

# New Frontiers, New Struggles

PRESS FREEDOM IN SOUTH ASIA 2011-12



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*The online version version of this report available at <http://asiapacific.ifj.org> provides a listing of all known cases of media rights violations between May 2011 and April 2012 as annexure.*

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Afghan Independent Journalists' Association

All India Newspapers Employees' Federation

Bangladesh Manobadhikar Sangbadik Forum

Federation of Nepali Journalists

Free Media Movement, Sri Lanka

Indian Journalists' Union

Maldives Journalists' Association

Massline Media Centre, Bangladesh

National Union of Journalists, India

National Union of Journalists, Nepal

Nepal Press Union

Pakistan Federal Union of Journalists

Sri Lanka Working Journalists' Association

## NEW FRONTIERS, NEW STRUGGLES: PRESS FREEDOM IN SOUTH ASIA 2011-12

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**Cover Photos :** A montage of images from the eight countries of South Asia, representing the diverse challenges that journalists in this region have faced over the year 2011-12.

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## FOREWORD

The South Asia Media Solidarity Network (SAMSAN) will soon mark ten years of striving for common goals of press freedom and a democratic media environment. An annual report that details the press freedom scenario in South Asia's eight countries and identifies common challenges amidst their diversity, has been a central part of shared solidarity in these ten years.

It has been a time of serious challenges and change in a region that is home to a quarter of humanity. Stepping into its second decade, SAMSAN will face newer challenges. We believe that these can be met with the tools and strategic partnerships forged in the first. And just as we are likely to face new and unforeseen contingencies, we are confident that these can be met in a spirit of solidarity.

South Asia's journalists have responded to the challenging transitions underway in the region, by focusing on their professional practice, seeking a manner of engagement that reflects all the rich diversities that make up this region. Public service journalism, if firmly established in these countries, could contribute to a process of transition where everybody feels a sense of participation and nobody is left behind. But there are challenges, some already manifest and several that lie ahead, which could impede any smooth pathway towards a future of security and opportunity.

Physical security remains an issue in most countries of South Asia. Journalism was a hazardous pursuit through long years of internal conflict in Nepal and Sri Lanka. And now with conflict at an end and processes of political reconciliation underway, journalists are finding that several of the passions of the years of open warfare are yet to subside. Verbal aggression against journalists who dare to report all sides of a story and stand up for basic norms of fair treatment, continues to be a threat. And if the record of the past is any indication, verbal aggression is normally a precursor to physical violence.

In Pakistan, the year under review continued to be one of serious hazard. Within this frontline state in a global conflict, the combatant parties are many and norms of accountability and international humanitarian law are dishonoured by all. Journalists in Pakistan have to steer a perilous course between these hostile elements. Sectarian conflict in the vast metropolis of Karachi and an insurgency in the sprawling but sparsely populated province of Balochistan are additional elements of risk.

India has in its vastness, displayed diverse trends. There are parts of the country where journalism functions with few constraints and dangers, except the threat of trivialisation and dumbing-down. In the conflict prone regions where journalism that tells the full story could make a difference, tensions still persist and dangers are ever present.



The annual SAMSAN conclave underway in Kathmandu, July 2011: the network completes ten years in 2012  
(Photo: Courtesy IFJ Asia-Pacific).

A transition towards a more liberal political regime in the Maldives was set back over the year. But in Bhutan, the people still retain faith in the movement towards a democratic political order under a constitutional monarchy.

Bangladesh witnessed new stirrings of discord after some years when the customary acrimony between the country's main political parties was relatively subdued. And in Afghanistan, periodic outbursts of civil strife, the continuing threat of insurgency and the imminent prospect of a withdrawal of western military force, created an environment of serious uncertainty that has allowed little in the way of public-spirited journalism to take root or grow.

Together with all these difficulties, there has been a growing crisis of livelihoods within the profession. The wage board process that has been in practice in India, Pakistan and Bangladesh for determining wages and working conditions for journalists is in a state of crisis, with media houses increasingly able to find ways of evading its stipulations. In the absence of a regular appointment system under a wage board or a working journalists' act, organising trade unions in media houses becomes risky.

The shift towards contract and casual employment has led to a weakening of professional commitment and the growing influence of commercial and advertising departments in the functioning of media houses. Journalists and media have been facing increasing threats through the legal process. The purpose of these actions is not to secure justice in any meaningful sense, but merely to impose a form of censorship through legal injunction. There is a sense of public disquiet over the declining quality of news coverage and the obvious prioritisation of advertisers' interests rather than the readers' in editorial decisions.

This report like the nine before it, is part of the solidarity action that we hope will enhance possibilities of cooperation in pursuit of the common ideals of quality journalism in South Asia.

Jacqueline Park  
Director, IFJ Asia-Pacific

## OVERVIEW

### New Frontiers, New Struggles

Several of the most deeply rooted factors militating against the practice of free and fair journalism, noted in reports over previous years, persisted into the year under review. In most countries of South Asia, the life-threatening hazards of earlier years of open conflict were perhaps absent over the year. But the relative improvement seen in several may have been achieved by deliberate decisions to play safe. The year gone by did not, in comparison with some of those preceding, pose the same manner of mortal hazards for journalists in most South Asian countries. But the sharp deterioration of an already bad situation in Pakistan far outweighed the relative improvement elsewhere.

Though all countries in South Asia have formal guarantees of a free press in their written constitutions, formal and informal systems of censorship are known to still persist. In recent times, these threats have been manifest in the May 2011 advisory sent out to all media organisations in the North-Eastern Indian state of Manipur, warning against the publication or broadcast of material “directly or indirectly in support of the unlawful/ illegal activities of various organisations”. In Afghanistan, where the institutions of electoral democracy are yet to establish their authority in relation to the customary mechanisms of social governance, a council of religious clerics has sought to directly influence media policy and content, though with only partial success.

The Maldives which seemed to be registering improvements in the press freedom situation by most assessments, may have been set back by a change of regime occasioned by a state of mutiny by sections of the country's police and armed forces. Even prior to this decisive moment of change, there had been political pressures to shut down new media outlets and shut out certain liberal voices from traditional platforms.

Challenges of securing decent wages and working conditions remain. An official body mandated with monitoring journalists' job security status and wages in Nepal, continues to paint a rather bleak picture. Persistent default by even government controlled media houses has impelled the country's main body of journalists to seek legal recourse to secure collective rights. In India, media managements have managed to delay the implementation of new wage scales by moving the judiciary for redress on the grounds that their fundamental rights are ostensibly at stake. Such an effort in Pakistan has been struck down, while in Bangladesh a new phase of journalists' struggles for a fair deal is beginning to get underway.

These struggles for decent wages and working conditions have certain elements that unify them across borders. They also have wider resonances beyond the four countries where they are most active. This is most notably so in Sri Lanka since in other countries of the region – Afghanistan, Bhutan and the Maldives – media industries remain weakly

institutionalised. The enforcement of core wage and labour standards, though, could well be part of the effort to legislative an enabling and regulatory environment for media development.

Worries on the wage and working conditions front were integrally connected to professional standards and the growing dominance of the profit motive, which it is feared, is rapidly eroding the values of sound journalism. This was an issue that SAMSAN partners in India especially faced through the year under review. Earlier worries that editorial content was being tailored to produce the “feel good” effect much favoured by advertisers, have now given way to alarm at the selling of editorial space for revenue. This phenomenon has been especially marked in contexts of political contestation, with rival candidates in elections buying up space and time in the media for favourable coverage. In their effort to mount a campaign to restore the integrity of the news gathering and dissemination function, SAMSAN partners in India obtained the full report of a subcommittee of the Press Council of India, completed in 2010 but stripped of its main findings before being officially adopted, under pressure from the newspaper industry. The Election Commission of India has also started a process of scrutiny of “paid news” and notified it as an electoral malpractice that could attract severe sanctions, including the possible disqualification of a candidate. The task of instituting suitable remedies from within media ranks, remains to be attended to.

Afghanistan's insurgency, now over a decade-long, continues to take a heavy toll of civilian life. Though fewer journalists are directly targeted, they remain vulnerable to serious harm and potentially fatal injury in situations of armed confrontation between the warring sides. Two such instances of journalists being killed in pitched battles between insurgents and western military forces were reported over the year. Civil unrest triggered by tactical errors and acts of gross indiscipline by western military personnel have also been a feature of the year, raising several uncertainties about the durability of the political order that will be bequeathed when the western presence is finally withdrawn in a matter of months.

More than in the past, the country's more powerful political figures, those within the governing mainstream and those aligned in various ways with the opposition forces, seem inclined to talk terms and work out terms of accommodation. If a compact is worked out, there would have to be agreement on clearly defined spheres of influence which would involve a stake in the media for each of the major contracting parties. The Afghan media has grown rapidly, but there are concerns still about its independence, since numerous political players have acquired controlling stakes in its various segments and the government has shown a marked reluctance to transform the media outlets it controls into public service platforms. Economic growth rates and advertising spending remain low and modest. Most media outlets require some form of subventions for survival, either from international donor agencies or local

power cliques. There have been some notable success stories, of media outlets attracting a credible measure of audience loyalty and advertising support, after initial years of almost total dependence on international donors. But they are still some distance from crossing the crucial threshold when long-term sustainability becomes assured. That transition could be endangered by donor fatigue or by the numerous insecurities caused by the country's uncertain legal framework.

#### Conflict across borders

Pakistan continues to be in turmoil in part because of spillover effects from western military actions in neighbouring Afghanistan, across the porous and relatively open border. As in past years, the province of Balochistan, where a very different kind of conflict has been underway for some years, proved one of the most dangerous terrains for journalism. Neither side of the conflict is willing to recognise a zone of neutrality or to honour the code of recognising media practitioners as non-combatants entitled to the protection of both. A pall of fear inhibits candid and sensible dialogue through the media on possible pathways to reconciliation.

SAMSAN partner, the Pakistan Federal Union of Journalists (PFUJ) mobilised their members nation-wide in the aftermath of the May 2011 murder of the well-respected investigative journalist Saleem Shahzad. The appointment of a judicial commission of inquiry into the murder was a major symbolic victory. The report of the commission when it came out, was disappointing in that it did not assign responsibility to any of the belligerents involved in proxy warfare on Pakistani territory. But the scenario sketched out in the commission's report, of the multiple sources of threat for the public-spirited media practitioner in Pakistan, is nevertheless a useful contribution.

A significant gain for Pakistan's journalists was the unanimous passage of the Industrial Relations Act (2012) by both houses of parliament. This is part of a general package of legislative reforms underway in Pakistan since the transition to civilian rule in 2008 and ensures the protection of workers' rights and enshrines the right to form unions. The constitution of the Pakistan Press Council over the course of the year is also regarded as an important landmark in instituting a credible regime of independent media regulation, in which journalists have due recognition.

Pakistan's north also remains dangerous even if in the year gone by it was a relatively less lethal milieu for journalists than Balochistan. The sources of violence are less predictable here and the range of threats greater – from killing, abduction and “collateral damage” from suicide bombings and crossfire. Investments in safety remain an area of priority for Pakistan's journalists, though few among the media groups seem inclined to make the necessary commitments of resources. The PFUJ has taken the initiative in this regard and in collaboration with IFJ evolved a safety code and prepared training material to improve awareness among media practitioners.

A new mood of political intolerance may have emerged in Bangladesh with potentially fateful consequences for media freedom and civil liberties in general. The initiation of trials by tribunal, for war crimes committed during the country's war of liberation of 1971, was expected to contribute to a constructive political dialogue and a mood of reconciliation between bitterly adversarial parties. But the reverse seems to have happened and the tribunal has itself come in for some public criticism for not being fully fair or transparent in its procedure. The power that the tribunal holds in reserve, to punish for contempt, may inhibit critical media commentary. And this is read by most observers within Bangladesh as a most undesirable outcome, which could defeat the declared purposes of the trials.

A particular case of a journalist being detained for an extended period of time, after being charged in multiple cases by a variety of actors, raised worries about the use of infirmities in the legal process to persecute investigative reporting. Bangladesh also witnessed one notable instance of lethal violence against a journalistic couple, which remains unsolved as this report is released.

The mood in Sri Lanka soured considerably after a vote in the U.N. Human Rights Council in March 2012 upbraided the country for possible war crimes and insisted that a process of accountability be set underway. A senior political commentator has described the ensuing reaction by the Sri Lankan government as verging on “irrationality”. Senior journalists working for the defence of media rights were singled out for violent abuse by members of the country's ruling coalition. They were held guilty of “treason” and worse in the wave of outrage that was orchestrated in part through print and broadcast media owned by the government.

An official commission established by the Sri Lankan president, the Lessons Learnt and Reconciliation Commission (LLRC) submitted its report over the course of the year, pointing towards pathways ahead, for the war-scarred nation to heal its worst wounds. Civil society reaction tended to be mixed, in part because the commission had not really identified the individuals and agencies responsible for some of the worst abuses of the last years of the war. But the commission has urged concrete measures to improve the press freedom scenario, which have been appreciated by the media community. The LLRC also took note of the shocking attack on the news editor of the Tamil newspaper *Uthayan*, shortly after elections to local bodies in the northern province were concluded in July 2011.

SAMSAN partners fear though, that in its reaction to a nation-wide campaign for accountability launched by journalists' bodies in January 2012 and the violence of its rhetoric following the U.N. Human Rights Council vote, the Sri Lankan government is signalling not an intent to promote national reconciliation, but its very opposite.

#### Acute public anxieties

Public anxiety is high in Nepal as this report is released, with less than a month left of the mandated tenure of the

Constituent Assembly, which is expected to write the basic law for the country's new republican order. A notable success was achieved within the last two months of the body's mandate, with agreement being reached on the integration and rehabilitation of Maoist combatants who had fought the decade-long civil war against Nepal's monarchical order.

Draft provisions of the constitution dealing with the fundamental rights have been circulated in public and commented on. The initial reaction is that they do not add up to a sufficiently strong guarantee of a free press and may need to be improved. An International Media Mission to Nepal in February 2012 raised several of these points with senior officials and the elected political leadership. There has been an affirmation of commitment to full freedom of expression from the very top of the political leadership.

There were some significant achievements in Nepal in terms of dispelling the climate of impunity that had been created through the years of conflict and its unsettled aftermath, for attacks on journalists. Consolidating on these gains would be crucial to ensure a successful transition to a republican order.

The Maldives witnessed rising political contention, culminating in a state of mutiny by elements of the national police force and the resignation of Mohammad Nasheed as president. There was no power vacuum since the vice-president took over in accordance with established procedure, but there are questions over the commitment of the new regime to civil liberties and media freedom. In the months before the regime change, there had been bitter accusations between the two rival political camps of media partisanship and unethical conduct. It did not

help in restraining this alarming escalation in hostile rhetoric between the government of the Maldives and the media, that several media outlets are linked through direct ownership with powerful business and political lobbies.

The landlocked Himalayan kingdom of Bhutan continued to grapple with the difficulties of sustaining plural media in a context of modestly developed business infrastructure and low levels of advertising spending in the economy. The government here remains by far the largest advertiser and the year gone by witnessed a vigorous debate over the ad placement policy that would best serve the public interest and ensure a relatively open and plural media environment. Existing media houses are insecure about the possibility of greater competition, which could erode their position within the market. And the public has been demanding a credible ad policy that will serve their interests rather than work as an implicit subsidy for particular media houses. Social media meanwhile has grown as a potentially important contributor to the national dialogue among Bhutan's rather small population. Issues of literacy and the digital divide remain to be addressed.

Regulation of the internet became a live issue for media communities in most of South Asia over the year. The debate was joined especially vigorously in India, where internet penetration is relatively wide and deep. For the traditional media, the challenges of adapting to the new information environment while sustaining commitments to quality and social inclusion, remain to be addressed. With the uncertainties of the economic environment remaining unabated, this is a challenge that could loom ever larger in the years ahead.

for a ban on a particular TV channel and denounced the editorial practices of a prominent newspaper, ostensibly on grounds that it was contrary to religious belief and practice. A statement issued by the Ulema Council on the occasion stated that the Tolo TV channel – perhaps Afghanistan's most successful private broadcaster – had been “especially” guilty of airing programmes that were “anti-religious and anti-national”, and decried the failure of “responsible authorities” in taking appropriate “measures in relation to this matter.”

Programmes broadcast over the channel, which the Ulema Council described as “alien-dependent” were part of a “big campaign funded by the enemies of Islam in order to destroy Islamic thoughts and deviate (sic) the young generation”. These were “seriously threatening” the “Islamic and national culture” of Afghanistan, and necessitated the shutting down of the channel. If the President of Afghanistan failed to do what was necessary, the Ulema Council warned that it would “not remain indifferent against the anti-religious and misleading programs of Tolo

TV and a number of other TV stations that have similar programs.”

The Ulema Council also singled out a daily newspaper, *Eight AM*, for having carried in its issue dated 30 May 2011, an article questioning an official decree enhancing the hours of religious education for girls in certain northern provinces. The Ulema Council “condemned” what it described as “an affront” which was little less than a “sign of animosity against Islam”, warranting the shutting down of the offending newspaper.

The Editor of *Eight AM* took the argument that his reporting was an accurate reflection of themes discussed at a public event. Similar stories, he said, had appeared in other media outlets. The implication was that there were unstated interests at work in the effort to sanction his newspaper in particular.

The Media Violations and Complaints Assessment Commission, which under Afghanistan's newly enacted media law, is empowered to deal with specific issues off this nature, called an emergency meeting to discuss the range of issues raised by the Ulema Council. The body decreed that a TV soap opera of Turkish origin, titled “Forbidden Love” should be taken off the air by Tolo TV. On the matter of *Eight AM*, the Commission ruled that there was nothing warranting the drastic remedies proposed by the Ulema Council. The impugned story, it said, was only an effort to draw attention towards a significant policy decision and to promote a public debate on the value of religious education.

Recent years have perhaps seen a decline in the lethal dangers that Afghanistan's journalists faced earlier during the political transition. Journalists have been killed in the line of duty in the last three years but perhaps most often as indirect victims, not as intended targets. But the decline in targeted killings, though of some consequence, does not yet mean that journalism is able to function in a congenial environment.

In the year gone by, an eighteen-month long kidnap saga involving two French journalists and three Afghan interpreters and assistants, ended with their release in June 2011. Reporter Hervé Ghesquière and cameraman Stéphane Taponier, of France 3 TV, and their Afghan interpreter Reza Din were safely back at their respective homes by the first week of July. A driver and a local facilitator for the news crew, identified only by the names of Ghulam and Sattar, were also taken captive at the same time and released some weeks before, though this detail was kept secret till the safety of the three remaining hostages was secured. All five had been taken captive by insurgents in the north-eastern province of Kapisa in January 2011.

According to the IFJ affiliate and SAMS partner, the Afghan Independent Journalists' Association (AIJA), village elders in Kapisa province were significant mediators in the negotiations that led to the release of the three media workers. Though very little has emerged about the terms on which the hostage release was secured, one of the French journalists on arrival back home, did suggest a reciprocal prisoner swap by the Afghan authorities and a



French journalists Stephane Taponier and Herve Ghesquiere on their arrival back in Paris after over 18 months in captivity in Afghanistan (Photo: F. de la Mure/Creative Commons).

possible ransom payment. This was not the first instance of journalists being released after prolonged detention by supposed insurgents and an opaque process of negotiations.

### Journalist killed in western military action

Ahmad Omaid Khpalwak, a reporter with the BBC Pashto Service, the Pajhwok Afghan News Agency and the state broadcaster Radio Television Afghanistan (RTA), was killed on July 28 in Tarin Kowt, capital of the troubled province of Uruzgan. Khpalwak was at the spot of a coordinated triple bomb blast and armed attack near the city's market, where the office of the RTA is also located. The Taliban Islamic insurgent group claimed responsibility for the attack but denied responsibility for the death of the journalist, alleging instead, that government forces shot Khpalwak in their effort to regain control of the area. There were also reports emerging then, suggesting that NATO forces may have been responsible.

Circumstances were unclear enough to warrant the demand for an inquiry by Afghanistan's journalists. This demand was granted, unlike when Sultan Ahmad Munadi, a journalist working with an international media team in Kunduz province of northern Afghanistan was killed in September 2009 in a botched hostage rescue by British commandos.

