

National Security and Freedom of Expression in Sri Lanka: Friends or Foes

A N Bopagamage# and PP Algama

Sri Lanka Administrative Service

#arunodanishshanka@gmail.com

Abstract— Freedom of expression is a corner post of democracy. Article 19 (2) of the International Covenant on Civil and Political Rights provides the international norm. Second Republican Constitution of Sri Lanka guarantees the same in Article 14 (1) (a). It is subject to derogation in the interest of national security as accepted nationally and internationally. Sri Lanka has encountered three bouts of organized violence which endangered national security. This essay examines whether restriction of freedom of expression in the interest of national security in Sri Lanka was within international standards. Article 15 (7) of the Constitution, Public Security Ordinance (PSO), Prevention of Terrorism Act and Proscribing of LTTE Act provide limitations on freedom of expression in the interest of national security. Emergency regulations (ER) proclaimed by the President as per PSO have been employed predominantly to restrict the same. Such restriction has mostly been censorship exercised by presidentially appointed bodies. Sri Lankan Judiciary is not empowered to consider validity of ERs unless a citizen petitions about an infringement of his fundamental rights by the same. Judiciary has usually been deferential of administrative actions performed under ERs. Necessity and proportionality are two internationally recognized requirements for limiting freedom of expression in the interest of national security. Supreme Court recognized the requirement of necessity in Joseph Perera case though this precedent was not followed in later cases. It is concluded that circumscribing freedom of expression in the interest of national security was not within the international

framework essentially. Employment of such restrictions has furthered national insecurities.

Keywords— Freedom of expression, national security, Emergency regulations

I. INTRODUCTION

Expression refers to the manners of communicating and sharing thoughts, feelings, experiences and opinions. “Freedom” is the absence of control, interference and restriction. (Jayamanne, 2004) Freedom of Expression is the ability to freely express oneself without being subjected to retaliation, interference, and partial or complete censorship or legal sanction. Most importantly, freedom of expression embodies the liberty to effectively seek and receive information for meaningful expression. Conscious restriction of the freedom of expression lest other personal liberties are infringed, is another element of the same. Freedom of expression is recognized as a fundamental human right. According to Westhuizen, it is regarded important as speech is an expression of self. The desire to communicate, to express one’s feelings and thoughts, and to contribute to discussion and debate is an essential characteristic of human nature. (Westhuizen, 1994) The freedom of expression is one of the main pillars upon which a free and democratic society is built. Thus, Thomas Jefferson in 1787 noted that “...were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter. “ As a democracy necessarily implies the presence of a “market place of ideas”, it is universally accepted that freedom of expression is a sine qua non for a democratic political system. (The

Open University of Sri Lanka, 1998) In a democratic political system where sovereignty of the people is exercised by franchise, the freedom of expression is a salient determinant of such exercise. This is evident when perusing the shared history of democracy and freedom of expression.

Article 19 of the Universal Declaration of Human Rights provides that “Everyone has the right to freedom of opinion and expression” and furthers the same by stating that “this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” (United Nations, 1948) Similarly Article 19 (2) of the International Covenant on Civil and Political Rights (ICCPR) states that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” (UN General Assembly, 1966) Sri Lanka, a party to the ICCPR, guarantees the same by Article 14(1) (a) of the 1978 Constitution. Such constitutional guarantee has a direct relevance to the exercise of the franchise, without which the people’s sovereignty cannot be properly exercised. (Marasinghe, 2018) Efficacy of Article 14(1) (a) was furthered by the nineteenth amendment to the Constitution which inserted Article 14A ensuring the Right to Access to Information.

Nonetheless, freedom of speech and expression is not absolute in Sri Lanka. Neither is it according to the ICCPR. National security, among some other factors, is a key consideration that may restrict the freedom of expression along with the right of access to information. Post-independent Sri Lanka has endured at least threecountsofinsurrectionsand/or insurgencies. Namely, 1971 insurgency led by Janatha Vimukthi Peramuna (JVP), second (1978- 1989) JVP insurrection and Sri Lankan Civil war (1983

- 2009). Subsequently, freedom of expression has been subjected to limitations for the benefit of national security during such insurgencies and other instances.

