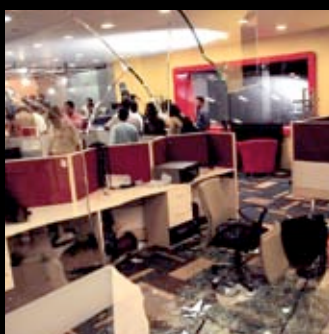
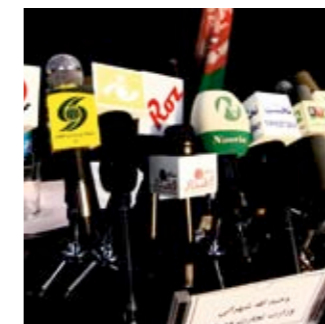


Battle for Democracy

PRESS FREEDOM IN SOUTH ASIA

2009-2010





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BATTLE FOR DEMOCRACY: PRESS FREEDOM IN SOUTH ASIA 2009-2010

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 National Union of Journalists, Nepal (NUJN)
 Nepal Press Union (NPU)
 Pakistan Press Foundation
 Pakistan Federal Union of Journalists (PFUJ)
 Sri Lanka Working Journalists' Association (SLWJA)

See Annex: Incidents of Press Freedom Violations by Country, May 2009 – April 2010 at <http://asiapacific.ifj.org/en/pages/ifj-asia-pacific-reports> for listings of specific cases of violations of press freedom.



A news photographer helps an injured woman in Kathmandu following violent protests in Nepal's capital. Photo: Courtesy of Kiran Panday.

FOREWORD

The battle for democracy across the countries of South Asia in the past year has seen a contest of wills among diverse actors seeking to achieve or impose particular world views. The ferocity of the contest varies from one country to another, depending on the extent to which they have managed to overcome armed forms of conflict. As the conveyors of diverse and conflicting points of view and as a means for holding power-holders accountable for their words and deeds, journalists and the media are central players in this often dangerous tussle of views. They are also commonly first in line for attack when the message is not welcome.

With the exception of India, all countries reviewed in *Battle for Democracy: Press Freedom in South Asia 2009-10* are undergoing significant political transitions. Afghanistan, Bangladesh, Bhutan, Maldives, Nepal and Pakistan, in one way or another, are contending with the difficult task of building more free societies in the wake of autocratic systems previously led by military regimes, religious fundamentalists, feudal monarchies or one-party dictatorships.

Meanwhile, Sri Lanka's long democratic history is challenged as the current government, rather than building on the opportunities for peaceful reconciliation following the end of the country's civil war, brooks no dissent in its efforts to secure the power and privileges of a few. India is, with its long and relatively well-established political traditions, potentially the pivotal country in this region of intense change. But prickly bilateral issues with most countries, arising in the main from the legacies of history, prevent it from fully assuming this role.

The International Federation of Journalists' eighth annual assessment of press freedom in South Asia is therefore framed by the fluctuating and contested political and

social frameworks across the region that largely influence the difficulties confronting journalists, their unions and professional associations, and the media sector over the year from March 2009. Added to the mix is the fallout from the 2008 global financial crisis, as media businesses across many countries tightened their operations, refused to improve working conditions, and sacked workers.

Many of these media businesses had pursued extravagant business models premised on over-optimistic forecasts of unending economic growth and prosperity, even as they frequently withheld profits earned during the boom from employees and staff. At the same time, the financial tightening has allowed for some governments to more effectively wield their allocations of advertising spending as a means for keeping media beholden and in line with the demands of power-holders.

Battle for Democracy: Press Freedom in South Asia 2009-10 has been prepared with members of the South Asia Media Solidarity Network (SAMSAN), including IFJ affiliates. The report is based on information and analysis gathered through media rights monitoring networks established with journalists' unions throughout the region, supported by IFJ training programs. In outlining the great challenges for press freedom across South Asia, this year's report once again highlights the value of maintaining and expanding these networks – regional and national – so that local journalists and their organisations, together with the IFJ, can continue to document and circulate evidence of media rights violations. This is the basis of our joint advocacy to defend and promote press freedom and the rights to freedom of expression and association across all of South Asia.

Jacqueline Park
IFJ Asia-Pacific Director

OVERVIEW Battle for Democracy



Journalists and news cameramen protest in Chennai against the arrest of *Dinamalar* news editor B. Lenin in October. Photo: Courtesy of United News of India.

Optimism was at a premium in the South Asian region around the time of the World Press Freedom Day observances in 2009. The headwinds from the global financial meltdown were then gusting about the region and it seemed apparent that the slump was yet to bottom out. For the eight countries of South Asia, which are all in the throes of transition in one form or the other, the unsettled global economic environment was an unwelcome development.

The year gone by has brought a semblance of stabilisation, belying some of the worst fears that the global financial meltdown awakened. Few observers of the regional economy, though, are ruling out further turbulence in the months ahead. To this must be added the effects of continuing political turmoil where regional and global forces intersect.

Afghanistan and Pakistan, two countries in the global spotlight, saw significant changes in the legal environment and a further effort by those in authority to settle at least some of the more difficult issues involved in relations with the media. Two journalists convicted to long terms in prison under provisions of the Afghan law that allow a special place for religious custom where judicial precedent is absent or weak, were released during the year in exercise of the presidential power of pardon. Afghanistan also gave itself a comprehensive new law to govern and regulate aspects of media functioning. Though not quite what the country's media community had hoped for, the passage of the law at least ends a prolonged legal vacuum and provides a basis on which journalists can carry forward efforts to improve the overall working environment. In large part, the media freedom environment in the country will evolve in accordance with the quality of the institutions that

are created under the mass media law. Though the law provides no inbuilt assurances that these institutions will really be able to stand up for press freedom, Afghanistan's media community could work with existing legal provisions to ensure that they serve the broadest possible agenda of journalistic freedom in their implementation.

Tragically, a local journalist was killed in a botched rescue effort after he and a foreign reporter were taken hostage as they reported on the fraught aftermath of a western coalition airstrike that killed scores of civilians. Two foreign reporters embedded with coalition forces died when the military detachments they were travelling with came under attack, showing once again that journalists who place themselves under the protection of one side in a war zone cannot be assured that their status as neutral non-combatants will be respected by the other.

Pakistan's border with Afghanistan continues to bristle. Over the past year, the conflict originating in these parts has permeated other parts of Pakistan. The border regions – the provinces of Balochistan and the North West Frontier, and the Federally Administered Tribal Areas – were by far the most difficult for journalism over the past year, involving multiple dangers. Aside from the ever present danger of physical attack, journalists functioned under a pall of fear and intimidation with neither side in the ongoing confrontation willing to tolerate an alternate viewpoint being heard through the media.

Pakistan took an important step in April toward consolidating a new democratic order, with the passage of the 18th constitution amendment bill which restores the legal framework

in existence in the 1970s, before basic liberties were eroded by military repression and the pressure of religious groups. The media welcomed this long overdue change in the constitutional scheme but still believes that it has a lot of work ahead in remedying more specific legal hindrances to free functioning.

The statutory wage award for Pakistani print journalists announced in 2000 meanwhile remains very incompletely implemented, long after its tenure has concluded. A new statutory wage board to determine fair levels of compensation for Pakistan's journalists and news industry workers is overdue, but the entire process remains in a judicial limbo, with the newspaper industry filing a petition claiming that the underlying law is a violation of fundamental rights.

Sri Lanka and Nepal have been countries where security for journalists has long been a serious worry. At the time of World Press Freedom Day 2009, Sri Lanka was approaching the end of a long and brutal civil war. But even through the trauma of the war's last weeks, there was hope that the peace could be won, in which journalists irrespective of where they come from and what they say, would enjoy equal rights and protection. Nepal was concurrently living through a real possibility of large-scale civil disturbances. A decade-long armed conflict ended in 2006 after a formal ceasefire was agreed between Maoist insurgents and a provisional government. An election was held under the truce to create a representative body and a national parliament that would determine the constitutional framework for a new republican order. But the outcome had been splintered and the erstwhile insurgents who emerged as the largest bloc in the new parliament could not quite find a meeting ground between their own maximal demands and the more cautious approach of coalition partners.

The outcome has been more uncertainty and anxiety in both countries. In Sri Lanka, the short-lived concord between the victors of the war broke down in a bitter spat. This became an immediate flashpoint for tensions between the authorities and the media, with even factual reporting frequently attracting a coercive response. The country moved into election mode shortly afterwards, and the former army commander chose to challenge the President on the strength of his ostensibly superior credentials as victor in war. With state-controlled media proving uncompromising in its defiance of basic norms of fairness in election coverage, even independent journalism tended to get caught up in the partisanship of a bitter campaign. And after securing a fairly unequivocal triumph in the presidential elections and the parliamentary polls that followed two-and-a-half months later, the President has shown an intention to settle scores with the media. Many of the country's journalists and media freedom activists continue to opt for the relative safety of exile abroad.

Nepal's media have been trapped in a political transition that has encountered numerous roadblocks. Though these were in a sense foretold, few of the stakeholders in Nepal's political process have shown the vision to work out a constitutional pathway that will command broad popular consensus. The Maoists have quit the ruling coalition that they led for almost a year since the 2008 elections. They remain embittered at not getting what they claim is their due in terms of a share in political power and insist at every available opportunity that the media are at least partly responsible. As the prospects for a new national constitution being agreed by the deadline of 28 May 2010 looked increasingly remote, the Maoists announced plans to formulate a "media management"

At a demonstration in Geneva on 19 March, protesters demand urgent investigations into the unexplained disappearance of Sri Lankan journalist Prageeth Ekmaligoda, who went missing in Colombo on 24 January, two days before Sri Lanka's presidential elections. Photo: Courtesy of Sunanda Deshapriya.



Journalists in Faisalabad, Pakistan, call for recognition of the right to freedom of expression. Photo: Courtesy of PFUJ.

strategy. With Maoist cadres being held responsible for most of the attacks on journalists in recent years, there are justified apprehensions about this new initiative.

In January 2010, Bangladesh completed a year since the restoration of civilian government, and shortly afterwards enforced an act of accountability on the men behind the conspiracy in 1975 to eliminate the political leadership that led the country's war for liberation. With very few and relatively minor exceptions, the media endorsed this action. But further political turbulence is foretold by the Government's intention to begin trials for war crimes committed by anti-liberation forces in 1971. Competing understandings of this phase of the country's history have split the media community in the past, and continue to do so. The polarisation remains as acute as ever, with the main opposition refusing to participate in parliamentary proceedings because it claims that the December 2008 vote was rigged. A spell of quiescence when it sought to recoup forces after the prolonged absence of the top leader and her immediate family has been followed by a new political assertiveness on the part of the opposition. The political milieu remains turbulent, with little possibility of agreement on a basic framework of rules. 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.

Bhutan and the Maldives, the two smallest countries in South Asia, are both in the early years of a transition, from an absolute monarchy in one case and a dictatorship by referendum in the other. Neither transition was expected to be smooth, and the media community in both countries is engaged in establishing the ground rules that would be appropriate for an emerging democratic order. Economic



Journalist Sultan Munadi was killed in September 2009 when British commandos conducted an operation to rescue him and his colleague Stephen Farrell, who were being held hostage by militants associated with the Taliban in Afghanistan. Munadi leaves a wife and two small children. Photo: Courtesy of Good Morning Afghanistan Radio.

constraints remain acute since neither country has a very large or affluent media audience that could justify large outlays by advertisers. Governments in both countries remain major advertisers, with the ability to influence media content through ad placement decisions. This strategy, in fact, has been in play in both Bhutan and the Maldives.

The Maldives though has made significant forward strides in dismantling the legal structures that could act as a brake on the free media. In having decriminalised the offence of defamation, it is ahead of all other countries in the region save Sri Lanka. A law on media regulation has also been enacted, but journalists remain fundamentally unreconciled to several of its provisions, which they insist pre-empt many of the ethical norms and practices that should be agreed only after a public debate. Similar irritants are evident in the relationship between Bhutan's media and the regulatory authorities, with the latter often being accused of adopting an irksome and intrusive mode of functioning.

Though Bhutan has generally been free of overt acts of violence against journalists and the media, these worrying tendencies have been recently in evidence in the Maldives.

Through all this, India reflects in its expanse all the trends from the other countries – from low-level intimidation of media to outright violence, from worries over government ad placement to continuing arguments about regulatory norms. India also shows certain unique facets, mostly arising from its rapid integration with the global economy. Early worries that the global financial crisis would play havoc with media industry fortunes have abated, at least temporarily. But there are new worries surfacing, though yet incompletely acknowledged, about how the media will respond to the deep structural transformation that seems under way.

Print media has visibly lost ground in terms of its share of total ad spending in the Indian economy. And the intense competition among the country's numerous TV channels – including more than 100 news channels – has driven down advertising rates even as content has shrunk.

Though their accounts remain opaque, most estimates indicate that the majority of India's TV channels are losing money. Reality TV programming and cricket as mass entertainment – as typified by the Indian Premier League competition spread over one-and-a-half months every year – have become the new mantras for ensuring media profitability. How far these formulae can be stretched remains uncertain.

The print media in India, though well-established in its procedures and codes of practice, have become visibly more prone to ethical lapses under the pressure of competition. A particular worry that came to wide public notice during 2009 was the practice of "cash for coverage", or "paid news". Journalists' unions in India were instrumental in fostering a public debate over the practice and with some senior and respected journalists and public figures also pitching in, the matter became the subject of an inquiry by the Press Council of India.

Regulation remains an active debate in relation to the broadcast media, where industry sources and the Government often espouse opposing perspectives. Self-regulation remains an ideal, but recent efforts have not progressed very far. Industry associations often agree easily enough on principles, and then disagree on their application. Journalists' unions in India, though, remain engaged with the issue and are hopeful of influencing the debate and ensuring an outcome that is positive in terms of media freedom and the public's right to know.

AFGHANISTAN Journalism Under Stress



Journalists Sultan Munadi and Stephen Farrell interview a wounded man the day before they were abducted in September 2009 by Taliban militants in Afghanistan's northern Char Dara district. Photo: Omar Sobhani, Reuters.

At the 2009 World Press Freedom Day observance, Afghanistan was entering the preparatory phase for national elections. The process of the elections for the country's presidency and 34 provincial councils was expected to fortify the institutions that had been set up following the ouster of the Taliban Islamic regime in 2001 and the first round of nation-wide elections in 2004 and 2005. At the time, the consensus in all but a limited circle of power-holders in Afghanistan was that the institutional basis of democracy in the country remained fragile. Media freedom, to the extent that it existed, was vulnerable to institutional fragility and political competition between Afghanistan's diverse and complex power groups.

The increasingly difficult political situation in Afghanistan is summarised and well described by the number of civilian casualties the country has been suffering in ongoing military operations. According to United Nations statistics, the calendar year 2009 – with 5978 civilians dead or injured – was the worst year in terms of this parameter since the multinational intervention of 2001 brought about the end of the Taliban regime. And the worst of the violence came in the months of intense political activity leading up to the August 2009 elections.

Of the 2114 civilian deaths registered in 2009 on account of the armed conflict, 67 per cent were attributed to anti-

government elements, and 25 per cent to pro-government forces, including forces of the multinational coalition. The bulk of the deaths attributed to pro-government forces was accounted for by coalition air strikes. This ratio represents a relatively more favourable account of coalition operations than in 2008, when almost 40 per cent of civilian deaths in armed conflict was attributed to pro-government forces. Yet the 2009 figure, while representing a more serious effort by the architects of the new order in Afghanistan to address possible misgivings about their tactics, is still seen to represent a far from satisfactory situation.

It is in this context that the especially fraught relationship between the Afghan media and the public on one hand and the nation's power-holders on the other, has evolved. The public dialogue over enacting a media law for the country -- and legislative process -- began in 2007, but then encountered numerous snags, including a presidential veto and an effort by the bicameral legislature to override it.

Push for Media Law

Symbolically, the two main organisations representing the journalists of Afghanistan, the Afghan Independent Journalists' Association (AIJA) and the Afghan National Journalists' Union (ANJU), pointedly and with conspicuous



Sultan Munadi was described by *New York Times* journalist and colleague David Rohde as "generous to an extreme and with an easy laugh". Photo: Courtesy of Good Morning Afghanistan Radio.

In the Firing Line

The death of Afghan journalist Sultan Munadi during a hostage rescue operation on 9 September 2009 reignited anger and grief among the Afghan media community about the dangers for local journalists who work with foreign correspondents. Munadi was on assignment with a reporter for the *New York Times*, Stephen Farrell, when he was killed in crossfire as British commandos attempted to retrieve both journalists from Taliban militants who had abducted them four days earlier in the Char Dara district of the Taliban-controlled north. Farrell was freed in the operation.

Local and international press freedom groups spoke out strongly to voice their concerns about the way in which the rescue was conducted. They and Munadi's family questioned the circumstances under which Munadi was killed, and the reasons why his body was left behind when the commandos withdrew.

"We are all very disappointed. Why would the British forces rescue the British man and not his Afghan colleague? They were both running for help and shouting that they

intent stayed away from all observances of World Press Freedom Day 2009, in protest against the harsh conditions facing the profession in the country and the continuing failure to enact the media law. This drew attention to one of the most significant challenges facing Afghanistan's media community. For all of eight years since the fall of the Taliban regime, independent media in Afghanistan has expanded and diversified, though without a coherent regulatory framework or governance structure. Concurrently, there has been little headway in putting in place strong social and political norms regarding the place of the media in a post-conflict society and the latitude available to it in terms of the constitutional right to free speech.

Illustrative of the ambiguities of perception on these issues is the following comment, published shortly after World Press Freedom Day 2009, in a prominent Dari language newspaper: "Afghanistan is a religious society, and the media law should be outlined in a way that religious values are respected. Also the people's thoughts and initiatives should be limited. On

were journalists," the president of the Afghan Independent Journalists' Association (AIJA), Rahimullah Samander, said at the time. "He was shot in the head, and his body was left lying where it fell. This is wrong behaviour that makes people very upset."