It was determined after a brief two-month investigation by the International Security Assistance Force (ISAF), that an American soldier had, in a case of mistaken identity, killed Khpalwak. The soldier apparently mistook the journalist for an insurgent when ISAF personnel responded to the militant attack and sought to clear out the targeted building. Two suicide bombers had detonated their lethal devices within the premises and created considerable mayhem when ISAF personnel came in. Khpalwak may have been sheltering within a safe space in the building and seeking to escape when the ISAF personnel entered. He may have been reaching for his press identity card when he was shot, on the mistaken belief that he had a lethal explosive device concealed within the folds of his clothing.

The ISAF inquiry report said: “Based on the events of the preceding minutes the soldier assessed the actions as those

## AFGHANISTAN

### Reporting in times of war

Journalism in Afghanistan continues to be scarred by seemingly endless conflict but is able, when occasion arises, to celebrate significant achievements.

At the official commemoration of World Press Freedom Day in 2011, the country's Minister for Information, Sayed Makhdoon Raheen, remarked upon the growth of Afghanistan's media as one of the signal achievement of the years since the dismantling of the Taliban regime in November 2001. Within a month of the Taliban collapse, according to Raheen, Afghanistan had sprouted no less than 200 independent media outlets. Ten years later, the figure, as quoted by the Minister in his public address on 3 May 2011, stood at 1000.

Less than a month later, almost as a public reminder of the many hazards that journalism in Afghanistan has to negotiate, the Ulema Council – a grouping of the country's most influential clerics and religious scholars – called



ISAF hosts a discussion on professional matters: western military forces are often held by local journalists to be lacking in transparency (Photo: Isafmedia/Creative Commons).

when the number of civilian deaths attributable to the Islamic insurgency was only marginally above the number caused by the Afghan government and its international allies, 2011 witnessed a decisive preponderance of civilian deaths caused by the insurgents.

As was the case in 2010, last year too, insurgent groups (collectively categorised as “Anti-Government Elements” or AGEs in UNAMA statistics) caused the most civilian deaths. In the year under review, AGEs caused 2,332 civilian deaths – up 14 per cent from 2010 and accounting for 77 per cent of all civilian deaths.

Pro-Government Forces (PGFs) – which is a collective term for Afghan national security forces and international military forces – accounted for 410 civilian deaths in 2011, representing 14 per cent of the

total and an increase of four percent from the previous year. The rest of the recognised civilian deaths, numbering 279 – or nine per cent of the total – could not be attributed to any party to the conflict.

The statistics from 2011 represent a significant improvement over earlier years in terms of the operational legitimacy of international military forces in Afghanistan. Till about 2008, there was little seemingly to distinguish between international actors and the local insurgents in terms of respect for civilian life, since the toll that both sides took was about the same. The following years have brought about a turnaround in the statistical realm, though in the real world, a yawning trust deficit seems to persist, aggravated seriously by the recent incidents of the burning of copies of the Islamic scripture by U.S. soldiers and the shooting rampage in which a U.S. serviceman killed an estimated seventeen civilians in the southern province of Kandahar, as they slept on the night of March 11.

#### Ambiguities in mass media law

Despite being formally notified for close to three years, the status of application of the Mass Media Law has to date remained ambiguous. Its assurances to allow free and open access to information – except where sensitive state secrets are involved or national security may be compromised – are yet to be realised. Journalists have faced serious problems obtaining information that by all criteria, should be in the public domain.

AIJA members have often encountered situations in which officials at the central and provincial levels turn off their telephones and make themselves unavailable for meeting urgent information requests. This information embargo becomes especially severe when security incidents create an urgent public need for openness and transparency. Complaints about the failure of international diplomats and

ISAF personnel to share information are also widespread. The AIJA has in the year gone by, received specific such information from the western province of Herat. Informally, government officials concede that they are under pressure from the political leadership not to respond to requests for information and comment. Khalil Amiri, AIJA member and editor-in-chief of Radio Faryad, claims that military officials in Herat have been preventing their spokesmen from speaking to reporters.

Afghanistan’s Ministry of Information and Culture has advanced the claim that the High Media Council (HMC) mandated under the Mass Media Law has been constituted and is fully functional with 13 members. But the two media nominees on the HMC are not seen as representative of the journalists, since they have been placed on it by the ministry. Since June 2010, Afghan journalists have been working in concert to ensure that the permanent nominees to the HMC reflect their professional values. But the effort has so far produced no results.

Minister Raheen heads the HMC. The autonomous body which is supposed to oversee the daily functioning of the mass media (the Media Violations and Complaints Assessment Council) has also been constituted. There continues to be some degree of uncertainty though, over the independent regulatory body that would oversee the functioning of the state-owned broadcaster, Radio Television Afghanistan (RTA). The reluctance of the central government to let go of this important tool of communications and propaganda was one of the key factors that held up the implementation of the Mass Media Law, for at least five years since it was first debated and adopted by the Afghan parliament.

The regulatory institutions, where they exist, have come up after a prolonged period of uncertainty. In this time, facts have been created in the Afghanistan media scenario that may be difficult to alter. Various political interest groups, members of parliament and leaders of non-state militias have begun their own media operations.

#### “Gang Media”

As recorded in a comprehensive study on the status of the Afghanistan media, published by the U.S. Agency for International Development (USAID) in October 2010, media managers in the country are often known to use terms such as “gang media” to identify news organisations serving the personal and political interests of former warlords or other major power-holders in the Afghan system. With these beliefs being widely held, there is often considerable scepticism about the integrity of news and information,



The protests that broke out in February over allegations of desecration of the Islamic scripture led to new uncertainties (Photo: Marsmet521/Creative Commons).

with the public frequently considering particular media organisations to be thinly disguised propaganda machines for political groups.

Professionalism is impeded by the incursion of ethnic and partisan calculations into the functioning of the media. Perceptions of under-representation of certain communities in politics are reflected through the media. Major media organisations are known to associate themselves with some of these causes.

Despite the explosive growth of the media, which is counted as one of the notable indicators of a vigorous transition to pluralism and democracy, many members of Afghanistan’s media community are expecting a major shakeout, which could see a number of outlets cease operations. The risks are especially acute in the print media, where growth has been restrained by low literacy levels and poor distribution networks. The USAID survey identified a handful of publications that have maintained their independence and established a readership base that could sustain them into the future. But these continue to depend on donor funding and though potentially viable in the long term, they could face unforeseen difficulties, such as donor fatigue and advertiser withdrawal. *Kabul Weekly*, one of the identified print publications which seemingly turned the corner and had begun to establish its credibility with advertisers and audience, has of late found itself in a financial crunch, ostensibly because governmental authorities have been withdrawing advertising support since the 2009 presidential election.

The Pajhwok Afghan News agency (PAN) is considered to be a potential success story. With more than 40 full-time journalists employed in Kabul and elsewhere in the country, PAN has registered a number of paying subscribers who help the agency meet a significant part of its running costs. Though still dependent on donor support for



AIJA conducted a national meeting in March 2012 to reaffirm a charter on media freedom and elect a new leadership team (Photo: Courtesy AIJA, Kabul).

### “Information Operations”

“Information Operations” conducted in Afghanistan by the U.S. Department of Defence are known to deeply influence media agendas, partly because of the big budgets that they bring to bear. And the influence has been judged on balance, to be negative. An investigation by the U.S. newspaper *USA Today*, recently highlighted two key features in the manner these “info-ops” function, that could be deeply corrosive of the goal of developing a free media culture in Afghanistan:

Contractors under the “info-ops” programmes, the investigation found, often “plant unattributed broadcasts, plaster the countryside in war zones with billboards, stage concerts and drop leaflets with the intent of bending the will of civilians and combatants to U.S. aims”.

The U.S. Department of Defence “continues to create at least 11 hours a day of what it calls “unattributed” radio and television programming.

Information operators seek to “tell Afghans who their real enemies are, why Taliban propaganda was wrong, what the Afghan government is accomplishing, how non-governmental organisations are helping them, and why they should serve in the security forces”.

Needless to say, the assured funding available for carriage of this form of content, when independently generated material often struggles for a voice, creates a seriously skewed media environment, undermining possibilities of fostering a sense of respect for doctrines and practice of free media.

Neighbouring states, notably Iran, are known to have funnelled volumes of funds into the Afghan media. The direct influence that Iran exerts over content, even over media outlets where it has no financial control, was highlighted in February 2012, when a news anchor of Ariana TV and six colleagues resigned in protest after diplomatic protests were registered at the telecast of an interview with the Iranian ambassador to Afghanistan. News anchor Nasir Ahmad Fayaz said that the interview was recorded in a strained atmosphere, with the Iranian ambassador often seeking to halt it to protest what he described as the “non-diplomatic” tone of the questions posed. But there was no request, whether formal or informal, to stop the broadcast of the interview. Fayaz resigned in protest after the news channel management ordered an inquiry into a complaint the Iranian embassy registered after the interview was broadcast.

The matter went to the Media Violations and Complaints Assessment Council after that, with the news channel

management seeking to downplay its significance. Fayaz’s situation, as also of his six colleagues, remains ambiguous.

Afghan media law makes it mandatory for all media organisations to reveal their funding sources. This is a touchy issue since the Afghan media depends to varying degrees upon donor finance for survival. Questions about the sustainability of the Afghan media will have to be squarely addressed in the months and years ahead. Apart from the consequences of a drying up of military advertising, it is also the case that the media organisations that benefit from donor support are often not the best – only those that are best able to write the funding proposals that will attract interest. This sets up a growing divergence between competence and professionalism on one side and financial sustainability on the other, with grave long-term implications for the free media in Afghanistan.

While the new media outlets continue to cope with numerous tensions and policy ambiguities, the insurgent groups that operate under the broad rubric of the term “Taliban” have reportedly been making rapid strides in their use of media for political propaganda. A July 2008 report by the International Crisis Group (ICG), a reputed think tank, spoke of the “sophisticated communications apparatus” that the Taliban had put together to project “an increasingly confident movement”. Taliban were using the “full range of media” to tap successfully into “strains of Afghan

nationalism”. Policy failures by the Karzai administration and frequent errors in coalition military tactics and strategy – typically involving heavy loss of civilian life – were being ruthlessly exploited for political advantage.

### Insurgent media strategies

The legitimacy issues involved in the heavy toll of civilian life arising from military operations by the international coalition may have since been addressed. But the overall situation remains tenuous. After the insurgent attacks in the most highly-guarded quarters of Kabul city in September, a media commentator observed in the *Guardian*: “Over the last decade NATO has constantly found itself behind the curve in planning and executing what they call ‘influence operations’ – a combination of the use of propaganda and, importantly, force, to deliver its ‘message’... Matters are not assisted by the fact that for much of the time western forces and their Afghan allies do not seem clear on their objectives”.

There continues to be a great deal of ambiguity about the status of negotiations between the government in Kabul and the insurgent groups. But it is widely recognised that the shift from the rigid and uncompromising tone to a more conciliatory approach is entirely about strategic realities. And these in turn are partly about a failure to get media strategy right.

## BANGLADESH

### Old tensions return to threaten journalism

Bangladesh’s journalists forged a common platform, the Sangbadik Shramik Karmachari Oikya Parishad (SSKOP, or United Committee of Working Journalists and Newspaper Employees) and organised early in March 2012 to demand the formal notification of a new wage fixation body.

This followed the failure of Bangladesh’s Ministry for Information to formally constitute the eighth wage board for the newspaper industry through gazette by the end of February, despite an assurance from Information Minister Abul Kalam Azad at a meeting with the Bangladesh Federal Union of Journalists (BFUJ) on 22 January.

Within days of Bangladesh’s journalists resolving on pressing their demand for a new wage deal, the Newspaper Owners’ Association of Bangladesh (NOAB) mobilised in opposition. “Forming a new wage board three and a half years after the seventh wage board award will put the newspaper industry into a big crisis,” NOAB said in a statement issued on 19 March. The SSKOP responded within a day with the suggestion that the newspaper owners, rather than resist the formation of a body mandated by law, should adopt a strategy of cooperation in a spirit of transparency and openness.

Seven wage boards have been formed so far under a law adopted by Bangladesh’s parliament in 1974. The newspaper industry has resisted each of these and only complied with the statutory wage awards decreed after losing legal battles that have gone upto the country’s highest courts. The record of compliance remains patchy and uneven, with several of the new media outlets that began operations in recent boom years choosing to ignore the imperative of decent wages.

The Eighth Wage Board was announced by the Government of Bangladesh after representations from the country’s journalists about increasing costs of living and growing job insecurity. A chair has been nominated for the board and the various stakeholders from the side of the news industry employees, including both sides of the Bangladesh Federal Union of Journalists (BFUJ) have named their representatives for the board. Yet the formal notification remains to be issued and the news industry owners continue to resist.

Over the year gone by, Bangladesh’s journalists took on several other challenges in unison, offering realistic hope that decades of politically induced estrangement within their ranks would be overcome. The level of rancour in political exchanges though, remained high. One of many flashpoints was the political rally by the national opposition in Dhaka on March 12, when three television channels were blocked



BFUJ President Iqbal Shobhan Chaudhary addresses a meeting at the Jessore Press Club, demanding justice for murdered journalist couple Sagor-Runi, 15 March 2012 (Photo: Courtesy BMSF, Dhaka).

for viewers in the city for the duration of a speech by the leader of Bangladesh National Party (BNP), the country's main political opposition.

The three channels — Ekushey Television, BanglaVision and Islamic TV — were inaccessible for viewers between 3 pm that day, approximately an hour before the opposition leader began her address, until 6:30 pm, after she concluded. Staff at the affected TV channels revealed that the Cable Operators' Association of Bangladesh (COAB) had been asked by the government to suspend the transmission of the three channels for this length of time. There were also reports that emerged then, that the Bangladesh Telecommunications Regulatory Commission (BTRC), which grants licences for use of the broadcast spectrum, may have directly intervened with certain channels to dissuade them from covering the opposition rally live.

Following this, notice was issued to Ekushey TV by the National Board of Revenue for failure to submit tax returns for three years. The channel claimed that it was yet to complete a financial audit for the years in question since it was preparing for an initial public offering (IPO) of shares. The alibi may not have been very strong, but the event fed into the story of deep partisan divisions and a vindictive attitude by those in authority towards media outlets that do not offer unconditional support to the Awami League (AL), the party that has been in power since early 2009.

Soon afterwards, it was reported that nineteen journalists in the south-western district of Pirojpur had presented themselves to the district police station on March 14, demanding protection from threats issued by the district branch of the ruling party at a public rally the previous day. The journalists were reportedly threatened with violence following their publication in

local newspapers of critical reports about two members of the elected district council. The reports, which alleged that two local politicians had been involved in corruption and nepotism, were subsequently republished by daily newspapers and news channels based in Dhaka. Members of the ruling party were then reported to have told the journalists that if they continued publishing critical reports about the two elected members of the district council, they would be forced to leave town or "chopped into pieces and buried".

### Heightening confrontation

It was a time of heightening confrontation in Bangladesh and the media was caught in the crossfire. In February 2012, a coup attempt by Islamist elements within the army was seemingly discovered and thwarted. Around then, Prime Minister Sheikh Hasina Wajid raised the temperature in her war of words with the opposition. Press freedom as an issue was debunked. As the Prime Minister then said, the media was guilty of "exaggeration". Under the newly gained freedom under her regime, the press was "writing at its will, no matter what is right and what is wrong". This was a freedom that it did not enjoy under the reign of the parties now in opposition, said the Prime Minister. As she said it then, the press used to receive "invisible advice" from certain quarters all through the BNP's tenure in office that began in 2001. Not one of the cases of the sixteen journalists killed during that time had been properly investigated, she said.

The ruling party followed with a mass rally on 7 March 2012 as a preemptive gesture ahead of the opposition show of strength of 13 March. Disruptions caused to civic life in the city featured widely in media reporting of the 7 March rally. When the government took recourse to extraordinary measures to ensure that the opposition rally of 13 March was deprived of mass participation and denied due media coverage, editorial commentary tended to be extremely critical. As the *Daily Star*, Bangladesh's leading English newspaper, commented editorially: "The tragedy for the AL is that in attempting to suppress the opposition it has suppressed the citizens. Ordinary people were subjected to indescribable sufferings just to prevent the BNP from holding its rally. .... We also condemn the fact that the mass media, especially the electronic media, were prevented from fully carrying out their professional

duties during yesterday's opposition programme. Several TV stations were barred from airing uninterrupted live coverage of the rally. A few channels that were covering stories of public sufferings during the course of the day were visited by intelligence people and told to tone down their coverage. In other cases the cable operators were partially prevailed upon to take some channels off the air during the peak hours of the opposition's rally. Such blatant interference in the media's function amounts to suppression of the freedom of the media and public's inalienable right to know".

There has been in short, a considerable decline in tolerance levels for free media commentary since the early days of the Sheikh Hasina regime. To recall, within a year of Sheikh Hasina taking office in her latest tenure as Prime Minister, the Bangladesh cabinet had formally approved an amendment to the criminal procedure code, which granted immunity against arrest to editors, publishers, journalists and writers in defamation cases. A provision of the Special Powers Act 1974 that allowed government to shut down newspapers at will was repealed in the first year of the new government's tenure.

The Bangladesh Press Council (BPC), which was set up in 1974 and went into a period of oblivion before being revived in 1993, has powers of censure and admonishment. Over the years, the council has evolved a point of view which holds that journalism is a profession that requires licensing. The model the BPC had in mind is analogous to the certification of legal or medical practitioners by empowered professional councils in Bangladesh, as also various other countries.

The idea of licensed journalists, while seemingly rather outlandish, does have some traction in the Bangladesh media community. More than anything else, this is an indication of how deeply the imperative of a professional code of ethics is felt among the country's journalists. The applicable code promulgated by the BPC, includes a declaration in its preamble that the "war of liberation, its spirit and ideals must be sustained and upheld, and anything repugnant relative to the war of liberation and its spirit and ideals must not be printed, published or disseminated in any manner by the press".

Quite clearly, this diktat of what is acceptable or not in media practice imposes too stringent a norm, prone to arbitrary interpretation and abuse. As a plural society, despite its relatively high degree of linguistic uniformity, Bangladesh is home to a variety of ideas and opinions about the war of liberation that brought the nation into being in 1971. By seeking to bring unitary homogeneity to this multiplicity of views, the media code proposed by the BPC was seen to make little contribution to social harmony.

Through 2009 and the following year, when the Sheikh Hasina government made clear its intent to bring to trial those guilty of the worst abuses during the 1971 war of liberation, there were hopes that a new consensus would emerge on the four decade-long history of the country since independence. It was hoped that this in turn would be an antidote to the bitter divisions that have plagued civil

society and the media community, especially since the brutal murder of the leader of Bangladesh's liberation struggle, Sheikh Mujibur Rahman in 1975. The execution of five of those convicted of the crime in January 2010 was seen as a point of closure for a bitterly contested past. And the setting up of the Bangladesh International Crimes Tribunal (ICT) soon afterwards and the opening of the war crimes trials were thought to be the occasion for finally bringing all unsettled disputes of ideology to consensus.

These hopes were belied in quick time. On 2 October 2011, *New Age*, one of Bangladesh's English language dailies, ran an article on its op-ed page titled "A crucial period for International Crimes Tribunal". David Bergman, the author, is a British national resident in Bangladesh since 2003 with a background in both the print and visual media and a long-standing interest in the Bangladesh war of liberation. The ICT took objection to certain of the points made in the article and three days later, issued a notice asking why the writer and the editor and publisher of the newspaper should not be cited for contempt.

Particular sections of the article that found mention in the notice, referred to the public mood which seemingly had prejudged the guilt of some of the individuals who were up for trial before the ICT, as also the procedural weakness of seeking convictions merely on the basis of one witness statement on events that were over four decades in the past. Questions were also raised about the ICT's rigour in assessing all witness depositions before it took cognisance of purported offences.

### No contempt involved in demanding fair play

Nurul Kabir, the editor of *New Age*, submitted a detailed response to the ICT on 23 October 2011. On 19 February 2012, the ICT discharged the three media persons though without observing in its *obiter dicta* that the article in question was indeed contemptuous. The *New Age* editor and the author of the impugned article were issued a grave "caution" by the ICT and told to be more mindful of the spirit and process of the law in future actions.

Since the hearings of the ICT commenced, there have been reservations voiced over procedure and also its potential contribution to national reconciliation. U.N. Secretary General Ban Ki-Moon described the process as "essential" when he visited Bangladesh in November 2011, but international human rights bodies have been careful to underline the need for appropriate procedures and assurances of fairness. A leading figure of the civil society effort to document war crimes and build a broad consensus on the need for the trial, M.A. Hassan, has conceded that the manner in which it has been undertaken, is "fragmented". "We have not being able to touch the tip of the iceberg even, because 95 percent of the crimes were committed by the Pakistani army", he says.