Hence this article endeavors to survey whether restriction of freedom of expression in the interest of national security in Sri Lanka was within international standards. In this context the authors have identified following research objectives: define the gamut of freedom of expression ensured by 1978 Constitution; survey legislation enabling restriction of said liberty in the interest of national security; and explore judicial review of such restrictions. This study is limited to eventualities post enactment of the 1978 Constitution and “public order” has also been considered an aspect of national security for the purpose of this study.

II. THEORETICAL FRAMEWORK

A. The State, National Security and Human Rights

Legitimacy of a State can be measured by the implementation and protection of natural rights. (Locke, 2014) According to Donnelly, state is simultaneously ‘Principal Violator’ and ‘Essential Protector’ of human rights of the people. *Pacta sunt servanda* (cooperation on the basis of honouring agreements) is an important universal goal of the international society (Bull, 1977). Article 26 of the Vienna Convention on the Law of Treaties 1969 establishes that “every treaty in force is binding upon the parties to it and must be performed by them in good faith”. Sri Lanka is a signatory to the ICCPR and has ensured constitutional guarantees for several key rights including the freedom of expression. But, freedom of expression is not absolute as mentioned above. It may be restricted in the context of national security as per the Johannesburg Principles and due to a state of emergency provided by Article 4 of the ICCPR. Said principles acknowledge the enduring applicability of the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights and the Paris Minimum Standards of

Human Rights Norms in a State of Emergency.
(ARTICLE 19, 1996)

B. Constitution, Parliament and Judicial Review

Rule of law is the norm any State seeks to achieve and fulfill; and simultaneously the principle against which the legitimacy of a State can be measured and evaluated according to Locke. Constitution of a nation is “both a testament of a nation and a workhorse of a nation”. (Marasinghe, 2018) The ideal of limited government, or constitutionalism, is in conflict with the idea of parliament sovereignty. (Kahn, 2002) This tension is particularly apparent where constitutionalism is safeguarded through judicial review. (Ginsburg, 2003) Oliver Holmes of the American realist school of thought asserts that law is a creation of the judiciary, as the statutory provisions assume substance only following interpretation and elucidation with respect to socioeconomic circumstances and adaptation as appropriate by the judiciary. Hence, empirical data was drawn from the 1978 Constitution, Parliamentary Acts and case law in order to conduct this qualitative study within the aforementioned framework.

III. Discussion

A. Scope of Freedom of Expression in Sri Lanka

As discussed above Article 14(1) (a) of the Constitution entrenches that “Every citizen is entitled to –the freedom of speech and expression including publication”; though it does not provide which forms of expressions are covered. According to Article 19 of the ICCPR expression is not limited to speech and includes numerous other methods. In *Joseph Perera v. Attorney General* ([1992] 1 Sri LR 199), Sharvananda CJ described;

Freedom of speech and expression means the right to express one's convictions and opinions freely by word of mouth, writing, printing, pictures or any other mode. It includes the expression of one's ideas through banners, posters, signs etc. It includes the freedom of discussion and dissemination of knowledge. It

includes freedom of the press and propagation of ideas.

In *Amaratunga v. Sirimal and Others (Jana Ghosa Case)* [1993] 1 Sri LR 264, the Supreme Court observed that “speech and expression” protected by Article 14(1) (a) extends to forms of expression other than oral or verbal including drumming, clapping, placards, picketing, display of any flag or sign etc. In *Karunathilaka v. Dayananda Dissanayake* [1999] 1 Sri LR 157 the court held that right to vote is one form of “speech and expression” protected by Article 14 (1) (a).