The killing of Munadi was a painful reminder of the murders of local journalist Ajmal Naqshbandi, 24, and a young driver Sayed Agha in 2007. Both were abducted by Taliban militants with an Italian journalist, Daniele Mastrogiacomo, of *La Repubblica*, in southern Helmand province in early March 2007. Sayed Agha was murdered first, to put pressure on authorities for negotiation. Mastrogiacomo was released on 19 March after government negotiations with the hostage-takers resulted in the release of five Taliban prisoners. Ajmal Naqshbandi was beheaded on 8 April. Local journalists were deeply angered that the Government was able to assist to negotiate for a foreigner but was unable to do so for an Afghan.

Two years later, on 10 March 2009, journalist Jawed "Jojo" Ahmad Yazmi, 24, was shot dead by unknown gunmen in the southern city of Kandahar. His murder came seven months after he was freed from almost a year in military detention at the United States-run Bagram airbase near Kabul. Jawed had been detained without charge by US forces on 2 September 2007 while working with Canadian TV (CTV). He was accused of "improper" contact with Taliban forces, but argued his job required getting information from all sides to the war.

Munadi, 32, was married and had two small children. He had worked for the *New York Times* since 2001, including as an assistant and facilitator for fellow *New York Times* reporter David Rohde, who escaped unharmed from Taliban captivity in Pakistan in June 2009.

In a tribute by Rohde published in the *New York Times* following Munadi's death, he said, "The death of Mr Munadi illustrated two grim truths of the war in Afghanistan: vastly more Afghans than foreigners have died battling the Taliban, and foreign journalists are only as good as the Afghan reporters who work with them."

the other hand, views on the evaluation of the Government's performances should not be condemned." The comment points towards the need to restrain popular criticism of religious belief, but for relatively unconstrained public commentary on the performance of secular public authorities.

July 2009 brought a major breakthrough with Afghanistan's mass media law formally gaining presidential assent. Yet a delay of two months in publishing the full text of the Act led to some misgivings. This was seen to be a deliberate effort to ensure that its provisions on the obligations of the state-owned media organisations were not operationalised before the conclusion of the presidential elections on 20 August.

RTA Status

The status of the state-owned broadcaster, Radio Television Afghanistan (RTA), was one of the most contentious issues holding up the adoption of the media law. President Hamid Karzai had, in refusing to give his assent to the bill, indicated in December 2007 that he was not in agreement with the



Microphones stand ready to record a press conference to be broadcast by the hundreds of TV and radio stations across Afghanistan. Photo: Courtesy of AIJA

purported change in the status of RTA – from state-owned broadcaster to a public service trust.

Among Karzai's inner circle, including then Information Minister Abdul Karim Khurram, the proposed transformation of the RTA was seen as a strategy to neutralise the government broadcaster and stifle the legitimate right of those in authority to address the people of Afghanistan. It was alleged that members of parliament who themselves had an interest in the media had in particular been responsible for writing this article into the proposed law.

The final compromise was, seemingly, to split the difference. RTA is now described, under article 13 of the law, as "a mass media that belongs to the Afghan nation and shall perform, as an independent directorate, within the framework of the Executive Branch". The budget of the RTA, the law stipulates, "shall be provided by the Government, and through advertisements and provision of services". In deference to a ruling by Afghanistan's highest judicial body, a second clause of this article, which said that the RTA director would be appointed by the President, subject to approval by the lower house of parliament, the Wolesi Jirga, was deleted when the law was finally notified.

The media law as finally adopted includes several prohibitions on media content as well as numerous stipulations on mandatory content.

In these respects, the law is no different from the draft that has been under debate since 2007.

Material that is prohibited under the law includes anything:

- Deemed contrary to the principles and provisions of the religion of Islam or to other religions and sects; That is "defamatory, insulting and offensive" to "real or legal persons" and could cause "damage to their personality and credibility";

- That is "contrary to the Constitution and" could be considered a criminal action under the Penal Code;
- That disseminates or promotes any religion other than Islam;
- That reveals the identity of victims of violent crime or sexual assault in a manner that damages their "social dignity"; and
- That harms "psychological security and moral well-being of people, especially children and adolescents".

Journalists in Afghanistan prima facie find little to object to in these stipulations. Their worry, though, is that with precedent and convention being weakly established, these prohibitions may leave ample room for arbitrary interpretation.

Free Expression Punished

In 2008, two journalists were sentenced to extended prison terms for supposed transgressions against religious sensibilities. Syed Parvez Khambaksh, a young student and journalist from the northern province of Balkh, was sentenced to death in January 2008 but had the sentence commuted to 20 years' imprisonment in October 2008.

Similarly, Ahmad Ghous Zelmay, who was arrested in November 2007 on charges of publishing an unauthorised Dari translation of the Islamic scripture, was sentenced to 20 years' imprisonment in September 2008.

Qari Mushtaq, the religious scholar who certified the translation as authentic, also was sentenced to a like term of imprisonment.

Over the year under review, all three were pardoned. Khambaksh was the first to be released and flown to safety in an undisclosed foreign country. The decision to pardon him was made by Karzai at a date yet to be determined. Significantly, it came to light only after elections had been concluded and Khambaksh had left the country. This was an index of the political sensitivities involved.



Canwest reporter Matthew Fisher, left, accompanies a Canadian army official in unveiling a memorial to journalist Michelle Lang, of the *Calgary Herald*, in March 2010. Lang was killed along with four soldiers in a roadside bomb attack in Afghanistan in December 2009. Photo: Steve Rennie, AAP.

Khambaksh benefited, though very belatedly and after much personal trauma, from the international attention his case attracted. Such was not the case with Zelmay and Mushtaq. Zelmay may have been additionally disadvantaged by the fact that he was spokesman for the office of the Attorney-General before beginning his freelance writing and publishing venture. In this capacity, he may have become a victim of the tense political confrontation that took place between Karzai and the incumbent Attorney-General in 2007. Coinciding with the Afghan new year observance (Navroz) on 20 March though, Zelmay and Mushtaq were ordered released by President Karzai in exercise of his presidential right to grant pardon.

Regulatory Oversight

The new law that is applicable in Afghanistan conceives of two media oversight bodies: a Mass Media Commission (MMC) to attend to the executive functions of regulation; and a higher adjudicatory body, the High Media Council (HMC), to which it reports. The law lays out the composition of the latter body with a high degree of specificity. Of the 13 members, three would come from the ministries of culture, justice and communications, one would represent the Supreme Court and four would come from the two houses of parliament. Of the remaining places, one would go to a religious scholar and two each to the media community and broader civil society.

There are worries that with this manner of composition, the HMC will be significantly influenced by official diktat and may not be an effective watchdog of media independence and the public right to know.

The composition of the MMC is not laid down in the law, and is left for a future legal enactment. Its membership would number seven and would be drawn from "professional people, with higher education and (experience) in the field of

journalism taking into account the ethnic and gender balance". Prior to the enactment of this law, a similarly empowered body did exist in Afghanistan, though the manner it addressed its mandate did not inspire much confidence among journalists. It remains to be seen how the body appointed under the new law will differ, if at all, from its predecessor.

An oversight body for the state-owned broadcaster is also stipulated under the law. This commission shall by law include, "one religious personality, one lawyer, one engineer, one journalist, one professional artist, one representative of the civil society and one representative of (RTA)". Gender and ethnic balance would be a priority in appointing this commission. Yet, as with the MMC, there are no strong guarantees of independence written into the law.

With the institutional foundations of media freedom being rather infirm, there have been periodic diktats from government authorities on what can and cannot be covered in the media. On the eve of the August elections, for instance, the National Security Council of Afghanistan sent out an advisory through the Foreign Ministry that media coverage of violence during elections would be prohibited. The directive was seen by journalists' groups as an unwarranted intrusion into their autonomy and potentially a denial of the public's right to know about all aspects of a situation that could endanger lives.

The decision was reportedly taken by the National Security Council of Afghanistan "in view of the need to ensure the wide participation of the Afghan people in upcoming presidential and provincial council elections, and prevent any election-related terrorist violence". Several news organisations reported receiving telephone calls from the office of the President of Afghanistan underlining the urgency of abiding by the censorship decree. Many of them found it illogical, since suppressing news about violent incidents was no way

of containing the insurgent threat to disrupt the elections. Nor did they see any useful purpose served by denying the electorate the basic information needed to make an informed decision about whether and when to vote.

Violence peaked on election day, with the UN monitoring mission recording an unprecedented 300 security incidents, the highest in 15 years. Yet the Afghan and global media by and large fell in line with the official diktat that election-related violence be kept off the menu. Afghan security forces briefly detained 12 journalists in two quarters of Kabul to enforce the gag order on the coverage of election violence. Videotapes recording the violence were confiscated.

On August 25, showing much the same intolerance toward media coverage of serious security breaches, Afghan police brutally assaulted radio reporter Dawa Khan Meenapal at the site of a bomb attack in the southern city of Kandahar in which at least 40 people were killed and 65 wounded. Meenapal, a reporter for Radio Free Afghanistan, was recording accounts of witnesses to the attack when he was detained, his wrists bound and his recording equipment confiscated by police. He was assaulted with rifle butts and pushed around, ostensibly because he had not secured police permission before interviewing witnesses. Nine other journalists registered complaints with the AIJA that they were threatened by security personnel as they sought to cover the bombing. Meenapal was released within the day and his equipment returned, but the issue of media access to scenes of terrorist violence remained unsettled.

In March 2010, the Government of Afghanistan decreed a ban on live coverage of insurgent violence. This followed a major Taliban attack in the heart of Kabul on February 26, in which 16 people were killed, mostly civilians and Indian nationals. Though there was supposedly a limited consultation with media organisations, journalists' bodies as a rule tended to oppose the fresh restrictions.

Information Minister Sayed Makhdoom Raheen soon afterwards convened a meeting involving major media stakeholders to review the restrictions. A three-day consultation resulted in new norms being agreed under which:

- Broadcast of disturbing pictures of terrorist attacks and of their victims would be avoided;
- Images of security forces engaged in operations against terrorism would not be broadcast if there was a possibility of operational effectiveness being compromised; and
- Utmost professional accuracy would be applied in covering news and events related to terrorist activities.

Here again, the value of these norms would be established only in their practice. And with the Government not being clear about how far it is willing to subject its own actions, including those in the security realm, to public scrutiny, the possibilities of arbitrary and inconsistent interpretation cannot be ruled out.

Reporting All Sides

Arbitrary detentions continue to be a threat. In June 2009, a journalist from the Killid media group, Noorajan Bahir, was picked up by United States-led coalition forces in the south-eastern town of Khost. The action involved an aggressive intrusion into the journalist's home, the destruction of various household effects and the confiscation of foreign currency. Bahir was released without charge after two days.

Again in June, two journalists with Al Jazeera – Qais Azimy

and Hamedullah Shah – were arrested by Afghan security forces, two days after their channel broadcast footage of a Taliban leader in Kunduz province proclaiming the strength of his insurgent army. Both journalists were released unconditionally on June 17. The same day, Karzai told a news conference: "Freedom of the press is respected and allowed and guaranteed by Afghan law. But the promotion of terrorism in the name of freedom of the press is a violation of the press and freedom of the press."

This, as also other similar incidents, raises questions about how far the security authorities in conflict and post-conflict societies are willing to tolerate distanced and dispassionate reporting of insurgent groups, which does not in any way amount to an endorsement of their objectives or methods. It is an issue with which the media in Afghanistan continues to grapple.

Ethical issues involving overt and covert media biases continue to be addressed by the media community. This is a problem compounded by the undefined rules on entry into the media sector and the rush by various political groups and armed factions to set up print and broadcasting entities that serve their interests.

This is a grievance that candidates in the August elections had against the government-owned broadcaster. On the basis of a period of sustained monitoring of RTA broadcasts, Sediqullah Tauhidi, chairman of the Electoral Media Commission, issued the judgment a week before polling day that the state-owned broadcaster had "not performed its duties with impartiality and has instead displayed a clear support for the incumbent president, even if, in certain regions, local branches of the state television have supported other candidates".

Though this manner of information is often difficult to monitor because of the constraints that journalists in vulnerable situations feel, there is at least one example of an RTA program being pulled off the air because of pressure from the office of the President. A discussion between representatives of Parliament, the Electoral Complaints Commission and civil society on election-related issues was stopped in May 2009 after being cleared by the Ministry, on the grounds that it would damage Karzai's cause in his re-election campaign.

Opposition parties, including those supporting the candidacy of Karzai's main opponent, Abdullah Abdullah, have also been indicted for acts of intimidation and violence against the media.

Protection of War Reporters

Three journalists were killed in Afghanistan in the year under review. In the first of these, Sultan Munadi, an Afghan journalist taken hostage by Taliban forces in the northern city of Kunduz, along with Stephen Farrell of the *New York Times*, was killed in a botched rescue operation by British commandos in September. British national Farrell had gone to Kunduz with Munadi accompanying him as facilitator and translator, to report on the aftermath of an air strike by coalition forces on a hijacked fuel tanker, which resulted in a massive toll of civilian life. The circumstances in which they were taken hostage remain unclear, since local passions were running high after the air strike.

It is believed that when the location in which they were being held came under attack, Munadi emerged with Farrell just behind him. Though they reportedly took every possible measure to identify themselves, Munadi was cut

down in a hail of gunfire. Farrell, who was just behind him, managed to take evasive action. Several civilians, insurgents and one British commando were killed in the operation. Results of the official inquest into the incident are yet to be announced, though it is acknowledged that the rescue of Farrell came at an immense cost.

Two journalists embedded with coalition forces were killed within days of each other on either side of the new year. Michelle Lang, a reporter with the *Calgary Herald*, was killed along with four Canadian soldiers on December 29 in the southern province of Kandahar. She was travelling in a military convoy when a roadside bomb was detonated under it.

Rupert Hamer, defence correspondent of the *Daily Mirror* of London, was killed early in January 2010 in the south-western province of Helmand, again by a roadside bomb that was detonated under a US military convoy in which he was travelling. His colleague, photographer Philip Coburn was severely injured.

BANGLADESH Overcoming Partisanship, Slowly



Journalists and students in Bangladesh protest the police closure of a photo exhibition at the Drik gallery in Dhaka on 22 March. The exhibition of photographs by Shahidul Alam depicted extra-judicial killings in Bangladesh since 2004. Photo: Wahid Adnan, courtesy of DrikNEWS.

Since the restoration of an elected government in January 2009, Bangladesh has sought to rebuild a stable consensus that will guide political practice into the years ahead. The task has proved arduous. The main political opposition, the Bangladesh Nationalist Party (BNP), announced early in the life of the newly-elected parliament that it would boycott proceedings, protesting an election which it said was rigged in favour of its main rival, the Awami League (AL).

The AL for its part believes the comfortable majority it secured in the December 2008 elections is a mandate to restore what it describes as the values of modernity, secularism and equality, that were the basic premises of the Bangladeshi war for liberation. Yet the political milieu remains turbulent, with no possibility of agreement on a basic

The two incidents raised questions about the prudence of the strategy of "embedding" journalists in military units.

In June, a reporter with the *New York Times*, David Rohde, and his Afghan associate, Tahir Luddin, managed to escape from their captors, seven months after being abducted in the border region with Pakistan. After the initial reports on their abduction, the media both in Afghanistan and overseas had consciously chosen to maintain a policy of silence on the case, at the request of Rohde's family and employers. This was believed to be in the best interests of securing their safe release.

Rohde subsequently wrote a series of articles in his newspaper on his seven months in captivity. His case highlights a dilemma that is yet to be fully answered: How can media that upholds the virtues of candour and transparency adopt a standard of secrecy and acquiesce in an information embargo in a matter involving one of its own? In addressing this and numerous other questions, lie the possibilities of building a better future for media freedom in Afghanistan and the public's right to know.

framework of rules. 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.

Potential for serious discord emerged over the executions in January 2010 of five of the nine people convicted of the murder of Sheikh Mujibur Rahman, the country's first Prime Minister who led Bangladesh's struggle for liberation in 1971 and continues to be revered as "Bangabandhu" or "friend of all Bengal". After a trial that began in 1997 – more than two decades after the killing – verdicts were handed down in 1998. But a change in government in 2001 resulted in the appeals process being put on hold. All appeals were finally exhausted only following the return of the AL to power in 2009, with

Rahman's daughter, Sheikh Hasina Wajed, winning a second term as Prime Minister.

The AL has reasoned that the executions were an important part of the country's reaffirmation of its foundational values. The BNP has remained silent, choosing a quiescent mode of expressing dissent when the public mood and media commentary seemed overwhelmingly to favour the executions of individuals who enjoyed the BNP's protection through the years it was in power.

The media in Bangladesh welcomed the event for its symbolic quality and its value in reaffirming the nation's commitment to the rule of the law. Among all Bangladesh's newspapers, the English-language daily *New Age* had perhaps the most distanced and critical attitude. The "political debates over the murderous ouster of (the) Mujib regime", it commented editorially, "would not be buried with the burial of the bodies of the convicts". Rather, for this to happen, "society would require threadbare discussions and informed debates on the political events leading to the murderous political misadventure, its political and cultural consequences and the ways of freeing (Bangladesh's) history from the political hangover that the misadventure had caused 34 years ago".

The *Daily Star*, Bangladesh's largest-circulated English daily, had a more positive assessment. It commented, "It was for this nation, simply and very logically, a return to the great idea that rule of law matters, that justice is all, that anyone who commits a crime should not expect to get away with it. Indeed, now that the legal process has ensured a restoration of the principle of justice, it is time for all citizens, irrespective of political belief or party affiliation, to reflect on the dark shadows that for long impeded our march to a better and an egalitarian future."

Uncertain Progress to Freedom

It remains uncertain, though, that the return of civilian rule has made a significant difference to media freedom. Odhikar, an organisation based in Bangladesh (www.odhikar.org), catalogues numerous kinds of human rights violations in the country, including attacks on press freedom, using comparable and consistent criteria. Its tally of identified violations of media freedom for 2008 is 115 – embracing the gamut from attacks to abductions, threats and legal action with intent to silence critical reporting. From the same source, attacks on media freedom covering the same range of situations are learnt to have numbered 266 in 2009 – the first full year since the restoration of an elected government in the country.