Bangladesh's leading human rights monitoring and campaigning body, Odhakar, has cautioned that the way in which investigating and prosecuting teams have been conducting themselves in the full glare of the media, is



“alarming”. “Witnesses were seen giving testimonies to teams in the presence of television cameras, which were later broadcast. The investigation must protect the rights of victims and witnesses, including their privacy and above all, safety”. Odhikar has drawn attention to the need for a witness protection programme. International observers have also cautioned that “trial by media” could jeopardise chances of fair judicial procedure and undermine public faith in the integrity of the trial.

### A seeming political vendetta

On 31 July 2012, Mohammad Ekramul Haq, editor of the Sheersha News web portal and the associated weekly newspaper *Sheersha Kagaj* was arrested at his home in a neighbourhood of Dhaka on charges of extortion. He was reportedly led away blindfolded and his family was allegedly dealt with roughly by the police making the arrest. Haq was since remanded to police custody. Charges were made against him of sending two reporters to the office of a local businessman a week before, to threaten him with negative news stories on the Sheersha News website, if a sum of Bangladesh Taka (BDT) two million (just under USD 27,000) was not handed over.

These charges were challenged by other journalists, including staff at Sheersha News, who claimed that the businessman who made the complaint against Haq before a local magistrate did not have his offices in the premises named in his complaint. Initially remanded for two days on orders of the Dhaka city magistrate, Haq’s remand was extended by another two days on August 3, after fresh charges of extortion were laid against him by the leader of an association of Bangladesh government employees. He was finally granted bail after three months in detention. In granting bail on 25 October 2011, the Bangladesh High Court observed that the principal complainant in the case of extortion, a fruit trader from the capital Dhaka, had furnished an identity and address which proved false. Shockingly, Haq was rearrested at the gates of a Dhaka prison on 1 November, at the moment of his release on bail. A fresh case of extortion was filed on the basis of a complaint from an official of the income tax department in Dhaka.

The government of Bangladesh meanwhile, challenged the High Court bench order granting bail before the Supreme Court, which heard the matter on 2 November 2011, and declined to stay it. Meanwhile, a Dhaka trial court on 9 November ordered his continuing detention in the new cases that had been filed. Five days later, the High Court issued an injunction against implicating him in any further cases and ordered an end to the harassment. Yet it was only on 25 November 2011 that Haq was released from prison.

The course of the cases brought against Haq, the hearings and the final outcome of the bail process lent credence to initial suspicions that the multiple charges brought against him were part of a political vendetta. Observers within Bangladesh suggested that his arrest may have been

retribution for news reports carried on his website and newspaper regarding allegations of corruption in public works projects in Dhaka.

On 13 September 2011, the Dhaka Metropolitan Magistrate issued a summons to three journalists from the Bangla language daily *Jugantor*, after defamation charges were laid against them by Shahjahan Khan, a minister in the Bangladesh government. Charges were brought against editor Salma Islam, executive editor Saiful Alam and reporter Jashim Chowdhury following the publication of two reports in *Jugantor* which questioned the high expenses incurred in foreign travel by the minister and his political associates.

A court in Jhenaidah district in the west of the country on 31 January 2012 convicted a local student, son of a political leader of the Jamaat e-Islami party, of publishing “objectionable and misleading information” on the social networking site Facebook. The individual concerned had been assaulted by loyalists of the AL after he reportedly wrote what were deemed derogatory words about Bangladesh’s first president and liberation movement icon, Sheikh Mujibur Rahman on his Facebook page. In declining the plea for leniency as he ordered the student jailed, the magistrate said that there was sufficient documentary evidence available to warrant a summary conclusion of guilt.

On 27 March 2012 the Dhaka Metropolitan Magistrate Court framed charges against the daily *Amar Desh*, its acting editor Mahmudur Rahman, and four others, including a correspondent Walliullah Noman, in a case of defamation brought by the BTRC. The case arose from two reports published in the newspaper in October 2009, which were headlined “India Controls the BTRC”. Both Rahman, who was a senior advisor to the BNP leader Khalida Zia during her last tenure as Prime Minister, and Noman, were imprisoned on contempt charges by the Supreme Court in August 2010. Noman had served a month-long sentence and Rahman, six months and an additional month for refusing to pay a fine. Since his release in March 2011, Rahman has had to respond



News portal editor Ekramul Haque suffered over three months of imprisonment on a variety of unproven charges (Photo: Courtesy BMSF, Dhaka).

### New policy initiatives: community radio and the right to information

Bangladesh’s first community radio named Lokobetar began transmission on 27 May 2011 in the southern coastal district Barguna. The program agenda of the station, in line with the declared policy of the government which on 22 April 2010 began the process of approval for community radio licences, is to build opinion on developmental issues. Partly because of a multi-layered process of approval, only 14 licences have been approved so far. Of these, ten applicants have begun operations, together with another station run by a government agency with much the same program agenda as the community broadcasters.

The new broadcasters, though limited in their reach, are regarded as potentially significant contributors towards empowering rural communities in Bangladesh. Several civil society organisations, including SAMS partner, Massline Media Centre (MMC) had for long been campaigning for a liberalised policy environment for establishing community radio stations in Bangladesh. Following the grant of licences, several of the intending broadcasters set up volunteer committees, comprising as wide a membership from the local community as possible. These committees were assigned with the responsibility for establishing, maintaining and running the CR station. Community broadcasting in Bangladesh, as elsewhere, is intended as a non-profit operation and a mechanism for individuals, groups and communities to tell their own diverse stories, share experiences and become active creators and contributors of a media-rich world.

Various surveys conducted by MMC since 1998 have shown that there is an interest within local communities to own broadcasting resources and an intent to use them constructively. Another 178 applications, beyond those approved, are still awaiting consideration. Clearance of even a small number among these would considerably enrich the Bangladesh media scenario.

A serious glitch is the failure to evolve a national policy for broadcasting. At present, there are about

14 terrestrial TV channels, four FM radio stations, and about a hundred satellite TV channels on offer. Approvals are still granted by the Ministry of Information in the Bangladesh government and this process is seen to be not quite transparent enough.

Minister Abul Kalam Azad recently declared that the draft policy will be posted on a website and expert opinions and feedback invited. There is a worry among civil society organisations that have for long been working tirelessly for a more democratic broadcasting domain, that the endless delays from the government side may exhaust public enthusiasm for constructive policy changes.

The right to information (RTI) brought in by ordinance by Bangladesh’s “emergency” regime in 2008 and ratified by the elected parliament in April 2009, is yet to achieve deeper resonances with the public. RTI is expected to function at the bottom tiers of the administrative hierarchy and especially enhance the efficacy of service delivery by local government institutions.

The media has been providing a high priority to stories oriented around RTI in recent months. However, there is the difficulty that the media does not really touch the lives of the poorest in Bangladesh, who have the most to gain from the RTI. The government has introduced mandatory “citizen charters” at all premises where its agencies interact with the beneficiaries of its programmes. And the media is seeking to highlight the importance of all citizens being aware of these charters of rights.

The poor and marginalised have less scope to access their rights through government agencies, both due to the longer procedures involved, the lack of a friendly environment and the sheer physical distances involved. Surveys among the rural poor have shown that just about 20 percent are aware of the RTI and less than 10 percent know how to use it for their own good. It has also been estimated that less than 3 percent have stated any kind of intention to use the RTI for any purpose. Among journalists surveyed, a large number said that they faced inordinate delays and considerable harassment (though of an indirect nature) in gathering information from local government institutions.

to multiple cases of defamation brought against him, mostly by leaders and activists of the AL.

One of the most traumatic events of the year gone by was the twin murder of a journalist couple, Sagar Sarowar and Meherun Runi, in their home in Dhaka on 11 February 2012. Sarowar was a news editor for private television channel Maasranga, and his wife Runi was a senior reporter with another private television channel, ATN Bangla. Their bodies, both bearing deep stab wounds, were discovered on the morning of 12 February by a five-year old son.

As the official investigation failed to make much headway, Bangladesh’s journalists observed a one-hour work stoppage on 27 February. The demands for a thorough

investigation and the swift arrest of those responsible, were made by a broad coalition of media organisations. Failing to get much of a response, the journalists unions began a relay hunger-strike on March 2.

Dhaka city police for their part, indicated they had a fair idea of the motive behind the crime, but could not reveal any details because that, ostensibly, would impede the investigation. A city court meanwhile, issued an order restraining “speculative media commentary” on the matter. This was read by many as an effort to restrain legitimate investigative journalism. At the time that this report is sent to press, there has been no progress in the investigations, at least as far as the public are aware.

## BHUTAN

### Quality and the constraints of the market

Media in Bhutan did not witness any major developments in the year under review, though journalism could be said to have made important strides. So too has media consciousness developed vastly among the youth. Particularly vigorous in terms of their use of the new media have been civil society activists and politicians.

Major contributory factors have been the regular workshops carried out by Bhutan Centre for Media and Democracy and the expansion of social networks as the internet reaches ever increasing numbers in the country. Mobilisation through social networking has proven a powerful mode of effecting changes for the better in policy, as when it led the government to revise its law on tobacco control and induced the king to pardon sixteen convicts.

Despite increasing media awareness, there is a sense that reading habits are slipping. In a small market where institutional purchases are important, schools have reduced newspaper purchases for students and teachers, and government departments have also cut subscriptions as a part of cost saving. Private establishments buy only a few copies of selected papers for employees. These factors are collectively causing growing losses in the media industry, where firms are struggling to sustain their limited earnings.

Five years after it was thought of, the Journalists' Association of Bhutan (JAB) was formally established on 7 February 2012 when media practitioners from various organisations voted to elect its leadership team. Pasang Dorji is the new president, Kinley Tshering, the general secretary and Chhundu Tshering, the treasurer. Pasang is associated with *The Bhutanese*, Kinley with *Business Bhutan* and

Chhundu Tshering with *Druk Neytshuel*. Other members of the executive committee include Nam Khai Norbu (editor of *Bhutan Times*), Sonam Pelden (of *Kuensel*), Dawa (of Bhutan Broadcasting Service), Kuenga T Dorji (of Radio Valley) and Kelzang Thinley (of Radio Waves).

All 105 journalists present were granted voting rights for elections to the JAB leadership posts. However, the organisation began on a shaky note with two elected members of the executive committee pulling out and some media houses undecided on whether they should cooperate with the association's activities.

There are several important tasks that the JAB is expected to carry out, including ensuring fair compensation to working journalists and initiating consultations on the proposed advertisement policy. Also on the agenda is a government directive making it mandatory for all newspapers to have a section printed in Dzongkha, the native language of the majority of Bhutanese.

The first informal meeting of the new committee decided to submit to the government a proposal mooted by senior editors a month before, suggesting changes to the advertising policy that is under preparation and doing away with the mandatory publication of Dzongkha sections in English language papers.

Editors of private newspapers had proposed that the government discontinue the stipulation that they carry Dzongkha editions of their English language papers. They say that this has become a "huge financial burden" and was having a serious negative impact on sustainability of media, while not serving the government plan to promote the national language. Media houses have invested heavily in Dzongkha, but for very meagre returns in terms of increased readership. As part of their cost cutting strategies, the papers have now turned Dzongkha editions into inserts to their main publication to meet the formal stipulation while keeping costs low. They rarely keep an

independent Dzongkha editorial team. Some papers like *Business Bhutan*, have chosen to outsource their Dzongkha editions.

The campaign argues that with four independent Dzongkha papers already in the market and some more waiting to be licensed, English language newspapers should be "freed" of the obligation to come up with Dzongkha editions. Dzongkha as a media language is more popular in TV and radio than in print. Radio and TV programs are run in the main, in Dzongkha and with more channels coming up, other means of meeting the official goal of promoting the national language would emerge.

#### Private initiatives

Initiatives have been taken to bring private TV channels into the market. Of the five applications that have been submitted for opening TV channels, the government is yet to approve four. Only a second channel of the official broadcaster Bhutan Broadcasting Service (BBS2) has come into operation from early 2012.

Four private companies and individuals have expressed an interest in starting TV stations. Rabsel Media Services has proposed a 24-hour news channel, while three others, Druksel TV, the Singay and Lhaki Group and Ugetsu Communications (owned by film director Ugyen Wangdi) propose to offer mixed fare.

There are no rules about the number of TV channels that would be permitted in Bhutan and it is likely that all applicants meeting specified criteria, will be given licences. There are controversies that too many commercial channels might invite unethical competition, which might be risky for Bhutan in terms of cultural sensitivities and social harmony. In a debate in October 2011, experts pointed out that too many channels might compromise the social mandate of TV as they compete on the commercial front. Some politicians advocate that market forces should determine how many channels are on air, rather than a government stipulation.

There is evidence that politicians are beginning to engage with the importance of media and freedom of expression as essential elements of a vibrant democracy and a cohesive society. In several debates, politicians have expressed support for media freedom and right to freedom of expression. National Council vice chairman Sonam Kinga and member Sangay Khandu are two notably vocal contributors to the movement for media freedom. The Bhutan Centre for Media and Democracy has trained politicians, government employees, students and teachers about media, freedom of information and right to free speech. Taking a cue from these developments, the students in Sherubtse, the oldest college of the country, formed a "media society" to debate this entire range of issues.

Khandu has personally drafted a "right to information" (RTI) bill which he plans to place before an upcoming session of the Bhutanese parliament. Despite commitments from Bhutan's ruling party, the Druk Phuensum Tshogpa (DPT), the government failed to bring its version of the RTI.

Ironically, media reports say the government officials are unaware of the draft RTI bill.

On the other hand, ministers and government officials see media as propagators of negative views and activities. Some officials even go to the extent of saying that good content is deliberately left out, with the media choosing mostly to focus on stories that put them in a bad light. This manner of sentiment was publicly expressed at a media conference by Bhutan's Minister for Works and Human Settlements, Yeshey Zimba. Even Bhutan's Prime Minister, Jigmi Thinley, has at times accused the media of trifling with the truth.

The Bhutan InfoCom and Media Authority (BICMA), the national level regulatory body, restricted publication of *Gyelchi Sarshok*, a weekly Dzongkha newspaper, for two months on the grounds that it had started publishing before being granted a licence. The company took the plea that it was only printing sample copies, or "dummies" for testing market conditions. The paper started regular publication from the second week of November 2011. The paper seeks to carry a larger than usual complement of international news, to inform Bhutanese who read no English, of events around the world.

*Druk Neytshuel* weekly, the first privately-owned Dzongkha newspaper, hit the market in August 2011. Coinciding with the king's birthday, *The Bhutanese*, a privately owned broadsheet newspaper, was launched in the capital city of Thimphu on 21 February 2012. According to owners, its prime focus will be on investigative journalism, political, economic issues and corruption. Tenzin Lamsang, a former reporter with *Kuensel*, who also worked with *Business Bhutan* weekly, is the chief editor of the new paper. Though planned as a daily broadsheet, the paper currently publishes twice a week on account of uncertainties over sustainability.

#### Concerns over sustainability

Given the kingdom's rather small population and limited levels of advertisement spending, financial sustainability is a big concern for the increasing number of newspapers. *Kuensel* is the only newspaper that manages to sustain a daily circulation, though only on the basis of a subsidy from the government. The older papers are taking all measures to ensure their continued presence in the market. *Bhutan Today*, a daily, has gone biweekly since October since it reportedly found the operational cost very high and revenue sources limited. *Bhutan Times*, the first private newspaper in the country, laid off seven employees keeping only 24 staff. At the height of its success three years ago, it had 97 staff.

On the other hand, a few investors believe that the competition in the market will propel the growth of quality and professionalism in the country. The government for its part, has kept the doors open for any constructive proposal to start a newspaper.

One of the country's most popular, and at times, controversial online forums, the *Bhutan Times* shut down in November 2011. The news portal, which is distinct from



In December 2011, the government of Bhutan honoured a number of citizens including media persons with the National Order of Merit (Photo: Dorji Wangchuk).

**Food Corporation of Bhutan**  
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**Announcement**

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Sl No	Location	Remarks
1	FCB Phuentsholing Retail	Piling lower market (FCB Building)
2	FCB Samtse	Above Samtse Bazaar
3	FCB Paro	Main Town
4	FCB Trongsa	Above Graft Camp
5	FCB Sarjapung	Sarjapung Tar
6	FCB Damphu	Above proper town
7	FCB Bumthang	Near Jaker Ushangkang
8	FCB Nganglam	On the way to Nganglam town
9	FCB Dathin	Near boarder gate
10	FCB Drukgyung	Near Drukgyung Cliff
11	FCB Khamsing	Below RNRC (Agiculture Farm)
12	FCB Trashigang	Below General Hospital
13	FCB Rangjung	On the entry to Rangjung town
14	FCB Gorgon	On the way to Lhuentse Dzong (approx 15 km)
15	FCB Mongar	Ribaza (3.5 km beyond Mongar town)
16	FCB Nangphor	Denchukha
17	FCB Dagapela	Proper Dagapela
18	FCB Wangdi	Majochang (New town)
19	FCB Thimphu	Changjamitog

Management

**Project Dantak**  
Thimphu Bhutan  
**DANTAK OPEN GOLF TEE'S OFF TO GRAND OPENING**

Project Dantak has been hosting Dantak Open Golf Tournament every year to commemorate its Raising Day in Bhutan. Dantak Open Golf Tournament has been a prominent landmark event on the Golfing calendar. It has witnessed players coming in from far and wide to compete for top honours. The Tournament this year is no different, as it offers a wide variety of fabulous gifts to the winners and gives all participants a taste of the unmatched hospitality that Project Dantak has to offer. The tournament this year is being hosted in India House Estate Golf course.



The preliminary round of Dantak open Golf Tournament commenced on 12 Apr 2012 with much fanfare. The players who have registered will be slated to play one preliminary round over three days and will then be short listed to vie for top honours during the final round of golf on 15 Apr 2012. The tournament boasts of hosting many VIPs who are keen to take a day off and pursue their passion to the fullest.

**The Journalist**  
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གུ་ལེན་ལོ་ལོ་མོ་ 2 ལོ་ལོ་མོ་ 20 | ལྷོ་ཕོ་ 2012 ལྷོ་ཕོ་ 2 ལོ་ལོ་མོ་ 7 ལ།  
མེས་ལོ་ལོ་མོ་ལོ་ལོ་མོ་

**བདེ་བསྐྱེད་ལྷན་ཁུངས་ཀྱི་གཞི་རྒྱ་རྒྱས་པའི་འཕེལ་ལོ་ལོ་མོ་**  
**གཞི་རྒྱ་རྒྱས་པའི་འཕེལ་ལོ་ལོ་མོ་**

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English newspapers are restive at the mandatory requirement that they publish a section in the national language (Screenshots of The Journalist: Indra Adhikari)

the website of the newspaper with the same name, was set up in 2004 and run since then by a team of four. With the departure of the most technically qualified member for opportunities in Silicon Valley in the U.S., the rest of the team reportedly found that they did not have the skills to keep the website running. Earlier in 2007, government had blocked this discussion forum accusing it of inciting violence and hatred in Bhutan. However, with SAMS and the IFJ expressing their concern over this rather draconian measure, the website was allowed to resume operations.

Environmental protection is one of the major goals of the Bhutanese government. And the country prides itself on being one of the leading players in wildlife and environment conservation in the region. The government has been making all efforts to get attention from the media to create awareness on environment conservation. The government has announced an annual conservation award to encourage media to give attention to wildlife and environment issues. The award will recognise and reward print media firms in Bhutan that publish the highest number of in-depth and comprehensive stories on forests, wildlife and environmental conservation. The award is likely to be offered to a media house instead of individuals. The institution of this award for Bhutanese

media houses comes at a time when environmental issues and environmental journalism are gaining popularity in the region.

Marking Bhutan's one hundred and fourth "national day" on 17 December, the government of the kingdom announced a number of awards – the National Order of Merit – for the media for its role in nurturing a fledgling democracy.

The local authority in the south-eastern district of Pemagatshel has imposed a ban on satellite TV channels. The first Dzongkhag Tshogdu (District Council) of Pemagatshel in August decided to impose a ban, despite disagreement from many members, on the use of direct-to-home (DTH) TV. This sparked a debate on how many channels should really be available for Bhutanese viewers and which are the ones best suited for them. While the government has a stated policy of granting licences freely, it at times restricts particular TV channels on charges that they are airing content that might erode Bhutanese culture and heritage.

