Manoj Sah suffered a near lethal assault in January 2008, in retaliation for an article he wrote exposing corruption in one of the town's religious trusts. Like the attack on another journalist, Brij Kumar Yadav, Sah's case remains uninvestigated.

better terms, though negotiations soon broke down.

Prime Minister Pushpa Kamal Dahal was quick to condemn the attack on Himalmedia and to reject any possibility that the Maoist party that he heads could have been involved. He branded the perpetrators as "immoral agents" who had "infiltrated" his party with the intent to discredit it. However, the continuing good standing within the UCPN(M) hierarchy of the two individuals who were arrested and then released on bail tended to undermine the Prime Minister's claims.

After the attack on their premises, the Himalmedia management registered a police complaint on December 25, naming Ramesh K.C. and Ramesh Babu Pant, both senior functionaries in the Maoist union hierarchy, as leaders of the violence. The UCPN(M) leadership ordered both individuals to surrender to the police, and they were detained for two days before being released on bail to a rapturous

reception by Maoist cadre in Kathmandu.

Shortly afterwards, the head of the Maoist-led All Nepal Federation of Trade Unions (ANFTU), with which the house union was aligned, visited Himalmedia to negotiate a settlement. Agreement was reached when the Himalmedia management offered an enhanced severance package for the seven personnel who had not accepted the earlier offer. From a month's pay, the package was raised to two-and-a-half months' pay for every year worked.

The incidents at Himalmedia attracted attention across Nepal and beyond. But these were part of a series of events that had a more profound impact on the functioning of Nepal's media, involving two of the country's largest print media groups -- Kantipur and the Asia-Pacific Communications Associates, Nepal (APCA Nepal).

Kantipur publishes two dailies -- *Kathmandu Post*

in English and *Kantipur* in Nepali -- from Kathmandu and Biratnagar, the largest town in the Terai. In late-December, its operations in Biratnagar were paralysed for five days by Maoist unions pressing demands for improved wages and working conditions. The Nepal Press Union, which is a recognised representative of the Kantipur workforce, distanced itself from the actions. The management claimed that most of the demands had been met and that it was being subjected to a blockade. As Maoist cadre prevented media workers from reporting for work in Biratnagar, it was not evident that those leading the agitation had the endorsement of any section of the workforce.

At the same time, activists of the All Nepal Communication, Printing and Publication Workers' Union -- also part of the ANFTU -- put up their flags in the office of APCA Nepal at Anamnagar in Kathmandu.

While there may be debate about the status of some of the new house unions, of more concern are their political motivations and the quick resort to violence. The Himalmedia management argues that the house union was unlawfully registered. This is hotly disputed by the leadership of the union, which claims that it went through all prescribed procedures for registration and only called in the support of the Maoist-affiliated ANFTU when it found that the barriers to its recognition were insurmountable. In Nepal's volatile environment, it is worrying to see politically-patronised groups opt for old methods of grievance redressal through violent confrontation rather than seeking to negotiate collectively on behalf of all workers.

From December 22, the FNJ and other press freedom bodies began a series of protests all over Nepal, to raise public awareness about the perilous



After breaking police cordons, media workers march through the streets of Kathmandu to raise public awareness about the perilous state of media freedom in Nepal. Photo: Courtesy of Bikash Karki and Republica

state of media freedom. One such demonstration near the national parliament in Kathmandu was attacked by the police, and FNJ Secretary Ramji Dahal seriously injured.

In a move to highlight the magnitude of the threat to press freedom from elements apparently enjoying official patronage, the Media Society and the Editors' Alliance in Nepal decided to publish all newspapers on December 23 with blank editorial spaces. Radio stations and television channels similarly aired a special message of protest in place of news headlines, immediately after the signature tunes announcing their news bulletins.

On December 28, the FNJ and the Government, represented by Information Minister Mahara, signed a 10-point agreement on measures to be taken to protect press freedom. The Government promised to make a strong affirmation of its commitment to press freedom and the security of journalists and media houses. The Ministry of Information and Communications, it was agreed, would set up a special bureau to deal with incidents of press freedom violations, which would monitor complaints and action taken by the authorities. Legal action would be initiated against the most gross violations in recent times. And the Government would put resources toward settling ongoing industrial disputes in various media houses.

Following the agreement, the action at Kantipur's Biratnagar premises was lifted and the group newspapers resumed publication. But the union kept up its

pressures on APCA-Nepal, hoisting its flags on the building the day after the agreement was signed. In mid-January, the union blockaded the media group's advertising offices for three days, depriving it of a vital stream of revenue.

The current state of politics in Nepal often induces a degree of equivocation from those holding high office. At a public meeting soon after the series of attacks on Himalmedia by Maoist cadre, Prime Minister Dahal questioned why there was such a furore over incidents in which no one had been seriously injured or killed. He reportedly drew an adverse comparison with the supposed silence that followed the murder of J.P. Joshi.

Most observers thought the comparison unfair, since the FNJ and all other press freedom bodies had, with little regard for Joshi's political affiliations, taken up his killing as an issue of vital concern for all journalists. Indeed, the Maoists themselves have not been able to convincingly dispel the aura of suspicion that Joshi may have been killed as a consequence of a falling out within their ranks. Prime Minister Dahal's statement seemed unmindful about the need to convey positive reassurances on press freedom, irrespective of the political stripe of the media organisation or journalist concerned.

Before taking office, as leader of the largest party in the Constituent Assembly, Dahal had held out a public warning to the Kantipur group that it would risk serious consequences if it continued criticising the party. The implication was that a party that had won a convincing electoral victory was effectively immune to public criticism. The belief that electoral legitimacy involves exemption from media scrutiny seems, fortunately, to be giving way to a more reasoned acceptance of the role of a free media in a democratic order.

In early February, the Government decided to suspend the investigation into the possible murder of Prakash Singh Thakuri, a journalist missing since July 2007 and believed to have been abducted and killed by Maoist cadre. Seven suspects had been booked for the alleged murder. But according to a letter given to Thakuri's wife on February 3, the Cabinet had decided on October 27 to drop all charges in the case.

Other investigations into the murder of journalists

continue to flounder, including the cases of Pushkar Bahadur Shreshta and Birendra Sah.

An armed group in the Terai, the Janatantrik Terai Mukti Morcha (Jwala Singh), has taken responsibility for the killing of Shreshta in January 2008. And Maoist cadre are suspected to have been behind Sah's murder in October 2007.

Public attitudes change slowly. In the transitional politics of Nepal, the Government is yet to assume the post-partisan attitude that alone can ensure credible leadership in the cause of the right to free speech. Public pressure though remains an agent of potentially far-reaching change. And the campaigns and advocacy efforts undertaken by Nepal's media community retain great scope for effecting a shift in public attitudes.

The outbreak of serious discord in the plains over issues of indigenous peoples' rights against those of the settlers from the hills (the Madhesi versus Pahari tension) has taken its toll of media freedom. A senior and highly respected journalist, Ramesh Ghimire, who has been active in Janakpur for 48 years, faced constant threats through the year from activists of the various Madhesi groups that have sprouted in the region since the Maoist insurgency ended.