It must be underlined that the data for 2008 may be understated because of the numerous impediments placed in the way of critical reporting during the emergency regime. Odhikar has in place a system of primary information gathering. But these primary sources could have been under duress during the emergency regime and may not have performed to potential. Further, mechanisms of verifying information received from primary sources, as through secondary reporting available through the media, would have been non-functional during the emergency administration, because of pervasive self-censorship. Odhikar noted in its report for 2008 that "overt and covert restrictions" continued to be imposed on the press and the electronic media all through 2008. Ironically, due to these restraints, the true extent of the repression of the media could not be accurately determined, simply because much relevant information was suppressed.

There is also no basis to believe that the overall human

rights situation has improved since the return of civilian rule. Illustratively, the Odhikar report for 2008 reports 149 extra-judicial killings. The picture in 2009 is, if anything, only worse, with 154 extra-judicial killings recorded by the same agency.

Here again, a disclaimer needs to be entered that the information environment was not quite transparent in 2008, rendering the figures from that year non-comparable, in the strict sense, with those of 2009. Yet, there are grounds for worry, since reporting on extra-judicial killings has proved a flashpoint for tensions between Bangladesh's media and security agencies.

In March 2010, security forces in Bangladesh shut down an exhibition mounted by the renowned photo news agency, Drik, on the grounds that it depicted the victims of so called "crossfire" incidents – which is used locally as a euphemism for extra-judicial killings – in a manner that undermined confidence in the security agencies. The exhibition was just about to open on 22 March when the police locked down the Drik gallery. Earlier in the afternoon, the security forces had already begun inquiring about the exhibition. The display of images was planned with precision and meticulous research over several months by Drik photo-journalist and founder Shahidul Alam. Far from being explicit, Alam's photographs represented the theme of extra-judicial deaths in a highly symbolic and stylised fashion.

Security forces, in a summary explanation of their extraordinary action, claimed that the term "crossfire", with all the media commentary surrounding it, tended to inflame the public mood. In a hearing before the Appellate Division of the Dhaka High Court on 31 March, though, the Bangladesh Government said that it was willing to remove the security pickets posted around the Drik gallery and allow visitors to view the exhibition. The court then said that it would not issue a ruling on the fundamental rights petition brought by Drik and Alam, on the grounds that it was not of pressing urgency. The exhibition reopened shortly afterwards.

This incident is deeply illustrative of the challenges that lie ahead as Bangladesh reckons with public memories of its history and identity. The two parties whose rivalry has polarised all institutions in Bangladesh derive their political identity from two competing figures in the nationalist pantheon: Sheikh Mujibur Rahman in the case of the AL, and General Zia-ur Rahman – who placed the nation under effective military rule after 1975 – in the case of the BNP. In the narrative of the AL, Zia's ascent to power coincided with the nation turning its back on some of the basic values of its freedom struggle. Also lost in the process was the principle of accountability for the atrocities and war crimes perpetrated during Bangladesh's 1971 war of liberation.

As with the trial of Sheikh Mujib's assassins, the investigation and prosecution of war crimes committed in 1971 now look likely to become the issue around which hostilities could break out in the media. The seeming correctness of the cause makes it unlikely that the war crimes investigation will be directly targeted in the confrontation. Public debates and controversy would likely centre, rather, around the respective claims of the political heirs of Mujib and Zia toward representing the true ethos of the Bangladesh liberation struggle.

Media-Fuelled Conflict

There have been occasions when the media has represented this battle in a manner that brings latent animosities alarmingly to the surface. An instance that is widely talked

Confronting Risk

The year brought no relief to Arifur Rahman, a young cartoonist arrested in September 2007 and held for six months after religious groups protested against his work. Though unconditionally discharged in the case brought by the state, Rahman was still convicted of the criminal offence of causing hurt to religious sensitivities in a case brought by a cleric in the western town of Jessore.

The sentence was handed down on 11 September 2009, without affording him an opportunity to be heard. Rahman only came to know of his conviction through media reports. He has since had to present himself before the magistrate in Jessore to secure bail and return every month to renew his bail bond. This could go on for a long time since the hearing of his appeal has not yet begun. His erstwhile employer, *Prothom Alo*, has lent him discrete support but failed to push aggressively for his discharge for fear of the public reaction.

Rahman's cartoon involved a play on words to caricature how increasingly all families in Bangladesh were choosing to name their male children after the prophet of Islam. It was at worst an indiscretion, without deliberate intent to cause religious offence. The former magazine editor of *Prothom Alo*, under whose watch the impugned cartoon was published, was also removed from his job as a consequence of the controversy. But he faced no criminal prosecution and has since secured alternative employment.

Meanwhile, Jahangir Alam Akash, a young journalist who was arrested in October 2007 after preparing several reports on extra-judicial killings by RAB units, left Bangladesh on a year-long fellowship late in 2009. He continues to write a blog on press freedom in Bangladesh and is expected to return home after his fellowship in Germany ends later in 2010. Though discharged in one of the cases of extortion lodged against him by a powerful local AL politician in his hometown of Rajshahi, Akash continues to face charges in another.

Saleem Samad, a freelance journalist and documentary maker returned to Bangladesh early in 2010 after five years' exile. Samad was arrested in 2002 and tortured in detention after producing a vivid documentary on state-sponsored religious fundamentalism and its potential for terrorism. The "emergency" regime that took over administration in Bangladesh in January 2007 quashed all cases registered against Samad. But he only returned in 2010 because during the previous three years he continued to fear for his life. He intends to resume his work as a journalist and a human rights defender and claims so far not to have faced any serious threat.

about in Bangladesh media circles is the recent public intervention by journalist Shawkat Mahmud, president of the Jatiya Press Club (JPC, or National Press Club) and recently appointed adviser to BNP president Khaleda Zia. Irked by a statement by Prime Minister Sheikh Hasina on the public expenditure incurred in maintaining General Zia's tomb, Mahmud issued a dire and explicit warning of physical harm to anyone who thought of undoing the majesty of the

monument. He also urged the Prime Minister to salute the monument every time she passed it, to honour the enduring political legacy of the BNP founder.

Members of the ruling party were quick to file defamation cases against Mahmud – by one count, 27 have been filed in various courts – in complete disregard of the law that such litigation can only be initiated by persons directly aggrieved. The BNP responded by activating the network of press clubs that owed allegiance to Mahmud, and conducting protest rallies against the legal harassment of their adviser. Leading journalists from various parts of the country were slated to participate. But one that was scheduled in the south-western divisional headquarters town of Khulna on 20 March was denied permission to use a public address system, provoking another round of recrimination between ruling party and opposition.

Media commentary also tended to be polarised. A columnist in the *Daily Star*, for instance, confessed to being "surprised and shocked" at Mahmud's warning to the Prime Minister, saying it transgressed all cultural norms of "respect" to the individual and shockingly amounted to a physical threat to an elected Prime Minister.

There were also public expressions of disquiet among the journalists' community at the overt politicisation of the JPC. But these concerns tended to be muted since Mahmud is by no means the only senior journalist to engage overtly in partisan politics. In 2009, the president of a faction of the Bangladesh Federal Union of Journalists (BFUJ) that owes allegiance to the AL, Iqbal Sobhan Chaudhary, contested national elections on the party's ticket and lost. There was seemingly no contradiction seen between his role as leader of a nationwide union of journalists and his public loyalty to one of the country's main political parties.

On 17 December 2009, the Bengali daily *Amar Desh* carried a report credited to its special correspondent, M. Abdullah, about a dubious transaction with a United States oil company, concluded on the specific recommendation of the Prime Minister's energy adviser. The Prime Minister's son was alleged to have gained from USD 5 million paid as illegal gratification in concluding the deal, the report said. Three days later, Abdullah was attacked – inflammable material and stones were reportedly hurled at him – in a busy part of Dhaka city, while walking to his car. Several cases, it seemed, were going to be filed in various courts in Bangladesh, claiming defamation damages from the editor of *Amar Desh*, Mahmudur Rahman, and also pleading for criminal action to place him under arrest.

Rahman, who was previously chairman of the Board of Investment and energy adviser in the 2001-06 BNP-led government, secured anticipatory bail protecting himself against arrest five days later. In granting this relief, the court also directed all lower courts not to entertain further defamation claims against Rahman until its next hearing. On 11 February 2010, Rahman was attacked in Dhaka. He was not injured, but the car in which he was travelling was badly damaged. A public meeting was held soon afterward to protest the attack as a violation of press freedom. But most prominent journalists aligned with a rival faction of the BFUJ stayed away, accusing the BNP of turning it into a political event.

The following days saw a continuing program of public meetings and agitation by journalists against the incumbent government. At a meeting on 3 April, journalists aligned with the BNP and its political ally, the Jamaat-e-Islami, criticised what they called the "oppression" of media personnel, drew



The President of the National Press Club in Bangladesh threatened physical harm to anybody who dared tamper with the majesty of General Zia's tomb, leading to a wave of defamation suits against him. Photo: Courtesy of Sukumar Muralidharan.

up a charter of demands and presented the Government with an ultimatum of 15 June to accede to their demands. A faction of the leadership of the country's bar associations also took part, and vowed to join the agitation of the journalists and provide legal assistance at all levels.

With its clear political overtones, the campaign has attracted much adverse comment from journalists of the AL camp. They point out, for instance, that Rahman is new to the media profession, having bought into Amar Desh after his stint at Chairman of the Board of Investment and Energy Adviser. They also point out that Rahman is related by close family ties with the BNP's senior leadership.

On 9 February 2010, Rahman was denied permission to travel to Germany. In a suit for damages filed early in April, he claimed that the purpose of the visit was to attend a trade fair which would be of potential business gain for him as the owner of a ceramics manufacturing unit. Yet the case has been represented in sections of the local media as a violation of press freedom.

This case, as with many others, illustrates the ambiguities that surround individual claims that their interests in some way are consistent with those of the larger independent journalists' community. In an environment where the media is seen as a partisan battler rather than a fair and neutral source of information, journalists tend to get caught in the crossfire of political sniping.

Caught in Crossfire

On 1 September 2009, activists of the student and youth affiliates of the ruling party – the Chhatra League and the Jubo League – attacked and ransacked a provision store owned by Ariful Islam Dalim, the *Amar Desh* correspondent in the western district of Chuadanga. The attack was apparently in retaliation for a report published in *Amar Desh* against the ruling party MP from the district. The attackers set fire to the store using petrol and burnt copies of the newspaper. Later the same day, the two junior affiliates of the ruling party attacked Dalim's home, injuring his wife and children and destroying household property. Business enterprises and

property belonging to the local representatives of two other Bangla-language dailies, Janakantha and Prothom Alo, were also attacked the same day.

On 22 October 2009, F.M. Masum, a staff reporter of the English-language *New Age*, was taken into custody by personnel of the Rapid Action Battalion (RAB) – a commando force set up in 2004. Masum was assaulted on the doorstep of his home, ostensibly because he had delayed opening the door. Masum identified himself as a journalist, but was bound by his hands and feet, taken to the local RAB centre and severely tortured. Though it may be the case that Masum was picked up as a part of a wide dragnet that the RAB had spread in an effort ostensibly to track down a drug dealer, his troubles became more acute when his identity as a reporter with a critical newspaper was established. Masum's was a rare case when official agencies released the detained person and subsequently admitted to their error. But there has been no action against the people responsible for his torture.

On 11 February 2010, five journalists were injured while reporting on an altercation between two student groups – aligned with the ruling party and the opposition – on a university campus in the northern town of Rajshahi. The main aggressor was identified as the Chhatra League – the student affiliate of the ruling party. The journalists were reportedly specifically targeted by the students, who would not acknowledge the journalists' right to report on a breach of public order.

India's Shadow

Difficulties in the bilateral relationship with India continued to cast a shadow over Bangladesh's media. Recent discord has arisen over India's proposal to construct a dam at Tiphmukh in its north-eastern state of Manipur. Water experts in Bangladesh have estimated that the dam could result in serious losses to the lower riparian regions of the country. The media has taken up this issue and the Indian High Commissioner invited some public ire in June 2009 for his remarks questioning the credibility of Bangladeshi media reports on the issue.

These apart, the problem of territorial enclaves along the border between Bangladesh and India continues to defy solution, and border crossings remain a flashpoint. In June 2009, photo-journalist Shahidul Alam, of DRIK, was detained by Indian border guards in Bangladesh's northern sector while shooting for a *National Geographic* feature on the Brahmaputra River. He was released after six hours.

Reaching Out

Significant legislative changes introduced by the two-year "emergency" regime have been consolidated since the restoration of civilian rule. The Right to Information (RTI) law, passed through ordinance in March 2008, was ratified by the elected Parliament in July 2009. Though the Central Information Commission (CIC), which has the mandate to oversee the law, had existed for a while, the rules and procedures under the RTI were yet to be notified. Together with the reconstitution of the CIC in March 2010 and the appointment of a senior former diplomat as head of the body, the rules and regulations under the law have also been notified. This followed a long phase of engagement by advocacy groups which had pushed strongly for relatively

simple and user-friendly rules. The long overdue public debate on the rules and their effectiveness in safeguarding the public right to know, is yet to begin. But media freedom activists in Bangladesh and advocacy groups are encouraged by the progress on the RTI front. Even if slow, the move to RTI has been significant and is seemingly irreversible.

Community radio licensing, in line with the law introduced in 2008, made steady if slow progress through 2009-10. The Bangladesh Home Ministry has reportedly granted approval for 26 community radio broadcasters. This list has been conveyed to the Ministry of Information, which is yet to make it public or notify the applicants who have been successful. Donor agencies have however stepped up with assurances of assistance and the first community radio broadcasters could be on air before the end of 2010. As with India, Bangladesh proscribes anything of a political character over community radio. The extent to which local communities can discuss urgent civic issues and propose means of tackling these, without ever treading into the political domain, remains uncertain. But this, as with much else, is a test for which the media community in Bangladesh is rapidly preparing.

BHUTAN Steps To Freedom

Media in Bhutan have grown as the country has progressed further along the path to democracy. Yet there remain significant challenges to meet to ensure media autonomy and freedom. These stem from the uncertain economics of the media as an industry in Bhutan and the relatively unformed regulatory framework.

Some of the difficulties arising from an undefined regulatory framework were evident in the mass resignation of journalists from the weekly *Bhutan Times*, the country's first privately owned newspaper. This was provoked by what the journalists described as management "interference" in editorial functions. A second issue that has caused some concern among Bhutan's media community is a government proposal to tie its placement of public advertising to the content of particular media platforms. There have been suggestions from official circles that only media that cover issues in accordance with the country's official philosophy of "gross national happiness" will get government advertising, and that those dealing with entertainment will be left out.

Bhutan Times

On 22 October 2009, the chief reporter and five other reporters of the *Bhutan Times* tendered their resignations after weeks of friction with the management of the company that owns the newspaper. Wangcha Sangey, chief executive officer and newly appointed chairman of the company, alleged the resignations were part of a plot to bankrupt the company.

Sources in Bhutan believe that the journalists may have had a case in arguing that management interference in editorial matters had crossed tolerable bounds. At various board meetings, management had pressured journalists to provide more space for promoting the business interests of board members. Most investors were from a business background and saw the paper as a means to promote these interests.



Yeewong magazine was among five new publications to join Bhutan's print media sector during the year, joining established papers such as the *Bhutan Times*.



Then CEO Tenzin Rigden, however, sought to ensure the editorial team was insulated from the pressures.

Things changed with the appointment of a new CEO, leading to a rise in tensions and the resignations of journalists. The day the journalists quit, CEO Sangey hired a team from an independent content management firm, K4 Media, to ensure that the paper continued to be published. The following day, Bhutan's regulatory body for the media, the Bhutan Information, Communication and Media Authority (BICMA), sought details of the new editorial arrangements in the *Bhutan Times*, asking for a reply by 30 October.

BICMA's inquiry, though warranted under national law, provoked an angry response from the *Bhutan Times* management. On 25 October, Sangey published a letter in the paper addressed to the BICMA director, accusing him of trying to kill the newspaper. The *Bhutan Times* management declined to respond to the BICMA inquiry, in turn, drawing forth another inquiry from the regulator, asking it to submit details of its editorial team. Sent on 26 December, the letter asked for a response by 15 January 2010 on three points: aside from the editorial team, the newspaper management was asked to provide a bond signed by a professional editor stating the paper's stand on editorial independence

Though put on notice that its registration could be cancelled if it failed to reply, the *Bhutan Times* has ignored the request. The paper continues to publish under Sangey, who was appointed early October when the managing director and his deputy resigned amid a deepening financial crisis in the company. The company lost (Bhutanese Ngultrum, or Nu) 5.39 million in the first half of 2009. Bhutan's ruling party, the Druk Phuensum Tshogpa, owes Nu 1.58 million to the paper, and the opposition Peoples' Democratic Party owes Nu 1.74 million. A notice published by the company said three organizers of the Citizens Initiative for Coronation and Centenary Celebrations, Tenzin Rigden, Dorji Wangchuk and Tshering Gyeltshen, have not paid it Nu 4.53 million "after they made full and liberal use of all the resources of BT including bank overdraft facility, establishment facilities, manpower, transport, materials and printing resources".

New Media Outlets

Despite the small market and the constraints faced by existing print media, Bhutan got five new outlets during the year. These include two news and current affairs weeklies – the *Journalist* and *Business Bhutan*. Also launched was a monthly magazine, *Drukpa*, with an inaugural issue that dealt with youth matters and an agenda to devote each issue to a particular theme. The new *Druk Trowa*, which publishes three times a year, will be oriented around entertainment, while *Yeewong*, published twice a year, will focus on women's issues.

Drukpa, launched on 17 December, is published by K4 Media and edited by Tashi P. Wangdi, the founder editor of the *Bhutan Times*. The *Journalist* was launched by the team of journalists who left the *Bhutan Times*. It is the first of its kind for Bhutan, managed and published by journalists, with a stated intent to focus on issues of civic and public interest. The inaugural issue featured a lead story on corruption.

Each of the founding team of journalists in the new weekly holds a 10 percent share in the 24-page paper. The head of a public relations firm, Bhutan Media Services (BMS), has put in the initial investment to start the paper. The editor and chief executive officer, Gopilal Acharya, expects to repay this investment and set the paper up as an independent and self-sustaining enterprise before long.