It was for the very same reason that the popular Ten Sports channel was removed temporarily even on cable service in 2006. It was restored following public outcry over the move. In September 2011, the Prime Minister in a meeting with media said the government would not

ban dish TV considering the right to entertainment of the citizens.

A BICMA official was quoted in a newspaper as saying that DTH television has been regularised since November 2008 and that they were working on the modalities regarding the contents to have uniformity between cable and dish TV. In recent years, DTH TV has gone to remote areas where cable transmission is unavailable and there has been an entertainment famine.

In January 2012, the government decided to streamline the media outlet licensing procedures. Owners of media houses and entertainment business will have to pay just one license fee now on. Earlier, cable operators, discotheques, printing houses and publishers including media entities were subjected to double license fee as they had to pay an annual fee to both BICMA and the Department of Trade. Starting this year, all licence fees would be routed through the BICMA.

Before the system came in place, a private newspaper firm had to pay annually Nu (ngultrum) 10,000 (just under

USD 200) as license fee to BICMA and Nu 3,000 as trade fee to the Department of Trade. The rate for local cable operators was approximately Nu 95,000 to be paid to BICMA and Nu 1,500 to trade department. There was also a one percent tax from every consumer to BICMA. Similarly, discotheques paid Nu 25,000 annually to BICMA and about Nu 5,000 to the trade department.

Only one incident of an attack on a media person was reported over the year. In July 2011, a *Kuensel* intern was attacked on the staircase of the building where she lived in Thimphu, the country's capital. She was on her way home from office. The attackers, two of them, tried to throttle her and snatch the laptop computer she was carrying in her backpack. She was able to successfully ward off the attack using her martial arts skills. The incident was illustration of how good self-defence skills can be of use in emergency situations. The media did not give the incident very much coverage, except for *Kuensel*, which focused on the overall security situation in Thimphu rather than the issue of media safety.

On the basis of these figures, the ECI issued notice to 201 candidates in Punjab, all 61 suspect cases in Uttarakhand and 38 individuals in Uttar Pradesh. A large number of the candidates have conceded that they did indeed buy space and time in the media to pitch favourable stories about themselves. They have agreed indeed, to the inclusion of the funds spent within their campaign accounts. A few candidates have failed to respond while some have challenged the MCMC findings.

The ECI with its statutory powers has managed to enforce a degree of accountability on candidates and political parties in the matter of paid news, though a great deal remains to be done to ensure the full efficacy of its scrutiny process. On the other side of the coin, there is among India's journalists a growing perception that the yawning ethical deficit in the functioning of the media -- that "paid news" is a symptom of -- calls for urgent correction. Over the year under review, a significant achievement was the publication in full of the report of the Press Council of India (PCI) sub-committee on paid news, prepared in March 2010 after rampant evidence of the abuse was found in the 2009 general elections to the Indian parliament. Newspaper industry representatives on the PCI had then successfully mobilised to get much of the detail in the sub-committee report -- including some of its strongest recommendations -- stripped out when the final report was adopted by vote.

Among the conclusions of the sub-committee report was a positive affirmation of the value of safeguarding the autonomy of the editorial function, in curbing the abuse of paid news. Also underlined was the importance of journalists' job security in restoring the integrity and

**INDIA**  
**Security concerns and a growing ethical deficit**

When general elections were held to the legislative assemblies of a number of states in India in May 2011 and then again in February and March 2012, the Election Commission of India (ECI) took the extraordinary step of forming district level monitoring bodies to closely track media coverage of the campaign process. The idea was to detect any possible case of "paid news" by which candidates obtained favourable media coverage for a monetary consideration. This was from the point of view of the ECI, an electoral malpractice, since it enabled candidates to evade the statutory ceiling on campaign expenses.

The procedure has not by any means been smooth or error-free. In elections to five state legislative assemblies in 2012, a total of 626 suspected cases of "paid news" were detected by the Media Certification and Monitoring Committee (MCMC) functioning under the ECI. Punjab state, where close to 14 million votes were cast and a total of 117 seats contested, reported no fewer than 523 of these suspect cases. The state of Uttarakhand, where just over 4 million voters elected a total of 70 legislators, reported 61 cases. The largest state of the union, Uttar Pradesh, where over 75 million votes were cast in 403 constituencies, recorded the remaining 42 cases. The smaller state of Manipur reported no cases while reports from Goa (among the smallest states) were still to be obtained at the time this report was sent to press.

credibility of news gathering and dissemination. The two-member body, comprising senior journalists Paranjay Guha Thakurta and K. Sreenivas Reddy, had recommended that media organisations cease the practice of “engaging stringers and correspondents who double up as agents collecting advertisements”. All such media personnel, it recommended, should be given “stipends or retainers, if not regular salaries”.

These fairly specific recommendations followed suggestions by representatives of working journalists in the PCI, including Kalyan Barooah and M.K. Ajith from the Press Association. S.N. Sinha, as a union representative, argued the case for strengthening the Working Journalists Act to assure journalists of job security and fair wages. The system of employing journalists on short-term contracts needed to be ended and the primacy of the editor as the pivotal decision-maker on news selection restored.

Following action under India’s Right to Information (RTI) law, the PCI published the full sub-committee report on its website in September 2011. Its basic points, especially in the matter of journalists’ wages and job security, were later placed by union representatives before a Parliamentary Committee looking into media regulation. India’s Union Cabinet has also constituted a Group of Ministers (GoM) to consider a policy response to the PCI report. This body has been meeting at very infrequent intervals and there clearly does not seem to be a coherent policy response emerging.

**Quickening debate on media regulation**

Media regulation emerged as an issue in political circles over the course of the year, in part as a reaction to the anti-corruption movement led by septuagenarian social worker Anna Hazare. Two hunger fasts that Hazare launched to highlight the continuing absence of an ombudsman empowered to act against official malfeasance, aroused a

degree of public fervour, especially in urban India. This was, together with some of the supposedly injudicious language Anna Hazare’s team used against politicians, transmitted and amplified to homes across the country, especially because of the intense competition within the electronic media.

India’s Supreme Court also joined the debate on regulation after a complaint lodged by a senior lawyer over media reports in February 2012, which gave out details of a plan that the finance and real estate conglomerate, Sahara, had submitted to the market regulator – the Securities and Exchange Board of India (SEBI) – on how it intended to secure investor interest on a bunch of public deposits. The matter was in appeal before the Supreme Court, which thought that the publication of a privileged communication between parties in ongoing litigation was a breach of propriety. In time, the Supreme Court bench headed by the Chief Justice of India, S.H. Kapadia, called up all complaints received about media practice over recent times and assembled them into a common docket. Hearings soon stepped beyond the narrow confines of the grievances of senior lawyers and wealthy corporate litigants. Another family of cases was drawn in, related explicitly to the rights of individuals facing criminal trials.

In hearing the opinions of a number of senior lawyers – most of whom were extremely sceptical about the prudence of a judicially dictated media code – the Supreme Court seemed to be signalling that *ex post* remedies by the media for ethical breaches would no longer be adequate. Apology, retraction and administrative correction by impugned media organisations, they suggested, are of little use when media freedom becomes a potential hazard to the administration of justice.

Journalists are wary about any prior conditions on modes of media reporting. Though not explicitly disallowed, any form of prior restraint is seen as contrary to the article 19

guarantees of the Indian Constitution. Just as the Supreme Court was hearing arguments about its intent to introduce a media code, the Lucknow Bench of the Allahabad High Court in the northern Indian state of Uttar Pradesh issued a decree which seemed suspiciously like a prior restriction. Hearing a petition from ironically enough, a “right to information” activist, the bench banned any form of media coverage on certain military exercises conducted on 16 January 2012 by units of the Indian army based in towns not far from the national capital, Delhi.

These military exercises, characterised as routine by army headquarters, were described in an overblown and highly colourable report by one English newspaper on 4 April 2012, as evidence of serious strife between the military command and the civilian political leadership. In the furore that ensued, the newspaper was held guilty at worst, of extreme gullibility and poor editorial judgment in publishing without serious scrutiny, a story planted by individuals with a clear motive to undermine the credibility of the top army command. In decreeing its ban on any further reporting on the matter, the Allahabad High Court held that the “issue of movement of army troops is not a matter of the kind which requires public discussion at the cost of official secrecy and the security of the country”. The immediate impact of the order was to prohibit considered analysis or reporting on a public spat in the higher military command and its possible ramifications for the integrity of defence procurement decisions.

**Legal injunction as censorship mode**

Censorship through legal injunction and the threat of criminal prosecution continued being a hazard for Indian journalists. A major positive development was the quashing by the High Court in the western Indian state of Gujarat, of the charges of sedition brought against two journalists and the *Times of India* daily in Ahmedabad city. A criminal complaint was filed in June 2008 by O.P. Mathur, then police commissioner of Ahmedabad, against Bharat Desai and Prashant Dayal, journalists with the city edition of the *Times of India*. This followed the publication of a series of reports in the newspaper questioning Mathur’s appointment to the post and laying out some issues in his service record which were likely to impede his effectiveness. The newspaper also ran an opinion poll which revealed a high degree of reader scepticism about Mathur’s appointment to the top police post in the city.

In quashing sedition charges on 18 April 2012, the Ahmedabad High Court held that the intent of the articles in question was to inform and to elicit reader opinion, not



Journalists were attacked by security personnel in Kashmir while covering a demonstration in November, leading to angry words from the PCI (Photo: Courtesy Rising Kashmir).

to incite disaffection or violence. India’s Supreme Court held as far back as 1962, that the sedition clauses of the penal code were contrary to the fundamental rights provisions of the constitution, unless invoked to deal with imminent threats of violence. Yet the clause has been repeatedly invoked since then to prevent legitimate public engagement with the actions of state agencies.

Reporter K.K. Shahina was granted anticipatory bail in July 2011 after charges of criminal conspiracy to intimidate witnesses were brought against her by police in the southern state of Karnataka. Shahina, then a reporter with the weekly news magazine *Tehelka*, had in December 2010 published a story which cast doubt on the prosecution of a prominent Islamic cleric and political figure on terrorism charges. The story was based on interviews with key witnesses cited in the case made by Karnataka state police. Several of the witnesses named by the police were reported by her as saying that their testimony had been misinterpreted or distorted in making out the charges. Fearing arrest, Shahina had an application for anticipatory bail turned down in the district where the criminal complaint against her was lodged. On appeal, the High Court of Karnataka in Bengaluru granted her provisional protection against arrest.

In May 2011, Tarakant Dwivedi, *alias* Akela, then a reporter with Mumbai city’s morning tabloid, *Midday*, was arrested under India’s Official Secrets Act, after he reported on poor security conditions in the metropolis’ main railway terminus. The Chhatrapati Shivaji Terminus (or CST, which is still referred to in common parlance as VT), a hub of both suburban and long-distance railway traffic, was among the first targets to be hit in the terrorist attack on Mumbai that began on 26 November 2008. Soon afterwards, the Government Railway Police (GRP), tasked with maintaining security at all major facilities of the Indian Railways, procured an array of sophisticated weaponry to



Justice Markandey Katju meets with a delegation of the Delhi Union of Journalists shortly after taking office as chairman of the Press Council of India (Photo: Courtesy DUJ).



The office of the *Maharashtra Times* in Mumbai was attacked by political activists angered over a story on a local leader (Photo: Deepak Salvi/LivePhoto).

deal with extreme future contingencies. On 28 June 2010, the daily *Mumbai Mirror* published a report under Akela's byline, headlined "Leaks in CST armoury put new anti-terror arms under threat". The report documented how newly procured equipment was being stored in a room with a leaky roof, making their efficacy in an emergency situation highly questionable. Akela's arrest, itself conducted under highly suspicious circumstances, was believed to be direct retribution for this reporting.

### Journalist charged under terror law

A senior journalist based in Delhi, Syed Mohammad Ahmad Kazmi was arrested on 6 March 2012 for alleged involvement in the 13 February 2012 bomb attack on a vehicle belonging to the Israeli diplomatic mission in Delhi. Charges have not been formally laid, but Kazmi, as the first information report (FIR) records, is being held under sections of the Explosives Act and the Unlawful Activities (Prevention) Act, while investigations continue. Under the Unlawful Activities (Prevention) Act, an accused can be held without charge for upto 180 days.

Kazmi was remanded to twenty days in police custody on 7 March but transferred to judicial custody four days before this remand period expired. This was done without prior notice to the family or Kazmi's defence lawyers and ostensibly because the Special Branch of the Delhi Police

had no further need to keep him. However, his subsequent bail application was turned down on the grounds that global inquiries into the bombing might be compromised by his release. On the basis of telephone and bank records placed before him, Delhi's Chief Metropolitan Magistrate arrived at a *prima facie* determination that Kazmi was in contact with the actual "assailants" and may have obtained funds from foreign sources to carry out his part in the conspiracy.

Defenders of Kazmi argue however, that his phone calls prior to and after the 13 February attack, were all made from connections he has had for years. These were likely connected to his professional work as a correspondent for the official Iranian news agency based in Tehran. The detained journalist's family has also responded to inquiries by the Enforcement Directorate – the agency with the official mandate to investigate illicit money flows – about funds received in his and his wife Jahanara Kazmi's account. Kazmi's family has documentation which establishes that these transactions date back at least four years and originate in the Gulf Emirate of Dubai. They follow a regular monthly pattern and were all sent by Jahanara Kazmi's son from a previous marriage to Kazmi's long deceased elder brother.

Attacks on journalists persisted through the year under review, especially in the more conflict-prone regions. Four



The broad daylight killing of senior investigative journalist J. Dey led to days of protests by Mumbai's journalists (Photos: Deepak Salvi/LivePhoto).

journalists were assaulted and one of them briefly detained by personnel of the Central Reserve Police Force (CRPF), while covering protests that broke out in Srinagar, the capital city of the state of Jammu and Kashmir, shortly after Friday prayers on 25 November 2011. Umar Mehraj, a video journalist for the Associated Press news agency, Showkat Shafi, a contributor to *Al Jazeera English* online, and Yawar Kabli of Getty Images and *Kashmir Dispatch* were assaulted and their equipment partly damaged. Shahid Tantray, who works with the widely circulated Hindi-language daily *Dainik Bhaskar* suffered serious injury and was briefly detained.

In the north-eastern state of Assam, Photographer Bhaskar Deka was assaulted by personnel of the Indian army as he filmed a scuffle between soldiers, villagers and students near the town of Tezpur on 31 July 2011. Villagers were aggrieved by an army decision to close a road near a military camp, since this blocked off an important route of access for school-going children. Deka suffered bruises in the scuffle and his camera was reportedly smashed by army personnel. He was later taken to a police station in the army camp and detained for some time.

Kamal Shukla, district bureau chief of the Hindi language daily *Rajasthan Patrika* in Kanker, in the central Indian state of Chhattisgarh, was assaulted by three intruders in his office on 11 April 2012, in what seemed retaliation for a series of reports that appeared in the local press under his name, exposing the illegal clearing of protected forests in the region.

In January 2012, workers of the political party, Shiv Sena, vandalised the offices of the *Maharashtra Times* in the western metropolis of Mumbai. They were reportedly irked by a report suggesting that one among their local leaders was about to switch political loyalty.

### Press Council intervenes

Reacting to the attack in Kashmir, the chairman of the Press Council of India, Markandey Katju, wrote to chief

minister Omar Abdullah on 26 November 2011, seeking an explanation and an account of the action he intended to take against those responsible. In a follow-up letter on 1 December 2011, he explained that it was the PCI's responsibility under law "to uphold the freedom of the press". "A journalist while covering an incident is only doing his job", wrote Katju: "He is like a lawyer who defends his client. Just as a lawyer cannot be equated with his client, so also a journalist cannot be equated with the crowd ... (A) journalist is only doing his duty of conveying information to the public, and he enjoys the fundamental right of freedom of the media..".

In response, chief minister Abdullah explained that the police force in his state "never had the intention of targeting media personnel". The attack on media personnel, he said, was something he deeply regretted. But since it was a matter calling for deeper consideration, the chief minister proposed that the PCI in "consultation with states and the media fraternity" frame a code of practice for the media in situations of conflict.

PCI chairman Katju also wrote to the chief minister of Maharashtra state in the context of the January 2012 attack in Mumbai. The state administration was put on notice that physical violence against the media could be held to be a violation of article 19, laying open the possibility of extreme action called for when basic rights are violated. A placatory response from the chief minister followed. In both the cases where the PCI intervened forcefully, it is still too early to assess the substantive impact.

The PCI began its eleventh term under Katju soon after he retired from the Supreme Court of India in September 2011. Within days of taking office, Katju made his presence felt with a number of strongly voiced opinions on the media. Sections of the media community welcomed his plain speaking, but several were disappointed at his aggressive and disparaging tone. In an interview carried over a major English-language news channel,

## Dispelling the climate of impunity

The killing of investigative journalist Jyotirmoy Dey in broad daylight in a busy street of suburban Mumbai on 11 June 2011, evoked strong and concerted protests, not merely in the western metropolis, but also in Delhi, Ahmedabad, Bengaluru and other cities. In Mumbai, apart from protest marches, two journalists filed writ petitions demanding a probe by the Central Bureau of Investigation (CBI), a police force under the direct oversight of India's union government. This demand though, was rejected as unnecessary by the High Court.

Subsequently, the Mumbai police arrested seven persons on 27 June 2011 – all known to be linked in various ways to illegal activities. A few days later, another three were arrested, including a builder and a bookie known to be a close associate of the fugitive underworld don Chhota Rajan. One of those arrested in this second round was believed to have supplied the murder weapon.

Jigna Vora, deputy bureau chief in Mumbai with the daily newspaper *Asian Age*, was arrested on 25 November 2011 on charges of involvement in Dey's murder. She was produced before a special court dealing with the prosecution of organised crime cases in Mumbai on 26 November, remanded to police custody and transferred to judicial custody on 9 December. Formal charges are yet to be made against her.

The chargesheet against twelve other suspects in the murder, including two who have evaded arrest so far, was filed on 3 December. Mumbai police initially sought a deadline of 20 December to complete investigations against Vora and bring formal charges. But that deadline was missed.

Though there have been several suggestions of Vora's connections with the Chhota Rajan gang, analysts point out that the evidence against her has never been fully laid on the table by Mumbai police. There have been several and often contradictory indications of how she was involved with organised crime syndicates in Mumbai and abroad, but no suggestion of a credible motive for her involvement in Dey's murder, other than occasional suggestions of "professional rivalry". With formal charges yet to be made, the media reporting on the case has been dominated by unsubstantiated information that she may have provided key information to the Chhota Rajan gang, such as Dey's motorcycle registration number and his home address.

Vora's newspaper, the *Asian Age*, issued a formal statement shortly after her arrest, defending her integrity and vowing to stand by her. The resident editor of the newspaper in Mumbai, Hussain Zaidi, later resigned his post as a gesture of solidarity with his detained colleague.

Police have also been criticised for failing to explore whether Dey's writings on smuggling and corruption within the police force could have been contributory reasons for his killing. In a bail application moved on 9 April 2012, Vora claimed that there was not a single outgoing call made by her to Rajan and that there was no substance in the allegation that she had instigated Rajan against Dey.

Dey's killing is continuing evidence of the hazards of reporting on the crime scene in India's largest city. In the state of Madhya Pradesh, two murders of journalists were reported, one of them a gruesome mass killing. Chandrika Rai, 43, a freelance journalist who was published frequently in newspapers in the state capital of Bhopal, was found dead at his home on the evening of 18 February 2012. His 39-year old wife, 19-year old son and 17-year old daughter, were also

found dead in different rooms of the house. All four bodies bore injuries inflicted by a sharp weapon.

Media reports suggested that Rai could have been targeted for revenge by elements involved in local coal mining activities. Rai had written articles exposing numerous illegalities in the coal trade in the region. Other reports hinted at a connection with the abduction of the son of a government official. Rai is believed to have expressed his scepticism over police claims that the boy was rescued without any ransom changing hands. This may have attracted the anger of an organised kidnapping racket in the area.

Local police also sought to suggest through selective briefings that Rai may have been extorting money from the local abduction ring. A delegation from the Press Council of India (PCI) which visited the district and later met with senior police officials in the state capital, found that there was little substance in this, a fact subsequently acknowledged by the police. A person who worked occasionally as a driver for Rai has since been arrested and the murder put down to a robbery attempt. But there remain several unanswered questions.