Ghimire, who is the editor and publisher of the *Dhanusha* weekly, has received numerous anonymous telephone calls, questioning the continuing existence of a Nepali language publication in a region where the majority speak other languages. All through his professional life, Ghimire is on record saying he has never had reason to believe that the people of Janakpur resented a Nepali language newspaper being published in their town. Faced with rising threats and harassment, Ghimire's family has chosen voluntary exile in a nearby town, though he continues to live in Janakpur and to bring out his newspaper.

### Still battling for job security

Journalists' working conditions continue to be a serious concern. Significant amendments were made to the Working Journalists' Act (WJA) in August 2007, to provide for a minimal degree of job security. This begins with the basic requirement that all media staff be issued letters of appointment and be assured of secure tenures. A ceiling of 15 percent of total staff is specified for the number of employees that a media institution can retain on contract. All media employees, including those on contract, would be entitled to a provident fund and other social security measures, such as health insurance. One percent of total revenues is to be set aside by media organisa-

tions for capacity building and skills development.

A government committee set up in September 2007 made its recommendations on basic minimum wages for media workers in August 2008. These were fixed at NPR 5200 (about USD 64) a month for journalists and NPR 4600 (USD 57) for other media staff. In February 2009, the Government decided to implement minimum wages as recommended, effective from April 13.

The WJA specifies that particular functions and positions within the media will be compensated at appropriate rates. The aim is to achieve a high degree of compliance by July 2009 at least among the larger media companies. This category includes all government media, television companies, radios with networking arrangements and companies running more than one station, and all A-category national dailies and magazines (classified as such in accordance with their revenue).

Implementing the WJA for other categories of media, such as the small and medium newspapers and the FM broadcast stations that have sprouted all over Nepal, will be the real challenge. These are typically, small operations dependent on highly localised advertising. Again, most media organisations in Nepal are family-owned enterprises which enjoy certain exemptions from financial disclosure laws. These enterprises would need the assurance of a fair advertising policy, especially by Nepali entities using public funds, to achieve financial stability. But they would also, presumably, have to subject themselves to certain norms of financial transparency and accountability as the new democratic order in Nepal takes shape.

## PAKISTAN

### Violence and Political Turmoil Take Their Toll

The intensifying insurgency in parts of Pakistan and the unsettled security situation, cast a long shadow over the media over the year under review. Early hopes that the restoration of an elected government in Pakistan would lead to a significant improvement in official attitudes towards the media have been belied.

On March 13, 2009, with less than a month to go for the one-year anniversary of elected governments taking office at the federal and provincial levels, Pakistan's President, Asif Ali Zardari, reportedly sent out a



Journalists in Peshawar take to the streets under the banner of the Khyber Union of Journalists to protest the February 17 murder of Musa Khankhel in Swat. Photo: Courtesy of Khuram Pervez, *The News International*

directive that all news broadcasts by GEO TV were to be blocked. According to a news item that appeared in *The News International*, a leading English-language newspaper in Pakistan and part of the Jang media group (which also controls GEO TV), police in at least one town in Punjab province, Sargodha, raided homes of cable television operators who were found to be airing GEO's news channel.

Across Pakistan, it was reported that cable operators chose to comply with the directive to block GEO's news broadcasts or to transfer the signal to the less frequently visited ranges of the channel spectrum. By various devices, Pakistan's federal government ensured that many regular viewers were unable to view the channel for a few key days, as a political agitation by the country's main opposition party threatened to spiral.

The pressure on the cable operators reportedly followed a letter from President Zardari to GEO's management in which he urged that the channel stop its coverage of the nation-wide agitation by the country's lawyers. The lawyers were demanding the restoration of judges dismissed in a large-scale purge of the judiciary following the declaration

of a nation-wide state of emergency by the previous President, General Pervez Musharraf, on November 3, 2007.

Pakistan's Minister for Information, Sherry Rehman, a former magazine editor, quit the federal cabinet shortly afterwards, protesting that she would not continue being party to an "anti-people" and "anti-media" dispensation. This removed from political authority a person who could be counted upon to speak up consistently in favour of press freedom.

A few days later, the All Pakistan Newspaper Society (APNS) issued a statement strongly deploring the "intimidating actions" by the Federal and the Punjab provincial governments against the Jang media group. These actions reportedly included the withdrawal of government advertisements in the newspapers and television channels run by the group, which APNS said was a way of effecting its "financial strangulation".

Musharraf, who was also the chief-of-staff of the Pakistan Army until he stood down in November 2007, resigned as President in August 2008 under the threat of an impeachment motion agreed by the country's two largest parties. This was one of the few occasions

since the crisis of November 2007 when the two parties managed to agree.

### Political strife breaks out

As open strife breaks out once again between the two main parties, there are worries that the media could suffer serious damage. The long-running dispute over judicial appointments has also impinged on the autonomy of the media to report the situation in the country in an independent and open manner.

At the beginning of the year under review, Pakistan's media was given an inkling of the struggles that lay ahead in reporting on the bitter dispute between the executive branch of government and the judiciary. On May 8, 2008, GEO TV put out a news broadcast while its associated daily newspaper, *Jang*, published a news item, of a supposed meeting between Pakistan's Federal Secretary of the Interior and three Supreme Court judges, including the Chief Justice. The reports were brief and said nothing about the intent behind the purported meeting. Denials issued by the Supreme Court's protocol department were given appropriate coverage.

On May 9, one of the three judges named in the story issued a notice to the chief of GEO's Islamabad bureau and a *Jang* reporter asking them to answer *prima facie* charges of seeking to "exploit the court" and "scandalise" its judges. The journalists were ordered to reveal their sources, and a stricture was delivered that reports involving judges in the higher judiciary should be published only after clearance by court officials.

At a hearing on May 12, with interventions from the Pakistan Federal Union of Journalists (PFUJ) and GEO TV, the Supreme Court amended its order. However, GEO and *Jang* were ordered to produce transcripts of all news items published or broadcast since November 3, 2007 - the day on which Musharraf had declared the state of emergency.

The court asked the Pakistan Electronic Media Regulatory Authority (PEMRA) to ensure that news organisations complied with the order. Under the Musharraf regime, PEMRA had been expected to enforce censorship. Now, under civilian democratic



Karachi-based media workers demonstrate against mass retrenchments at major television stations and newspapers. Photo: Courtesy of PFUJ

rule, it was seemingly once again being asked to go far beyond its regulatory function into a censorship role, though this time under a mandate conferred by the judiciary.