In *Visvalingam v. Liyanage* [1984] 2 Sri LR 123 shareholders of a newspaper banned by the Competent Authority under Emergency Regulations claimed that freedom of speech and expression was infringed on the basis that freedom of the recipient is incorporated in the same. A five member bench of the Supreme Court held that Article 14 (1) (a) includes the freedom to receive information. Similarly, in *Fernando v. SLBC* [1996] 1 Sri LR 157 the court upheld the contention that sudden stoppage of Non-Formal Education Programme has infringed the petitioner's right entrenched by Article 14 (1) (a), if such stoppage was done without consent of the producers of said programme. In *Joseph Perera case* Sharvananda CJ observed that “Freedom of speech and expression consists primarily not only in the liberty of the citizen to speak and write what he chooses, but in the liberty of the public to hear and read...” and the Court further held that

Freedom of speech and expression means the right to express one's convictions and opinions freely by word of mouth, writing, printing, pictures or any other mode. It includes the expression of one's ideas through banners, posters, signs etc. It includes the freedom of discussion and dissemination of knowledge. It includes freedom of the press and propagation of ideas, this freedom is ensured by the freedom of circulation. The right of the people to hear is within the concept of freedom of speech.

In *Environmental Foundation Ltd. v. Urban Development Authority SC (FR) Application No. 47/04* the right to information was recognized as part of the freedom of speech and expression. Right to access to information was entrenched in the Constitution as Article 14A by the nineteenth amendment.

B. Restrictions on freedom of expression in Sri Lanka

1) 1978 Constitution and International Instruments: Article 14 (1) (a) is subjected to restrictions provided in Article 15 (2) and 15 (7) of the Constitution. Article 15 (7), directly relevant to this study, provides that the freedom of speech and expression is subjected to limitations “prescribed by law in the interests of national security, public order...” Such restrictions are also sanctioned by international standards and obligations due to *pacta sunt servanda*. Article 19 (3) of the ICCPR similarly provides that exercise of freedom of expression is subjected to restrictions “provided by law” for the protection of national security or of public order”. According to Article 29 of Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, national security may be invoked to justify measures limiting certain rights only when they are taken to protect the existence of the nation or its territorial integrity or political independence against force or threat of force. (American Association for the International Commission of Jurists, 1985) Articles 30 and 31 describe that national security as a pretext for restricting enjoyment of freedom of expression cannot be vague or arbitrary, cannot be used to prevent merely local or relatively isolated threats to law and order and that adequate safeguards and effective remedies must be in place against abuse of such restriction. This is furthered by Johannesburg Principles (ARTICLE 19, 1996) which provides that:

No restriction on freedom of expression or information on the ground of national security may be imposed unless the government can

demonstrate that the restriction is prescribed by law and is necessary in a democratic society to protect a legitimate national security interest.

Threats to national security is a common guise employed by government mechanisms to restrict or repress derogable rights including freedom of expression. Nevertheless, the Supreme Court in *Joseph Perera v. AG* held that it is not competent for the President to restrict (via Emergency Regulations), the exercise and operation of the fundamental rights of the citizen beyond what is warranted by Articles 15 (1) to (8) of the Constitution. Rather than recognizing obvious problems of governance and the need for accommodation, the Sri Lankan state has frequently responded to expressions of grievances with repression and violence, which have been viewed simply as law and order or security problems. (Uyangoda, 2001) Although successive governments have stressed that militancy would be countered democratically, infusing authoritarian means into the country’s democratic institutions has in practice been considered the best way to confront it. (Warnapala, 1994) Following legislations have been instrumental in restricting the freedom of expression and freedom during the period considered in the study.

2) Emergency Regulations and Prevention of Terrorism Act: Pre-independence Public Security Ordinance No 25 of 1947 (PSO) was passed as an urgent bill in ninety minutes amidst warning from the floor of the House that it requires careful consideration. (Manoharan, 2006) This legislation was enacted to deal with 1947 general strike. Emergency provisions, popularly known as “Emergency Regulations” (ER), are declared under the PSO “in the interests of public security and the preservation of public order or for the maintenance of supplies and services essential to the life of the community”. (Sri Lanka Parliament, 1947) The President of the Republic is empowered to proclaim a state of emergency as per Article