Rajesh Mishra, reporter for a local newspaper published in Rewa district of Madhya Pradesh state in central India, was attacked and seriously injured on 1 March 2012. He was relocated to the nearby city of Jabalpur for urgent medical attention, but died the following day. Mishra's killing is believed to be in retaliation for a number of stories published under his name in *Media Raj*, a Rewa-based newspaper, which pointed to serious financial irregularities in a chain of schools owned by a local business-person, Rajneesh Banerjee. Banerjee, who also publishes a local newspaper, and one of

the men believed involved in the attack have since been arrested.

The violence against journalists and the persistent failure to dispel the climate of impunity – estimates show that no case of a journalists' murder over the last fifteen years has been successfully prosecuted – are a continuing worry for India's unions. The National Union of Journalists of India – NUJ(I) – adopted in its recent national plenary meeting a resolution demanding a two-fold plan for protection of journalists: that the murder of a news-gatherer should be made a non-bailable offence and should be investigated by a police official of the deputy-superintendent rank or above.

Mumbai's journalists took up the issue of a law guaranteeing professional safety after the Dey murder. Though the state government in Maharashtra showed an initial willingness to engage them in a dialogue, it has since turned rather indifferent.

The key question here is how one category of professional could be guaranteed an extra measure of security without falling foul of India's constitutional norms on equality before the law. There is also the delicate issue of how far journalists can depend on official security agencies without sacrificing professional independence. The debate has also in some measure, converged with a broader dialogue on protection of whistle-blowers who seek to expose corruption in public life.

The PCI has constituted a sub-committee to study this entire range of issues with union representative Amarnath Kosuri as a member. The sub-committee is conducting wide-ranging discussions to arrive at a formulation that would successfully address this complex matter.

Katju spoke disdainfully of journalists as being for the most part, "of a very poor intellectual level" and being ill-informed about "economic theory or political science, philosophy, literature".

Katju has also called for investing the PCI with statutory powers to punish media organisations that step out of line of an accepted code of conduct. "One of the reasons," that self-regulation has not worked, in his words, is that these have failed to instil "fear in the media". In his own words, the means of achieving the regulatory ends were very clear: "I want powers to stop government advertisements, I want powers to suspend the licence of that media for a certain period if it behaves in a very obnoxious manner. I want powers to impose fines, all this in extreme situations".

The PCI chairman obviously had taken on too ambitious an agenda in his first few days on the job. Though he continued to raise issues on media functioning in the days afterwards, his impact was considerably dulled by the first impression he created, of being sharply prone to intemperate speech and summary judgment.

## Changes in regulatory regime

The Indian government for its part made a significant change in the regulatory regime for the media by raising the minimum threshold for companies seeking entry into the broadcast space. As against INR (Indian rupees) 10 million (around USD 200,000 at current rates of exchange) a corporate entity would now require a net worth of INR 30 million for acquiring rights to uplink to a broadcast satellite from Indian soil. The change will have no bearing on entities that are already in the domain. But news channels begun in the first flush of India's economic boom have been suffering a steady haemorrhage as ad spending in the economy seeks more realistic levels, after the heady days that began in 2003. Aside from the leading players in the metropolitan markets, print media enterprises too are in straitened economic circumstances.

CNN-IBN, a 24-hour news channel begun in the first flush of India's economic boom, with foreign equity shares that seemed always to be in excess of legally permissible limits, was sold, along with its related channels to the Reliance group, India's largest industrial conglomerate

with interests in petroleum, chemicals, infrastructure and a number of other undeclared sectors, in a deal that remains opaque for the most part.

Reasoned media debate on the matter has been suppressed by the enormous advertising clout that Reliance retains.

## Policing the web

India's parliament was in the second half of its budget session beginning at the end of April 2012, scheduled to take up a discussion on rules promulgated under the country's Information Technology Act in April 2011. These rules, which enshrined the principle of "intermediary liability", oblige internet service providers and social media sites to remove online content posted by users when asked to. A motion to revoke these rules was moved by a member of parliament from the left, P. Rajeev, who thought them contrary to the fundamental rights provision of the Indian Constitution. Before any content is removed on whatever account, he has argued, the user has to be given an opportunity to argue his case. The alternative would be a form of "private censorship".

Under provisions of the IT rules, any individual can send an "intermediary" – such as a website owner, blog or social media site – a request to remove content that he finds inappropriate or offensive. If compliance is not obtained within thirty-six hours, the complainant would be at liberty to register a complaint giving local police notice of a cognisable offence. A survey of how web-users react in such circumstances has been undertaken by the Bengaluru-based Centre for Internet and Society, which has found that the normal tendency is to remove content rather than risk entering into litigation.

In December 2011, police in the state of Maharashtra got an internet domain registrar to delete a website registered by freelance cartoonist Aseem Trivedi, who had set it up to host cartoons in support of the anti-corruption movement launched by Anna Hazare. This apart, a private citizen Vinay Rai has launched litigation in a Delhi court which seeks to hold firms that own social media sites or blogs, liable for content posted by individual users. Rai's petition cites provisions of the Indian Penal Code to insist that certain sites should be held liable for carrying material posted by individual users. This effectively identifies the

website as publisher of content rather than intermediary. In joining the litigation, the Indian government has argued that it too retains the right under law to order certain content removed from websites. And in hearing the civil suits, the Delhi court has ordered certain restraints on certain types of material being published on the web. Hearing the criminal suit filed by the Indian government, the court has gone further and suggested a *prima facie* case of “conspiracy”.

Under India’s law, the restrictions contemplated on internet content are very similar to those allowed on traditional forms of media. Article 79 of the Information Technology Act moreover, provides immunity for the intermediary against any form of liability for content. But the Indian government, in joining the litigation initiated by Vinay Rai, has sought the powers of censorship under article 69 of the Act and also claimed that the provision granting the intermediary immunity from liability

is infructuous, since a “criminal conspiracy” is underway to propagate offensive content.

The course of the hearings in the case initiated by Vinay Rai has alarmed advocates of free speech over the internet. Meanwhile, threats of various dimensions persisted to the traditional media from the arbitrary exercise of power. The government in the eastern state of West Bengal for instance, issued an order late in March, prescribing in minute detail the newspapers that public libraries could subscribe to. In what was clearly a retaliatory move against newspapers that have been critical of certain official decisions made since the government took office in May 2011, the circular left out the two most widely circulated Bengali language dailies and all English newspapers. Curiously, three dailies whose owner-editors were recently elected to the upper house of Indian parliament on ruling party tickets, find mention in the list.

Several instances have also come to light from Bihar, another eastern state, of unwarranted intrusions by the local administration into the functioning of newspapers, from the denial of advertisements to outright efforts to influence staffing patterns and content. This has led to the PCI constituting a team to inquire into the range of issues involved. At the time of writing, the team had concluded one visit to Bihar and met a large number of witnesses.

One manifestation of a formal mechanism of censorship through the year was the May 2011 advisory sent out to all media organisations in the north-eastern Indian state of Manipur, warning against the publication or broadcast of material “directly or indirectly in support of the unlawful/illegal activities of various organisations”. Life is complex for journalists in this state, where an estimated thirty active insurgent groups operate, of which at least five are have the ability to make a difference to daily social and economic activities. That there is a public interest served in reporting

the activities and statements of these groups, in that they influence civic life, cannot be denied. And this is what makes the phraseology of the official warning, covering “direct and indirect” support, excessively broad and difficult to comply with.

In the Maoist insurgency areas of central India, the conflict is more intense and wide, but simpler in that it is two-sided. Lingaram Kodopi, a freelance journalist in the state of Chhattisgarh, was arrested on 10 September 2011 on charges of raising funds for the Maoist insurgents. One of the few journalists from the region’s indigenous communities, Kodopi had done important work in bringing to light some of the humanitarian consequences of the conflict through a widely followed mobile phone based citizen journalism service. He is being held under the special security law in force in the state and is believed to have suffered torture and ill-treatment in prison.

## Decent work: an ongoing struggle

The status of the most recent wage award in India remains ambiguous. This is ironic because it was in India that the process of wage fixation through statutory bodies began as far back as 1958, setting a model that other countries in South Asia have emulated. On 25 October 2011, India’s Union Cabinet formally approved the recommendations of the G.R. Majithia Wage Boards for Journalists and Non-Journalists, which were submitted in December 2010 and laid the ground for an all-round increase in wages for newspaper workers.

India’s newspaper industry, both individually and collectively through the Indian Newspaper Society (INS), had meanwhile filed a petition before the Supreme Court of India, claiming an infringement of their fundamental rights in the statutory wage fixation process. It emerged at the first hearing of the petition in May 2011, that the administrative ministry of the Union Government dealing with the matter, had not provided copies of the report, submitted in December 2010, to the INS.

This procedural lapse raised concerns among India’s unions about the sincerity of the government in ensuring a fair deal for journalists and other newspaper employees. There were also persistent efforts to influence public opinion against the new wage boards. Beginning in May 2011, a number of prominent newspapers began carrying articles on the editorial and op-ed pages attacking the wage board proposals as a mortal danger to the free press. The All-India Newspaper Employees’ Federation (AINEF), an IFJ affiliate, pointed out in its newsletter in June 2011, that the campaign, spearheaded by India’s largest media group the *Times of India*, was carried out in violation of the basic norms of ethical journalism, such as giving all affected parties – in this case, the unions – the right of reply.

SAMSN partners in India reminded the INS, the premier industry-level association, that the constitutional validity of the wage board process for fixing levels of employee compensation in the newspaper industry had been upheld by the Supreme Court as far back as 1958, in the case of *Express Newspapers vs Union of India*. The court had held quite definitively then, that no effort to regulate working conditions and wages within an industry could be questioned on the ground that it violated the fundamental rights of the industrialists.

The only infirmity in the wage award process was that it was unable to make an assessment of the industry’s capacity to pay, because of the overall environment of opacity surrounding newspaper finances. The issue then was not so much one of press freedom, but of the persistent refusal of the newspaper industry to reveal its financial parameters, which made a fair determination of its capacity to pay virtually impossible.

Similar constraints hobbled the functioning of the Majithia wage board. In remarks that remained for the most part unreported in the Indian press, Justice Majithia had commented in January 2011, that the newspaper industry had been less than forthcoming in terms of providing needed information to his board.

In a turn of events that had India’s unions seriously worried, the wage board seemed to feature in the news agenda only when there was an occasion for the industry to attack its functioning and findings. Unions took the argument that in the interests of facing the twin crisis of profitability and credibility, it was necessary to invest in quality and ensure a fair deal for workers.

In July 2011, the Supreme Court declined to stay the implementation of the wage award, preparing the ground for its formal acceptance by the Union Cabinet. The record of implementation though, remains indifferent so far,

with only two newspaper groups – *Assam Tribune* in the northeastern Indian state of Assam and *Madhyamam* in the southern state of Kerala – having done so. The *Assam Tribune* group has had a tradition of maintaining an open and cooperative relationship between management and unions and the state government in the state of Assam has also been proactive in ensuring that newspaper managements remain accountable in terms of their statutory obligations.

In September 2010, the Assam state government had constituted two “joint inspection teams” to survey the newspaper industry in the state and assess the level of compliance with the wage board stipulations. Each team comprised representatives of the larger newspapers, those belonging to the small and medium category, the government, as also the main journalists’ unions in the state – the Journalists’ Union of Assam, the Assam Union of Working Journalists, the Assam Tribune Employees’ Union, among others. All newspapers were given a date when they would be visited by the inspection teams and told to keep relevant records ready. Geetartha Pathak, a member of the SAMSN steering committee, was part of these inspection teams.

Following a comprehensive process of inspection and assessment, the two teams concluded early in 2011, that barring two – the *Assam Tribune* and *Prantik* – no other newspaper had implemented the wage scales proposed by the R.K. Manisana Singh wage board as far back as 2002. They recommended that the state government initiate measures, if necessary by withdrawing advertisements and other forms of implicit support, to induce a more cooperative attitude on the part of the newspaper industry. Other sanctions were recommended against the newspaper groups that had failed to provide the needed information to the inspection teams.

Alarming, news agencies such as the Press Trust of India (PTI) and United News of India (UNI), have departed this time from their tradition of being among the first to implement wage awards. On 20 April 2012, employees nation-wide at PTI went on a day’s strike to protest this unexplained delay. The Maharashtra Media Employees’ Union (a composite union, i.e., one that includes both journalists and other newspaper employees of the *Mid-Day* group of publications) has filed suit in an industrial court in Thane, near Mumbai, asking for immediate implementation of the new wage award. And the Indian National Press Group Employees’ Union (representing the *Free Press Journal* and *Navshakti* publications) has filed another in the Mumbai Industrial Court.

The National Confederation of Newspaper and News Agency Employees, meanwhile continues to argue its case before the Supreme Court.

As a positive incentive for honouring the wage award, the state government in Goa announced a matching grant to newspaper groups that implement the wage board award. This incentive was worked out after negotiations with the Goa Union of Journalists and is supposed to help media groups overcome the initial dent in its financial balances till the revenue streams adjust to the rise in employee costs.

The record of implementation of the Majithia wage award – especially the example set by the *Assam Tribune* and *Madhyamam* – which are both on the lower side of the medium newspaper category -- shows that it is not revenue that is the constraint here. Rather, the insistence of the bigger newspapers that they will not implement the award is more about their determination to keep independent journalism on a tight leash.

## THE MALDIVES

### Political turmoil could set back basic rights

The year under review for the Maldives was one of rising political contention, culminating in a state of mutiny by elements of the national police force, which forced the resignation of Mohammad Nasheed as president on 7 February 2012. He was immediately succeeded by vice-president Mohammad Waheed Hassan, in accordance with constitutional process. The day after, Nasheed declared that his resignation had been triggered by an anxiety to avoid violence orchestrated on the streets by “powerful networks” aligned with Maumoon Abdul Gayoom, president of the Maldives for most of its history, who he had defeated in the republic’s first free and fair national elections in 2008.

Nasheed protested that he had been forced to resign at “gunpoint” by rebellious elements of the police and army. President Hassan refuted these claims, saying that the transfer of power was entirely legitimate.

In the months before the coup, there had been bitter accusations between the two rival political camps of media partisanship and unethical conduct. SAMSUN partner and IFJ-affiliate, the Maldives Journalists’ Association (MJA), had drawn attention to this alarming escalation in hostile rhetoric between the government of the Maldives and the media, almost a month ahead of the toppling of the Nasheed presidency.

On 11 January 2012, Mohamed Zuhair, press secretary in the office of the Maldives president, threatened criminal action against media that spread what he called “baseless and demonstrably false” claims about government actions. This followed the reporting of statements by elements of the

political opposition, questioning Nasheed’s loyalty to the tenets of the official religion in the Maldives.

The MJA contested the accusation of the president’s office, arguing that the media under the Maldives’ constitution, was at liberty to report statements made by responsible opposition politicians, even when time constraints do not permit detailed fact-checking.

Following the decidedly media-unfriendly statement by the president’s press secretary, a minister in the Maldives government, Adhil Saleem, declared publicly on 20 January, that broadcast stations suspected of “misleading the public” could have their licences revoked. Under Maldives law, the grant and renewal of broadcast licences is within the exclusive jurisdiction of the Maldives Broadcasting Commission (MBC), an autonomous and non-partisan body. Licences once granted cannot be revoked except through due process of law.

On 26 January, the office and studio of DhiTV, a private broadcaster in the Maldives capital of Male, were attacked. Carried out in the early hours of the day, the attack seemed to be retaliation for the station’s live coverage of opposition protests the previous evening, at the arrest of a judge on charges of corruption and abuse of public trust. The MJA reported that Hussain Nishan, a senior camera operator with DhiTV was injured when a group of masked men attacked the premises with bricks. Mohammad Shiham, a senior journalist, was injured the previous evening while covering the opposition protests.

The Maldives made significant progress in media freedom in the years since Nasheed’s election in 2008. But there were several persistent irritants between his administration and the media. Certain sources of discord also arose from Nasheed’s failure to win a majority in parliament and the presence of adversarial parties within the council of ministers that he had to work with. Some of the main issues

in media freedom in the republic persisted through the year. One of these was the withdrawal of public advertising from the privately-owned media – which Nasheed’s party insisted was an unnecessary subsidy given to an industry that was in any case tied up with powerful business and political interests.

#### A year of growing discord

The year under review began with unrest over economic issues. The rise in the value of the U.S. dollar had caused an increase in commodity prices, severely impairing ordinary middle-class budgets in the Maldives. A protest against this organised at the end of April 2011, gained extensive media coverage. But many of the journalists covering the event were taken into police custody after pepper spray was used on them. This included a number of senior journalists of the *Haveeru* newspaper

In the next phase of these protests on 5 May 2011 and the following day, a number of journalists were injured in varying degrees when riot police used shields to push them back from close proximity to the demonstrations they reporting on.

Because of the divisions between the presidency and parliament, there was no progress in another important component of the media freedom agenda. Under Maldivian national law enacted in 2009, all state-owned broadcasting assets were to be transferred from the government-controlled Maldives National Broadcasting Corporation (MNBC) to the Maldives Broadcasting Corporation (MBC), designated as an autonomous body controlled by a public trust. Nasheed’s party, though, balked at this transfer after the MBC board was appointed by parliament and turned out to have a large number of individuals with known oppositional loyalties.

Another spot of difficulty arose from the loss of public credibility of the empowered media regulator: the Maldives Media Council (MMC). The president of the body, Mohamed Nazeef resigned from his position on 23 October 2012 at the request of the MMC membership, after an audit report pointed out that he and other members had been collecting a monthly “living allowance” of MVR (Maldivian rufiah) 7,500 (just under USD 500).

A certain degree of uncertainty over how to interpret the clauses of the constitution most supportive of media freedom was evident in July 2011, when police sought to interrogate journalists on their sources and the authenticity of some of their news reports. The MJA issued a statement protesting the summons issued to the news editor of the DhiFM channel, Mohamed Jinah Ali, for inquiries regarding the authenticity of a news report broadcast in December 2010, concerning the alleged leak of the examination paper administered by an international school board.

Under the constitution of the Maldives, journalists are given the right to maintain the confidentiality of their sources. This is a rare instance of the basic law of a country providing this measure of protection for media freedom. Following the insistence of the MJA and its partners within SAMSUN that this basic entitlement should not be diluted, the

Maldives police dropped this line of inquiry.

An edict from the Ministry of Islamic Affairs of the Maldives resulted in the website of Ismail “Hilath” Rasheed being shut down in November 2011. Rasheed, a former journalist who edited the *Haveeru* newspaper, had been earlier threatened with legal action and the MJA had in early-2010 offered a public statement of support after what seemed a politically orchestrated campaign of vilification against him. He has since run a website which has argued the case for religious tolerance based on what he claims are the principles of Sufi Islam. Under the Maldivian constitution, the only religion recognised in the republic is Sunni Islam. Rasheed has since, publicly taken issue with the Maldivian government, accusing it of intolerance. On a visit to Maldives shortly afterwards, the U.N. High Commissioner for Human Rights, Navaneetham Pillay described the shutting down of the website as a “disturbing act” which raised concerns about rising “religious intolerance”.

On 10 December, Rasheed organised a rally – attended by an estimated thirty among his supporters – in the Maldivian capital, to make his case for religious tolerance. Stone pelters attacked the rally and Rasheed suffered a skull injury. Members of one of the principal opposition parties called for his arrest and announced their own counter-mobilisation for 23 December, to uphold the principles of Islam. Some of the material distributed over the internet to mobilise support for this counter-rally, spoke of inflicting death on the enemies of Islam as a righteous course of action. Global human rights bodies expressed their concern at the violent rhetoric and the failure of the government to act against those who attacked Rasheed’s rally.

On 14 December, Rasheed was arrested. A charge was made out that he had made public statements against the constitution of the republic. This was later amended to “unlawful assembly”. Rasheed was released after twenty-four days in detention. In another clear manifestation of how religious orthodoxy had become a significant factor in political contests and also in terms of the right to free speech, police arrested a number of journalists – though very briefly – in November 2011, and took them to the police detention island of Dhoonidhoo, while they were covering an opposition protest against the visual depiction of religions other than Islam in the murals put up at Maldives’ main international Airport.

#### Regime change fuels further contention

Following the police mutiny and the regime change of February 2012, contention increased between the political parties and the media. While covering a protest by Nasheed’s Maldivian Democratic Party (MDP) on 8 February 2012, there were reports that some of the journalists were badly hurt. The police also reportedly confiscated a cable from the camera of the private broadcaster RaajjeTV.