### Mixed record

Despite its publicly stated commitments to the independence of the media, Pakistan's new federal and provincial governments have had a mixed record of upholding press freedom. In March 2009, media were barred from entering the Provincial Assembly chambers in the North-West Frontier Province (NWFP) to cover an election to the Pakistan Senate, or upper house of the National Assembly. The Provincial Assembly Speaker mandated this decision, with parties from both the ruling coalition and the opposition signing on. The PFUJ concluded that this collaboration between political rivals was a means of keeping their often questionable conduct free of public scrutiny. The bar on access to the assembly appeared to be a direct consequence of the media's reporting of certain dubious political deals made during the 2008 presidential election in which Zardari gained office reportedly after much backroom negotiations. The Pakistan media's bold and forthright reportage on these incidents did not find favour with the politicians involved.

Among the Zardari Government's first major legislative initiatives was the media bill introduced on August 12 and passed immediately afterwards, which

## IMPUNITY IN SWAT

The murder of Musa Khankhel, a reporter for *The News International* and GEO TV, in Pakistan's Swat valley in February 2009 sparked national protests by journalists. Khankhel was the fourth journalist to be killed in Swat since 2007.

Concerned about insecurity and the failure of authorities to investigate the murder, as well as other murders of media personnel, the Pakistan Federal Union of Journalists (PFUJ) sent a four-member team to Swat to investigate. The team's findings are disturbing.

Khankhel's bullet-riddled body was found in the Matta area of Swat, in North-West Frontier Province (NWFP), several hours after he was reported missing on February 18. At the time, a ceasefire had been agreed in Swat between the Federal and provincial governments and militant groups, and Khankhel had gone to Matta to report on public events addressed by the senior cleric Maulana Sufi Mohammad.

On the day of his death, the Government's Inter-Services Public Relations (ISPR) Media Centre prevented Khankhel and his brother Essa Khan, also a journalist, from attending a provincial minister's press conference dealing with the ceasefire. Both men were labelled "pro-Taliban". Khankhel's family and friends confirmed that

Khankhel had a "good relationship" with the local Taliban, and he had travelled to Matta with members of the outlawed militant group Tehreek-e-Nafaz-e-Shariat-e-Mohammadi.

Khankhel was known to have enraged both the local Taliban and Pakistan's military through his hard-hitting reporting. He had what has been described as a "rough temperament" and took uncompromising positions, but he was considered a brave reporter. He had told some colleagues and friends of receiving threats in the weeks before his murder. Hamid Mir, a GEO anchorman, wrote in *The News* on February 21 that Khankhel was especially worried about security agencies. Both the agencies and the local Taliban deny involvement in the murder.

The PFUJ reported that police did not begin their inquiries until February 27. The PFUJ concluded that Khankhel's killers could have been caught had security forces acted quickly when the journalist was first reported missing. The area in which Khankhel's body was recovered was not cordoned off and no search was conducted. No official police investigation report has been filed.

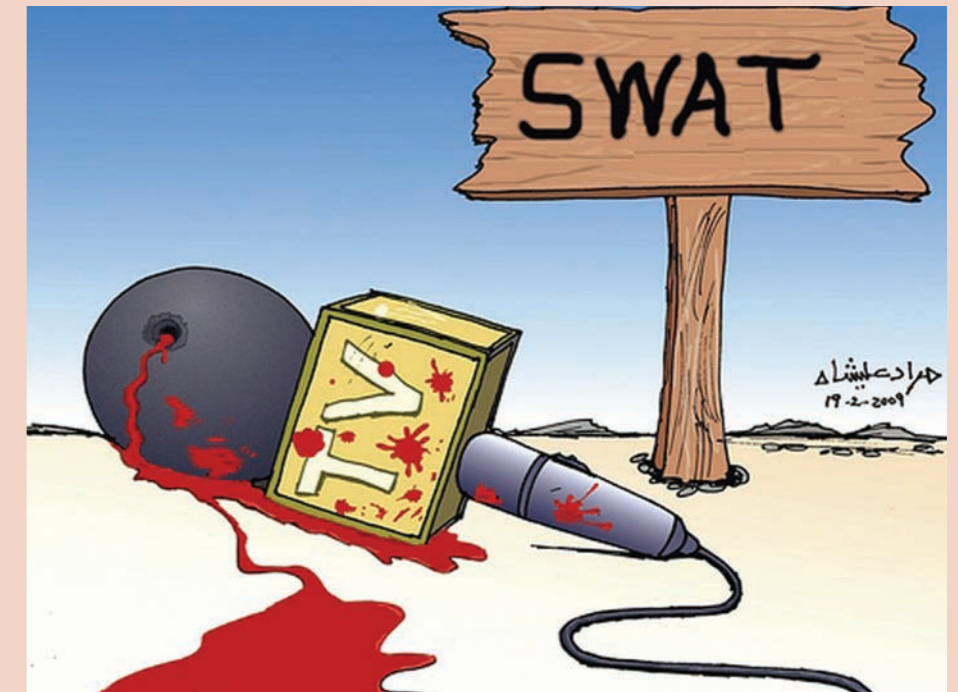
It is also worrying that, like most other media personnel working in Pakistan's conflict zones, Khankhel was not provided with specialist training for working in a hostile environment. Not only are

most media personnel in the area dealing with physical dangers on a daily basis, they are poorly paid and commonly on contracts that provide no job security.

The PFUJ concluded that GEO management, on learning of threats against Khankhel, should have transferred him out of the danger zone. While GEO has told the PFUJ that Khankhel was a regular employee with full security of tenure, his colleagues have said that he was not, and was poorly paid. However, GEO said it had paid Khankhel's family one million rupees (about USD 12,500), plus insurance of about half a million rupees.

The PFUJ has called on Pakistan's Government to set up a commission of inquiry, headed by a judge from the higher judiciary, to investigate the murder and ensure that the killers are brought to justice.

Other recommendations include setting up a fund for families of killed journalists and ensuring that the authorities provide protection to Khankhel's family.



Conflict zones such as Pakistan's Swat Valley are now notorious for targeted murders and cross-fire killings of media personnel. Image: Courtesy of Murad Ali Shah Bukera

It has been a longstanding demand of the PFUJ that media owners must provide all journalists, but especially those working in Swat, the Federally Administered Tribal Areas, the North-West Frontier Province and Baluchistan, with safety training as a priority. Finally, all media personnel must be granted the security of formalised regular employment and complete safety cover.

replaced the amended ordinance introduced under the November 2007 emergency decree. The bill effectively neutralised the powers gathered under the emergency decree to seize and impound media equipment and cancel the registration of newspapers. Pakistan's media community welcomed the new legislation, but the Government continued to send out mixed signals.

In January 2009, the Government introduced sweeping new amendments to the press registration law. Ironically, the legal changes brought into effect through ordinance were originally mooted by the Musharraf regime in 2002. The amendments required all newspapers to renew their registration every three years, by making an appropriate application and declaration to the empowered government authority. Publications using certain kinds of titles – which could be deemed overly explicit in terms of editorial policy or intent – would be denied registration. In addition, the registrar of publications was to be invested with broad-

ranging discretionary powers in granting recognition to certain newspapers and denying others.