Bhutan's first news magazine since the closure of *Druk Losel* in the early 1980s hit the market on 26 September. Called *Business Bhutan*, the 40-page magazine of tabloid size reaches readers every Saturday. It is edited by Tashi Dorji and has combined editions for both English (32 pages) and Dzongkha (eight pages). The magazine is owned by two women. It has eight reporters all based in Thimphu.

The market leader in the print media sector, the government-owned *Kuensel* began publishing six days a

week from the end of April 2009. The paper shut down its Nepali language version and promoted a 12-page edition with English and Dzongkha versions combined in a single issue.

Bhutan got its first online radio in May 2009. One of the private radio stations in Thimphu joined hands with a Swiss citizen to start a 24-hour live-streaming internet radio station, www.cafebhutan.com. The station webcasts Buddhist teachings and Bhutanese music.

Bhutanese journalists in exile, associated with the Association of Press Freedom Activists of Bhutan (APFA), launched their own online radio on 16 October 2009. The programming covers politics, culture, the economy and issues of specific relevance to the Bhutanese refugee community.

Government Policies and Legal Provisions

Media industry growth could be set back if the Bhutanese government introduces a recently drafted advertisement policy. This draft policy allows government to exercise discretionary powers over allocation of public advertising to media outlets on the basis of their content. Media that provide content consistent in the official estimation with the Bhutanese national doctrine of "gross national happiness" would get a preferential share of government advertising.

After serious opposition from private media houses, the government put its proposal on hold. The secretary of Bhutan's Ministry of Information and Communication (MOIC), Kinley Dorji, has hinted at cutting off public advertising to papers carrying entertainment news, which he is on record describing as "rubbish". But the private media sees the draft policy as a serious threat to its survival. Acharya, editor of the *Journalist*, believes that there is no firm or transparent criterion right now on which government ads are distributed. The *Journalist*, he has said, will take up other ventures, such as commercial publication and printing, to sustain itself. "You don't start a newspaper in a country like ours to make money," he says. "If you do so, it is suicide."

The government accounts for roughly 80 percent of total advertising spending in the economy, and in this sense holds the key to media viability. Aside from the content issue, the government is also believed to be considering a second criterion in determining its ads placement decisions, which would be the size of the audience that the media outlet reaches. This parameter, according to recent official statements, would be monitored through the Audit Bureau of Circulation (ABC) based in Mumbai, India.

The leader of the opposition in Bhutan's parliament, Tshering Tobgye, has welcomed the government move for a circulation audit but raised serious objections over the proposal to use audit figures to determine ad placements. "I'm concerned that the 'circulation audit' will be used to formulate an 'advertisement policy' that would excessively favour media groups with a bigger reach." If the government were to consider circulation and reach as the condition for public advertisements, he has said, it should also look at the subsidies which have been benefiting the government-owned Bhutan Broadcasting Service and *Kuensel*.

Content Regulations

In addition to advertising policy, BICMA has released new rules on content regulation. Media organisations are not comfortable with some of these proposals and have called on the media regulator to treat the free speech right as a priority and to take into account the views of practising journalists before

framing rules that abridge this right. The rules as they stand now bar the involvement of a minor, below 18 years, in any form of Bhutanese media without the consent of the parent or guardian. Content designated specifically for children would be closely supervised and must not contain violence as its central theme.

The rules also say that content should not encourage or in any way lead to discrimination against any section of the community on account of gender, age, disability or occupational status. Promotion of alcohol, tobacco and any form of psychotropic drugs through media advertisements is prohibited. Use of offensive words, blasphemy, depiction of explicit sexual activity, religious, ethnic, regional or communal conflicts are also prohibited.

Though these principles may seem unexceptionable by most criteria, there are several in Bhutan who believe that detailed rules should be evolved and implemented by the independent media, rather than laid down by government fiat.

Media practitioners in Bhutan also believe that two provisions of the Civil Service Act that was passed into law by the National Assembly in December 2009 may act as a serious fetter on the public right to know. These clauses enjoin civil servants to "maintain confidentiality of all facts and information discovered in the course of duty, both while in service and after separation from service" and prohibit them from "expressing any adverse opinions against the Royal Government".

Limitations

BICMA cut off more than a dozen foreign television channels from Bhutanese cable lines in the third week of December, lowering the number of channels to 40. The restricted channels include a number of sports and a few movie channels. The repeated blockade on their favourite TV channels has compelled viewers to switch to direct to home (DTH) TV, which is superior to cable in terms of viewing clarity and offers up to 200 channels. Though the government has so far not taken steps to block vulgar and pornographic content on the internet, TV channels have been the target of government actions for years.

Since December, the *Bhutan Observer's* Dzongkha edition, *Druk Nelug*, has been reduced drastically to four pages from 10. The management decided to downsize the paper after failing to obtain official subsidies to support the national language edition. Despite poor readership and total lack of advertising revenue, government policy requires every newspaper to publish a Dzongkha edition. *Druk Nelug's* cutback after months of financially crippling operation provoked strong reactions from the government. With the threat of revoking its licence if the publication was not resumed, the government held out the assurance that it was "taking stock of all the problems and issues faced by the private newspapers". Though this assurance has since been reiterated, there has been little concrete action. The Dzongkha language editors of five newspapers have demanded a public subsidy for their publications or, alternatively, permission to shut down.

The national TV broadcaster, BBS, has also suffered serious impairment, with the National Assembly restricting live telecast of proceedings. The Ministry of Information has so far not responded to the BBS application for live telecast of National Assembly proceedings.

During the year, Bhutan's king took a few positive steps for media development. Coinciding with his 30th birthday

on 20 February 2010, King Jigme Khesar issued a royal kasho (charter) formally establishing the Bhutan Media Foundation. The king, in the royal charter to representatives from both the print and electronic media present at Lingkana Palace, assured his support for the development of media in the country.

This foundation, it is apparent, is an initiative of the Bhutanese monarchy, not of its newly elected Parliament. To get the foundation going, the king has granted a seed fund of Nu 15 million which is expected to grow to Nu 100 million by the end of 2010. According to the royal charter, media professionalism will be furthered through the formation of journalists' associations and press/media clubs that allow journalists to "interact, address common issues, advance professional skills, and assist in the professional growth of the Bhutanese media". Promoting the national language, Dzongkha, and its readership would be an important part of the mandate of the foundation.

Other Issues

The government has begun working on the introduction of DTH service in the country. Cable operators are worried that they might go under if authorities do not create a level playing field. More and more Bhutanese have opted for DTH, although illegal, because it has more channels and better picture quality than cable. More than 800 homes in Thimphu alone have DTH.

There were 52 cable TV operators in the country as of 2008. They were among the top 10 revenue contributors to the government in terms of entertainment tax. DTH has an advantage of serving those in remote or hilly areas where cable operators have not been able to penetrate or provide strong signals.

In June, the state-owned BBS shifted its television unit to a new building in Thimphu constructed at the cost of Nu 194 million. The three-storey building is equipped with latest technology worth Nu 91 million, funded by the government of India.

Freedom of Expression

The government has not yet introduced its right to information bill. Yet it is making efforts to at least seem open in its attitude toward the media. In early January 2010, the government formed a media cell under the Information Ministry. The government plans to appoint a spokesperson in all ministries so that regular press conferences and discussions are organised even in the absence of ministers or secretaries.

For the first time since the liberalisation of media, some 30 Bhutanese journalists underwent an intensive training program on the ethics of journalism in a three-day workshop in January. The training went into self-regulatory mechanisms such as media councils and codes of conduct with emphasis on addressing the public interest while framing news reports. Ethical issues involved in privacy, news gathering techniques, taste and decency were addressed in the workshop.

Meanwhile, the Journalists' Association of Bhutan (JAB), formed in 2007, has been building its capacity and skills in dealing with the many challenges that democratic transition presents. Among the possible campaign strategies being considered are adopting a collective stand on behalf of reporters who suffer threat or harassment, public advocacy against practices that abuse media freedom, and in cases where it is warranted, even litigation.



The office of the news channel IBN Lokmat in Mumbai was attacked in November 2009, in retaliation for critical reporting on the sectarian politics of the Shiv Sena, a political party which once controlled the state administration. Photo: Courtesy of Deepak Salvi.

INDIA Mounting Challenges, Faltering Economics

India's media situation, which had turned dire with the onset of the global financial crisis in 2008, showed some signs of an uptick in the year gone by. Between the collapse of Lehmann brothers, which inaugurated the phase of global financial panic in September 2008, and about mid-2009, India's media seemed on a rapid downhill slide. As global and domestic businesses responded with sharp cuts in advertising spending, the media shed jobs and put on hold the expansion plans drawn up through the long years of boom.

The past year has however witnessed a relative stabilisation. The Indian economy has regained a healthy growth path, though with serious worries over inflation. Advertising spending, which seemed to be under pressure in the immediate wake of the global meltdown, firmed up and is estimated to have grown modestly from around mid-2009. The tide of job losses in the media industry, which acquired alarming proportions in 2008 and early 2009, seems to have abated.

But numerous uncertainties loom. Print appears, for the first time, to have lost its dominant share in total advertising spending. A recent study on advertising by the Federation of Indian Chambers of Commerce and Industry (FICCI) indicates a 4.5 percent fall in ad spending in print media. TV and the internet have been gainers, with ad growth rates of 7 and 15 percent respectively. The forecast is for a further consolidation of these trends, with TV emerging not too far in the future as the dominant media for advertisers.

FICCI estimates that with the renewed momentum in the second half of 2009, ad spending could grow at 12 percent through 2010. If realised, this level of growth would considerably relieve some of the pressure on media industry bottom lines. But a painful process of restructuring seems inevitable.

Despite the recovery in advertising, India's top 20 broadcast companies are estimated to have lost INR 1,800 million (USD 39 million) over the past year. Ads take up on average 23 minutes in every hour of broadcast time. This untrammelled growth in advertising time has put downward pressure on rates and

fuelled audience dissatisfaction. Carriage costs have escalated and it is estimated that not more than 15 percent of the revenue collected by the retail provider of the service actually reaches the broadcast company. Top TV news editors admit that quality has been a casualty and that this is a slippery slope of declining revenue and eroding audience interest, which could bring about a crunch situation in the not too distant future.

Eager to tap the revenues in the "last mile" of TV signal distribution, some of India's big media groups – such as Zee and the Sun TV network – entered the "direct to home" (DTH) satellite broadcast segment some years back. Rupert Murdoch's News Corporation continues to enjoy a presence in this segment through its holding in a DTH enterprise promoted by India's largest industrial group, the Tatas. Telecom companies have also been operating in this segment, with Airtel, India's largest private sector telephone and internet service provider, seeking to leverage its control over the mobile systems platform into maximum advantage in DTH broadcasting.

This aggressive play to harvest the revenues of the "last mile" has reawakened worries that traditional safeguards against media monopolies – such as restraining any interlocking ownership between content on one side and distribution on the other – may be considerably diminished. Media profitability may be shored up, in other words, at the cost of diversity – even the pale semblance of it – that India enjoys.

In circulation and reach, India's newspapers have shown mixed tendencies. English language circulation has fallen, according to the Audit Bureau of Circulation (ABC). Other language groups have grown, though modestly. Readership, which is measured by a sample survey, was recently estimated to have grown for the daily press across virtually all language groups, though significant losses have occurred in the weekly, fortnightly and monthly segments.

Codes Tested

The print media in India is well established in its procedures and codes of practice, though lapses have become more frequent



Journalists in Srinagar protest against the deliberate police shooting of a colleague who was covering an armed confrontation between militants and security forces in the city in January. Photo: Courtesy of United News of India.

under the pressure of competition. A particular worry that came to wide public notice during the campaign for the general elections to India's Parliament in 2009 was the practice of "cash for coverage" or "paid news". India's journalists' unions intervened in the debate that followed and with some respected journalists and public figures also pitching in, the matter became the subject of an inquiry by the Press Council of India.

Regulation remains an active debate in relation to the broadcast media, where industry sources and the Government often espouse opposing perspectives. Among the more sensitive issues is coverage of terrorist actions. The legacy of the saturation TV coverage of the attacks in Mumbai in November 2008 continue to be a serious irritant. On 24 February 2010, the Ministry of Information and Broadcasting (MIB) issued an "advisory" to all TV news channels – ostensibly in continuation of similar warnings during and immediately after the 60-hour siege of Mumbai – asking that "undue coverage of terrorists and terrorist groups which may help them to advance their political agenda" be explicitly avoided.

Another issue that frequently recurs is that of audience taste. With reality TV becoming the favoured programming mode that brings in advertising revenue, channels have frequently excited adverse comment for breaching accepted norms of taste. Between June and July 2009, the MIB issued five warnings to broadcast channels. News channels were at the receiving end of three of these, one for causing serious offence by depicting religious seminaries of a certain faith as breeding grounds of terrorism, and the other two for their lurid portrayal of a case of suicide. Two among the five notices were to entertainment channels for offences related to vulgarity.

Unlike in earlier years, though, there have been no cases of channels being ordered off the air or fined, though they have been obliged to carry scrolling texts acknowledging their errors.

These are elements within a broader debate that has been under way between the broadcast media and the Government. In her most recent public intervention, on 30 March, India's Minister for Information and Broadcasting called yet again

for a statutory code on the regulation of broadcast media content. Broadcasters – particularly those in the news segment – have for long insisted that they are aware of their rights and responsibilities. Indeed, in 2008 they came up with an elaborate code of self-regulation. The code put in place by the News Broadcasters' Association of India (NBA) was soon followed by the adoption of one by the Indian Broadcasting Foundation, a lobby of the leading entertainment channels.

The NBA code was supplemented in the aftermath of the Mumbai siege with a special set of ethical norms for situations designated as "national emergencies". Yet the argument remains inconclusive, partly because broadcast entities have not risen above their intense competition for ad revenues and audiences to achieve a true consensus on best practices in free and fair reporting.

If print media has a ratings system – fallible and abuse-prone as it is – that allows for accurate judgments on ad placement, the scenario in the broadcast media is muddled. All ad placement decisions are taken on the basis of subjective judgments of what kind of content sells, and the immensely corruptible readings returned by a limited number of audience measurement devices (people meters) posted across the country.

The broadcast industry has, over the course of the past year, agreed that an independent body could be set up, which could be mandated to provide authentic estimates of TV viewership across channels. This body, titled the Broadcast Audience Research Council (BARC), they have said, should have credible industry participation. Yet the intense competition among the TV channels makes agreement on the mode of appointment of such a council a distant prospect.

Reporting in Conflict Areas

Journalism in the areas where Indian state authorities are engaged with militant insurgent outfits presents its own unique challenges.

On 17 February 2010, the Editors' Guild of India issued a statement strongly deprecating the government in the north-eastern state of Manipur for its indifference to the problems faced by the media. Particularly troublesome, it found, was the failure of government authorities to defend press freedom against the actions of non-state armed groups. In effect, journalists were being told that they would have to create their own self-defence mechanisms. The guild, while expressing its deep concern over the plight of journalists in Manipur, called for "urgent remedial measures to bridge the growing gulf between the government and the Manipur media".

The All Manipur Working Journalists' Union (AMWJU) has for long sought to find a defence mechanism against the threats that journalists face. Despite the diversity of the social matrix, where, as a local journalist and media analyst puts it, "multiple histories, multiple cultures and multiple identities (are) struggling for recognition", the journalists' community has often been able to achieve great unanimity in action. This was typified in the code of conduct that was adopted by the union in 2006 to cope with the divergent and often irreconcilable pressures that the multi-cornered insurgencies in the state exert.

Manipur is a region where the daily functioning of the media is at considerable risk, and the flow of news is vitiated by numerous extraneous pressures on journalism. In November 2008, a young journalist, Konsam Rishikanta Singh, was found shot dead during daylight hours in the

Cash for Coverage

The “cash for coverage” abuse was noted during the extended campaign for the general elections to India’s Parliament between March and May 2009. Further instances of cash payments being used to secure favourable media coverage for particular candidates and parties were recorded during the general elections to three state legislative assemblies in October.

Among the first journalists’ bodies to take note of this abuse was the Andhra Pradesh Union of Working Journalists (APUWJ), based in the southern state. All the evidence pointing to the existence of “paid news” was either circumstantial or based on hearsay. Typewritten sheets were circulated purporting to show the rates at which favourable news coverage could be purchased from particular newspapers. But these did not carry any marks identifying their origin. The APUWJ soon after the 2009 general elections sought an estimate of the magnitude of the practice through a sample survey of newspapers, identifying news reports and other published material that failed to meet basic professional standards of attribution, coherence and consistency with overall editorial policy of the newspapers. The inference was that material that failed to meet these standards could have been “paid news”.

In June 2009, the Delhi Union of Journalists wrote to the Press Council of India, pointing to the widespread abuse

and describing “paid news” as “unethical, unfair and an infringement of the journalists’ right to report fairly”.

Individual journalists of some stature began speaking out against the abuse soon afterwards. Among these was Kuldip Nayar, most senior among practising journalists in India today, and Prabhash Joshi, a widely-read and respected Hindi writer who died during the year. In one of his last public speeches, Joshi spoke out against newspaper managements that believed they were exempt from public scrutiny. “Some of them,” he warned, also seem to “believe that readers have forfeited their rights to question the integrity of the press.”

The PCI soon began a formal inquiry under a sub-committee comprising the eminent independent journalist Paranjay Guha Thakurta and General Secretary of the Indian Journalists’ Union, K. Sreenivas Reddy. A draft report of the sub-committee was discussed at a PCI meeting on 31 March. While the findings of fact were generally accepted, consensus failed over the specific recommendations. Representatives of the newspaper industry in particular were reluctant to see any strong recommendations that would enhance the powers of oversight or investigation available to government agencies.

Earlier, at public meeting on 13 March called by the Editors’ Guild of India, representatives of political parties had urged that since the PCI lacked the statutory powers to deal with the matter, the Election Commission of India (ECI) should be granted jurisdiction over investigating

“paid news” as an electoral malpractice. There are also suggestions, much resented by the newspaper industry, that the Income Tax Department should have powers of search and seizure where a suspicion exists of media having benefited from “paid news”.