A group of political agitators entered the private TV station VTV, attacked journalists, destroyed equipment and lit a fire on 7 February 2012. The MJA has determined from



Demonstrations against the change of regime in the Maldives led to new hazards for the media (Photo: Hani Amir/Creative Commons).





A protest against the detention of members of parliament after the February political turmoil (Photo: Dying Regime/Creative Commons).

its inquiries, that this attack was carried out by a group that went into the station when it was broadcasting live footage of clashes between the MDP and opposition.

Reacting to this attack, the newly appointed minister dealing with internal security matters, Mohamed Jameel, warned that charges of “terrorism” would be levelled against those arrested for those protests, which also targeted public and police property. The MJA reacted to the attack on VTV by calling it a “terrorist” action.

Jameel is deputy leader of the minority Dhivehi Qaamee Party (DQP) and was, according to reports from the Minivan news service, investigated by Nasheed’s government for “hate speech” after his party circulated a pamphlet arguing that the MDP was part of a “Jewish Zionist conspiracy” seeking to “spread Christianity” and “undermine Islam in the Maldives”.

The MDP responded to accusations of terrorism by pleading that it was engaged in a peaceful protest and that the violence had been unleashed by partisans of the coup that had just overthrown the Nasheed presidency. Commenting on the events, Minivan news observed that MDP anger against VTV had “been building since the events of February 7 when staff of the then-state broadcaster Maldives National Broadcast Corporation (MNBC) were ordered to patch through the VTV broadcast”. VTV in other words, was suspected of having played a partisan role in the police mutiny and the civil unrest that led to Nasheed’s resignation. It is learnt that VTV is owned by a leader of the Jumhoree Party, who is also a member of the Maldives parliament. Its owner has extensive interests in the tourism sector and the Villa Island resorts – to which VTV is linked –

was placed on a travel advisory by a group within the United Kingdom working for the restoration of democracy in the Maldives.

A journalist sustained face injuries while covering the protests on 25 February 2012 outside the DhiTV office. Another sustained head injuries at the same site the following day. Still another was attacked with a stone by a group of masked men outside the DhiTV office. And another was arrested while covering the protest and released shortly afterwards. A journalist from SunOnline was hurt by police on 6 March 2012.

The MBC soon after the change of regime in February 2012, decided to license local broadcasters, settling a long-running dispute over terrestrial broadcasting over the far-flung islands of the Maldives. Concurrently, it was also handed over the government-owned TV and radio stations, fulfilling a part of the intent of the law on public service broadcasting.

Though this seemingly is in conformity with the mandate with which MBC was created as a public service broadcaster in 2010, the transfer of government-owned assets to the supposedly autonomous MBC does not yet ensure that the public interest is safeguarded. The MDP has for instance, made known its intent to lodge a complaint against MBC, on the grounds that it is in blatant violation of the mandate conferred by the Public Broadcasting Services (PBS) Act of August 2010, and is producing content that is biased towards the political parties that took power on 7 February. The MBC is in the words of former president Nasheed’s defenders, deliberately shutting out all other political groups.

## NEPAL

### A decisive phase

As this report is released, there is less than a month left of the mandated tenure of Nepal’s Constituent Assembly (CA). Since being elected in April 2008, the CA has also functioned as a national parliament and seen four Prime Ministers, including one who lost his majority in quick time and continued as caretaker for seven months. The spirit of consensus that underpinned the Comprehensive Peace Agreement (CPA) of 2006 – ending a decade-long Maoist insurgency and paving the way for a transition to a democratic republic – has proved elusive ever since the elections of 2008 threw up an indecisive outcome with the Maoists as the largest force.

This period of unsettled politics has been a time of constant struggle for Nepal’s journalists. Significant recognition of the role that journalists play in preserving media as a platform of social information and civic engagement, came with the amendments to the Working Journalists’ Act, enacted in 2007. The law as amended, has important provisions on security of employment and periodic wage revisions for media workers. A basic minimum wage can be specified under the act, subject to periodic revision. The law also makes it mandatory that working journalists should be issued letters of appointment by all media establishments, assuring them of security of tenure. Short-term contractual employment would be permitted when circumstances warrant, but would not under any circumstances, exceed 15 percent of the total number of working journalists in the news organisation. A standing body to monitor levels of compensation in

the industry and oversee job security issues was conceived under the law.

### Working conditions remain dismal

As reported in the South Asia Press Freedom Report for 2011, a committee formed under the WJA pointed out in a report submitted November 2010, that 37 percent of the country’s journalists are paid below the prescribed minimum wage, while 45 percent are working without letters of appointment. Among the media houses surveyed, 48 percent had failed to introduce basic measures such as retirement and welfare funds, medical cover and insurance.

Among the media groups reported by the FNJ to be in default on basic WJA obligations is the government-owned Gorkhapatra. Though statutory wage levels are formally notified within this group, which publishes the Nepali language *Gorkhapatra* and the English-language *Rising Nepal*, a large number of working journalists – well beyond the 15 percent limit sanctioned under the WJA – are believed to be employed on contract. In a meeting with an International Media Mission that visited Nepal in February 2012, Prime Minister Baburam Bhattarai, confessed himself deeply disturbed by this information. He assured the mission that he would make an effort to determine the factual situation and remedy any abuse that the government-controlled media houses may be engaged in.

According to the FNJ, the recent media boom in Nepal has created favourable conditions for professionals within newspapers and broadcasters catering to the upper income demographic strata, which are generally favoured by the high-value advertisers. However, the situation for the vast



At a meeting with the International Media Mission to Nepal in February 2012, Prime Minister Baburam Bhattarai committed himself to strong free speech clauses in the constitution (Photo: Courtesy FNJ).



Home Minister and Deputy Prime Minister Vijay Kumar Gachhadar would like to see an end to impunity and greater transparency in investigations into journalists' murders (Photo: Courtesy FNJ).

majority of journalists, including those in Nepal's dynamic and expanding radio sector, remains dismal.

Civil society actors have mixed feelings about post-1990s media growth, especially since the restoration of democracy in 2006. New investments, they feel, have been driven, in the main, by commerce or narrow political calculations. Rights activists speak of the need to unravel the politics of the new investments in the media, which have seemingly been undertaken with little regard for sustainability. Gaining a political voice in the transition underway seems to be a motive. Numerous political and business actors have been investing in the media with this quite transparent motivation.

Though rules of entry into the media domain need to be liberal, journalists and rights activists are convinced that some discretion would be warranted in the public interest. Sustainability and security are the two main issues facing journalists today. No story on corruption for instance, escapes without an interrogation of the motive behind it. There is in short, a public reluctance to assess any such media story purely on merits, because of the background of investments in the industry made with dubious motives.

Civil society is unconvinced about the credentials of the 200 radio broadcasters that have begun operations since 2006. The distinction between community radio broadcasters and commercial operators has been blurred. Commercial broadcasters often competed on the turf meant for community radio, possibly eroding the revenue sources of the latter category.

Poor pay means that journalists are susceptible to diverse pressures from state and non-state actors, including criminal

elements. In Nepal's main industrial town, Biratnagar (Morang district), FNJ representatives and civil society actors point out that journalists at the entry level are paid NPR (Nepali rupees) 3,000 per month (roughly about USD 40), while a factory worker begins with NPR 9000.

The FNJ on 26 January 2012 filed a writ petition in the Supreme Court of Nepal seeking a direction to government to fully implement the WJA in state-owned media organisations. Despite the law's clear mandate for decent wages and working conditions for journalists, state-owned media enterprises in Nepal have been conspicuous in their default on these requirements. The media organisations named in the FNJ petition are broadcasters Radio Nepal and Nepal Television, newspaper publisher Gorkhapatra Corporation, the news agency Rastriya Samachar Samiti, and the Office of the Press Registrar.

The petition states that 45 percent of the journalists working in government owned media houses still do not enjoy the minimum salary fixed by a duly empowered committee. Only 14 percent of journalists have been receiving regular salaries. The petition also states that government owned media have been encouraging private media houses to disregard all applicable provisions of the law.

Since the Nepal government is a big advertiser, there can be no free media without a fair advertising policy. Among the FNJ's other priorities is the enforcement of clear and transparent norms on media investments. Where media owners have potentially conflicting business interests, the FNJ would like to see these clearly disclosed in all relevant contexts.

## Free speech clauses in Nepal's draft constitution

Political complexities have tended to drown out finer details of the constitutional debates underway in Nepal. For the rest of the world, the unavailability in English of most draft provisions that have been circulated, has contributed to a lack of awareness.

A group of public-spirited lawyers -- the Nepal Constitutional Foundation (NCF) -- has now made the effort to translate all available material on the draft provisions into English. The status of various clauses available at the NCF website is not entirely clear. Nepal's republican constitution is a work in progress and there are provisions on which agreement has been achieved and many on which minor disputes could be resolved through changes in language. There are nevertheless, some on which disputes are particularly difficult. These have all been referred to a subcommittee constituted with the specific mandate to handle seemingly intractable disputes.

A vote in the Constituent Assembly (CA), it is believed, will only take place once a full draft is placed before it. The procedures that will then be followed are not yet available in the public domain. Yet, the material available on the NCF website gives a fair idea of the trajectory on which the debates are embarked (for translations of all available material on the fundamental rights in the draft constitution, see: [http://www.ncf.org.np/ca-archives/fundamental\\_rights.htm](http://www.ncf.org.np/ca-archives/fundamental_rights.htm)).

Within article 2 of the draft constitution, which deals with the fundamental rights, clause 2a provides every citizen the freedom of opinion and expression. In much the manner of other constitutions in South Asia, it then goes on to state that this assurance does not prevent the state from adopting laws that impose "reasonable restrictions" on the right to free speech. Such laws restricting "free speech" could be adopted to prevent acts which undermine particular interests. The acts that would specifically be prohibited, would be those that may:

"undermine nationality, sovereignty, independence and integrity of Nepal";

"undermine the harmonious relations subsisting among the federal units";

"jeopardise harmonious relations among people of various castes, tribes, religions or communities"; contribute to or aid "defamation, contempt of court or incitement to an offence"; and

"be contrary to decent public behaviour or morality".

In what could possibly be an innovation for the right to free speech, article 4 of the draft constitutional proposals seeks to institute a set of special guarantees for the mass media. Few national constitutions provide for a unique charter of rights for the media industry, and Nepal's approach merits wide debate.

Within South Asia, only the Maldives has a constitution which provides special assurances for journalism and the media and these have mostly

proved inoperative. All other countries treat the media as deserving of no special protection, other than those available to ordinary citizens. In the jurisprudence established. India has established a jurisprudence which gives the media industry another category of fundamental rights, which is the right to commerce. But nowhere has the potential for a conflict between free speech and the right to commerce been dealt with convincingly.

Perhaps the most significant aspect of Nepal's draft proposals on the media, is that it clearly prohibits any form of "prior restriction on publication, transmission (broadcasting) or information flow or printing of any news item, editorial, article, feature or any other reading, audio, audiovisual materials by any means including electronic publication, transmission (broadcasting) and the press".

Behind the legalese is a clear disavowal of any constitutional power of censorship over media content. But shortly after, the draft provisions spell out the grounds on which this absolute prohibition could be inoperative. And the circumstances are in most part, symmetric with those listed as grounds on which the free speech right could be restricted. The language though, is not clear about whether these would be prior restrictions or sanctions operative only after the fact.

The distinction between prior restraint and *post facto* correction is crucial. Prior restraint of any sort on the right to free speech is considered to be the indispensable prop of an authoritarian political dispensation – indeed as the first step towards censorship. *Post facto* correction in accordance with clearly defined legal norms, in contrast, is an indispensable element in any democratic system, where liberty is exercised with responsibility.

It seems to be the case, that the prohibition of prior restrictions is absolute in the draft text of the constitution that is available. Any restriction would be *post facto*. There is in other words, no warrant for any agency of the state to intervene to limit or restrict coverage in any newspaper or news channel before the fact. Once the deed is done, the limitations on free speech could kick in, but in a manner to be established through due judicial process.

The difficulty with the existing text of Nepal's draft constitution, is that it has terms such as "may undermine", "may jeopardise", and "may harm", that could allow for excessively broad judicial interpretations restricting the free speech right.

Experts have suggested that if legally feasible, a strict burden of proof could be introduced, such as the need for the prosecution to establish that any breach or jeopardy that has occurred has been on account of the impugned act of speech. This has the difficulty that hate speech would escape sanction if it does not directly lead to violence. And if it does, the legal protections would only kick in after the fact, when the damage is already done.

Nepal is dealing with several complexities in course of its transition to a republican democracy. And its decisions on matters of free speech will be crucial.

There was a case in 2010, where the Indian embassy in Kathmandu induced some big advertisers in the Nepal media to pull their ad placements in publications of the *Kantipur* group of publications. This followed an effort by to block the shipments of newsprint ordered by the group, which had arrived at the Indian port of Kolkata for trans-shipment to Kathmandu. The extraordinary interventions by the Indian embassy were read as a direct effort to influence editorial policy.

In the year under review, a similar policy of ad denial is believed to have been adopted, at the behest of powerful Maoist figures in the Nepal government, against the Himal group of publications, in retaliation for the critical commentary carried by its fortnightly Nepali language paper, *Himal Khabar Patrika*. In an overall context of underdeveloped business infrastructure and low consumption, ad denial could be a major dent in newspaper fortunes. The FNJ has in this and other cases, insisted that small and independent media houses, where ad denial is most likely to cause damage, must not suffer because of their political stance or independence.

#### Important message from Kathmandu court

An important blow was struck for journalistic independence when a court in Kathmandu on 12 April 2012, reinstated Ram Prasad Dahal in a job he was dismissed from in 2005. In delivering justice to a journalist who was clearly victimised, the court also imposed a prison sentence and a fine on the publisher of his newspaper, for wrongful labour practices and wilfully disregarding an earlier judicial order. Dahal's services as chief reporter with the *Rajdhani* daily were terminated on 2 March 2005, following which he filed a writ petition with the Court seeking remedy. He believes that he was sacked because of his political beliefs, which were against the absolute power wielded by the Nepali monarchy at the time.

On 8 October 2006, the court found that Dahal had not been dismissed on valid grounds and ordered Mahendra Sherchan, chairman of Utkarsha Publications – and owner of the *Rajdhani* daily – to reinstate Dahal in his position and pay him due compensation and all back wages owed. The ruling was not honoured and in taking up the matter again, the Labour Court imposed a two month prison sentence and a fine of NPR 5,000 (approximately USD 60) on Sherchan. The verdict is considered historic as it is the first of its kind in Nepal and suggests a new charter of rights for Nepal's journalists. Dahal claims that the media house also owes him NPT 200,000 (approximately USD 2,400) in unpaid salary.

#### Physical security

Physical security of journalists was less of an issue in the year under review than in the years of the internal conflict or its immediate aftermath, when conditions tended to be unsettled and the practice of journalism, prone to unforeseen risks and hazards. Serious incidents though, continued to recur.

On 1 April 2012, Yadav Poudel, a correspondent for the Kathmandu based *Avenues TV* and *Rajdhani* daily, was found dead on the premises of a hotel in Birtamode in Jhapa district of eastern Nepal. According to police, he bore stab wounds and had seemingly been thrown off a higher floor, resulting in several bone fractures. The police subsequently took into custody a number of people, including two local hotel owners and a professional associate of the slain journalist. No motive though had been established at the time that this report was sent to press. A team of the FNJ visited the site shortly after the murder, to underline the importance of an early resolution of the case. There were reports in the Kathmandu press that Poudel had published a number of reports indicating that hotels in the area were engaged in commercial sex trade. Another line of inquiry is that Poudel may have been exploring a new business venture with one of the detained hoteliers.

Journalism suffered serious assaults during Nepal's decade long Maoist insurgency, leading to self-censorship as the norm. The abuses of this period remain to be addressed in a spirit of truth and reconciliation. In terms of the threats and violations that persisted even after the Comprehensive Peace Accord (CPA) of November 2006, the ordinary law of the land has been held appropriate by the Supreme Court.

Among the serious crimes registered after the CPA, are the killing of Prakash Thakuri some time after his abduction from the western district town of Mahendranagar in July 2007; Birendra Sah, abducted in October 2007 from his home in Bara district of central Nepal and believed killed soon afterwards; J.P. Joshi, missing since September 2008, whose remains were found in a thickly forested region of western Nepal two months afterwards; and Uma Singh, murdered in her home in Janakpur in the southern plains in January 2009.

In March 2010, the owner and editor of *Janakpur Today* newspaper and the FM radio station of the same name, Arun Sngхания, was killed in broad daylight. Nepali police have still not made any headway in this case. Debi Prasad Dhital, a radio operator in the western town of Tulsipur in Dang district was shot dead in July 2010. This too is a crime that remains unsolved.

More recently, in January 2012, implicit death threats were issued to the editor of *Himal SouthAsia* Kanak Mani Dixit, and two other prominent public figures in Nepal -- Kul Chandra Gautam, a former U.N. assistant secretary-general, Subodh Raj Pyakurel, a human rights activist. The three were declared "enemies of the people" in an article published in the 30 January 2012 edition of the monthly magazine *Lalrakshak*, the mouthpiece of the ruling Unified Communist Party of Nepal (Maoist) or UCPN(M).

On 30 May 2011, a district court sentenced Mainekar Giri and Ramekbal Sahani to life terms in prison for Birendra Sah's murder. Giri and Sahani, both reportedly members of the UCPN(M), were arrested shortly afterwards and almost immediately suspended from membership of the party. The UCPN(M) was in the process of cementing a peace agreement with other political formations in Nepal at the



In the two cases of Khilanath Dhakal (left) and Kishore Budhathoki, journalists who suffered serious physical assault in eastern Nepal, the response by the authorities has been held adequate (Photo: IFJ Asia-Pacific).

time. There were suspicions that the two suspects continued to enjoy the patronage of the Maoist leadership, especially after the UCPN(M) emerged as the largest force in Nepal's Constituent Assembly elections in April 2008 and took up the reins of government as leading party of a broad political coalition.

Three other suspects in the murder, Lal Bahadur Chaudhary, Hareram Patel and Kundan Fouzdar, have been declared as absconders from the law and the FNJ believes, they still work for the UCPN(M), despite their suspension from the party.

In June 2011, the Dhanusha district court in Janakpur sentenced two to life in prison for the murder of Uma Singh. The brutal murder had led to nation-wide protests by the FNJ and international expressions of outrage.

Local authorities quickly arrested five persons though Umesh Yadav, the individual who allegedly ordered the killing has since remained elusive. Lalita Singh, a sister in law of the murdered journalist, and Nemlal Paswan were found guilty, while three other accused, Shrawan Yadav, Bimlesh Yadav and Akhilesh Singh, were acquitted.

These partial gains in dispelling the climate of impunity have to be assessed against the continuing obstacles in the way of securing justice for Prakash Thakuri and J.P. Joshi. A case was filed by Thakuri's wife against named cadre of the UCPN(M) soon after his disappearance. When charges were apparently ready to be formally laid in October 2009, the case was ordered dropped by the Nepal government, on the grounds that a political case of its nature should be addressed through processes other than the law. The FNJ and certain civil society groups then petitioned the Supreme Court, which held that a crime committed after the CPA of November 2006 could not be deemed to have a political basis. By a writ of mandamus, Nepal's Supreme Court then directed the district court to reopen the case. Though formally underway, the prosecution according to the FNJ, remains paralysed by political uncertainty.

J.P. Joshi's killing is believed to be the outcome of a dispute within the UCPN(M) ranks. A commission of inquiry was set up to ascertain the truth, with the explicit mandate that findings would be made available within fifteen days. After repeated extensions, the committee finally submitted a report late in 2009, only to have it vanish under a shroud of official secrecy. Late in 2010, an application under the Right to Information law by Ramji Dahal of the fortnightly paper, *Himal Khabar Patrika*, revealed that the commission had spent NPR 3 million (USD 40,800) on its sittings, including in the acquisition of SIM cards for members' mobile phones. All this time, Joshi's impoverished family had received absolutely no financial support. Soon after these reports were published, Nepal's cabinet met to approve financial support of the order of NPR 1.5 million (USD 20,400) for Joshi's family.

At a meeting with the International Media Mission to Nepal in February 2012, Nepal's Home Minister and Deputy Prime Minister, Vijay Kumar Gachhedar, spoke of his commitment to securing justice for all cases of human rights violations during the war and its aftermath. He took the plea that the peace process needed to be completed since the appropriate legal context for addressing the abuses of the past would only be achieved after a new constitution is agreed. In regard to the Joshi murder inquiry, the minister underlined his personal commitment to transparency, but argued that the final call on the matter was for the Cabinet to make. Prime Minister Bhattarai argued similarly that the political situation needs to settle down before the range of issues involving attacks on journalists during the years of strife could be addressed.