The new law was withdrawn within days of being notified, after major protests by the PFUJ, the All Pakistan Newspaper Society (APNS) and the Council of Pakistan Newspaper Editors (CPNE). A Media Freedom Coordination Committee was established, with the participation of newspaper owners, editors and journalists through their representative bodies, as well as the Association of Tribal Journalists (ATJ). This action recalled the unprecedented degree of cooperation that owners, editors and journalists had managed to establish in the effort to overturn the 2007 emergency decrees.

Administrative action to curb the printing and circulation of newspapers remained a ready recourse for Pakistan's authorities. In November, the Sindh provincial government proscribed the daily *Islam* and the weekly *Zarb-e-Momin* for the alleged offence of spreading "anti-state feelings". It was understood that

the order, though issued by the provincial government, had been initiated at the federal level under an article of the Criminal Procedure Code dealing with forfeiture for spreading "anti-state feeling".

An earlier order banning the daily *Islam* had been reversed by the courts. The November order to re-impose the ban on *Islam* and *Zarb-e-Momin* was seen as the first explicitly anti-media action taken since the restoration of an elected federal government earlier in the year. The ban was lifted within days, but on condition that the newspapers not publish any material that could "inspire terrorism", "hurt (the) sentiments of people belonging to any sect, religion or country" or "harm national integration". *Islam* was asked to submit three copies of its edition every day to the Home Department for review.

On that occasion, the PFUJ argued for appropriate judicial procedures to be followed where action is required under the law, given the particular sensitivities in Pakistan. Summary administrative action,

the PFUJ said, sets a very poor example for all levels of government.

The new democratic dispensation in Pakistan has not yet fostered a climate of trust between the media and the authorities, one in which legitimate criticism is accepted in the appropriate sense. This was starkly on display in January 2009 when many of Pakistan's leading newspapers carried a report about an alleged secret fund created by the Federal Government to smear and discredit political opponents and critical journalists. Vivid details were published about the budget assigned for this operation – PKR 500 million (about USD 6.3 million) – and the personnel involved, which news reports alleged included several serving officials from the police and the bureaucracy.

Pakistan's Information Minister stepped up soon with explicit disavowals of any such operation. But immediately afterwards, another controversy broke out about an alleged remark by President Zardari that journalists were among the worst terrorists. Again,



Television channels across Pakistan are reducing expenditures and staff as economic difficulties and cuts in advertising spending dampen the broadcasting boom of recent years. Photo: Courtesy of Sarah de Jong.

the purported remark, made at a meeting with representatives of a chamber of commerce, was widely reported by some of Pakistan's most credible daily newspapers. The Information Minister was again prompt with a denial, telling the National Assembly that the Government had the utmost respect for the media's role in a democratic society and President Zardari could never "think of uttering such words". Officials of the chamber of commerce in question also soon denied that any such remark had been made by the President.

### Media growth and new economic realities

According to the most recent statistics, Pakistan's regulatory authorities have licensed 67 satellite television channels up-linked from domestic soil, apart from granting "landing rights" to 29 channels of foreign origin. FM radio licences granted total 116 while 2,168 operators have been approved for distributing cable television services. According to PEMRA, 93 FM radio stations have begun broadcasting, including several non-commercial operations associated with educational institutions. About 20 satellite television channels were awaiting approval to begin operations.

The five years to 2007-08 (Pakistan's fiscal year begins July 1 and ends June 30) were a period of buoyant growth for the Pakistan economy. This created favourable circumstances for the growth of advertising budgets and the multiplication of media. According to the Pakistan Press Foundation, aggregate advertising

spending grew from PKR 17.25 billion in 2005-06 to PKR 22.76 billion the following year, and PKR 25.05 billion in 2007-08. However, it is estimated that advertising spending in 2008-09 could shrink by 25 to 40 percent.

There is evidence that government advertising budgets have been used to exert pressure on newspapers. This was also a feature of the previous year, when the well-known media group *Dawn* went public with its plaint that the Federal and the Sindh provincial governments were cutting it out of advertising placements. In the current year, APNS has on at least one occasion publicly expressed its concern over the withdrawal of advertising to a newspaper group, *Mashriq* of Peshawar. APNS has also

reviewed the experiences of news organisations in other major cities in Pakistan and found strong evidence that government advertising was being released on unstated and often arbitrary considerations, creating serious challenges for the economics of the newspaper sector.

The Sindh provincial government has also acknowledged that the previous administration followed a "discriminatory policy" on advertising placements in the Sindhi, Urdu and English language newspapers. Of 500 newspapers registered and considered eligible, only 100 were favoured with government advertising, according to a statement by the provincial Minister for Information in the assembly. The principles of "merit" and "circulation" were rarely honoured

With cuts in advertising spending seemingly inevitable as a result of wider economic difficulties, several media organisations, particularly the more recently established television channels, have had to sharply reduce expenditures and downsize staff. Data on job losses are sporadic. However, the PFUJ estimates that about 250 media jobs have been lost in the past year. The year 2009 has so far been grim, with the tempo of job losses mounting sharply. Complaints about abrupt sackings have been received from workers at a number television stations – Dawn News, News One, Channel 5, Aaj, GEO and Samaa, being among them – as well as newspapers such as *Aaj Kal*, *Daily Jinnah Khabrian*, the *Post*, *Alsharq* and the *Pakistan Observer*.

The PFUJ believes that the retrenchments are in violation of the applicable law, which is the Newspaper Employees' (Conditions of Service) Act 1973, as also the overall procedures prescribed under Pakistan labour laws and International Labour Organisation conventions. On April 7, the PFUJ and all affiliated unions took out nation-wide rallies and demonstrations to protest against the massive job losses in the media. All major cities, including Islamabad, Peshawar, Karachi, Lahore, Faisalabad and Abbotabad, witnessed major mobilisations under the PFUJ banner.

The PFUJ expects that job losses will accelerate in the months to come. On January 15, it warned of the looming possibility of "large-scale retrenchment". Affiliated provincial unions of journalists were asked to gather all available information on job losses and file the data regularly with the PFUJ, to enable it to evolve an appropriate strategy. Apart from job losses, unions were asked to keep a close watch on news organisations defaulting on wage and salary payments.

On January 13, journalists boycotted coverage of the National Assembly proceedings to protest against mounting job losses in the media. In subsequent talks with the Information Minister, the PFUJ raised the need to ensure job security for media workers and underlined yet again the persistent default by media organisations in implementing the statutory wage award. Recommendations of the Seventh Wage Board for journalists and other newspaper and news agency employees were submitted in 2001 and remain unimplemented.

Among the current Government's first stated priorities after taking office in April 2008 were the revocation of all media controls that had been decreed under Musharraf and an assurance of a fair deal for media workers. The Information Ministry later that year took the initiative to constitute a tripartite committee comprising the representatives of media owners, workers and the government, to sort out the award's implementation. This effort is yet to get very far and there are fears that with the Information Minister's resignation, the long-overdue initiative to ensure a fair deal for journalists may founder.