Among the media that have been identified in the PCI report as practitioners of “paid news” are the largest circulated newspapers in Hindi and Marathi. Both these belong to business houses that have diversified into other media lines. Both have ad revenues consistent with their leadership positions in respective market segments. Neither seemingly can advance the argument that they are impelled to adopt the “paid news” practice on account of dire financial need.

Media credibility is a visible casualty, as is the integrity of the electoral process. The Chief Minister of Maharashtra state, for considerations that are yet unknown, managed to get identical stories about his achievements (real and imagined) featured in a number of Marathi language newspapers, under different bylines. Several newspapers also carried extensive supplements within their main editions blazoning his glories, again without any suggestion that this was advertising content. After all that, the Chief Minister in his election expenditure statement submitted to the ECI declared total expenses of INR 700,000 (about USD 15,800) and advertising expenses of INR 12,000.

The PCI report on “paid news”, it is learnt, covers a wide range of practices that have compromised media

integrity. Leveraging news content as a direct revenue source is not a new practice. It formally began in March 2003, when India’s biggest media group announced what it called the “Medianet” initiative, professedly part of its effort to stay current with journalistic practices in rapidly changing times. Subtlety aside, the concept simply sought to institutionalise the corruption of the profession by individuals, by carrying paid content with proper acknowledgment.

Two years later, the same media group introduced another innovation, called “private treaties”, involving the acquisition of shares in enterprises in exchange for advertising space. When the concerned enterprise grew to a level where it could conceivably go public, the media company that had freely advertised its merits would cash in. This example was one that most media enterprises, including the broadcast companies, have eagerly followed.

High officials of the Securities and Exchange Board of India (SEBI) have cautioned against the potential for conflicts of interest inherent in “private treaties”. In the past year, one of India’s largest broadcast companies, NDTV Ltd, decided to suspend its “ads for equities” business. Though the broadcaster had just struck deals with four companies, it reportedly had second thoughts at senior management levels soon afterwards. It will, however, continue its practice of trading advertising time for products and services such as real estate, cars and airline tickets.

capital city of Imphal. After a sustained agitation by local journalists, which went so far as an 11-day closure of the media in the entire state, the state government ordered the investigations transferred to the Central Bureau of Investigation (CBI), a police agency directly under the jurisdiction of India’s Union Government. Well over a year into the investigation, though, there is no visible sign of progress. And state authorities have been seeking to diminish the public perception of the case by broadly hinting that the slain journalist may have been tied up with militant groups. Few Manipur journalists give credence to these rumours.

In terms of hazards facing journalists, the north-eastern state of Assam has clearly been India’s ground-zero. The year gone by has brought no fresh atrocities other than the constant threat of retaliatory violence for critical reporting, and the chronic absence of protection and financial support from newspaper establishments. There has however been one conspicuous case of miscarriage of justice in the case of a journalist’s murder.

On 29 July 2009, a trial court in Guwahati, Assam’s largest city and capital in all but name, acquitted the sole accused in the murder of Parag Kumar Das, executive editor of *Asomiya Pratidin*, the largest circulated daily in the Assamese language. Das was a widely-known journalist and public intellectual, active in human rights campaigns and an outspoken critic of the security strategy adopted by government authorities, which often involved the covert use of underground elements to carry out strikes. He was shot dead in May 1996, in a busy part of Guwahati. It was by coincidence or otherwise, the very day that a new government was being sworn into office in the state.

In rendering judgment, the trial court judge reserved special words of censure for the CBI, which had been entrusted the investigation after expressions of disquiet among Assam’s journalists. The trial court pointed out numerous procedural lapses and a conspicuous failure of witness protection, which led several crucial witnesses to withhold evidence or turn hostile. Das is one name among a grim catalogue of 20 journalists murdered in Assam since 1990.

Certain brands of political practice in India embody severe risks for media freedom. Over the past year, the Shiv Sena, a regional political formation based in Mumbai has in particular sought to ramp up the appeal of its peculiar brand of sectarian politics, oriented around the preferential claims of people of the Marathi language to jobs in the city. A fissure within the party led to a clamour from both sides for the attention of the “sons of the soil”. Critical media commentary, which sought to uphold the great cosmopolitan traditions of Mumbai, was often beaten down, as with the TV news channel IBN7, which broadcasts in Hindi, and IBN7-Lokmat, which broadcasts in Marathi, from a suburb of the city. In November 2009, Shiv Sena activists raided the studios of the channel in Mumbai, causing extensive damage to property and equipment in retaliation for its critical editorial tone.

Maoist Insurgencies

There has been a major deterioration in the security environment and a consequent escalation of threats to the media in parts of India where a Maoist insurgency has been

active. Around September 2009, the Indian Government in partnership with police in the most seriously affected states began an anti-insurgency drive that is still under way and has claimed several lives. This has created a palpable sense of siege among journalists, particularly in the states of Chattisgarh, Orissa and West Bengal.

In October 2009, three journalists in Chattisgarh were issued notices by police ordering them to reveal the sources of news reports. Two journalists working for widely circulated Hindi-language dailies were asked to reveal their sources by police in the district of Dantewada in the southern part of the state, for a report suggesting that innocent villagers were killed in an anti-insurgency operation by security forces. In a separate case, a TV news reporter was asked to present himself to police in Kanker district, for broadcasting a Maoist claim of responsibility for the murder of a political figure.

A senior police officer in Chattisgarh was also reported to have sanctioned aggressive measures, including firing at journalists who crossed into the state from neighbouring districts of Andhra Pradesh to report on anti-insurgency operations.

The local journalists’ union, the Chattisgarh Shramjeevi Patrakar Sangh (CSPS), held a meeting on 12 October to discuss the threats. It resolved to undertake a campaign to generate public awareness on media freedom in a situation of sharpening conflict. Yet, with levels of violence having increased dramatically since then, journalism remains a threatened activity. Media persons crossing into Maoist-controlled hamlets or villages are routinely harassed and detained for questioning on their return. The Maoist influence has spread most rapidly in

regions where structures of governance are absent or in serious disrepair. Yet critical reporting on issues of governance is actively discouraged as legitimising Maoist violence.

With the escalation of anti-insurgency operations and a heightened level of political rhetoric on the threat posed by the Maoist insurgency to national security, active efforts were under way in Chattisgarh – often through the use of a draconian special security law – to silence critical reporting. Independent journalism came to be viewed as an enemy activity that lends comfort to insurgent groups.

Laxman Choudhary, a journalist for the daily *Sambad* in the eastern state of Orissa, was arrested on 21 September on charges ostensibly of “waging war against the state”. This followed the discovery of a parcel containing Maoist literature addressed to him. Media reports in Orissa indicated that Choudhary was a popular figure in his home district of Gajapati and had acquired a reputation for exposing police corruption. Typically for a journalist working in one of India’s more remote and neglected regions, Choudhary did not at the moment of his arrest have any credentials identifying him as a journalist. This is despite working for eight years as a stringer.

Orissa’s chief minister was on record within a week of Choudhary’s arrest sharply criticising the effort to muzzle the press. Yet it was not until 4 December that Choudhary was released on bail, ordered by the High Court of Orissa. He continues to face charges of sedition and will suffer significant restrictions on free movement as a bail condition.

On 26 September, police in the eastern state of West Bengal carried out a security operation in which the leader of a



Media in Kashmir came under pressure from authorities when state-wide demonstrations broke out over the murder of two women in the town of Shopian in June 2009. Photo: Courtesy of United News of India.

political group reportedly aligned with the Maoist party was arrested by police masquerading as journalists. Chhatradhar Mahato, who had established a body known as the People's Committee Against Police Atrocities, in Lalgahar town of Paschim Medinipur district, had been evading police searches. However, he made himself available to media personnel. Media reports suggested that the West Bengal state police had for some time been tracking the phone calls of journalists who had access to Mahato, who was arrested by police posing as media persons seeking to interview him. Journalists' unions in India criticised the police operation as a potential threat to journalists, impeding their ability to access news spots and creating a pall of suspicion about the profession.

Overdue Redress

When redress is obtained for journalists who have suffered from the heavy-handed tactics of police and security agencies, it is usually very late. On 11 February, India's National Human Rights Commission (NHRC) ordered appropriate restitution to a journalist in the state of Uttar Pradesh, for prolonged harassment and intimidation suffered at the hands of local police. According to the statutory national watchdog body on civil liberties, Samiuddin, alias Nilu, a reporter for the Hindi daily *Amar Ujala* in Lakhimpur Kheri district of Uttar Pradesh, was at various times since 2004 threatened by police, allegedly on the orders of the district police superintendent. His troubles began after he filed a series of reports documenting arbitrary actions and harassment of innocent people by the local police.

On 5 May 2006, Samiuddin was abducted by persons believed to be police personnel of a special operations group. The incident, according to the NHRC, could have had fatal consequences but for Samiuddin's precaution in registering a complaint with the NHRC apprehending a threat to his life. Local police reportedly let Samiuddin off after they learned his case was under consideration of the national oversight body,

In February 2010, the NHRC ruled that Samiuddin's case was "extraordinary" since it involved a journalist exercising his right to report and inform. It ordered Uttar Pradesh state authorities to pay damages of INR 500,000 (USD 10,850) to Samiuddin and file a compliance report within six weeks. In

another important move, the Press Council of India (PCI) heard Samiuddin's case and called for state authorities to submit six-monthly reports on his security for the next five years.

Overreaction

There were cases in the past year of journalists being arrested and booked in criminal cases, for news reports that were at worst, ethical violations. Two of these were in the southern Indian state of Tamil Nadu while another two occurred in the neighbouring state of Andhra Pradesh.

B. Lenin, news editor of the Tamil daily *Dinamalar*, was arrested in the Tamil Nadu capital of Chennai on 8 October for publishing a purported statement by a part-time actor in the Tamil film industry, who had earlier been arrested on suspicion of running a prostitution ring. The actor reportedly named several prominent figures in the industry as her clients and as players in a prostitution racket. *Dinamalar* carried a retraction and an apology the following day. But prominent figures from the Tamil film industry held a public meeting a day afterwards, denouncing the newspaper and according to media reports, the profession of journalism itself. Film industry lobbies also reportedly intervened at the state's highest political levels to ensure that the journalist attracted maximum punishment. Lenin was dragged away from his office by police personnel and charged with offences under a law on the harassment of women. Remanded to judicial custody for two weeks, he was released unconditionally after two days.

A few days later, A.S. Mani, editor of the weekly magazine *Naveena Netrikan*, in Madurai city in the Tamil Nadu, was arrested on a complaint about an article alleging a close nexus between a Madurai businessman and the local Member of Parliament and Minister in India's Union Cabinet, M.K. Azhagiri. The article alleged the businessman had a decisive influence in the award of public works contracts in Madurai and nearby districts, and collected kickbacks from successful bidders. Mani was arrested under sections of Indian criminal law relating to causing enmity between communities, defamation and intent to cause disharmony. He was released on bail on 27 November, and faces a long and potentially difficult legal battle.

Two journalists of TV5 news channel were arrested in Andhra Pradesh after their channel carried an allegedly "unfounded" report relating to the death of the state's Chief Minister in September 2009. The report, which suggested that a big corporate group was involved in the helicopter crash that killed the state's highest elected official in September 2009, aired on TV5 and Sakshi TV – the latter owned by the son of the dead man. Widespread violence and property damage was reported almost immediately at facilities belonging to the corporation across the state.

Andhra Pradesh police arrested TV5 executive editor Brahmananda Reddy and input editor Venkata Krishna the following day. They were remanded for two weeks, but released on bail after three days in prison. The two journalists have been charged under sections of India's law dealing with causing ill will between different groups of people and disrupting social harmony. Sakshi TV, which had aired almost an identical news report, escaped any form of stricture or sanction.

Jammu and Kashmir

Jammu and Kashmir state, long the arena of an armed confrontation between separatist elements and state security forces, continued to pose serious challenges for journalism

through the year. In January 2010, a photojournalist in Srinagar, summer capital of the state, was shot and injured by police while covering the aftermath of an armed encounter between security forces and two separatist militants. The incident occurred when a group of journalists entered a hotel in the city that had been commandeered and held for close to 24 hours by two militants. Amaan Farooq, a cameraman with the *Greater Kashmir* newspaper, was among a group of journalists to be verbally abused by a police deputy superintendent, who insisted they leave the area. Despite having obtained access through appropriate channels, a number of the journalists complied with the demand. Farooq was one among four journalists who remained. He was shot as he left the site later after filming.

A tendency to blame the messenger was evident in a case in mid-2009, when authorities blamed local news channels and print media for an escalation in public tensions following the deaths of two women near the district town of Shopian, 52 kilometres from Srinagar. Numerous independent news channels in the Kashmir valley stepped up their coverage as Shopian residents came out on the streets to protest what they believed was a case of rape and murder involving security agencies controlled by the Indian Government. While police failed to file a first information report to initiate a full investigation, senior Home Department officials said it was the media that had fuelled the tensions by going beyond reasonable limits in reporting on the women's deaths.

MALDIVES In Hopeful Transition

Since the historic transfer of power of November 2008, when long-time president Mohammad Abdul Gayoom stood down after his defeat in nationwide elections, journalists in the Maldives have been living in hope. Mohammad Nasheed, a prisoner of conscience under Gayoom and a former journalist, it is hoped, will deliver on all promises he has held out to transform the Indian Ocean nation into a haven of free speech.

In March, the Maldives Journalists' Association (MJA) sent a three-member team of its executive committee to the Sri Lankan capital of Colombo to brief the diplomatic community on the challenges they face in fostering independent media culture and practices in the country. In public remarks just before the mission, MJA president Ahmad Hiriga Zahir, who edits the daily *Haveeru*, said that President Nasheed's words in support of press freedom were not being matched by deeds. There had in fact been overt and other more subtle efforts by his government to suppress the free functioning of the media.

The MJA delegation to Colombo followed an attack on media personnel the previous week in which at least two were left injured. These actions were described by the body as "lewd acts intended to jeopardise the freedom of the press and make the media powerless".

A gang of four raided the studio of the television station Dhivehu (DhiTV) and immediately afterwards attacked a staffer of the newspaper *Haveeru* outside his office. These incidents led to bitter exchanges between the ruling Maldivian Democratic Party (MDP) and the opposition Dhivehi Rayyithunge Party (DRP). The following day, a top

Official attitudes towards media reporting on terrorist violence also blame the messenger. In February 2010, a bomb went off in a popular eatery in the western city of Pune. India and Pakistan were on the verge of commencing a renewed dialogue and much of the media commentary interpreted the blast as an active effort to undermine the talks. Reporters who sought to access the hospital sites where the injured from the Pune blast had been taken, were blocked and told that they had no permission to visit those still under trauma. The following day, Pune's Commissioner of Police said that the media had been kept out with deliberate intent, since access to the witnesses could potentially jeopardise the investigations. It has often been said of India's media that it is prepared to vigorously challenge the word of those in authority, except when certain clearly demarcated lines are in danger of being breached.

The insurgencies in the North-East, Kashmir and now in the Maoist area in central and eastern India were clearly such lines. But under pressure to represent local voices and sensitively portray the plight of civilians trapped in the crossfire, several journalists have been stepping up with clear and conscientious reporting. This has unleashed a whole new array of threats against them. Journalists' unions in India, now more aware than ever of their responsibility to safeguard the integrity and social commitments of the profession, are responding creatively and constructively to the challenges.



Mohamed Nasheed, the President of the Maldives, is being called upon to fulfill his promises to uphold media freedom. Photo: Courtesy of Mauroof Khaleel.

DRP official accused the MDP of instigating the attacks and questioned the ruling party's oft-stated commitment to media freedom. Others spoke of strategies the Government had introduced to "kill" the media.

Among these is a ratings system whereby broadcast channels and radio stations that breach a government-mandated code have points deducted from their tally, up to a maximum of 100. An FM station that covered a protest demonstration in one of the islands of the nation in January

had five points deducted, on the basis of a police complaint. There is no known system of adjudication or appeals involved, since the committee that decides on the matter is constituted by the Ministry of Information.

In July 2009, DhiTV was threatened by government officials after it carried live footage of former president Gayoom being taken into a police station for interrogation on charges of misuse of power. DRP activists are believed to have attacked a reporter of the state-owned TV Maldives (TVM) as he covered the same event. Just days earlier, Zahir was attacked by supporters of the ruling party in the premises of the National Parliament (Majlis).

The MDP has drawn criticism for reconstituting the board of the Maldives National Broadcasting Corporation, established soon after the current President took office, and packing it with government loyalists. The TVM newsroom also underwent a significant change in personnel, after which its reporting has in the judgment of the political opposition, turned more compliant to the government *diktat*.

Government officials were known to be all too quick to use criminal defamation laws to sue journalists and independent media outlets. The DRP and its allies as of November 2009 had three criminal defamation suits pending against journalists: one by a former Chief Justice against *Manas* weekly; another by the People's Alliance President and MP Abdulla Yameen Abdul Gayoom against *Haama* daily; and another by the president of the Poverty Alleviating Party and MP Ahmed Saleem against *Jazeera* daily.

Media Laws

One of the unequivocal positives of the past year is that journalists in the Maldives have secured the decriminalisation of defamation, after much public campaigning. By a vote of 34 to seven in a house with 44 members attending, the Majlis decided in November to repeal five articles of the penal code that allowed for criminal prosecution in defamation cases.

A right to information (RTI) law is also currently under consideration by the Majlis. This particular legislation has had a chequered career. It was first introduced in 2007 and rejected. Toward the end of his tenure as president, Abdul Gayoom signed in a set of regulations providing public access to information.

The bill that is now before the Majlis follows these regulations very closely, but has the advantage that it will become a part of the formal system of law, unlike the rules which have to be reviewed and renewed on an annual basis. Press freedom advocates are critical of the length of time provided – 30 days – for releasing information sought by the public. They also believe that the numerous exceptions provided under the bill, as for instance in matters involving trade secrets or prior agreement not to disclose, could be abused. Activists also believe that the extension of up to 60 days given to release information when it is not readily available in the format sought is over-generous.