#### Recent attacks in the east

Khilanath Dhakal, a young reporter based in Biratnagar with *Nagrik* daily, was attacked on 5 June 2011, by cadre of the Youth Force, an affiliate of the Communist Party of Nepal (United Marxist-Leninist) – or CPN(UML) -- which then led Nepal's governing coalition. This followed a shootout in the Morang district court premises earlier that month in which

two local criminal gangs clashed. Dhakal, who was assigned to court coverage that day, reported that one of the gangs was associated with the CPN(UML). The report spoke of the rivalry between Parashuram Basnet, a local leader of the Youth Force and the detained person who was the target of the shooting.

Three days after the report appeared, Dhakal received a threat from Basnet who asked for a retraction of the published news report. Later that day, Manoj Rai and Rohit Koirala, both known associates of Basnet's, called Dhakal to a meeting at 10 p.m. When he presented himself for the meeting at the assigned spot, Dhakal was taken to a remote and isolated place by motorcycle and badly assaulted by Rai and Koirala. He was left at the site with severe injuries, including a fractured nose, and found by a policeman who took him to hospital. Koirala was arrested within hours of the attack on the basis of Dhakal's complaint, registered orally by the police. Rai was arrested six days later following an order issued by the local court. Basnet remains at large. The CPN(UML) called a two day strike when their local leaders were arrested, but this did not materially influence the investigation.

Kishore Budhathoki, a reporter with *Annapurna Post* in Sankwasabha district in the eastern region of Nepal, was taken from his home on 11 August 2011 by two men armed with *khukhris* (daggers). He was taken to an isolated spot and slashed across the head with the daggers. He remembers very little of what happened subsequently.

The two assailants were involved with a local criminal gang and one of them had been named in a report published under Budhathoki's name for his involvement in a case of domestic violence. Both have since been convicted to maximum terms of imprisonment under the law.

## PAKISTAN

### A year of extreme hazard and trauma

Pakistan's year of extreme hazard for journalism was flanked at either end by two deeply traumatic murders. At the end of May 2011, Syed Saleem Shahzad, a widely-read investigative journalist, disappeared while on his way from his home in Islamabad to a TV studio. His body was discovered two days later about 150 kilometres southeast of Pakistan's capital city, bearing marks of torture.

On 19 April 2012, Murtaza Rizvi, a senior journalist and highly-regarded leader-writer with the English daily *Dawn*, was found murdered at a private home in a neighbourhood of the port city of Karachi. There was no link proven to his work and Rizvi's family was anxious to discourage any media speculation about the motives behind the crime.

Just days before Shahzad's murder, Nasrullah Afridi,

Journalists' bodies in Nepal appreciate the swift actions by the police in these two attacks, but insist that the key actor in the Dhakal case still manages to evade accountability. Absent a clear explanation, it must be assumed that he continues to enjoy the patronage of the CPN(UML), which is a substantial player in national politics.

The situation of strife has settled to some extent, though specific problems persist, arising from the border location of certain districts and the consequent safe havens available for criminal elements. Political parties all seem to have a setpiece on press freedom. They all claim to be deeply respectful of the principle, but insist in the same breath, that the press has to be responsible and ethical. All parties vow to expel anybody involved in attacks on the press but more often than not, fail the test at every specific occurrence. Though they do not deny that criminal elements have infiltrated their cadre, the political parties argue that this is only on account of unsettled political conditions and the prolonged uncertainty over the enactment of a republican constitution.

In a symmetry that shows a certain hardening of attitudes on both sides, journalists all blame the political parties. As a journalist in Biratnagar town told the International Media Mission of February 2012: "The political parties rule the law, they are not ruled by the law. Until this changes, nothing changes". There has been too much back-and-forth between media and political parties in fixing responsibility for unsettled and often hostile relations. Media organisations recognise that it is time to implement sound ethical guidelines as part of their internal editorial process. But they are not yet ready to take full responsibility for the consequences arising from violence against journalists.



The killing of Saleem Shahzad led to national and international outrage and mobilisation by Pakistan's journalists demanding justice (Photo: Sardar Rowaid/PFUJ).

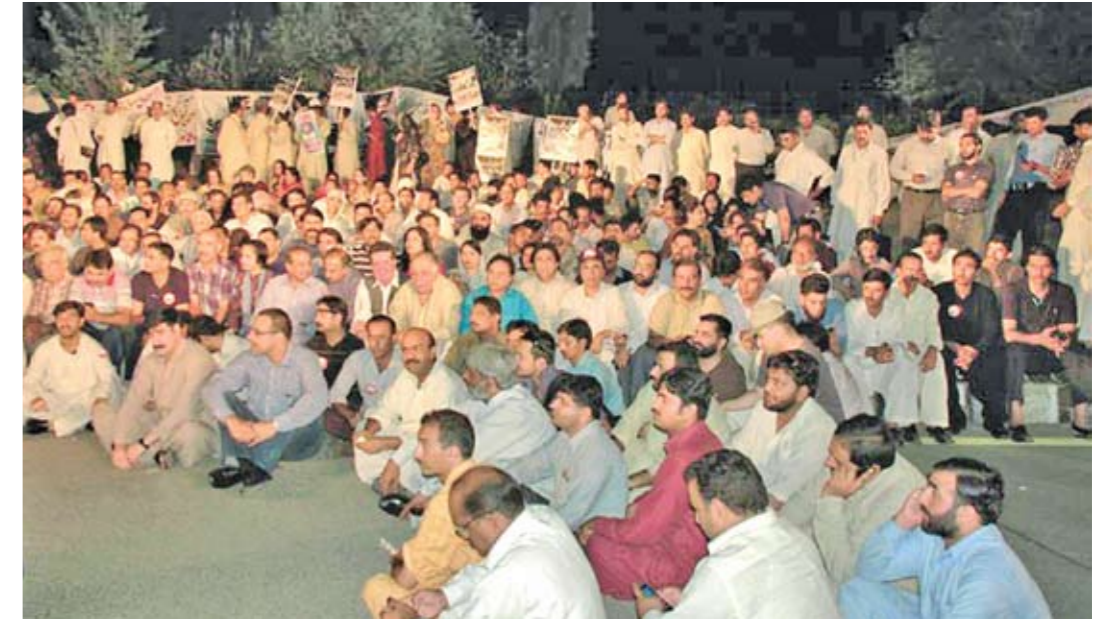
who was associated with Pakistan Television (PTV) and the Urdu daily *Mashriq*, was killed when a remote-control device planted in his car exploded at Peshawar's Khyber Super Market. A member of the Tribal Union of Journalists, which is an affiliate of SAMS partner, the Pakistan Federal Union of Journalists (PFUJ), Afridi had been reporting on the conflict between militant groups and state agencies for years and had told local authorities of serious threat apprehensions as far back as 2007.

In the months since, five other journalists have died violent deaths in Pakistan. On 11 June 2011, Asfandyar Khan, a journalist with the *Akhbar-i-Khyber* newspaper, was one among thirty-nine killed in a bomb attack in a commercial building in Peshawar's cantonment area. Shafiqullah Khan, who had joined The News International just days before, was severely injured in the blast and died on 16 June while under treatment at a hospital near Rawalpindi. Another seven journalists were injured in the bomb attack, which followed the twin-strike strategy that has often been adopted by militant groups. A low intensity explosion was first set off and as rescue workers and media teams gathered at the site, a more lethal second explosive device was detonated.

Muneer Shakir, a reporter with Online News Network and the Baloch television station Sabzbaat, was shot and seriously wounded on the afternoon of 14 August 2011 as he headed home from the press club in Khuzdar in central Balochistan. He died shortly afterwards at the district hospital. Shakir was not known to have received any direct threats, but may simply have been caught in the crossfire of the ongoing strife in Balochistan.

Javed Naseer Rind, a senior sub-editor and columnist with the Urdu-language daily *Tawar*, disappeared from his hometown Hub in southern Balochistan on 9 September 2011. His body was found with torture marks and multiple gunshot wounds on 5 November. Rind was also a member of the pro-independence Baloch National Movement (BNM) and his murder came to light just days after the bodies of seven other abducted Balochi nationalist activists' were found in different parts of the troubled province.

On 17 January 2012, Mukaram Khan Atif was shot while offering evening prayers at a mosque near his home in Shabqadar Town, Charsadda, in Pakistan's central Khyber



The PFUJ began a sit-in protest outside the Federal Parliament in Islamabad after the initial stalemate in announcing a judicial inquiry into Shahzad's murder (Photo: Shabbeer Hussain/PFUJ).

Pakhtunkhwa province. He was taken to a local hospital where he died later that evening. Khan Atif, a journalist for 15 years, worked as a correspondent for *Dunya TV* and *Dewa Radio*, a Pashto language radio channel of the Voice of America.

### Assaults and the threat of abduction

There have been in this time, numerous cases of journalists being attacked and threatened, as also one long-drawn out abduction which fortunately ended in a safe release. Rehmatullah Dawar of *Aaj TV* and the Urdu daily *Ausaf*, was abducted in North Waziristan, in the Federally Administered Tribal Areas (FATA), on 11 August 2011. Nobody claimed responsibility, nor were any demands placed after Dawar was snatched from a busy market area in the town of Miranshah. The local leaders of the Pakistan Tehreek-e-Taliban (PTT) which had otherwise a fearsome record of violence against civilians, did offer to assist in locating Dawar. Finally, after a sixty-one day ordeal, Dawar was released unharmed.

In one notable case, Awaz TV cameraman Abdul Salam Soomro received serious threats after he filmed a uniformed trooper of the paramilitary force, the Pakistan Rangers, killing an unarmed teenager, Sarfraz Shah, in Karachi in June 2011. On 12 August 2011, after the Ranger accused of the killing was convicted for the crime, the PFUJ demanded that media organisations implement measures, including through the provision of insurance, to protect media workers who serve the public interest.

Safety though remains an area of neglect for media houses. The PFUJ nonetheless has organised strongly through the year under review to enforce accountability and demand an end to the climate of impunity that has for too long, hung over the killing of journalists engaged in their work. In the outrage that it gave rise to, the Saleem



A day and night protest by the PFUJ persuaded the authorities to quickly agree on the composition and terms of reference of a judicial inquiry into the Shahzad murder (Photo: Shabbbeer Hussain/PFUJ).

that allegations of ISI involvement were “baseless” and “tantamount to unprofessional conduct on the part of the media”. The ISI, the official stated, would “leave no stone unturned in helping to bring the perpetrators of this heinous crime to justice”.

Immediately afterwards, Hameed Haroon, president of the All Pakistan Newspaper Society (APNS) issued a statement in which he confirmed that Shahzad had reported receiving threatening messages on at least three occasions, allegedly from officials of the ISI. “Whatever the substance of these allegations, they form an integral part of (Saleem) Shahzad’s last testimony,” Haroon said in his statement. “Shahzad’s purpose in transmitting this information to three concerned colleagues in the media was not to defame the ISI but to avert

a possible fulfilment of what he clearly perceived to be a death threat.” The head of the Human Rights Commission of Pakistan, Zohra Yusuf, was reported as saying then, that although there was no conclusive evidence, “circumstances seem to point to state security agencies because there have been other cases where journalists have been picked up”.

PFUJ president Pervaiz Shaukat on 2 June announced that journalists would assemble in Islamabad and stage a sit-in at the premises of the national parliament if a judicial commission with appropriate terms of reference was not set up by 10 June to inquire into the Shahzad murder. The demand was endorsed by the APNS which had been consulted on the agitational strategy. Interior Minister Rehman Malik soon afterwards committed the Government to forming such a commission in consultation with the Chief Justice of Pakistan, Iftikhar Mohammad Chaudhry. Aside from an incumbent judge of the highest bench, the commission would have members drawn from the police force as also a PFUJ representative.

Yet in an indication of the powerful forces resisting a credible judicial inquiry, the government failed to deliver on this initial promise. Rather than a judge of the Supreme Court, the initial nominee for heading the commission was a judge of the Federal Shariat Court, which oversees the implementation of customary Islamic law. Unlike judges of the Supreme Court who have full autonomy and enjoy security of tenure, the Shariat Court judges are government nominees with limited three-year tenures. Turning down the Government proposal, the PFUJ went ahead on 15 June with protests that drew journalists and others in their hundreds to an overnight sit-in at the Federal Parliament in Islamabad.

On 16 June, it emerged that Justice Mian Saqib Nisar of the Pakistan Supreme Court would lead the inquiry, though procedurally, it was necessary to obtain the formal consent

Shahzad murder in this sense, was a key event. As hundreds gathered for his funeral on 1 June, journalists’ unions affiliated with the PFUJ raised black flags and conducted condolence meetings with human rights activists and civil society groups countryside. The PFUJ joined a number of other organisations of journalists and press freedom advocates from around the world, to issue a joint letter, appealing to the Government of Pakistan to quickly implement all appropriate measures to protect media personnel and to prosecute murderers of journalists in Pakistan. The letter addressed to both President Asif Ali Zardari and Prime Minister Yousuf Raza Gilani, noted that Pakistan’s toll of dead and injured journalists and media workers placed the country ahead of Iraq and Mexico as the world’s most dangerous place for journalists. “We fully appreciate the great difficulties confronting all people in Pakistan at this time. However, we also know that Pakistan has the resources and expertise to conduct credible investigations into murders of journalists and to bring culprits to justice,” the letter said.

Meanwhile, there were numerous well-informed observers who noted the possibility of a link between Shahzad’s investigative reporting on the purported links between Islamic insurgencies and Pakistan’s army and intelligence services. He had in fact, just two days before his disappearance, published the first of a two-part investigative series into alleged links between the global Islamic insurgent network Al-Qaeda and top officers of the Pakistan Navy. These reports which were beginning to enjoy worldwide credibility and fuelling insistent calls for accountability, induced the intelligence arm of the Pakistan military, the Directorate of Inter-Services Intelligence (ISI), to issue a statement on 1 June, denying any involvement in Shahzad’s disappearance and murder. An ISI official was quoted by the Associated Press of Pakistan (APP) as saying



The PFUJ has heightened collaboration with international partners including the IFJ, in raising awareness of safety issues and media rights (Photo: Alexander Calvin).

of the Chief Justice. Following an application filed by the PFUJ counsel before the bench of the Chief Justice on 19 June and a concurring submission from the Government, a formal notification of the commission of inquiry was made. A key moment in its deliberations came on 27 September 2011, when Brigadier Zahid Ahmad Khan, ISI sector commander, submitted a written statement to the commission and answered questions *in camera*. The report of the commission when it was finally submitted on 10 January 2012, disappointed many in its failure to identify any specific suspect behind Shahzad’s murder (see box).

### Issues of control and regulation

Pakistan’s status as frontline status in a global war cast a long shadow over the functioning of the media. Critical commentary over global media channels was often seen within the country as being unfair and unfounded. Illustratively, a two-part documentary titled “Secret Pakistan” broadcast by BBC World in September 2011, led to cable operators in the country blocking the channel for several months. Press freedom organisations subtly accused the Pakistan military and its agencies of pressuring the cable operators to impose the blockade. But the Pakistan Prime Minister at several junctures indicated that he was keen to see the channel back on the air. It was only in March 2012 that the channel was allowed back into the homes of cable TV subscribers in Pakistan.

The Pakistan Telecommunication Authority (PTA) stepped up efforts to control traffic and content through

internet and mobile phone channels. A move to screen out certain words and terms from text messages sent through the mobile phone network was defeated by a mobilisation of civil society groups and media freedom bodies, who were joined in this endeavour for narrower reasons, by the telecom companies. Certain websites seen to be disseminating material supportive of the Baloch independence movement were blocked and following the publication of a critical article in the U.S.-based magazine of popular culture, *Rolling Stone*, its website was blocked for all internet users in Pakistan. The video-sharing website YouTube and social media site Facebook were also blocked for varying lengths of time, on grounds of causing offence to religious sentiment.

In March 2012, the Pakistan government floated a request inviting proposals for blocking “undesirable content” on the internet. The national body that promotes research on information technology was asked to ensure that the system would be “able to handle a block list of up to 50 million URLs with a processing delay or not more than 1 millisecond”.

A significant step towards independent media regulation was the establishment of the Press Council of Pakistan. The council though mandated by an ordinance passed in 2002 remained inactive for long, partly because of suspicions among media stakeholders over the intent of the military government which drafted the enabling law. Following the restoration of civilian rule in 2008, there was a delay in constituting the council because of an absence

## An inconclusive inquiry

The inquiry report into the killing of Syed Saleem Shahzad, submitted in January 2012, observes how deeply traumatic the incident was. It was not just Shahzad's family and the community of journalists that was left "in a state of shock", it observes, but also "the public at large", since the "net of suspicion was cast, amongst others, on institutions of the state itself".

On the basis of its extensive interviews and investigations, the Justice Mian Saqib Nisar commission concludes that "in all probability, the background of this incident is provided by the War on Terror". This conclusion is warranted by the fact that as an "investigative reporter, Saleem's (sic, Shahzad's) writings probably did, and certainly could have, drawn the ire of all the various belligerents in the War on Terror – the Pakistani state, the non-state actors such as the Taliban and al-Qaida, and foreign actors".

Any one among these diverse elements could in the assessment of the commission, have "had the motive to commit the crime". As a journalist, Shahzad was clearly "in contact with all of these". The commission does not rule out the possibility that the "incident" may have been linked as some witnesses asserted, to the "subsequent drone attack on Ilyas Kashmiri". Kashmiri, an Islamic militant working in Pakistan's northern areas was a high-value target who had been reported dead at various times in the past, until an interview that Shahzad did with him in 2010 established quite firmly that he was alive and active in the insurgency in Afghanistan and the wider region.

The Nisar commission allows for the possibility that there may have been some agencies interested in determining Kashmiri's whereabouts and could have picked up Shahzad for that reason. The drone attack that killed Kashmiri took place four days after Shahzad's murder.

With a surfeit of hypothesis before it, the commission admits that it has been "unable to identify the culprits behind this incident", despite looking very hard "for the kind of substantial evidence/tangible material - direct or circumstantial - which would allow it to single out the culprits from the various suspected quarters".

With this admission of failure or inability, the commission "urges the competent authorities to continue all investigations in the ordinary course of the law, and to interrogate whosoever needs to be interrogated, diligently and without any fear".

Certain of the commission's findings on the functioning of the state agencies have been welcomed, such as its recommendation "that the balance between secrecy and accountability in the conduct of intelligence gathering be appropriately re-adjusted, with the aim

of restoring public confidence in all institutions of the state".

There is also a firm conclusion that the more important agencies, such as the Directorate of Inter-Services Intelligence (ISI) and the Intelligence Bureau (IB) be made "more law-abiding through a statutory framework carefully outlining their respective mandates and role; that their interaction with the media be carefully institutionally stream-lined and regularly documented; that all the Agencies be made more accountable through effective and suitably tailored mechanisms of internal administrative review, Parliamentary oversight, (and) that a forum of Human Rights Ombudsman be created for judicial redressal of citizens' grievances against Agencies, particularly the grievances of the Press against attempts to intimidate, harass and harm them".

Though not within its mandate, the commission also recommends "that the Press be made more law-abiding and accountable through the strengthening of institutions mandated by law to deal with legitimate grievances against it". Certain observers have held that this recommendation, made without context, may be unwarranted since it addresses a separate set of issues altogether. Like much of the official commentary in South Asia on rising atrocities against journalism, this seems suspiciously to be about blaming the messenger.

The Nisar commission report met with a subdued reaction in Pakistan, given the delicate state of the relations between the country's most vital institutions. There was broad public approval though, for its proposal to bring the intelligence agencies under some form of parliamentary oversight.

The U.S. based campaign and advocacy body, Human Rights Watch, called on the government of Pakistan, to "redouble efforts" to find Shahzad's killers, following the inconclusive inquiry by the Nisar commission. It pointed out that the state intelligence agencies had by no means been relieved of the burden of suspicion. The early investigative failure, in letting personnel of the agencies off without serious interrogation, may have hampered the subsequent course of the inquiry, Human Rights Watch pointed out. "The commission's failure to get to the bottom of the Shahzad killing illustrates the ability of the ISI to remain beyond the reach of Pakistan's criminal justice system", it said: "The government still has the responsibility to identify those responsible for Shahzad's death and hold them accountable, no matter where the evidence leads".