Earlier in the year under review, the PFUJ had to deal with an effort by Pakistan's apex organisation of newspaper owners to repeal the Newspaper Employees' (Conditions of Service) Act. The law governs working conditions in the industry and is the enabling legislation for the constitution of the five-yearly Wage Boards for journalists and other newspaper and news agency employees. APNS suggested that the law contravened the fundamental

rights guaranteed to newspapers under Pakistan's Constitution – a contention that the PFUJ vigorously contested, since the constitutional validity of the law had been upheld by the highest judicial authorities not merely in Pakistan, but also in other countries with similar legislation.

### Physical security deteriorates

Security continues to be one of the most significant challenges for journalists and media personnel throughout Pakistan, particularly in the conflict and insurgency-prone frontier regions. The data on journalists killed and wounded in the line of duty makes for grim reading.

In Pakistan's conflict zones, rival groups seek to dictate the content and tone of news coverage. The country lost eight journalists in 2008, while 2009 has been equally grim. The murder of Musa Khankhel on February 18 while he was reporting on a truce negotiated in the picturesque but turbulent Swat valley in Pakistan's north-west shocked the country. The PFUJ sent a team to investigate the murder, but it encountered the hostility of local armed groups and the state agencies at every turn.

In January, media workers Saleem Tahir Awan and Mohammad Imran were killed in a grim enactment of the "twin-blast strategy" in Dera Ismail Khan, NWFP. Both rushed to the scene of a bombing as police and forensic experts reached the site, little knowing that another bomb had been set, timed to go off just when investigators and journalists gathered.

In Rawalpindi, Punjab, unknown assailants gunned down Aamar Wakil, a senior journalist for Rohi TV and editor of a local daily, *Awami Inqalab*. A week later, his brother, Kamal Azfar, also a journalist, survived an attempt on his life.

Swat has been a particularly dangerous place. Qari Mohammad Shoaib, a correspondent for two Mingora-based dailies, was shot dead on November 8, 2008, in the region. Security forces later admitted that he was the victim of a case of mistaken identity. Sirajuddin, of *The Nation*, was killed in a suicide blast while covering the funeral of a slain police officer in Mingora on February 29, 2008. Abdul Aziz Channa, of the daily *Azadi* and *Khabarkar*, was killed during a security operation in a Taliban hideout in Swat, two days after he was reportedly abducted by militants.

Pakistan's tribal belt is a most hazardous war zone, where reporting is being carried out at the cost of life. Muhammad Ibrahim Khan, of *Express News*, was gunned down in Khar in the Bajaur tribal region after he interviewed a Taliban spokesman. On March 26, Raja Assad Hameed, a senior reporter for the daily

*Nation* and Waqt TV Channel, was shot dead by unidentified assailants as he arrived at his home in Rawalpindi. And in what seemed a clear attempt to dent professional morale among journalists, two attempts were made in January and February to destroy the Wana press club in South Waziristan.

Strife-torn Baluchistan has been another area where journalism has become positively hazardous.

These incidents all point to the compulsive need of criminal gangs, militant groups and all contenders for power in Pakistan to try to control the flow of information. Stakeholders in a free media, meanwhile, find themselves relatively powerless to provide a secure environment for journalists.

Within the journalists' community too, there is a safety and protection hierarchy. The few who work for big organisations (national and international) are more likely to be provided with insurance cover. Also, since they work within well-organised professional networks with clear lines of command, their safety needs while on duty tend to be better looked after. But most journalists and media workers in Pakistan work on their own in strife-torn areas, with little organisational support and access to means of protection, from equipment to insurance.

## SRI LANKA

### Media Conflict Worsens As War Turns

A quarter century of armed conflict between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) has badly eroded freedom of expression, especially in terms of the functioning of the media and the security of journalists and other media staff. In tandem with a deteriorating political climate since late 2007 and early 2008, attacks and threats against journalists and media institutions have increased sharply. The year 2009 opened on an ominous note with the daylight murder of *Sunday Leader* editor Lasantha Wickrematunge in a busy suburb of Colombo and the kidnap-style arrest of *Sudar Oli* editor N. Vidyatharan, who continues to be detained, ostensibly on "terrorism" charges.

Wickrematunge's murder during morning rush-hour on January 8 shocked the world. He was one of Sri Lanka's most independent-minded journalist, and had earned a global reputation for his campaigning style and been honoured by world bodies for his commitment to transparency and probity in public life.

Since then, Puniyamoorthy Sathiyamoorthy, a journalist working for years in the northern city of Jaffna, was killed in an artillery attack by Sri Lankan armed forces, while reportedly seeking refuge in a government-declared safe zone. Though a long-time sympathiser of the cause of Tamil Eelam – or an independent Tamil homeland in Sri Lanka's northern and eastern provinces – and a frequent contributor to media controlled by the island nation's main insurgent group, Sathiyamoorthy was never known to have borne arms for any of the groups that have fought the Sri Lankan Government over the past 25 years. He meets the definition of a civilian non-combatant and a journalist under United Nations Security Council Resolution 1738.

In May 2008, Paranirupasingam Devakumar, a reporter with the Maharaja Broadcasting Corporation (MBC) in Jaffna, was killed in a brutal knife attack during curfew hours just outside Jaffna city.

Amid reports in early 2009 that the fighting in the civil conflict was reaching a climactic phase, there was great anxiety within and outside Sri Lanka about the fate of several tens of thousand civilians who have been held hostage by the Tamil Tiger guerrillas as they prepare for their last stand against government forces in a narrow strip of territory in the north. The inability of most independent media to access the war zone has ensured that there is a high degree of public uncertainty about the dimensions of the humanitarian problem.

Given the prospective complexities of rehabilitation and reconciliation processes in post-conflict Sri Lanka, it would seem an essential condition for durable peace that media access to all relevant sites is ensured, so that reporting and commentary is free and the public is aware of all aspects and angles.

Take the Eastern Province, which was declared "pacified" in July 2007 as the last remnants of the LTTE were expelled. The Government depended upon a breakaway faction of the LTTE to achieve this military success. Elections were since held to the Provincial Council here. At various stages of the electoral process, which was completed in May 2008, the Government sought to curtail media access. International human rights organisations that were allowed access, expressed serious doubts about the fairness of the electoral process in the province.

#### Use of counter-terror laws

The "pacification" of the East was the context in which the Government deployed draconian counter-terrorism laws to imprison and prosecute journalists. J.S.



Management and editorial staff at *Sudar Oli*. From left, N Vidyatharan, K.K. Ratnasingham, E. Saravanapavan, N Pathmaseelan. Arrested in February, Vidyatharan was ordered released by the court as this volume was in press. Photo: Courtesy of Sukumar Muralidharan

Tissainayagam, Tamil editor of the now defunct *North-Eastern Monthly*, N. Jasiharan, publisher of the same journal, and V. Vallarmathy, partner of the latter, were formally charged in August 2008 under the country's Prevention of Terrorism Act (PTA).