155 of the Constitution. The Parliament has 14 days to approve such proclamation and then the measure only has to be sanctioned monthly by the Parliament thereafter. Emergency regulations are valid for a month but the President is vested with the power to renew and modify a regulation. Therefore, the ER and the related orders automatically lapse. (Coomaraswamy & Los Reyes, 2004) Though Article 155 Parliament is only empowered to consider a proclamation's validity and not the actual emergency regulations, section 5(3) of the PSO provides that parliament may revoke, alter, or amend a regulation through a resolution of Parliament. However, the Parliament so far has not exercised that authority and has acted as a mere rubber stamp with regard to emergency regulations proclaimed by the President. (Coomaraswamy & Los Reyes, 2004) Further, as provided by Article 154J (2) of the Constitution judiciary cannot inquire any proclamation issued under the PSO, the imminence or grounds thereof. Such inability to test the appropriateness of emergency regulations has resulted in PSO being considered a draconian law. This disability of judicial review of ER is noted in landmark case Joseph Perera v. AG; "He [the President] is the sole judge of the necessity of such regulation and it is not competent for this court to inquire into the necessity for the regulations bona fide made by him." This disability has attached significance to fundamental rights chapter as the citizens have the locus standi to apply for redress as per Article 126, when emergency regulations may infringe rights assured by the Constitution. Nevertheless, the ERs with regard to restricting freedom of expression cannot be made "beyond what is warranted by Articles 15(1) to (8) of the Constitution". (Joseph Perera case)

Proscribing of Liberation Tigers of Tamil Eelam and Other Similar Organizations Act No. 16 of 1978 empowered the President to proscribe any organization which in his opinion "advocates the use of violence and is either directly or indirectly concerned in or engaged

in any unlawful activity" and there was no provision for appeal or refute for any organization denounced as such. Section 4 (e) of the Act inhibited the freedom of expression by providing that any person who "makes, prints, distributes or publishes or is in any way concerned in the making, printing, distribution or publication of any written or printed matter which is or purports to be published by or on behalf of such organization or by any member thereof" is guilty of an offence. This Act was repealed as it did not produce the desired results; eradication of militant activities by such proscribed organizations or preventing people from joining them as then Justice Minister Devanayagam observed at the Parliament. (Parliament of Sri Lanka deb, 1979)

Prevention of Terrorism (Temporary Provisions) bill was introduced as "urgent in national interest" as per Article 122 (1) (b) of the Constitution and Supreme Court was to determine the constitutionality thereof within twenty-four hour (or a period not exceeding three days as specified by the President) according to Article 122 (1) (c). (Article 122 was repealed by the Nineteenth Amendment to the Constitution Sec.30) It was ruled that the bill did not require approval of the people at a referendum and that the bill was not within the scope provided in Article 83 of the Constitution. Manoharan (2006) notes that Tamil United Liberation Front (TULF) parliamentarians had boycotted the House in protest of redrawing Vavuniya electoral district during the passage of the bill. Eventually, this bill, viewed the key to tackling Tamil terrorism by Sinhala majority at the time (Balasuriya, 1987) was passed and Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 (PTA) became law with a restriction on freedom of expression by virtue of Section 2 (h) which provides that any person who "by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different

communities or racial or religious groups” is liable for “imprisonment of either description for a period not less than five years but not exceeding twenty years”. However, above provision was made law despite the fact that Article 15 (2) also dictates that freedom of speech and expression entrenched by Article 14 (1) (a) is subject to restrictions “in the interests of racial and religious harmony”. But the PSO and PTA further restrict the freedom of expression. (Gunasekara, 2014) Judicial review of such instances where the petitioners alleged infringement of their fundamental rights and hence challenged administrative actions in accordance with Article 126 of the Constitution are discussed below.

3) Related Case Law: In above mentioned *Visuvalingam v. Liyanage* the order made by the Competent Authority under regulation 14 of ER, which empowers a presidentially appointed body to prevent or restrict publications in the interests of national security, public order and maintenance of essential services, to close the newspaper “Saturday Review” was challenged. The Supreme Court noted that said newspaper “highlights the atrocities and excesses of the police and the armed services.” The Court held that during the state of an emergency the state is entitled to restrict freedom of expression and that judicial review should abstain from interference therein noting;

Freedom of speech, press and assembly are dependent upon the powers of Constitutional government to survive. If it is to survive it must have the power to protect itself against unlawful conduct and under certain circumstances against incitements to commit unlawful acts.