The Majlis enacted a Media Council law on the eve of the 2008 elections. The Act was signed into law by the outgoing president in November 2008. Since then, the law has been the subject of a serious debate among media practitioners in the Maldives.

Article 22 of the law is believed to be deeply problematic, since it is seen as an effort by the Government to usurp the mantle of the Media Council. Matters of ethics and practice which this article deals with should, in the perception of most Maldivian journalists, be worked out by the council once it is constituted and not laid down by the Government as a prior condition.

Section 6 of the law lays down the conditions under which an individual could be disqualified from seeking membership of the council. Among these is one that requires that the person be “virtuous and of good conduct according to societal values”. Other provisions require that the person not have had any record of conviction under a number of provisions of the law.

Article 9(e) speaks of the council's responsibilities as “encouraging complaints against media organisations”, which suggests an adversarial relationship being fostered between the media and the public. This may be at variance with the general practice in media accountability legislation worldwide, which is to encourage self-regulation and promote a dialogue between the media and the public. Adjudicatory powers are only invoked when these procedures fail to satisfy all grievances.

Article 21(a) of the law enshrines the principle that the freedom of the media is a greater responsibility and obligation than the public right to information. This seems to flout the evolving wisdom that the two are counterpart principles: two sides of the same coin.

Finally, Article 23 of the Media Council Act has numerous strictures on privacy which are seen to be a little out of place. It is not agreed by all media practitioners that the Media Council needs to stipulate safeguards that go beyond normal privacy protection laws. Such norms are seen as best left to the council to frame, once it has been constituted.

There is a suggestion of near-statutory powers in Article 27 of the law, which speaks of the council's authority to refer a matter of non-compliance to the Attorney-General. There is no clarity though, in the powers that the Attorney-General holds in reserve to deal with such a reference.

The government is yet to give effect to the Media Council Act, apparently because of the extraordinary powers that it vests in the proposed media regulatory body. The MJA has said that the norms for choosing membership of the council allow the staff of state broadcasters to potentially fill eight of the 15 seats. This would effectively provide the Government with greater leeway to influence the council's functioning.

Gazette Concerns

A potentially grave threat to independent media has come with the Government's decision mid-2009 to publish all press releases, announcements, tender notices and job advertisements in a specialised publication called the Government Gazette. Editors of the leading newspapers, *Haveeru*, *Miadhu*, *Aafathis*, *Jazeera* and *Haama* met shortly afterwards to discuss the repercussions of such a measure.

The Government has declared that newspapers would be given a subsidy if the situation demanded it. The Government Gazette came into existence from 1 September 2009.

There have also been certain arbitrary actions by those in authority that have been serious irritants to free media functioning. Although the media is entitled under law to cover all proceedings of the Majlis, they found themselves shut out of the debate over the national budget for 2009.

Journalists in the Maldives believe that a dialogue between the media and lawmakers on an agreed charter of rights for the media is long overdue. They believe that they have a long fight ahead and know that they have allies both in the Government and in the Majlis who they can count on for a successful outcome.



Photo-journalists on the job in Kathmandu, Nepal.
Photo: Courtesy of Kiran Panday.

NEPAL Struggle for Peace

The day following World Press Freedom Day 2009, Pushpa Kumar Dahal, alias Prachanda, leader of the United Communist Party of Nepal (Maoist), declared that he would resign as Prime Minister of Nepal, after eight months in office. The Maoists had emerged as the largest party in Nepal's national elections in April 2008, following a ceasefire declared in 2006 after a 10-year insurgency against the monarchist regime in the Himalayan country. They had failed, however, to achieve a reasonable and stable basis for governance, with other political parties and power groups resisting their agenda. Nepal's Army in particular had proven its ability to checkmate any progress toward a new republican order, based on the amicable settlement of two tortured questions: ownership and control of the land, and the disarmament and rehabilitation of erstwhile Maoist insurgents.

A year on, Nepal's Constituent Assembly remains in deadlock. The Maoists have refused to cooperate with the coalition that was sworn in under the leadership of Madhav Kumar Nepal, of the Communist Party of Nepal (United Marxist-Leninist, (or UML), and basic principles of constitutional politics remain to be agreed. The agreed deadline for adopting the new constitution is 28 May 2010.

In early April, a number of Nepal's most eminent journalists, teachers and public intellectuals issued an appeal, warning that the nation was entering a “state of deep political uncertainty”, which was “undermining the achievements of the People's Movement of 2006”. The imperative need to “preserve the democratic achievements of the past” necessitated that all political parties “concentrate on the peace process and constitution-writing”. The entire exercise needed to be based on the principles of the integration of erstwhile Maoist combatants into agencies of the state empowered to bear arms, or their rehabilitation in peacetime occupations.

The public appeal called for the principles of non-violence, harmony, goodwill, equality and trust to be recognised as fundamental to the process of enacting a new constitution for Republican Nepal. This required that “social justice and equity”, “pluralism” and federalism be recognised as the foundations of the exercise of state power. Also, the state should be constrained by a doctrine of the “separation of powers”, the dignity of the individual and secularism.

Targeting the Messenger

The media in Nepal has felt the pangs of this yet incomplete transition. It has often had to face the fury of rival political parties for reporting deemed hostile. A government sworn in on the basis of an undeclared compact between parties that have been virulently opposed to each other cannot yet find the political will to pursue and prosecute earlier violations of press freedom.

The Federation of Nepali Journalists (FNJ) has described the press freedom situation in the country today as most unhappy. It has documented 64 cases of violations of press freedom and freedom of expression since April 2009. Among these have been perhaps 28 cases of journalists being attacked and three cases of journalists being arrested on suspicion of involvement in criminal activities. One media house was attacked.

Press freedom violations, the FNJ reports, were not limited to the capital of Kathmandu. Especially problematic areas were the lower southern plains (the Terai) and the eastern hills, where the FNJ has found credible evidence that underground armed groups are behind many of the threats and attacks on journalists.

The most serious attack on a journalist during the past year was when a young woman journalist, Tika Bista, was viciously assaulted in Rukum, in the mid-western



Tika Bista was beaten unconscious in Rukum on 8 December. She received threatening calls for several days before the attack in relation to a story she published earlier in the year. Photo: Courtesy of Rajesh Dhungana.

part of Nepal. Bista had been threatened by the Maoists immediately after she published an article critical of them. Exactly a month later, on 11 December, she was attacked by a group, all of whom wore masks. Bista was slashed across her arms and legs with sharp knives, thrown off a cliff, and left for dead. She was fortunate in that some friends who were anxious about her absence went looking and found her. She was flown to Kathmandu for prompt medical attention.

A few days later, local police arrested five people, including a local leader of the Young Communist League (YCL), the youth affiliate of the Maoist party, for the attack. Shortly afterwards, five more people were arrested, again including a central committee member of the YCL. Police also interrogated other local residents.

There has also been a worrying trend in evidence, of attacks on media owners and entrepreneurs. Two media entrepreneurs were shot dead in February. The chairman of Channel Nepal Television, Jamim Shah, was shot dead by unidentified gunmen on 7 February. On 28 February, another media entrepreneur, Arun Singhaniya, was shot dead in Janakpur again by unidentified gunmen.

In both cases, the Government has reacted by ascribing the murders to reasons other than the victims' involvement in the media. Both the murdered men, indeed, had diversified business interests. And Jamim Shah, a Nepali Muslim, had often been accused by Indian intelligence and security agencies of involvement in global terrorism and drug-smuggling networks. The FNJ believes that these arguments from Nepal's Government do not carry much credibility. They have said that the burden of proof is on the Government to establish that the killing of the two men was not related to their involvement in the media.

Journalism in Nepal suffered a major trauma in January 2009, when a young and widely admired journalist in the Terai town of Janakpur, Uma Singh, was brutally murdered. More than a year later, authorities are no closer to moving toward prosecution and trial of her killers. Shortly after her murder, a number of local political players and a few relatives of Uma Singh were arrested, partly as a gesture toward the upwelling of public concern that followed her brutal death. But key figures in the murder plot were believed then to have escaped across the border to India,



Media personnel scuffle with police in Nepal at a protest in Kathmandu in March 2010 to condemn the murder of publisher Arun Singhania on 1 March. Photo: Courtesy of Rajesh Dhungana.

where they continue to hide out. The few who have been arrested remain in jail, and the investigation appears stalled.

Working Journalists' Act

Nepal's interim government, formed after the mass democratic uprising of 2006, enacted a very forward-looking Act to defend the interests of working journalists. The Working Journalists' Act, though, remains unimplemented and the Government has failed to monitor its progress. It is recognised that only Nepal's bigger media houses would be able to implement the Act, since others would be financially squeezed by its provisions and would likely go out of business. The Government has said it will seek implementation from the larger media houses before figuring out ways to improve the lot of journalists working in the smaller units.

The Government is a major player in Nepal's media. Government-owned enterprises run a print media unit with newspapers in both English and Nepali, two television channels, and one radio station. The FNJ has been asking the Government to set an example and implement the Working Journalists' Act in its own enterprises. Over the course of the year, the FNJ conducted a survey through its monitoring unit specially created for the purpose, to assess how far the law on conditions of working journalists was being honoured. It found that fewer than half the media houses in the country were abiding by the provisions of the law on pay and working conditions.

Media Laws

The putatively independent Press Council of Nepal, created by a royal ordinance in 1992, remains a dormant body. The law invests large powers in the hands of the Government in terms of nominating the chairman and membership of the council. The FNJ has long demanded that the council should be an independent body, but the necessary legislative changes remain to be enacted.

The Government has passed a Right to Information law, and set up an Information Commission. Here again, the structures of governmental control are strongly entrenched. The FNJ has long urged that the commission be given autonomy and an independent constitution.



A cameraman films outside the Peshawar Press Club in Pakistan following a suicide bomb attack on 22 December 2009. Three people were killed and 15 injured in the bombing. Photo: Courtesy of PFUJ.

PAKISTAN Tackling Conflict

Pakistan's journalists and media remained under great stress during 2009. Threats and the dangers of working in conflict zones were especially manifest in insurgency-hit areas such as the North-West Frontier Province (NWFP), the tribal belt bordering Afghanistan, and parts of Balochistan, where military operations were undertaken during 2009 to flush out insurgents. Conflict in the Swat Valley in mid-2009 saw a massive displacement of civilians, including a number of media personnel to safer areas, while the Peshawar Press Club was targeted by a suicide bomber late in 2009. Both the military and the insurgent outfits are known to have used numerous stratagems to coerce the media into reporting only those aspects of the conflict that suit their convenience.

Despite the difficulties, however, the balance sheet as drawn up in early 2010 would show that press freedom in Pakistan has improved in the two years of democratic government since the demise of the Pervez Musharraf regime and the revocation of censorship amendments to the Pakistan Electronic Media Regulatory Authority (PEMRA) law. The tensions of the past have in some respects had a positive impact on media freedoms. An example would be the way the bigger broadcasters have followed the lead of certain channels in reporting more vigorously on accountability issues of government.

By early 2010, the security situation had improved in the north-west of Pakistan as military operations eased, compared with several previous years when journalists working in the area were virtually sandwiched between militants and the military. But it remains a concern that the security forces continue to exert pressure for controlled reporting, particularly on journalists covering conflict.

Apart from the dangers of reporting on conflict and insurgency, media organisations and personnel faced intimidation and threats from security forces and intelligence

agencies while journalists were also commonly harassed by police, civil society organisations, lawyers and others. Tension between the government and some major media organisations also had a serious impact on media personnel, particularly with regard to the long struggle for decent wages and conditions. The failure of media owners to provide fair wages is compounded by their continuing abdication of responsibility when it comes to providing media personnel with safety equipment and insurance.

Reporting from Conflict Zones

For two years from mid-2007, it was almost impossible for journalists to perform their duties freely in the Swat and Buner districts of NWFP due to the increasing hold of groups associated with the Taliban and the intensifying conflict with state forces. Journalists and media organisations faced a dual threat – from the militants on one side and the army and intelligence agencies on the other. Both sides insisted that only their views be carried. "It was like walking on a knife-edge", according to one journalist with first-hand experience of the situation "We had, to keep ourselves safe, take care of the wishes of both the militants and the military," said Obaidullah, of the local daily *Khabarkar*.

During this time, four journalists were murdered – Musa Khan Khel in February 2009 and Qari Shoab, Abdul Aziz and Siraj-ud-Din from February to November 2008.

Just days before Pakistani security forces launched a renewed military operation in the Swat Valley in April-May 2009, ending a three-month cease-fire, fundamentalist militants circulated a pamphlet among local media outlets and journalists. Titled "Intibah" (warning), the letter bluntly told journalists to refrain from criticising the ideas and activities of the Taliban or reporting in a manner that jeopardised their interests. At that time, Taliban elements had virtual control



Up to 1.5 million people fled Pakistan's Swat Valley in mid-2009 amid intense fighting between security forces and militant groups. Among the displaced were many journalists and their families. Here, refugee families gather at the Peshawar Press Club in May to call attention to their plight.
 Photo: Courtesy of PFUJ.

the area. Cable television had already gone off the air after the Taliban imposed a ban in Mingora and other parts of the valley.

The three-month battle between the security forces and the Taliban is believed to have cleared the area of militants. But 1.5 million people were forced to flee to safer ground, in the biggest internal displacement of people in Pakistan's 60-year history. Among those displaced to Peshawar and other parts of NWFP, 240 journalists were registered by the Khyber Union of Journalists (KhUJ), a district affiliate of the Pakistan Federal Union of Journalists (PFUJ). The KhUJ, working with the Peshawar Press Club, launched a relief and rehabilitation campaign for displaced media personnel and their families. Financial aid was provided, with the support of government and non-governmental bodies. The IFJ and other international journalists' organisations also contributed to this effort. Accommodation was provided and relief camps set up across the country for displaced media personnel and their families. Yet, despite the significant disruption to their everyday lives, many journalists from Swat continued to conduct their work from Peshawar and elsewhere.

As the military operation wrapped up in September 2009, some displaced journalists and their families returned home to Swat and other parts of the restive Malakand Division. Regional newspapers began to publish again. The regional press club in Swat resumed its activities. But although the immediate dangers posed by fundamentalist groups in Swat and elsewhere in Malakand appeared to diminish, journalists in the area are very wary of the role of state security forces and intelligence agencies. It is far from clear even now, many months after the conflict subsided, that media can conduct genuinely critical and independent journalism from these war-ravaged areas.

Elsewhere in NWFP, acute tensions and the associated risks remained, underscored by a suicide bomb attack on the Peshawar Press Club on 22 December 2009. The attack killed two club employees – Riaz-ud-Din and Mian Iqbal Shah – as well as a woman who happened to be passing by. Fifteen people were injured, including three club employees – Daud Khan, Yasir

of Swat and Buner, and to comment or report in a way that offended militant groups was almost unthinkable. The office of *Azadi*, an Urdu daily published from Mingora, the district headquarters of Swat, was ransacked and dynamited in May 2009 after it published material critical of the Taliban. In October the previous year, according to editor-in-chief Mumtaz Sadiq, the same office suffered partial damage when a suicide bomber attacked the Mingora police station.

Swat had previously been referred to as the "Switzerland of Pakistan", and was known for its high levels of education and forward looking people. Six regional dailies – *Azadi*, *Salam*, *Shamaal*, *Khabarkar*, *Nawa-e-Swat* and *Awaz-e-Shehr* – were published in the area, while the national dailies also had a significant presence. Cable television was very popular. But as conflict intensified in mid-2009, all regional dailies ceased publication. National newspapers could not be distributed in

Balochistan – Information Vacuum

"Stop this biased reporting or get ready for serious repercussions" -- this was the threat given to a local journalist working for an international radio in Balochistan. The threat came after the journalist reported that Baloch separatist groups had banned the raising of the Pakistan national flag and the singing of the national anthem in government schools in the province.

Journalists and media workers in Balochistan - Pakistan's largest province by area - commonly face such threats. Amid a separatist movement that has in recent years flared anew, journalists and other media workers receive no training on how to work in hostile environments. Yet they must contend with pressures from separatist organisations, nationalist forces, political parties and, above all, the paramilitary Frontier Corps (FC). Caught between the FC and the separatists, local media personnel have to be extra cautious in their reporting of issues or events that may upset either side. Self-censorship is almost the universal norm for journalists in Balochistan.

The difficulties are compounded by a historic failure to

provide adequate professional training, the unwillingness of media proprietors to pay reasonable wages and support the safety of their workers, and an attitude among some that media work is not a profession but a means to secure financial or political benefits by other means.

Two years after the murder of senior journalist Chishti Mujahid in Quetta, the provincial capital, on 9 February 2008, the police investigation remains in a state of paralysis and no suspect has been identified, far less arrested. It is reported that police withdrew from their inquiries after the Baloch Liberation Army (BLA) - one of the separatist militias operating in the province - claimed responsibility for Mujahid's murder. In claiming responsibility several days after Mujahid was killed, a BLA spokesman said Mujahid "was involved in anti-Baloch activities. He worked for the Government. We tried to make him understand several times, but he did not".

Mujahid was a doctor by profession but he had also worked in journalism for 38 years, contributing regular articles to the Jang group's weekly *Akhbar-e-Jahaan*. He had developed close ties with Balochistan's

Jamil and Kamran Khan – and a photo-journalist working for the *News International*, Khurram Pervez.

The Peshawar Press Club and media organisations in the city had received many written and verbal threats previously, generally believed to be sourced from fundamentalist groups. This is the first such targeted attack on a national press club in Pakistan, although a press club in Wana, the regional headquarters of South Waziristan Agency, was badly damaged in bombings during an all-out battle on 21 March 2009.

The PFUJ called for observation of Yaum-e-Azam, or a Day of Pledge, to condemn the December attack and express the resolve of journalists across the country not to bow before acts of terror. At countrywide rallies and protest meetings, journalists extended sympathy and support to club members and the families of those killed or injured. The PFUJ is also pushing for President Asif Ali Zardari to establish a permanent fund for financial support for journalists injured in similar incidents and to assist the families of those killed.

In February 2010, three reporters covering a military operation in NWFP's Lower Dir district were injured when a suicide bomber attacked a convoy of security forces. This attack coincided with twin blasts in the southern city of Karachi in which about a dozen journalists were injured.