Taken into custody by the Terrorism Investigation Division (TID) of the Sri Lankan police in March 2008, Tissainayagam, Jasiharan and Vallarmathy were only able to secure their transfer into the Colombo Remand Prison on August 20, well over 150 days after their arrest. Under Sri Lanka's Emergency Regulations, enforcement authorities enjoy a high degree of latitude. They are not obliged to produce detainees before a court for up to 90 days. In the case of Tissainayagam and his co-defendants, the authorities were in clear violation of even this loose requirement.

An indictment against Tissainayagam, Jasiharan and Vallarmathy was filed before the High Court of Colombo on August 25, formally laying charges under the PTA – a draconian law that has remained on the statute books despite being introduced in 1979 as an ostensibly temporary measure. The charges pertain to 2006, when a formal ceasefire was in effect and

there was agreement between the warring sides that the PTA would not be invoked.

The evidence against Tissainayagam and Jasiharan amounts to little more than two articles published in the *North-Eastern Monthly*. Though these were sharply critical of the military strategy used by the Government in the effort to subdue the East, they do not in most observers' perception, reveal a treasonous intent or put innocent civilian life at risk, whether directly or by implication.

The first of these articles, which ran as an editorial in July 2006, commented that "the inability to protect its citizens within the areas it controls has caused Sri Lanka international embarrassment". After a brief consideration of the security dilemmas faced by Tamils in government-controlled areas in the north and east, the editorial argued that the Tamil community could expect no protection from the Government, since "it is the state security forces that are the main perpetrator of the killings".

The second article, published under Tissainayagam's initials in November 2006, drew attention to the deteriorating humanitarian situation in the eastern provincial town of Vaharai, which had

## LASANTHA WICKRAMATUNGE, 1958-2009

On April 6, Lasantha Wickramatunge, the Sri Lankan journalist murdered on January 8, was named the recipient of the UNESCO World Press Freedom Prize for 2009.

Joe Thloloe, Ombudsman of the Press Council of South Africa and chair of the 14-member awards jury, said the choice was “almost unanimous”. Though “clearly conscious of the dangers he faced”, Lasantha chose to speak out, “even beyond his grave”.

This was a reference to the text that was discovered among Lasantha's effects after his murder, which has been read around the world and recognised as the eloquent and remarkable testament of a journalist who was aware through every moment of his working life of the gigantic risks he was running – and yet chose to fight on.

“No other profession calls on its practitioners to lay down their lives for their art, save the armed forces and, in Sri Lanka, journalism.”

Thus began Lasantha's testament. Referring to the enormous hazards that the independent media in Sri Lanka has contended with through the decades-long civil war in the island nation, he observed, “Electronic and print-media institutions have been burnt, bombed, sealed and coerced... Countless journalists have been harassed, threatened and killed. It has been my honour to belong to all those categories and now especially the last.”

Lasantha, the editor-in-chief of the *Sunday Leader* and associated publications, was shot by two motorcycle-borne assailants who blocked his car and then used crowbars to smash its windows. The attack occurred at a busy intersection in Colombo as Lasantha drove to work. He suffered serious injuries and was pronounced dead within three hours of being shot.

Sri Lankan President Mahinda Rajapaksa reacted sharply to the murder and suggested that it was part of a conspiracy to discredit his government. However, given the history of personal vilification and outright physical violence that Lasantha and his newspaper had faced, the President did not manage to dispel the impression that his government bore at least indirect responsibility for the murder.

Lasantha was a valuable contributor to all press freedom activities in Sri Lanka. An international media mission to the country in October 2008 found him combative and energetic as ever. He had just studied a gazette notification the Government had issued earlier that month and was about to begin a campaign of public information and possible litigation to stop its implementation. His intervention was a key element in rallying opinion against the notification, which would have given the Government sweeping powers to cancel broadcast licences and censor news channels.

Lasantha could be counted on to speak out every time there was a threat to press freedom, either incipient or manifest. Even when other corporate bodies and associations of the media preferred silence or discretion, he would go it alone. This spoke of his great personal courage and conviction.

Lasantha's seemingly unending confrontations with the authorities are testimony to his ceaseless struggle for press freedom and the public right to know. In May 2000, the Government of then President Chandrika Kumaratunga closed down the *Leader* after suffering military setbacks in the war against Tamil insurgents. Lasantha secured a judicial verdict striking down the law that empowered the Government to order such draconian curbs.

In September 2000, the Colombo High Court sentenced Lasantha to two years' jail for “criminal defamation” against President Kumaratunga. The

charges were pressed in relation to an article published in the *Leader* in September 1995, which accused the President of not delivering on election pledges. Though a suspended sentence, its purpose was clearly, to silence a critical voice in the media.

In June 2006, the *Leader* carried a series of well-documented reports on how Sri Lanka's central bank governor was blocking inquiries into the collapse of a pyramid savings scheme. The newspaper's office was raided by tax authorities in February and March 2007 and the reporter who wrote the stories was summoned for interrogation in May 2007.

In October 2007, a young reporter with the *Leader* was detained on charges of extortion after publishing a report on certain inadmissible perks claimed by a minister's wife while travelling abroad. Lasantha rallied to the defence of his colleague. At a hearing granting bail, a Colombo magistrate observed, “Media are there to report on what is happening in society. Just because some people are embarrassed by a news report, the media must not be subjected to restriction.”

In November 2007, the printing press and other facilities of the *Leader* were badly damaged in an arson attack that, in Lasantha's words, resembled a “commando action” carried out by trained operatives.

Lasantha bore all adversities with enormous courage and fortitude. As he put in the closing lines of his last testament: “People often ask me why I take such risks and tell me it is a matter of time before I am



Lasantha Wickramatunge at his desk at the Sunday Leader in October 2008. Photo: Courtesy of Sukumar Muralidharan

bumped off. Of course I know that: it is inevitable. But if we do not speak out now, there will be no one left to speak for those who cannot, whether they be ethnic minorities, the disadvantaged or the persecuted ... If you remember nothing else, remember this: The *Leader* is there for you, be you Sinhalese, Tamil, Muslim, low-caste, homosexual, dissident or disabled. Its staff will fight on, unbowed and unafraid, with the courage to which you have become accustomed. Do not take that commitment for granted. Let there be no doubt that whatever sacrifices we journalists make, they are not made for our own glory or enrichment: they are made for you. Whether you deserve their sacrifice is another matter. As for me, God knows I tried.”

As the chair of the UNESCO jury put it, “Lasantha Wickramatunge continues to inspire journalists around the world.”

been targeted by a campaign of artillery and aerial bombardment as Sri Lankan forces sought its recapture from the rebels. Tissainayagam commented that the Government was not doing this “without design”. “By trapping the Tamil population in Vaharai”, he argued, the Government hoped to create a “human shield” that would prevent any Tamil Tiger offensives further south. “At the same time, starving and bombing Tamil civilians in Vaharai (would)

create disaffection between them and the LTTE leading to friction and ill-will. Such internal quarrels (would) act as insulator for the Government in the highly vulnerable East.”