In *Joseph Perera v. AG*, Joseph Perera a member of the Revolutionary Communist League and organizer of the “Young Socialist” in Chilaw, his brother and the speaker who was to deliver a lecture on “Popular Frontism and Free Education” at a meeting organized by the Revolutionary Communist League were placed under a preventive detention on the allegation

of planning an unrest during a public meeting following issue of a leaflet that criticized the government. Previous stance of the Court changed and freedom of expression and speech was held to be an enforceable right and that judiciary retained the prerogative to consider the validity of any restriction upon freedom of expression by President-made ERs. Therefore the ER 28 requiring the permission of the police for exercise of freedom of expression via distribution of any posters, handbills or leaflets was considered “pre-censorship” and hence ruled ultra vires. Hence the Supreme Court recognized the concept of necessity in deciding whether regulations restricting freedom of speech and expression are constitutionally valid. (Wickramaratne, 2013)

Petitioner claimed that his freedom of expression has been infringed as he was compelled to cease publication of news items, inter alia, relating to the conduct of military operations and related matters pertaining thereto in the “Janajaya” newspaper of which he is the Chief Editor and Publisher due to ERs proclaimed by the President as per Section 5 of the PSO, in *Wickramasinghe V. Edmund Jayasinghe, Secretary, Ministry of Media, Tourism and Aviation* [1995] 1 Sri LR 300. The Court veered from the perspective in *Joseph Perera* case stating that the facts therein are significantly different and refused leave to proceed stating “the impugned censorship has been imposed at a time of national crisis and in the context of an ongoing civil war. Its validity has to be considered having regard to the reality of the current situation”. Similarly in *Sunila Abeysekera v. Ariya Rubasinghe, Competent Authority and Others* SC Application No. 994/99 Court observed that the impugned regulations were framed at a time of national crisis and in the context of an ongoing civil war and hence validity of such has to be considered with regard to the reality of said circumstances. The Emergency (Prohibition on Publication and Transmission of Sensitive Military Information) Regulation (1998) prohibited the publication of “any publication pertaining to official conduct,

morale, the performance of the Head or any member of the Armed Forces or the Police Force or of any person authorised by the Commander - in - Chief of the Armed Forces for the purpose of rendering assistance in the preservation of national security” and the petitioner alleged that objective of the disputed ER which restricted her freedom of expression was to prohibit publication of information embarrassing to the Government, than protection of national security. As mentioned above the Court upheld the ER in consideration of security interests given the circumstances at the time. “We must not lose sight of priorities” commented Amarasinghe J in *Sunila Abeysekera v. Ariya Rubasinghe*. (Wickramaratne, 2013)

In *Siriwaedena v. Liyanage* (Aththa case) FRD (2) 310 publication of the leftist newspaper “Aththa” was banned and the press in which the newspaper had been printed was closed by the order of the Competent Authority under ERs. The petitioners contended that this order, infringing the freedom of expression, was made to prevent “Aththa” from campaigning against the Government in the impending referendum through the pretext of “preservation of public order”. The Court stated that the phrase “for the preservation of public order” should be interpreted to mean “for the purpose of preventing disorder”. Wimalaratne J commented that “taking also into account the history of escalating post-election violence in this country, and the mounting tension prior to the Referendum I am of the view that the decision of the Competent Authority was not unreasonable...” Wickramaratne (2013) respectfully submits that above conclusions are untenable as the Court of law could not have taken judicial notice of “the history of escalating post-election violence” and “mounting tension prior to the Referendum” as Competent Authority had not stated that such were taken into account when making the impugned orders. Further, if only some of the material “could have incited persons to breaches of the peace” concluding that whole publication was

prejudicial to preservation of public order is unreasonable. Hence, raising the necessity of applying the concept of necessity recognized in Joseph Perera case.

C. Sri Lankan Experience and International Standards

Sri Lankan practice of governmental interference with freedom of expression attracted far and wide criticism following the ban on publication or broadcast of war related news in 2000. And 2014 Tissainayagam incident too was condemned as beyond permissible restrictions set out by the ICCPR. Fact Sheet No 32 of the UN Office of the High Commissioner for Human Rights citing the Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR states that any limitation to the human rights must be authorized by a prescription of law and the law must be adequately accessible so that individuals have an adequate indication of how the law limits their rights and must be formulated with sufficient precision so that individuals can regulate their conduct.