Military operations in most of the seven tribal agencies of the Federally Administered Tribal Areas (FATA) had established relative calm by the end of 2009. Media personnel were at less risk of being injured while reporting conflict. Thirteen journalists were killed in the tribal areas from 2006 to 2008. None were reported killed in the period under review. Reports of threats and attacks on journalists and other civilians, though, have likely only diminished because there are far fewer media personnel who continue to live and work in the tribal areas. Most have left in recent years, and it is believed that no media person now lives in and works from South Waziristan and North Waziristan – those who did live there have been displaced to districts such as Tank, Dera Ismail Khan and Bannu, as well as Peshawar.

former Governor, Owais Ghani, and had an office at the Governor's House. He was murdered after filing a routine news report about the killing and burial of Baloch separatist Mir Balach Murree in Afghanistan. There was nothing controversial in the article, but editors added a headline reading, "He who claimed a separate state could not find two yards of land for burial in his country." This is believed to be the prime reason for the murder.

Many other local journalists experience regular harassment, intimidation and obstruction in the conduct of their work. In one instance, in May 2009, Kazim Mengal, chief reporter of the *Express*, and his cameraman Mahmud were harassed by security forces and their equipment taken away as they sought to report on the Sandak Gold Project in Chaghi district. This was despite both of them having prior permission and all necessary clearances to enter the area.

The few local journalists and photographers affiliated with prominent international media organisations appear to be more prone to threats from separatists who demand media space to air their views, especially on radio, or who order restrictions on reports that highlight their outlawed

The extreme risks of working in the area are highlighted by the case of Mohammad Rasheed, who works for Associated Press (AP) in Rawalpindi. In late December 2009, he was working in Miranshah, the volatile agency headquarters of North Waziristan, when he was picked up by militants associated with the Taliban and held for about 10 days. On his release in early January 2010, Rasheed was immediately detained by security forces, who held him for about 60 days before his release on 11 March 2010. The army kept Rasheed in Miranshah for some days before shifting him to Peshawar, from where he was released after about 50 days of interrogation.

An immediate need for those who have been forced to leave the area, and for those whose houses have been destroyed during the conflict, is repatriation and rehabilitation. A wider concern is the information vacuum in an area of prime importance in the so-called international "war on terror". The case of Mohammad Rasheed, targeted successively by the militants and then the official security agencies, underlines the risks involved in seeking an objective mode of reporting. For most journalists concerned about their physical well-being, the only recourse in the circumstance, is self-censorship, which further deepens the information vacuum.

For the 200 or so media personnel who remain in the tribal areas, working conditions are extremely tough, and the environment is not conducive to free and independent reporting. Very few of those still working in these areas receive regular salaries or payment for their work, despite the risks they face and the public service they render in reporting from the area. While those who work for electronic media do receive salaries, just a few print media organisations provide regular and secure salaries. Major national organisations such as the Jang Group, for example, do not pay regular salaries to correspondents based in the tribal areas. The Tribal Union of Journalists (TUJ) has approached the All Pakistan Newspaper Society (APNS) several times on this matter, to no avail. TUJ president Ibrahim Shinwari says, however, that the union will continue to struggle for the rights of tribal journalists.

activities. One journalist who works for an international service said he had received numerous threats by phone, and is scared when he goes home from the office in the evenings. "Every passing motorbike near me adds to my fear," he said.

Like other sectors, the media is a neglected profession in Balochistan. The Jang, Express and Dawn groups are the few media organisations with properly established offices in Quetta. Even so, there are at least 104 local dailies published from Quetta and more than 100 weeklies, not to mention monthly journals. But most of the local papers do not appear in the market. They have no offices or employees. Rather, they rely on a few low-cost national news agencies for content. Many are photocopies of other local newspapers, with a new masthead attached.

The absence of big commercial organisations or industries to generate advertising, means that most local newspapers depend on the province's lone source of advertising - the provincial government. "More than a hundred dailies . . . are getting regular advertisements, but very few of them can be seen in the market," said one local editor.

Battle of Views

Numerous incidents of harassment of journalists by security forces, intelligence agencies, police and civil society organisations were reported during the year. In large part, serious violations occurred in connection with reporting on military operations and the activities of militant groups, but journalists across the country also experienced significant harassment from lawyers' groups. There were nine incidents reported of lawyers assaulting journalists in Islamabad, Lahore and Karachi, during protests called by local bar associations intent on the restoration of the judicial bench that had been overturned during the last years of military rule under Pervez Musharraf.

On 28 April 2009, personnel of Pakistan's top intelligence agency, the Directorate of Inter-Services Intelligence (ISI), detained Delawar Jan, a staff reporter of the *News International* based in Peshawar. He was reportedly pressured to comply with the ISI-dictated line while reporting on issues related to the militancy. It was unusual for the agency to interdict a journalist at the office of a large media organisation. Jan was taken away for interrogation, on allegations that he had leaked official secrets in a news report about the military operation in Buner district. He was released after 28 hours in detention and when the KhUJ announced plans to stage a protest.

In June 2009, militants ransacked and torched the home of senior journalist Behroz Khan in the NWFP district of Buner. At the same time, the home of another reporter, Rahman Buner, was dynamited by suspected militants in the area.

In Islamabad, *Dawn News* reporter Aziz Syed was attacked on 19 January 2010 when unknown people threw stones at his home and smashed his car. Syed had been working on an investigative report on military action in insurgency-hit areas and was critical of the armed forces' role.

Killings and Intimidation Across Country

Across Pakistan, five journalists were killed up to April 2010 as they conducted their professional work. In most cases the motivation remains unclear, but many of those killed were known to report on controversial issues.

On 26 March 2009, unknown armed men shot and killed Raja Asad Hameed, senior Islamabad-based reporter of *The Nation*, a widely circulated English daily.

On 11 April 2009, Wasi Ahmad Qureshi, a correspondent of the *Balochistan Express*, and Mohammad Siddique Mosiani, his co-worker, were fired upon by unknown people in Balochistan's Khuzdar district. Qureshi died of chest injuries in hospital. Mosiani survived. The attackers were reportedly members of the Baloch Liberation Army, a separatist group.

On 14 August, Siddique Bacha, Mardan district correspondent for Aaj TV, was shot dead by unknown people as he made his way home from work. There were reports that the killing was related to a family dispute, but family members claimed he was killed by people associated with the Taliban.

On 24 August, Janullah Hashimzada, a senior Afghan journalist based in Peshawar, was on his way to Peshawar from the Afghan border town of Jalalabad, when the bus he was travelling in was stopped near Jamrud, in Pakistan's Khyber Agency. The four people in travelling in a car, who ordered the bus to halt, then asked Hashimzada to step out. He was shot dead as he stepped out of the bus. No independent inquiry has been conducted into the killing. The motivation for his murder remains unknown.

On 17 February 2010, Ashiq Ali Mangi was shot dead by two motorcyclists as he travelled to a district press club in the Gambat area of Sindh province. Ashiq, who worked for a private television station, Mehran, was reportedly killed for his reporting on a feud between two ethnic groups.

In addition, Fahim Siddique, a senior journalist based in Karachi, suffered serious injuries in a suicide attack on an Ashura procession in Karachi on 25 December. His son and niece were killed.

Journalists were also harassed or assaulted in a wide range of incidents. In the Turbat district of Balochistan, members of the Frontier Corps, an armed police outfit tasked with guarding Pakistan's borders, tortured Baloch journalist Irshad Akhter on 4 September. At Faisalabad prison in November, media personnel were attacked while they reported on a prison protest. Four journalists were injured and another five taken into custody. While reporting on a students' demonstration in Lahore on 5 November, Umer Aslam, a Lahore-based reporter of City-42 TV channel, was assaulted by police. He was detained for some time. In September, Javed Afridi, a senior reporter of 24/7, the English television channel of Express group, was held for ransom by a gang of outlaws. He escaped after 25 days in captivity.

Struggle for Decent Wages and Work

Job security and decent working conditions remain a core issue for journalists and media workers across Pakistan, as newspaper owners continue to be in default on implementing statutory wage awards. The Seventh Wage Award for journalists and newspaper staff, announced in 2000, still remains only very partially honoured and the industry as a whole has seen mass job losses over the past year.

About 600 media personnel were dismissed during the year under review, according to the PFUJ. In most such cases, those sacked did not receive the payments they were owed. The Urdu daily *Aajkal*, owned by Punjab Governor Salman Taseer, has since January 2009, sacked more than 200 employees from various offices including Lahore, Karachi, Islamabad and Peshawar. Dues were not paid as required under the workers' contracts.

Meanwhile, employees of the Khabrain Group claim they have not been paid salaries for several months. Fed up with working without appropriate compensation, many have quit without receiving their dues. Many others have been sacked. The *Daily Jinnah*, another Urdu newspaper, also sacked employees from various centres, including the entire staff of its Peshawar bureau, without payment of dues. *Dawn News* sacked more than 70 journalists and media workers in a single day. City-42, a private TV channel, also laid off scores of journalists over the past year.

Meanwhile, plans for new media launches have foundered. Dubai-based multi-national Wateen Group recruited a number of journalists, most of them with years of experience, for a new English daily, *The National*. But the project was abandoned well before launch, leaving all the journalists unemployed. GEO Television likewise failed in its plans to launch an English TV channel, although hundreds of workers had been hired specifically for it. Some were re-assigned to work in GEO's Urdu channels. The rest were laid off. Karachi-based JS Global sacked about 100 journalists and many other workers in February 2010, two years after it launched the English daily *Business Day*. The management paid out three months of salaries to the sacked employees, in line with contractual obligation.



Journalists in Pakistan are fed up with the failure of newspaper owners to pay long-overdue wage rises required under the law. Photo: Courtesy of PFUJ.

Most of those who retain their jobs in the newspaper sector are paid at the rate of wages fixed in 1996, despite a decision of the Seventh Wage Board in June 2000 to raise these. The failure of media owners to implement the Seventh Wage Award, and their evident stalling tactics in protracted court hearings over the past several years, raise concerns about the quality of journalism. The stalling has also delayed constitution of the Eighth Wage Board, which should by law, have come into existence in 2007.

After failing in an effort in Pakistan's Supreme Court to have the Seventh Wage Award declared invalid, the representative body of newspaper owners, the All Pakistan Newspaper Society (APNS), and other media owners have been pursuing litigation in the Sindh High Court for more than five years to indefinitely stay implementation of the award.

Ten years into the term of the Seventh Wage Board, newspaper managements and owners are arguing before the judiciary that their rising financial losses make compliance with the legally mandated wages infeasible. The PFUJ has characterised this argument as disingenuous, since the financial difficulties in recent months have not quite wiped out the record levels of profit earned all through the years of the media boom preceding the 2008 financial meltdown. At the same time, the PFUJ points out, newspapers are benefiting from a wide range of government tax concessions and low duties on imported newsprint, ostensibly offered to assist them in paying improved wages. Information Minister Qamruzzaman Kaira highlights this contradiction when he says that the government has made maximum concessions to owners with the intention that the financial benefits be extended to media personnel.

For the Jang Group, tensions with the government are also cited as a rationale for failure to provide decent wages. The Government is withholding advertising from the group, arguing that the reporting in all its newspapers and channels is unbalanced and unfair. These tensions according to the Peshawar-based resident editor of the group's English daily, *News International*, have been especially acute in respect of Jang's editorial stance on the agitation by lawyers on the full restoration of the judiciary after the mass dismissals ordered by the military regime of Pervez Musharraf. While Jang's

management says it is committed to fair reporting, Minister Kaira says the organisation should make itself accountable and pay its liabilities to the state before criticising the government. Meanwhile, Jang tells its thousands of workers, who have not received a pay rise for three years, despite repeated promises of a rise, that the withholding of government advertising means there will be no wage increases.

APNS has been arguing in the Sindh High Court that the Seventh Wage Award and the Newspaper Employees (Conditions of Service) Act 1973 under which it has been made, contravene fundamental rights and that, with no other private business subject to statutorily fixed wages, the government's motivation for setting up the wage board was to suppress the right to free speech and expression. The court, which has restrained the Implementation Tribunal for Newspaper Employees from taking steps to recover dues owed until a verdict is pronounced, is expected to deliver a decision in the next months.

While the court hearings continue, the big newspaper and media groups like of Dawn, Jang and Nawa-i-Waqt, among others, have sought to sidestep the award by hiring workers on contract. As a rule, these contracts clearly state that the worker will not claim any benefit under the Award. In some instances, workers are recruited under the name of one media entity but then assigned to another. For example, the Dawn Group recruits workers for its subsidiary company, White Star, who then work for *Dawn* newspaper. The Jang Group uses similar tactics through its subsidiary, Total Media Solution.

Meanwhile, the government has stated its intention to announce new labour laws in the near future. The recommendations of the PFUJ have been taken into account, allowing for coverage of electronic media workers who do not come under the purview of the Newspaper Employees (Conditions of Services) Act.

"Pakistani journalists are still being extended inhuman treatment where their basic rights are violated. There is no security of jobs, and media workers are exploited economically. They are denied rights and perks like health insurance, conducive working environment, the right to form trade unions, minimum wages and other benefits given under the Newspaper Employees (Conditions of Services) Act," the PFUJ said in a statement to mark Universal Human Rights Day.

SRI LANKA Little Relief After War's End



The bitter contest between Sri Lankan presidential contenders Mahinda Rajapaksa and Sarath Fonseka in the run-up to January's election coincided with a sharp rise in intimidation of journalists from late 2009. Fonseka (left) is now in custody after Rajapaksa was re-elected president. Photos: Courtesy of Ginny Stein.

Media in Sri Lanka, already under severe pressure from a regime with little tolerance for dissent, is bracing itself for an uncertain future, following the parliamentary general election on 8 April that saw President Mahinda Rajapaksa's United People's Freedom Alliance (UPFA) emerge an overwhelming winner. While the polling was marked by a record low turnout and numerous cases of voter intimidation that resulted in fresh voting being ordered in two of the island's 22 electoral districts, the concerns of journalists and media are focused on what new constraints they will face in the months ahead.

In the disquieting post-presidential election clampdown on the media in January 2010, a number of websites were blocked and the office of one newspaper was sealed. One reporter continues to be detained and several have fled the country. Since the parliamentary elections, journalists have begun to fear more repression. Aside from the attacks, threats and intimidation that have been widely prevalent, journalists now increasingly fear legal procedures will be used to punish those perceived to have been critical of the regime through the recent election campaigns.

An indication was a recent government communiqué ordering all media persons to declare their assets by 30 April under a law enacted in 1988, titled the Declaration of Assets and Liabilities Act. The law, while applicable to proprietors, editors and members of editorial staff, also covers members of parliament, judges and public officers appointed by the President or the Cabinet, not to mention numerous other officials in the judicial and public service hierarchy.

Non-declaration of assets is considered a punishable offence, but adherence to the Act has, until now, been voluntary, with no statutory compulsion. The sudden decision by the Ministry

of Mass Media and Information - which was directly under the purview of President Rajapaksa in the run-up to the general election - to make the declaration of assets compulsory only for print media personnel is of grave concern to journalists who view it as yet another perverse legal mechanism deployed by a Government intent on silencing dissent.

Senior journalists, editors and publishers have reacted angrily to the ministry demand. They stress the hypocrisy of a circular that demands that even cub reporters declare their assets, when politicians - even those holding senior ministerial positions - have regularly made a mockery of the Assets and Liabilities Act. They have also called the Act a potential violation of the privacy of newspaper staff and questioned the timing of the circular, which comes on the heels of an apparent witch-hunt against media persons who are perceived as critical of the government.

Several "media watch" lists with the names of a number of journalists and media activists who hold critical and opposing views have been purportedly "leaked" by state intelligence authorities. The materialisation of the lists at a time when media personnel are being harassed, intimidated and attacked created an atmosphere of fear. Under pressure from global watchdog bodies of journalists, the Sri Lankan government issued a firm denial of its role in the preparation of any such "watch-list".

Yet several journalists and activists have already fled the country, since the surfacing of the lists in early March 2010, adding to the growing number of Sri Lankan media personnel seeking safety overseas.

Recent moves by the state-controlled Telecommunication Regulatory Commission (TRC) to clamp down on anti-government information disseminated through online media have also occasioned serious concern. President Rajapaksa has for now suspended the plans, but media observers fear that in



The daughter of journalist Prageeth Eknaligoda joins a rally calling for an investigation into the disappearance of her father. Eknaligoda went missing on 24 January two days before the presidential election and remains untraced. Photo: Courtesy of Sunanda Deshapriya.

the mood of triumph after his election victories, he may seek to control news websites through a licensing process, further curtailing space for dissent.

In the past, the TRC has blocked access from Sri Lanka to several news websites including Lanka-e-News, Lankanewsweb, Tamilcanadian and Tamilnet - through the state-controlled entity, Sri Lanka Telecom. If the plans are revived, it would become mandatory for all local news websites to obtain internet protocol addresses from the TRC, thereby enabling the regulatory body to monitor and control the alternative media.

These new concerns come amid an already dismal media freedom situation, where national media has been systematically censored and journalists subjected to routine abuse in the form of physical assault, intimidation and various restrictions. When the war between the separatist Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan Army came to a close on 19 May 2009, observers had hoped to see the government begin to honour its commitments under national law to protect press freedom and the right to free speech. In the period under review, however, the situation for critical and independent media has deteriorated significantly, leaving multiple media workers injured, imprisoned and stripped of their positions. Unsurprisingly, many have left the country, opting for the relative safety of exile.

The Clampdown

The risk of retribution against any journalist commenting in a critical way on government activities, including allegations of human rights abuses by state authorities during the war, is dangerously high. Following a year in which self-censorship gained a firm grip after the murder of Lasantha Wickrematunge in January 2009 and the subsequent exodus of as many as 36 journalists to safety abroad, tensions peaked around the country's early presidential elections in January 2010. As the candidacy of the retired army commander, Sarath Fonseka - who had led the last phase of the Sri Lankan army offensive against the LTTE and then been isolated and removed from all positions of authority - began to pose a serious challenge to President Rajapaksa, media outlets and commentators that reported critically on the contest began to be targeted.