Tissainayagam, whose trial is continuing, has said in his testimony before the court that he stands by all he has written. That defiance has probably cost him dear.

Vidyatharan, another senior Tamil journalist and

editor, was snatched from a family function in February 2009 in what was feared at first to be a politically motivated abduction. The police initially claimed to have no knowledge of his whereabouts. It was only after several hours that the Government's Media Centre for National Security (MCNS) confirmed that Vidyatharan was in the custody of a special branch of the police. MCNS director-general Lakshman Hulugalle reportedly dismissed all concerns about the manner of

Vidyatharan's arrest on the grounds that he was a “wanted person”.

Sri Lanka's Minister for Media and Information, Anura Priyadarshana Yapa, later confirmed that Vidyatharan was arrested in connection with an insurgent air raid on Colombo a few days before. Later, in an interview with an Australian news channel, the Government's Defence Secretary, Gotabaya Rajapaksa, charged that human rights defenders

## JUSTICE ON TRIAL

It has been more than a year since senior Tamil journalist J.S. Tissainayagam was detained by the Terrorist Investigation Division (TID) of the Sri Lankan police while checking on the well-being of his colleagues, N. Jasiharan and Vallarmathy, who had been detained the day before.

At the time of his arrest on March 7, Tissainayagam was editor of the news site [www.outreach.sl.com](http://www.outreach.sl.com). For more than five months, no explanation was given for his detention and no charges were laid, despite a fundamental rights claim challenging the grounds of his detention. Tissainayagam's health deteriorated rapidly, he had limited access to legal support and family and friends, and he was traumatised by the sounds of torture emanating from a nearby cell where Jasiharan was being held.

A formal indictment against Tissainayagam was issued on August 25, citing two charges under Sri Lanka's Prevention of Terrorism Act (PTA) and another charge under the Emergency Regulations Act. Tissainayagam is accused of inciting racial hatred and ethnic discrimination in articles he wrote for the *North-Eastern Monthly* in 2006 and 2007.

Tissainayagam may not be the first journalist in the world to be accused under counter-terrorism laws on the basis of his writing. But he is certainly the only one currently being held.

Just before Tissainayagam's trial began in Colombo's High Court in October, he and Jasiharan were transferred to the New Magazine prison,

which has a history of notorious violence against detainees of Tamil ethnicity. In November, the court ruled that an alleged confession by Tissainayagam, which he is believed to have signed under immense psychological duress, was valid as evidence. In March, the presiding judge rejected a "no case" submission in which the defence argued that the manner in which Tissainayagam was detained was unlawful. Tissainayagam has been denied bail.

Local journalists' organisations, the International Federation of Journalists (IFJ) and the South Asia Media Solidarity Network (SAMSAN, among others, are continuing to campaign for the unconditional release of Tissainayagam. A video warning of the implications of his case for all Sri Lankans was issued in September. Independent observers from the diplomatic and international legal community have attended the trial hearings and voiced concerns about the detention and basis of the charges. In March 2009, a statement by the IFJ, endorsed by Article IX, the International Press Institute and the World Association of Newspapers, was delivered to the tenth session of Human Rights Council in Geneva, condemning the charges against Tissainayagam and calling for an international inquiry.

The continuing detention and trial of Tissainayagam underscore the extent to which the authorities in Sri Lanka are prepared to go, despite international condemnation, to silence the voices of those who dare to speak truth to power.

agitating over the arrest of Vidyatharan risked having "blood on their hands" and being accomplices in terrorism. Vidyatharan's family meanwhile has had only sporadic contact with him since his detention and they believe that he has been mistreated and possibly suffered serious injuries.

### Terror tactics against the media

Apart from these specific cases, a signal seems to have been sent from the highest political level that verbal abuse of media workers and physical intimidation and attacks are fair tactics. The Labour Minister, Mervyn Silva, a close political ally of President Mahinda Rajapaksa, has been conspicuous in this respect. In December 2007, he stormed into the premises of the state-owned broadcaster, the Sri Lanka Rupavahini Corporation (SLRC), and roughed up the director of news, supposedly for not covering

an event addressed by him. Since then, Silva has had several bruising encounters with the media. In particular, he has targeted personnel of the MBC TV group, which broadcasts in three languages and controls the highest-rated Sinhala channel, Sirasa TV. The Minister's ire may have been aroused by the strong stand taken by Sirasa in demanding accountability for the SLRC incident.

Silva has publicly indicated several times that Sirasa personnel were not welcome to cover his public engagements. At the most recent incident on August 4, the Minister physically attacked a Sirasa crew at a public function. MBC and the aggrieved staff shortly afterwards filed a fundamental rights case against Silva. The Minister meanwhile led a demonstration outside the offices of the television station, demanding that its broadcast licence be revoked. On August 21, at the first court hearing regarding allega-



J.S. Tissainayagam continues to battle for his freedom at the Colombo High Court in Sri Lanka, while a campaign poster demands his release, along with colleagues N. Jesiharan and Valarmathi, who in January had spent 300 days in detention. Photos: Courtesy of Buddhika Weerasinghe and Free Media Movement

tions of illegal assembly, assault and robbery against the Minister in relation to the attack earlier in the month, Silva was granted bail. He emerged from the court reportedly hurling abuse at the television channel. He continued to use explicit language associating the channel with the Tamil insurgency movement, until he was formally indicted along with some political associates, on November 16.

The government-owned media often names individual journalists in a manner that endangers their security. In August, the government's Sinhala language daily *Dinamina* ran a story naming four journalists who were accused of having links with the Tamil insurgent movement. The unsubstantiated report also alleged that the journalists, who were all employed in a newspaper that had since shut down, had gained financially from their contacts with the LTTE. The four worked for a Sinhala-language

weekly known for its editorial line favouring a political solution to the country's ethnic conflict. It ceased publication in 2005.

These allegations were widely reproduced in other government-controlled media. Sri Lanka's Free Media Movement (FMM), a SAMSAN partner organisation and affiliate of the IFJ, argued then, that the allegations were consistent with a pattern of state-controlled media publicly naming journalists who report inconvenient truths about Sri Lanka's security situation.

On June 26, *Dinamina* carried a report alleging that the Sri Lanka Press Institute (SLPI), the country's premier media training establishment, had sent a group of LTTE sympathisers to Norway on a supposed training course. SLPI strongly refuted the allegations.

The Sri Lankan Army Commander, Lieutenant-General Sarath Fonseka, regularly issued strictures



Journalists' leaders brave a violent anti-media campaign in Sri Lanka to protests attacks on their colleagues. Photo: Courtesy of Sunanda Deshapriya

against the press and has in many instances singled out particular journalists for public criticism. He reportedly advised a staff journalist of the *Lanka-deepa* group that he would not cooperate with the newspaper if two regular defence columns continued to be published. The two columnists were among Sri Lanka's most widely read and regarded defence analysts.