Article 4 of the ICCPR provides that in a “state of public emergency which threatens the life of the nation”, a state “may take measures derogating from their obligations under the Covenant to the extent strictly required by the exigencies of the situation” (Callarmad, 2015). The Article 4 of the ICCPR does not define the state of emergency and different States have different ways of dealing with the state of emergencies within their own domestic legal regimes. (Oraá, 1992) It purports to reduce and eventually avoid abuse of emergency powers by State parties through availing themselves of the right of derogation too easily. To invoke Article 4, two fundamental conditions must be met: the situation must genuinely amount to a public emergency which threatens the life of the nation and; the State must have officially proclaimed a state of emergency. States must also provide “careful justification for not only their decision to proclaim a state of emergency, but also for any specific measures based on

such a proclamation". (Callarmad, 2015) Any derogation to the freedom of expression otherwise is unlawful. In Sri Lanka, right to freedom of expression has been restricted under ERs in states of emergency, mostly in the form of "prior censorship" as mentioned above. The Parliament is empowered only so far as to consent or dissent the proclamation of emergency once issued by the President within 14 days. The Judiciary is not entitled to review the decision to proclaim emergency or the content unless a petition with locus standi is brought before it.

The ICCPR provides right to freedom of expression may be circumscribed only to the extent that is required by the emergency situation. Secondly, the principle of proportionality which came as a yardstick to determine the legality of State interference with the people's rights (Oraá, 1992) must be considered in this regard. According to Callarmad (2015) the Court is required to consider whether the restriction in question is the 'least restrictive means' for achieving the relevant purpose, in this case "in the interests of public security and preservation of public order". This question was raised by Wickramaratne (2013) with regard to the Court upholding the complete ban and closure of the Aththa newspaper and printing press in *Siriwardene v. Liyanage*, when only "some" of the material could have been injurious. Welikala (2015) states that "one of the major weaknesses in the way our constitution articulates the freedom of expression is that the requirement of 'necessity' in ICCPR Article 19 (3) for the restriction of this right is absent in the Sri Lankan framework for restrictions".

IV. CONCLUSION

Right to freedom of expression is assured to Sri Lankans by virtue of Article 14 (1) of the 1978 Constitution. Judicial review has established that said right can be exercised in numerous way and, is not limited to speech. As also established by the ICCPR, the Constitution asserts that said constitutional guarantee is

derogable in the interest of national security. Sri Lanka in order to combat two youth insurrections and mainly the Civil War has enacted and enforced legislature that may restrict freedom of expression. The State has subjected the right to freedom of expression to circumscription in the name of national security and public order and; consequently attracted national and international criticism. A critical survey of such restrictions manifested that ERs proclaimed by the President under the PSO have been employed for the most part. A review of case law displayed that on most instances the Court upheld the restrictions on freedom of expression and speech deferential to the government security interests. Nevertheless, such restrictions were not unreservedly within the framework established by major international instruments on the same. The test of proportionality and approach of necessity, required by international standards, have often been overlooked in circumscribing the freedom of expression. The vicious and well -organized nature of the LTTE and having to counter organized violence from two fronts simultaneously, second JVP insurrection and LTTE, prompted stern action. Nevertheless, conveniently available limitation of freedom of expression curbed the urge for more democratic means of redressing the root cause of such social eruptions.

V. REFERENCES

- American Association for the International Commission of Jurists, 1985. *Siracusa Principles*. [Online] Available at: <https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf> [Accessed 14 May 2020].
- ARTICLE 19, 1996. *The Johannesburg Principles on National Security, Freedom of Expression and Access to Information*, London: ARTICLE 19.
- Balasuriya, F. T., 1987. Youth, Insurrection and Democracy in Sri Lanka: 1971 - 1987 - Can Sri Lanka Avoid Blood Bath of Youth?. *Logos*, 26(2).