Prageeth Eknaligoda, a commentator, cartoonist and frequent contributor to the Lanka-e-News website,

disappeared two days before the January election, and remains untraced as this report goes to press. Grave concerns are held for his welfare. The Lanka-e-News website for which he worked was blocked the day before the election.

Belying the momentary optimism of late-2009, the presidential election failed to resolve lingering press freedom and civil rights concerns, and the situation deteriorated further ahead of the April general elections. A pro-opposition private broadcaster was attacked, ostensibly in retaliation for the cultural offence caused by a musical concert it was sponsoring. The transmission antennae of another private television and radio station were removed on government orders. The Government detained the editor of the opposition newspaper *Lanka*, and sealed the newspaper's premises. The sealing was revoked on a court order and the editor released without charge 18 days later. Several provincial journalists were attacked and threatened, and several journalists including the editor of Lanka-e-News and the secretary of the Free Media Movement (FMM), Sunil Jayasekera, have fled the country fearing for their lives.

Closer to the general election, four other journalists, said to have close connections with the defeated and now detained presidential candidate Sarath Fonseka, were questioned. One was taken into custody while being treated at a hospital. The journalist, Ruwan Weerakoon, who has filed a fundamental rights petition in the Supreme Court, remains in custody.

Yet, despite the escalating tensions between the Government and local media, an alliance of Sri Lanka's five leading national journalists' organisations renewed and consolidated its activism from mid-2009. The alliance, or the Five Media Collective, comprises the FMM, the Federation of Media Employees' Trade Unions (FMETU) and the Sri Lanka Working Journalists' Association (SLWJA) - all IFJ affiliates - along with the Sri Lanka Muslim Media Forum (SLMMF) and the Sri Lanka Tamil Media Alliance (SLTMA). In June, the group opposed re-instatement of the Sri Lankan Press Council (SLPC), a government mandated body that has been defunct since 1994. If reactivated in accordance with the government order issued in June, the SLPC would severely limit journalists' rights to report on certain kinds of issues. In response, the collective organised protest rallies and sent joint letters to the Government urging it to reconsider the "ill-advised decision" and to engage in open dialogue with the media organisations and stake-holders to promote media self-regulation, in the interests of democracy and a responsible free press in Sri Lanka.

Abuse of State Media

State-owned media outlets have long been a vehicle for government propaganda in Sri Lanka, a state of affairs that has worsened since the close of the war as the administration has struggled to address an international image crisis. Both state-owned electronic and print media were widely abused by the Government during the presidential and general elections, despite the 21-point guidelines on proper media conduct issued by the Elections Commissioner in the interest of a free and fair election.

The guidelines, formulated on the instructions of the Supreme Court, called for balanced reporting on election-related news, including a right of reply, for opposing political parties. Three separate petitions were filed in the run-up to the presidential election, including one by Sarath Fonseka, seeking mandatory adherence to the guidelines by all media institutions, particularly state media.

State media personnel who protested their organisations' violation of both the Supreme Court ruling and the Elections Commissioner's guidelines were accused of insubordination and taken to task for their action. Two members of the Sri Lanka Rupavahini Corporation (SLRC) – the state-controlled broadcaster – were dismissed, while several more were interdicted. Others were sent on compulsory leave or asked to show cause why they should not be subject to disciplinary sanctions for their insubordination. The victimised journalists have, as a group, filed a fundamental rights violation petition in the Supreme Court.

The misuse of state media is also linked to the abuse of independent journalists. The abduction and brutal assault of Poddala Jayantha, then the General Secretary of the SLWJA and a long-time activist, is a disturbing example of state media being used to incite hatred or violence against independent commentators.

On 22 May, the state-controlled Sinhala language daily *Dinamina* ran an editorial calling for the “stoning” of journalists sporting beards. Jayantha was well-known for his beard. *Dinamina* has a long history of verbal abuse of journalists who take a public stand on issues of free speech. For instance, on 25 March 2009 it published an article attacking the FMM's Sunil Jayasekera for publicly describing the media environment then as the “most oppressive”. *Dinamina* denounced Jayasekera's comments on the need to safeguard fundamental rights, made at a conference on 19 March, as an expression of anti-government sentiment.

On 28 May, the state-owned Independent Television Network (ITN) ran an item in which the then Inspector General of Police, J. Wickramaratne, said that several journalists who had reported

on the civil war were on the LTTE payroll. These journalists, he said, were “connected with international organisations and were always clamouring for democratic and human rights of the people”. ITN later aired images of the bearded Jayantha in another program, while repeating these accusations.

On 1 June, Jayantha was abducted by unidentified assailants and brutally assaulted. His attackers crushed his fingers with a wooden block, threatening that he would never write again. He suffered severe long-term injuries. A link between the incendiary items run on state media and the attack on Jayantha cannot be discounted.

Targeting the Messenger

Government propaganda efforts went into overdrive in August as video footage surfaced, purporting to show summary executions by army personnel of a group of men thought to be Tamil civilians. The footage made international headlines and was viewed widely in diplomatic circles. The state-owned *Sunday Observer* ran a lengthy report on 20 September saying that experts had deemed the footage “an absolute fake”. The report said the footage was part of a “conspiracy”, perhaps instigated by journalists in exile. On 18 October, the independent *Sunday Leader* reported that an investigation commissioned by the U.S. State Department had determined the footage to be genuine. Four days later, senior *Sunday Leader* staff - news editor Munza Mushtaq and editor Frederica Jansz - received identical letters threatening to slice them into pieces if they continued to publish.

Since the murder of Wickrematunge, no further killings of media personnel were recorded during calendar year 2009. However, Tamil journalist Puniyamoorthy Sathiyamoorthy

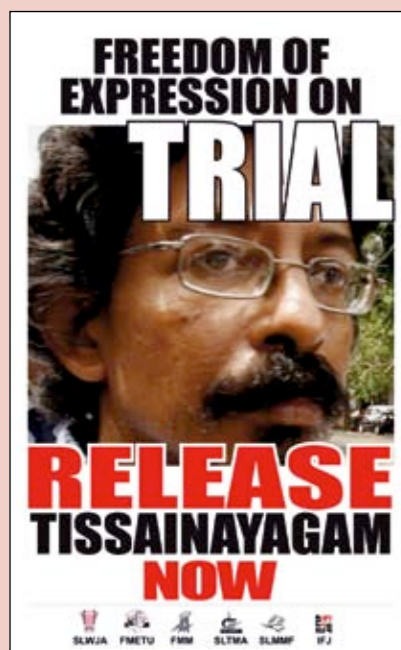
was killed in crossfire on 12 February 2010 as he reported in the country's north. And Prageeth Eknaligoda remains missing after vanishing from the streets of Colombo on 24 January 2010. The reporter and cartoonist had written several articles supporting Fonseka. Previously, he was abducted in August 2009, but released after 24 hours, in an incident that many believed, was a warning of serious repercussions if he continued to engage in critical commentary. Eknaligoda's family and journalist activists believe his disappearance was politically orchestrated. Investigations into Eknaligoda's disappearance are stalled.

The website of Lanka-e-News for which Eknaligoda worked was blocked on 25 January, the day before the presidential election. The Elections Commissioner ordered the ban be lifted, but it was re-imposed shortly after. The editor and staff at Lanka-e-News received threatening phone calls and their premises were stalked by people who seemed intent to intimidate. Other independent websites including Lankanewsweb, Sri Lanka Guardian, Infolanka and Colombo Page were also blocked. Meanwhile, Tamilnet, first blocked in June 2007, remains inaccessible in Sri Lanka.

There has been a lamentable lack of progress in police investigations into the murder of Wickrematunge. On 10 December 2009, at the request of a lawyer for the Wickrematunge family, investigations were handed over to the Criminal Investigation Division (CID) of the Sri Lankan police. On 7 January, just a day before the one-year anniversary of the murder, the CID reported that Wickrematunge had died from a head injury inflicted by a sharp weapon, not a gunshot wound as previously stated. Despite repeated requests from Wickrematunge's family, the full autopsy report has yet to be presented as evidence before a court.

The slowness of the proceedings runs contrary to a statement issued on 27 January 2009 by President Rajapaksa, assuring the international community that a breakthrough in the case was imminent. Two days after the President's statement, police had arrested two three-wheel taxi-drivers in Colombo. One was released soon afterwards; the other was accused of stealing a mobile phone from Wickrematunge after the attack took place. Further curious twists have emerged since the presidential election, with the Rajapaksa administration now seeking to implicate Sarath Fonseka in the murder, again using state media to circulate allegations of the former army commander's involvement. As this report is sent to press, the validity of the allegations against Fonseka remains to be determined, although several military personnel were detained and later released. Police say investigations into the killing had led them to military personnel, and that the head of the military intelligence unit, a major general, was already in police custody and being questioned.

Foreign journalists and media organisations have not been exempt. On 1 February 2009, Defence Secretary Gotabaya Rajapaksa, the President's brother, warned that international media organisations would face “dire consequences” and be “chased out” of the country if they did not behave “responsibly”. Since then, the residence permit of the bureau chief of an international news agency was prematurely terminated in evident retaliation for a series of reports he had filed on the humanitarian consequences of the civil war. A British journalist was blacklisted and not allowed to enter Sri Lanka, while journalists of a popular British TV channel were deported, for reporting on the desperate situation of the internally displaced at the height of the war. The Government claimed the reports were fabricated.



Tamil journalist J.S. Tissainayagam was released on bail in January 2010 after almost two years in detention. He is appealing his conviction on charges of terrorism for the content of his writings on human rights issues.

Tissainayagam Awaits Justice

Senior Tamil journalist J.S. Tissainayagam was released on bail on 11 January 2010, after almost two years of incarceration. His conviction under Sri Lanka's Prevention of Terrorism Act (PTA) and Emergency Regulations handed down by the High Court in Colombo on 31 August 2009 still stands, pending appeal.

Tissainayagam's conviction on terrorism charges and his sentencing to 20 years' rigorous imprisonment, on the basis of his writings about human rights abuses, is one of a handful of cases of its kind in the world. It sets a dangerous precedent for all journalists who seek to report in the public interest, not just in Sri Lanka, but globally.

The International Commission of Jurists (ICJ), which was with the assistance of the IFJ, an observer of the trial in Colombo, published its report titled *Sri Lanka's Security Laws, Freedom of Expression, and the Prosecution of J.S. Tissainayagam*, in January 2010, recording its deep concern that Sri Lankan authorities had used vague and sweeping laws to silence a critic.

The ICJ pointed out that Sri Lanka's counter-terrorism laws violate freedom of expression guarantees under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), as well as the rights to liberty, freedom of association and fair trial. It warned that these overly broad powers left media professionals and humanitarian aid workers at risk of arrest for exercising basic freedoms, since there were few judicial safeguards against their abuse.

Tissainayagam was detained on 7 March 2008, initially under Emergency Regulations, and held for six months before being charged under the 1979 Prevention of Terrorism Act (PTA). The charges read:

1. The accused together with unknown persons conspired to commit an offence by intending to cause the commission of acts of violence through

inciting communal disharmony by words either spoken or intended to be read or by signs or by visible representations or otherwise, through the printing or distribution of the publication *North-Eastern Monthly* magazine.

2. Intending to cause the commission of acts of violence through inciting racial or communal disharmony by words either spoken or intended to be read through the printing or distribution of the publication *North-Eastern Monthly Magazine*.

3. Acting in furtherance of specified terrorist activities, by contributing or collecting or obtaining information relating to the purpose of terrorism through the collection of funds for the *North Eastern Monthly* magazine.

Tissainayagam was detained while attempting to check on the welfare of two colleagues, V. Jasikaran and his partner V. Valarmathy, who had been detained a day earlier. Jasikaran was subsequently charged under the same sections of the law as Tissainayagam, while Valarmathy was charged with “aiding and abetting” an act of terrorism. Both Jasikaran and Valarmathy were released unconditionally in October 2009 for lack of evidence, and are now living in exile. (Further details of the Tissainayagam, Jasikaran and Valarmathy cases can be found in the most recent report of the International Press Freedom Mission to Sri Lanka, published by the IFJ: “Key Challenges at War's End”, available at: asiapacific.ifj.org.)

The evidence against Tissainayagam and Jasikaran amounted to little more than two articles published in 2006 and 2007 in the *North-Eastern Monthly*, edited by the former and printed at a press owned by the latter. The articles commented on the military's abuse of civilians during the civil war in Sri Lanka's Northern Provinces. In his testimony, Tissainayagam stood by all he had written, and denied the charges strenuously.

However, Judge Deepali Wijesundara accepted the prosecution line, which apparently was that Tissainayagam had criticised the Army; he is a Tamil; the Army is largely Sinhala; and hence Tissainayagam's articles caused ill-will between Tamils and Sinhals. The prosecution case also rested on a questionable confession that Tissainayagam was purported to have voluntarily signed. Tissainayagam said it was extracted by false pretences and coercion. He had, he claimed, been forced to witness the torture of Jasikaran which had caused him enormous agony. The defence also produced evidence of tampering with the confession statement.

Tissainayagam's case has drawn attention from around the world, including U.S. President Barack Obama, who said in his World Press Freedom Day address in 2009 that the treatment of Tissainayagam is an “emblematic example” of the abuses suffered by journalists across the globe.

Meanwhile, in March 2009, the IFJ requested the United Nations Human Rights Council to investigate serious violations of journalists' rights in Sri Lanka which were portrayed as "countering terrorism". The statement, which was endorsed by Article 19, the International Press Institute and the World Association of Newspapers, singled out Sri Lanka as one of the countries where counter-terrorism measures were being used to deny journalists their rights "through arbitrary arrest and detention for exercising their right to freedom of expression". In particular, the IFJ requested the council initiate a formal investigation into the use of counter-terror laws in the case of Tamil journalist J.S. Tissainayagam, who at the time had been in custody for just over a year, accused of terrorism for reporting on human rights issues and abuses during the war.

The View from the Provinces

A sustained campaign of violence and intimidation against the North's three major Tamil-language publications, *Uthayan*, *Valampuri* and *Thinakkural*, continued with vigour through 2009, despite the war's end. On 24 June, news agents for these papers were attacked as they began distributing editions. In the case of *Uthayan*, which with its Colombo-based sister publication *Sudar Oli* has been a crucial link between Tamil communities in the north and south, the attack was particularly violent, as delivery agents were physically and verbally assaulted. A 26-year-old delivery agent of *Thinakkural* also suffered serious injuries. Newspaper bundles were then slashed with sharp weapons, doused in petrol and set on fire.

The attacks were retaliation for the papers' refusal to publish a statement from an anonymous source. On 25 June, the editor of *Uthayan* received a threatening phone call, warning of serious consequences for not publishing the statement. On 27 June, all *Uthayan* staff and news agents received letters accusing the paper of a "pro-terrorist" attitude and of "destroying the permanent peace" by fostering "communal feelings among the Tamils". *Uthayan* was warned to shut down by 30 June or risk "capital punishment". *Uthayan* continued to publish, with heavy security reinforcements.

In the east, local media suffers from neglect and a lack of resources, with just 20 full-time journalists reportedly working in the area. Meanwhile, part-time media workers depend on some form of government employment – either as teachers or as officials in local government bodies – for their main earnings, thus compromising their independence. One of the few publications based in the east, the Tamil weekly *Vara Uraikal*, was shut down in May after its editor, M. I. Rehmatullah, was attacked repeatedly. *Vara Uraikal* had specialised in exposing corruption in local bodies and religious trusts, and its offices were attacked three times. An arson and knife attack on 1 May resulted in the office closing permanently.

Opposition to Press Council

In June, the Government announced its intent to revive the 1973 Press Council Act, appointing a chairman, a government nominee and two members representing the public to its board. The move soon stalled, however, when the media industry and journalists' organisations refused to name their own representatives. At the same time, the Five Media Collective came out in force to oppose re-instatement of the Sri Lankan Press Council under the Act.

The Act is heavily biased against media workers, allowing for the prosecution and imprisonment for extended periods,



Protesters condemn the brutal assault on Poddala Jayantha, president of the Sri Lanka Working Journalists' Association, at a rally for media freedom in Colombo. Jayantha's attackers crushed his hand as they told him he would never work again. Photo: Courtesy of Sunanda Deshapriya.

of journalists reporting on a range of public interest issues, including the internal communications of the Government and decisions of the Cabinet, as well as matters of economic policy that could lead to artificial shortages and speculative price rises. While the legislation had lapsed and the Act's punitive provisions have not been operational since 1994, the law itself was not repealed.

In 2003, the Press Complaints Commission of Sri Lanka (PCCSL) and the Sri Lanka College of Journalism (both elements of the Sri Lanka Press Institute, or SLPI) were registered and won significant financial support from foreign donors. The country's principal media organisations – all stakeholders in SLPI – have differed on the norms that should govern this independent monitor's functioning. However, when faced with the threat of a revived Press Council, the newspaper industry in particular renewed its commitment to the PCCSL. The media community almost universally favours an industry-based mechanism for overseeing accountability, rather than a government-imposed mechanism.

At a meeting in August 2009, Sri Lanka's media community strongly reaffirmed its commitment to the PCCSL and called for keeping the Press Council laws in indefinite suspension. PCCSL officials say that subsequent months have seen an increasingly visible commitment from the press to the organisation, including more frequent advertising to alert readers of grievance processes that they can access. This is seen as an important development in a long-term sense, to prepare the ground for a more sober and settled relationship between the press and the public.

Concerns for the Future

However, there is little expectation in the short term of significant positive change in the attitude of the administration and its leaders toward independent and critical journalists and media. The long-running campaign of intimidation against critical voices has succeeded in entrenching self-censorship across the island nation's media, while many of those who once dared to speak out on violations of media rights have been forced to leave the country, or are currently seeking to do so. The impact of the silencing strategy and the departure of so many bode ill for the future of free expression in a country where critical independent journalism once flourished. Even so, the community of exiles, spread across several countries, can be expected to maintain an international network to monitor media rights violations in Sri Lanka, in turn providing some succour to their colleagues still at home.



Visit asiapacific.ifj.org or www.ifj.org for more information.

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.