In July editions of the *Sunday Observer* newspaper and the Sinhala-language weekly *Lakbima*, Fonseka was reported voicing antagonism toward defence reporters, suggesting a "blame the victim" attitude in relation to the spike of violence against journalists in 2008. In a later interview published in *Dinamina* in January 2009, Fonseka labelled some sections of the media as "traitors" who were the only barrier to ultimate military victory against the LTTE.

Commenting on the abduction of Keith Noyahr, deputy editor and defence analyst for the English weekly *The Nation*, in May 2008, Fonseka said that if a journalist does "nothing wrong" then he would have nothing to fear. After he was abducted while on his way home from work late one night in May, Noyahr was found badly bruised in a nearby location and is believed to have been tortured. He has refused to talk about the experience.

Fonseka's rhetorical manner is used frequently by defence spokespersons and senior staff of the MCNS. Websites of the Defence Ministry and the Sri Lankan

Army also purvey such sentiments.

Apart from Noyahr, several journalists suffered serious injuries in abduction and murder attempts over the year.

Namal Perera, a Sinhala-language journalist and deputy head of SLPI's advocacy section, was attacked as he was driving through a Colombo neighbourhood one evening in June with a friend. Both men suffered serious injuries in what was obviously an abduction attempt that was abandoned when a crowd of people gathered at the site.

Radhika Devakumar, a journalist who had briefly worked with the provincial council in the East, was shot at and seriously injured near her home in Batticaloa on September 8.

All these journalists are believed to have left Sri Lanka to seek safe haven in other countries. Since Wickrematunge's murder in January, the trickle of journalists fleeing the country has turned into a torrent.

### Media under siege in Jaffna

Sri Lanka's media is being depleted of valuable human capital at a time when it most needs all available talent to ensure that the public is informed and engaged with the momentous political changes that are imminent. The problems are especially acute in the North. Just when the people of Sri Lanka are most in need of professional and authoritative reporting from an area that is the epicentre of ongoing military operations against a separatist insurgency, the press in Jaffna is in a state of paralysis and the small media community in the city has been devastated by targeted killings.

Jaffna has three tabloid dailies in Tamil: *Uthayan* (12 pages), *Yal Thinakkural* (eight pages) and *Valampuri* (12 pages). All three have sharply lost circulation since the days of the ceasefire. Yet all three seek to be responsive to local needs and demands for information, by running reports on civilian casualties and the humanitarian situation, with attributions to both parties in the conflict.

Colombo-based newspapers such as *Veerakesari* (Tamil) and the *Sunday Times* (English) are available in Jaffna, but in severely abridged form and at a much

higher price, because of the air freight surcharge. The government-owned newspapers of the Lake House group are available in Jaffna for the same price as in Colombo.

Of the television channels, only the government-controlled channels and the privately owned Shakthi TV are available in Jaffna. Some Indian channels are available via satellite to a few.

*Uthayan*, part of the same newspaper group that publishes *Sudar Oli* in Colombo, has the highest circulation of any newspaper available in Jaffna. It functions with a staff of two journalists – the editor and the news editor. No trainee journalists have joined for three years. By early evening, the few other staff who work in the design section and the press leave the office to beat the curfew. The editor and the news editor stay the night at their office with their families, for reasons of safety.

*Uthayan*, with a circulation of 22,000, is the principal vehicle for Tamil language advertisers – both commercial entities and individuals – in the northern province. As such, it is able to carry part of the costs of publishing *Sudar Oli*, which was launched in 2001 and gets little advertising support. Also, very importantly, the two newspapers manage to be a link between Tamil communities in the North and the rest of Sri Lanka, despite the disruptions caused by a quarter century of warfare. *Valampuri* has three employees and *Yal Thinakkural*, two. They fare little better than *Uthayan*. The human resources crisis is acute all over Sri Lanka, but especially so in Jaffna, where journalism is considered one of the most hazardous professions. In recognition of this reality, no newspaper published from Jaffna provides a byline to any reporter. Most practising journalists in Jaffna report only religious festivals and news related to government activities. They censor themselves and do not to report on any political or military-related issues. Insurgent groups call in with their own information, and needless to say, the newspapers are under pressure to publish these items.

Without an environment of openness and transparency that ensures free access for the media, the North of Sri Lanka could prove even more intractable than the East.

### Lax government response

Responding to widespread concerns about intimidation and violence against the media, the Government announced in June 2008 that a Cabinet subcommittee would assess these issues. Sarath Amunugama, a senior minister, was appointed convenor of the subcommittee, which was also to set up a "fast

response office" with a hotline to the Deputy Inspector-General in the Sri Lankan police.

Yet attacks on journalists have not abated and the subcommittee languishes in obscurity. As a media commentator noted shortly after Wickrematunge's murder: "The Cabinet subcommittee to look into the grievances of journalists set up in June 2008 is largely forgotten today. No one knows whether it exists, how to reach it, what it does, or whether it came up with recommendations to protect journalists."

Media rules which were gazetted on October 10 and required broadcasters to renew their licences annually, provided for several contingencies under which licences could be cancelled, including seven different grounds related to broadcast content. At the same time, Sirasa TV was put on notice that it was to submit transcripts of news broadcasts "to be carried" every week following October 28. This was read, accurately, as an effort to impose censorship. However, the rules were held in abeyance after strong protests by the local media community.

Fair, accurate and independent reporting is essential to good governance, effective public administration and the capacity of all people in Sri Lanka to understand the root causes of the country's conflict and to achieve a just and negotiated political solution. People need to understand the issues contributing to the conflict in order to make well-informed decisions regarding the fears and expectations of various actors. The public needs an enabling environment that allows for pluralistic media to practise accurate and unbiased journalism as part of this process.

Take for example, the extreme concerns about the Government's reported plans to set up "welfare villages" – self-contained resettlement camps – for internally displaced people. Without free access for both Sri Lankan and international media, oversight of these camps will be lax. In a context of significant political initiatives in the North, including possible provincial elections, there is a great need for consistent media oversight over the process of resettlement, since the continuing detention of Tamil civilians could amount to their disenfranchisement.

Sri Lanka's media community has worked over the years to establish a strong sense of professional unity despite the unremittingly hostile circumstances. But in the climate of fear that now prevails, many leaders of the media community have had to leave the country or withdraw into inaction for their own safety and of their families. Sri Lanka's media professionals need the support of civil society organisations across the world in dealing with these moments of crisis.



The IFJ is a non-governmental, non-profit organisation that promotes coordinated international action to defend press freedom and social justice through the development of strong, free and independent trade unions of journalists. IFJ Asia-Pacific coordinates IFJ activities in the Asia-Pacific region. The IFJ works closely with the United Nations, particularly UNESCO, the United Nations OHCHR, WIPO and the ILO, the International Committee of the Red Cross, the European Union, the Council for Europe and with a range of international trade union and freedom of expression organisations. The IFJ mandate covers both professional and industrial interests of journalists.

Visit [asiapacific.ifj.org](http://asiapacific.ifj.org) or [www.ifj.org](http://www.ifj.org) for more information.