Callarmad, A., 2015. *Freedom of Expression and National Security: Balancing for Protection*. [Online] Available at: <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2016/01/A-Callamard-National-Security-and-FoE-Training.pdf> [Accessed 28 July 2020].

Coomaraswamy, R. & Los Reyes, C., 2004. Rule by emergency: Sri Lanka's postcolonial constitutional experience. *International Journal of Constitutional Law*, 2(2).

Ginsburg, T., 2003. *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*. s.l.:Cambridge University Press.

Gunasekara, L., 2014. Freedom of Expression & the mass media: Weak support for democracy by news media. In: *SL: State of Human Rights*. Colombo: Law & Society Truste.

Jayamanne, N., 2004. FREEDOM OF EXPRESSION AND RIGHT TO INFORMATION.

Kahn, P. W., 2002. *The Reign of Law: Marbury v. Madison and the Construction of America*. s.l.:Yale University Press .

Locke, J., 2014. *Two Treaties of Government*. [Online] Available at: <http://www.yorku.ca/comninel/courses/3025/pdf/Locke.pdf> [Accessed 20 July 2020].

Manoharan, N., 2006. *Counter Terrorism Legislation in Sri Lanka : Evaluating Efficacy*. [Online] Available at: <https://www.eastwestcenter.org/system/tdf/private/PS028.pdf?file=1&type=node&id=32164> [Accessed 2020 May 20].

Marasinghe, L., 2018. In: *The Evolution of Constitutional Governance in Sri Lanka*. Colombo: Vijitha Yapa Publications, pp. 297-298.

Oraá, J., 1992. *Human Rights in States of Emergency in International Law*. Oxford: Clarendon Press.

Parliament of Sri Lanka, 1979. *Hansard (Parliamentary Debates)*. s.l., s.n. Sri Lanka Parliament, 1947. *Public Security*

Ordinance. [Online] Available at: <https://www.lawnet.gov.lk/1947/12/31/public-security-4/> [Accessed 28 June 2020].

The Open University of Sri Lanka, 1998. *Case book on Fundamental Rights*. Colombo: The Open University of Sri Lanka.

UN General Assembly, 1966. *International Covenant on Civil and Political Rights*. [Online] Available at: <https://www.refworld.org/docid/3ae6b3aa0.html> [Accessed 24 July 2020].

Warnapala, W., 1994. *Ethnic strife and politics in Sri Lanka : an investigation into demands and responses*. New Delhi: Navrang.

Welikala, A., 2015. *SECURING THE FREEDOM OF EXPRESSION IN THE NEW SRI LANKA: ESSENTIAL INSTITUTIONAL REFORMS*. [Online] Available at: <https://groundviews.org/2015/01/17/securing-the-freedom-of-expression-in-the-new-sri-lanka-essential-institutional-reforms/> [Accessed June 2020].

Westhuizen, J. V., 1994. Freedom of Expression. In: J. D. B. d. V. D. D. David van Wyk, ed. *Rights and Constitutionalism: the new South African legal order*. s.l.:Clarendon Press, p. 269.

Wickramaratne, J., 2013. *Fundamental Rights in Sri Lanka*. Second ed. Colombo: Stamford Lake (Pvt) Ltd.

Author Biographies



Arunoda N. Bopagamage is an officer of the Sri Lanka Administrative Service and the Assitant Divisional Secretary, Colombo. Previously he

was attached to Ministry of Finance and Ministry of Public Administration as an Assistant Director. He holds a BSc in Management Information Systems from University College Dublin (Ireland) and an LLB from Open University of Sri Lanka. He is currently reading for a Master of International Relations at University of Colombo.

Pranidhi P. Algama Bopagamage is an officer of the Sri Lanka Administrative Service. She is the Assistant Secretary (Parliamentary Affairs, HR & IT) of Ministry of Industries and Supply Chain

Management. Previously she served as the Assistant Director (Corporations and Statutory Boards) of the same Ministry. She holds a Master of Arts in International Relations from Colombo University and a BSc (Physical Sciences) from University of Sri Jayewardenepura. She is currently reading for a Master of Economics at University of Colombo and an LLB at Open University of Sri Lanka.