

Arbitrary Blocking and Registration of Websites: The Continuing Violation of Freedom of Expression on the Internet

9th November 2011, Colombo, Sri Lanka: We the undersigned civil society organisations and individuals express grave concern over the press release issued by the Director General of the Department of Government Information on 5th November 2011, which requires all 'websites carrying any content relating to Sri Lanka or the people of Sri Lanka... uploaded from Sri Lanka or elsewhere' to 'register' for 'accreditation.' We also condemn the actions of the Telecommunications Regulatory Commission (TRC) that has, according to a [Sunday Times news report](#), moved to block a number of specific websites in line with this. While it is unclear whether the two measures are part of a single initiative or not, they represent an unacceptable incursion into free expression in Sri Lanka.

Websites including www.lankanewsweb.com, www.srilankamirror.com, www.srilankaguardian.org and www.lankawaynews.com were blocked on the day the press release was issued without any consultation or forewarning, raising concerns about the government's real objectives and the freedom of expression in Sri Lanka.

We note that the Information Department press release does not state what the process of 'registration' will entail and whether any sort of liability or conditions will be imposed. We further note that this move by the government is the first step in the realisation of plans mooted by the TRC in 2010 to [draft legislation that would make it compulsory](#) for news websites to register with the authority. We also have additional concerns about the press release. Firstly, the press release does not establish with sufficient clarity the categories of either websites or persons who are required to register with the Ministry. Secondly, it is not clear whether and how the requirement for registration will apply to international news websites and websites operated by international organisations that publish news on and in Sri Lanka. Finally, in the interests of transparency, consistency and equal treatment, the Information Department and TRC must explain the legal framework and process under which registration of this nature can be enforced.

This requirement of registration coupled with the blocking of websites, which potentially constitutes a form of prior-censorship, not only produces a chilling effect on the freedoms of expression and information on the Internet, but also constitutes a *prima facie* violation of a number of constitutionally protected fundamental rights, including Article 14(1)(a) of the Constitution of Sri Lanka, which guarantees an individual's right to freedom of opinion, expression and publication. The obligations of the government with respect to international standards are made clear by Sri Lanka's ratification of enforceable international legal instruments, which includes the International Covenant on Civil and Political Rights (ICCPR). Needless to say, these measures also do not meet broader standards of international best practice as reflected for example in the report of Frank La Rue, the UN Special Rapporteur for the Freedom of Expression and Opinion submitted to the UNHRC on 16th May 2011.

Concerns about defamation and the right to privacy notwithstanding, the government has failed to provide a legitimate rationale for the registration process consistent with the values of a democratic society or international standards on permissible legal

restrictions on the freedom of expression. While under the law of Sri Lanka there is ample scope for legal redress in case of defamation or an invasion of privacy, the measures the Ministry has taken so far are also inappropriate and disproportionate to its stated aim of ensuring online media ethics. Furthermore, the practicability of such arbitrary blocks is questionable. Any attempt to impose widespread blocks on websites would lead to an increased interest in them and the use of easily and widely available circumvention tools (and proxies) to access these sites.

The blocking of websites is unconstitutional, illiberal and technically infeasible. The consequence of such arbitrary and extra-legal action is that restrictions are based on the subjective judgement of government authorities in the protection of narrow partisan interests, the complete infringement of international freedom of expression standards, and the quashing of dissent. We are also concerned about the submissive acquiescence of Internet Service Providers (ISPs) with arbitrary orders issued by the government for the blocking of websites, and remind them that such conformity makes them complicit in the violation of fundamental rights.

We reiterate that the fundamental right to freedom of expression, information and opinion includes wide access to diverse sources of information on the Internet and call upon the government to rescind the requirement of registration contained in its press release.

Signatories:

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3. Cedric de Silva
4. Centre for Policy Alternatives
5. Chandra Jayaratne
6. Chandragupta Thenuwara
7. Chulani Kodikara
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9. Dr. Devanesan Nesiiah
10. Dilrukshi Handunnetti
11. Emil van der Poorten
12. EQUAL GROUND
13. Families of the Disappeared
14. Floating Space Theatre Company
15. Free Media Movement
16. Gowthaman Balachandran

17. Herman Kumara, National Fisheries Solidarity Movement
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20. J.C. Weliamuna, Attorney-at-Law
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25. Prof. Kalinga Tudor Silva
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27. Kanishka Ratnapriya
28. Lakshman Gunasekara, President, South Asia Free Media Association – Sri Lanka Chapter
29. Lanka Nesiah
30. Lal Wijenayake, Attorney-at-Law
31. Lawyers for Democracy
32. Luwie Ganeshathasan
33. Mahendran Thiruvarangan
34. Dr. Mario Gomez
35. Marisa De Silva
36. Mothers and Daughters of Lanka
37. Muslim Women's Research and Action Forum
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40. Peter Rezel, Management and Development Consultant
41. Priya Thangarajah
42. Priyadarshanie Ariyaratne, Social Democratic Solidarity
43. R.M.B Senanayake
44. Right to Life - Human Rights Centre
45. Rights Now Collective for Democracy
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47. Dr. Selvy Thiruchandran
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50. Sharni Jayawardena, Writer and Photographer
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