Justice for Syed Saleem Shahzad still remains elusive. Larger geopolitics has intervened, thwarting any reasonable effort to uncover the complexity of the circumstances in which he was murdered. And all that he was seeking to do was to tell the real story, behind layers of official disinformation.

of political will by the Federal Government. Over the course of the year, a former Lahore High Court Judge, Raja Mohammad Shafiq Khan Abbasi, was named chairman of the council. And the PFUJ, APNS and Council of Pakistan Newspaper Editors (CPNE) all nominated their members in accordance with the agreed quota of four apiece. The vice-chairman of the Pakistan Bar Council, the Higher Education Commission, the Leader of the House and Leader of the Opposition in the National Assembly, and the National Commission on the Status of Women have each nominated one member. The council will also appoint a media expert to verify complaints about media conduct and conduct research and reporting. The council held its first meeting on 1 November 2011.

Issues of ethical regulation came up in January 2012 when popular channel Samaa TV was forced by a public outcry to suspend a programme after its controversial host was seen accosting young people in public and challenging them on their supposedly lax moral conduct. Maya Khan, the host of the programme titled *Subah Saverey Maya kay Sath* (Early Morning with Maya), also issued a qualified apology after the outcry which followed one episode of her programme, seen to be intrusive and violative of the privacy of those who were caught on camera and spoke after being falsely assured that recording had been turned off.

## Struggle for decent wages

The Pakistan Federal Union of Journalists (PFUJ) won a significant victory when the Supreme Court of Pakistan directed the body charged with implementation of the statutory wage scales, to submit a report on the level of compliance in the news industry. The decision was handed down by a three-member bench of the court, headed by the Chief Justice of Pakistan, on 22 March. At the urging of the PFUJ, the bench summoned the chairperson of the Implementation Tribunal for Newspaper Employees (ITNE), Nasir Hussain Haidri, to explain the situation.

On 31 May 2011, the Sindh High Court in Karachi, dismissed identical petitions filed by the APNS – the apex body representing the industry – and the Herald Media group, which sought to quash the Seventh Wage Award for journalists and newspaper workers, announced in 2000. In welcoming this decision, SAMSUN and the IFJ had called on the newspaper industry to accept the judicial ruling in good faith and implement the long-delayed wage award. PFUJ has since demanded that the Eighth Wage Board be constituted without further delay.

The matter though, went in appeal to the Supreme Court of Pakistan, which has declined to issue any form of temporary restraint against the implementation of the Seventh Wage Award. While hearings proceed, the ITNE would be authorised to ensure that the fair wage mandate is implemented, without prejudice to the final judicial outcome.

Reports from the PFUJ meanwhile, indicate that economic pressures have pushed many journalists into

poverty. Apart from a handful of prominent journalists, the vast majority of journalists continue to subsist on meagre salaries. Monthly salaries, according to a survey carried out by PFUJ affiliate, the Punjab Union of Journalists, range between PKR (Pakistan rupees) 30,000 (roughly US \$330) and PKR 50,000 (US \$660), inclusive of all allowances, in leading media houses. The smaller organisations though, pay between PKR 10,000 and 15,000. Journalists according to this survey, feel that the time and effort they put in are not adequately compensated at these levels. Rising costs of living, especially in the bigger cities such as Rawalpindi, Lahore and Faisalabad, mean that salary scales are barely able to keep pace. Though a few among the bigger media houses have started providing medical insurance, journalists are by and large, deprived of this essential measure of social security.

The uncertain economy has pushed many media houses into financial difficulties, leading in turn to chronic delays in payment of staff salaries. The prominent news channel Aaj TV and the financial daily *Business Recorder*, have been downsizing their staff, creating another source of job insecurity. Workers at the *Daily Times*, a leading national English newspaper receive salaries after months of delay. There are many other private TV channels and publications where downsizing and salary delays are common. These difficulties make it a serious challenge for journalists to maintain ethical standards.

## SRI LANKA

### Rancour persists well after war's end

Journalists in Sri Lanka began a campaign on 25 January 2012 in memory of colleagues who fell in the quarter-century long civil war in the island nation. This day of protest united all Sri Lanka's principal professional bodies and was planned as a reminder to those in power that the vital task of national reconciliation requires more than token gestures.

The campaign was also aimed at dispelling the climate of impunity for attacks on the media which was a feature of the years of ethnic strife, and at allowing a free voice for human rights defenders who stand up for a fair and just society. Government spokespersons began to mobilise their own campaign of hostile rhetoric soon after the alliance of professional bodies announced plans for the 25 January observance.

SAMSUN partners in Sri Lanka report that in the second week of January the government-owned TV channel launched an attack, bristling with unseemly aggression, against the Free Media Movement (FMM), a voluntary body which some of Sri Lanka's finest journalists have been associated with for close to two decades. While playing



U.K. based Channel 4 documentary, Sri Lanka's Killing Fields, raised worldwide awareness of the human costs of the last phase of the country's civil war (TV grab: Witness/Creative Commons).

old footage of these journalists and activists from past campaigns, the TV channel ran a commentary on its main news programmes, attacking them in virulent terms.

According to a reliable translation provided by SAMSN partners in Sri Lanka, the commentary accused these activists of "betraying" the "motherland for gold and titles". With mock regret that the descendants of individuals who were "killed" during the reign of the kings "live on today", the commentary promised that those who "do no good to the country, would some day face no good".

On 10 January, the government-owned newspaper accused the FMM of petitioning the European Union (E.U.) to terminate the bilateral trade preferences Sri Lanka enjoys. Two former convenors of the FMM and, by subtle implication, the current holder of that post, were accused of seeking to undermine a concession that many industries in Sri Lanka benefit from. The report did not stint in the use of suggestive and extremely hostile rhetoric, describing the individuals named as "anti-national elements" who were sustained on "foreign funds".

As the FMM promptly clarified, it has never at any stage urged the withdrawal of E.U. trade concessions granted Sri Lanka, though these come with a specific caveat on good human rights practices. Rather, the FMM has invariably focused its attention on the Sri Lankan government and repeatedly underlined the need for it to live up to the human rights standards under which the E.U. trade preferences are granted.

Prior to the FMM's planned demonstrations of 25 January, the government secured a court injunction restricting the protests to a narrow area around the Fort Railway Station, a major landmark in the capital city of Colombo. Though the FMM and its allied organisations made it clear that they were not seeking confrontation, gangs of stick-wielding toughs reportedly took over the place where the demonstrations were planned. Placards carried by these gangs explicitly identified the FMM as an ally of the Liberation Tigers of Tamil Eelam (LTTE), the ethnic insurgent

group defeated by government forces in 2009 after a civil war marked by gross human rights violations by both sides.

On 25 January, the government-controlled newspaper, the *Daily News*, carried an editorial which warned that any effort to "sabotage the

progress of the country by disruptive elements (would) be put down". The editorial identified the FMM, which coordinates the activities of all other professional bodies in the country – including journalists' bodies organised on linguistic and ethnic lines – as "one of those organisations which have been in the forefront of lambasting the Lankan state on numerous issues". The FMM, the editorial warned, "has been steeped in controversy and has a lot of soul-searching to do".

The *Daily News* editorial then proceeded quite gratuitously to ask about the current whereabouts of the FMM's leadership: "We wonder where its 'Founding Fathers' are today? Are they in this country or in some safe Western Comfort Zone?"

The FMM responded that these insinuations about individuals who were involved in human rights and media freedom campaigns in Sri Lanka through the difficult years of the civil war were completely misplaced. There was, it said, no mystery about their current whereabouts, since most of them were virtually forced into exile by the events of January 2009, one of the worst months of a dark quarter century for journalism in Sri Lanka.

The tone of public comment in government-controlled media seemed to suggest anything but an intent to promote national reconciliation after the bitterness of the civil war years. Global organisations affiliated with the IFJ are seriously concerned that, despite these very clear recommendations, the government of Sri Lanka seems intent on confronting the independent media, escalating the violent rhetoric against journalists, and questioning their motives in seeking restitution due for years of hardship.

Journalists' organisation within Sri Lanka recall that this manner of rhetoric contributed directly to the brutal attack on Poddala Jayantha, then the General Secretary of the Sri Lanka Working Journalists' Association, in June 2009. Jayantha, a highly awarded journalist, suffered permanent disability and has lived in exile since January 2010.

### TV documentaries fuel government rage

In July 2011, the U.K. based television network Channel 4 aired a documentary called *Sri Lanka's Killing Fields*, which assembled graphic and disturbing images from the last months of Sri Lanka's civil war, to make a credible case of serious war crimes by government forces. A second documentary titled *Sri Lanka's Killing Fields - War Crimes Unpunished* aired on 14 March 2012. This too had explicit images suggesting summary executions and sexual violence on a large scale by government forces as the civil war came to a bloody climax in May 2009. The U.N. Human Rights Council (UNHRC) meanwhile, was considering a resolution tabled by the U.S. delegation, calling for credible measures of accountability from the Sri Lankan government, a demonstrable effort to improve human rights standards and work towards a political solution that would meet the aspirations of all its ethnic groups.

The Sri Lankan government sought to fight back against the adverse fallout of the Channel 4 documentaries through a production of its own, titled *Lies Agreed Upon*, that was widely screened for delegates to the UNHRC. The tone of the official media and government spokespersons became ever more hostile as the vote in the UNHRC approached and the resolution was finally adopted on 22 March 2012. In an editorial on 16 March, the government-owned Sinhala language newspaper *Dinamina* described human rights defenders as "degenerates" and denounced press freedom campaigner Sunanda Deshapriya – who now lives in exile -- as a "mouthpiece of the LTTE". It warned that in a country like Iran, "these kinds of bastards would be stoned to death". Dharmasiri Lankapeli, one of the veteran leaders of the Federation of Media Employees' Trade Unions (FMETU) was also targeted by the state-owned media. The attacks also extended to social scientists and political commentators such as P. Saravanamuttu, Nimalka Fernando and Sunila Abeysekara, and prominent figures of the church who have argued the cause of national reconciliation and accountability for human rights abuses since the end of the civil war.

The government-controlled ITN TV channel was right from January 2012, a platform for severe verbal assaults against journalists and human rights defenders. Between January 9 and 24, the channel carried no fewer than five programmes in its daily slot titled "Vimasuma" attacking journalists who had been present during the nineteenth regular session of the UNHRC, for having allegedly "betrayed" the country. Vivid and graphic Photo-montages were circulated by various political actors, which represented



Sri Lanka representative at the UNHRC: a resolution adopted by the body in March led to fresh acrimony within the country over the role of media freedom activists (Photo: U.N. Information System/Creative Commons).

journalists and other prominent human rights defenders as terrorists and traitors, working at the behest of alien forces.

On 22 March, ITN carried a news item claiming that it would soon be exposing a "traitor", while showing pictures of Gnanasiri Koththigoda, president of the Sri Lanka Working Journalists Association, a SAMSN partner and IFJ-affiliate, in the background. The anchor-person referred to a number of journalists who had been forced into exile by the climate of intimidation, as "media traitors" and crudely suggested that Koththigoda was through his news reporting in Colombo, aiding the cause of secession espoused by sections of the Sri Lankan Tamil diaspora.

Koththigoda on March 23, reportedly took up the matter of the threatening tone of ITN's coverage with Sri Lanka's Media Minister Lakshman Yapa Abeywardene. The minister then reportedly called up ITN's director for news, Sudarman Raddeligoda, and obtained an assurance that the attacks would cease. Yet the attacks have continued according to SAMSN partners in Sri Lanka. The ITN news director was an unsuccessful candidate for parliament on a ruling party ticket during the last general elections in Sri Lanka.

On 23 March 2012, Sri Lanka's Minister for Public Relations, Mervyn Silva addressed a public demonstration against the UNHRC resolution, threatening to "break the limbs" of any of the exiled journalists if they dared set foot in the country again. Among the journalists mentioned was Poddala Jayantha. Silva has been known for several bruising encounters with the media in recent years and was in July 2009, credibly reported as publicly claiming credit for the murder of newspaper editor Lasantha Wickramatunge in January and the assault on Jayantha in June. Though he later disavowed the statement attributed to him, Silva's record as a baiter of journalists committed to human rights and free speech, has continued to cause deep unease.



The FMM organised protests in Colombo after the July 2011 attack on G. Kuhanathan, news editor of *Uthayan* in Jaffna (Photo: Vikalpas/Creative Commons)

**Wikileaks paints a disturbing picture**

Leaked diplomatic cables from the U.S. mission in Colombo through the later years of the civil war recently emerged, showing that the Sri Lankan authorities were in the know about the agencies behind the most outrageous attacks against the media. In January 2006, S. Sukirtharajan, a Photographer with the Tamil daily from Colombo, *Sudar Oli*, was shot dead by assailants on motorcycles just days after he had published Photographs proving that five Tamil students found dead in the eastern city of Trincomalee had been victims of an execution by state security agencies. A cable from the U.S. ambassador to Sri Lanka at the time has now come to light through the citizen journalism website Wikileaks, which records President Rajapaksa's brother Basil Rajapaksa, then as now a senior minister, admitting that the "Special Task Force" of the Sri Lankan military may have carried out the killing of the five students. In August 2006, the Jaffna office of the *Uthayan* newspaper – part of the same group as *Sudar Oli* – was attacked with fire bombs and seriously damaged. As narrated to the U.S. ambassador in Sri Lanka, again by the president's brother, this attack was in all probability carried out by the Sri Lankan Navy in league with a Tamil political party that is a close ally of President Rajapaksa's. In one of the most shocking incidents since the civil war was officially declared over in May 2009, the news editor of

*Uthayan* was attacked with iron rods on the streets off Jaffna and left for dead shortly after elections to local bodies in the northern province were concluded in July 2011. The newspaper had editorially supported the opposition parties which registered significant wins in the elections. The Lessons Learnt and Reconciliation Commission – a body of eminent jurists and public figures appointed under a presidential mandate – submitted its report in December 2012 and commented sharply on it. Journalists' bodies commented that the Sri Lankan government's continuing failure to act against this manner of lawlessness, indeed its seeming eagerness to promote the rancour that contributed to the violence, suggested not a desire for national reconciliation, but its very opposite. In June 2011, a "right to information" bill, presented on the floor of Sri Lanka's parliament by the deputy leader of the opposition United National Party, was defeated by a vast majority as the government benches mobilised in strength to oppose it. The Bill sought to provide free public access to official information and specify the procedure for making a request for information. It proposed to appoint an autonomous commission overseeing the freedom of information and lay down the relatively narrow grounds on which requests for information could be denied. The government's determined effort to defeat the bill was in violation of a commitment it had made in 2007, that it

**A charter of press freedom for national reconciliation**

The report of an official commission appointed by President Mahinda Rajapaksa as part of the process of national reconciliation was published late in 2011 and led to some debate. This voluminous report, by the Lessons Learnt and Reconciliation Commission (LLRC), devotes a modest amount of space to media freedom issues, but its language is compelling. Since these observations come from a duly accredited body constituted by the all-powerful president of Sri Lanka, its findings deserve some detailed treatment. The LLRC records that it has been "deeply disturbed" by the reports that have persisted since the end of the war about "attacks and obstacles placed on journalists and media institutions". These difficulties have been experienced even by "news websites". The "killing of journalists" is another matter of serious concern flagged by the LLRC, which goes on to remark that the failure to "conclusively" investigate and bring the "perpetrators" to justice does little credit to the Sri Lankan government. The LLRC notes, with some severity, that even while its deliberations were in progress, there was a "deplorable attack on the Editor of the *Uthayan* newspaper in Jaffna". Such "actions", the LLRC has warned, "clearly place great obstacles in the way of any reconciliation efforts". Indeed, it points out, "any failure to investigate and prosecute offenders would undermine the process of reconciliation and the Rule of Law". The LLRC report is still being debated in Sri Lanka and diverse opinions are being voiced about the utility of its contribution to national reconciliation. Though some human rights defenders are disappointed at its failure to identify and assign responsibility for war crimes committed in the final years of the war, there are concrete

recommendations on the need for the demilitarisation of the north and the east of the island, and the imperative of a political settlement, to warrant constructive engagement. Press freedom groups have been encouraged by the LLRC recommendations that have a bearing on journalism. These need to be quoted in some detail: *Freedom of expression and right to information, which are universally regarded as basic human rights, play a pivotal role in any reconciliation process. It is therefore essential that media freedom be enhanced in keeping with democratic principles and relevant fundamental rights obligations, since any restrictions placed on media freedom would only contribute to an environment of distrust and fear within and among ethnic groups. This would only prevent a constructive exchange of information and opinion placing severe constraints on the ongoing reconciliation process. The Commission strongly recommends that:*

- All steps should be taken to prevent harassment and attacks on media personnel and institutions.*
- Action must be taken to impose deterrent punishment on such offences, and also priority should be given to the investigation, prosecution and disposal of such cases to build up public confidence in the criminal justice system.*
- Past incidents of such illegal action should be properly investigated. The Commission observes with concern that a number of journalists and media institutions have been attacked in the recent past. Such offences erode the public confidence in the system of justice. Therefore, the Commission recommends that steps should be taken to expeditiously conclude investigations so that offenders are brought to book without delay.*
- The Government should ensure the freedom of movement of media personnel in the North and East, as it would help in the exchange of information contributing to the process of reconciliation.*
- Legislation be enacted to ensure the right to information.*

would enact a right to information law once the country's civil war was over.

**Curbs on news portals**

Internet based news portals continued to suffer from arbitrary curbs. In October 2011, the news portal Lanka-e-News was blocked by the two main internet service providers in Sri Lanka, government-owned Sri Lanka Telecom (SLT) and the privately owned Dialog Axiata PLC. The FMM in a statement put this latest act of suppressing access to the news portal in a clear sequence of vindictive actions by the government or political agents acting on its behalf. In November 2011, the government introduced new registration rules for websites hosting any manner of content on the country and pre-emptively blocked several websites for internet users in Sri Lanka. These included Lanka News Web, Sri Lanka Mirror, Sri Lanka Guardian and Lanka Way News. An official of Sri Lanka's Media Ministry

was quoted saying that the curbs were ordered because they had persistently been engaged in "character assassination" of the President of Sri Lanka. Observers noted that the Sri Lankan government's record of web censorship stretches back to 2007, when Tamilnet, a website that speaks for and represents certain viewpoints of the country's Tamil minority was blocked. In August 2011, award-winning citizen journalism website Groundviews and its Sinhala-language equivalent Vikalpa, were also temporarily blocked. In March 2012, the Media Centre for National Security (MCNS), a body which operates under Sri Lanka's Ministry of Defence, sent out a letter to all media outlets, demanding that "any news related to national security, security forces, and the police should get prior approval from the MCNS before dissemination". The letter was signed by MCNS Director-General Lakshman Hulugalle and dated March 9. It reportedly was to apply to all news alerts issued through text and SMS over the phone network.





Union leader Dharmasiri Lankapeli, seen here at a Colombo demonstration, has been targeted by name in the official media for his press freedom work (Photo: Vikalpas/Creative Commons).

Emergency regulations in force for much of Sri Lanka's quarter-century long civil war allowed for prior censorship of news platforms. Since the lifting of the state of emergency in August 2011, there no longer was a clear legal sanction for censoring news flows. The MCNS directive followed an incident in the north of the country in which three soldiers of the Sri Lankan army were killed. Rumours soon emerged, suggesting that the insurgent army that had waged a quarter-century long civil war against the Sri Lankan government was regrouping. These rumours were soon dispelled by an official statement clarifying that the incident involved a soldier of the Sri Lankan army who had shot two colleagues before turning the gun on himself.

There were also news alerts that were sent out at the same time regarding a police officer being arrested while demanding a large bribe, and a botched abduction attempt involving personnel of the armed forces.

Domestic and international observers believe that despite the comprehensive recommendations received from the LLRC and occasional verbal flourishes about the need for a new mood of political reconciliation, the actions of the Rajapaksa regime fail to convey any sincerity of purpose. All the worst atrocities committed against journalists through the years of the civil war and after, remain unsolved. There has been no progress in investigations into the murder of Lasantha Wickrematunge in January 2009. And Prageeth Eknaligoda, cartoonist and columnist for Lanka-e-News remains untraced since he went missing in January 2010.



Former *Uthayan* editor N. Vithyatharan, imprisoned three months on terrorism charges in 2009, joins the demonstration against the attack on Kulanathan (Photo: Vikalpas/Creative Commons).



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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.