

## **Non-traditional Security Disputes of Sri Lanka**

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### **Abstract**

*From the 1970s onwards, social constructivists criticized the intense narrowing of the field of security studies imposed by the military and nuclear obsessions of the Cold War. Further, they argued that these traditional issues have not disappeared, but that other, non-military sources of threat now seemed more pressing. Hence, the nature and magnitude of security within the states should be considered from different angles such as economic security, food security, health security, environmental security, personal security, community security and political security. In the context of small states, the issue of security has multiple dimensions in the complexities of the state. Apart from the traditional aspect of security threats of small states, the non-traditional aspect is very important to identify the security threats of small states. One of the most important aspects of non-traditional security thus, is that people should be able to live in a society that honours their political security. In this broader context this study makes an effort to answer whether the political security of Sri Lanka is being challenged in the context of power political paradigm. Further the research problem has been answered by using standard research tool including descriptive and analytical methods and also the research involves both qualitative and quantitative methods. As a developing small state, Sri Lanka is an electoral democracy. The 1978 constitution vested strong executive powers in the president, who is directly elected for a six-year term and can dissolve Parliament. The prime minister heads the leading party in Parliament but otherwise has limited powers. The 225-member unicameral legislature is elected for a six-year term through a mixed proportional-representation system. Elections are open to multiple parties, and fair electoral laws and equal campaigning opportunities ensure a competitive political process. Despite the war's completion and an improvement in security throughout Sri Lanka, the situation of political security remained grim. Some observers' charge that centralizes approach of the ruling party of the Government of Sri Lanka has led to a lack of protection of political security. In this broader context, there is an argument that the situation of political security of Sri Lankan remains grim.*

### **Introduction**

In the post-Cold War era most of the states are more engaged in tackling internal threats, such as separatism, ethnic conflict, and managing ethnic aspirations of the people by minimizing the unequal development. These factors have become the major challenges to every nation state. Such challenges pose a major threat to national security of both big and small nation states. With the end of the Cold War, a sort of revolution has arrived in the field of security studies, with scholars and policymakers beginning to move away from the traditional state-centric approach to a more expansive understanding of the concept of security. Some regime theorists are beginning to examine emerging regional security arrangements in Asia and Europe. A more radical perspective suggests that security should be conceived in such a way so that it embraces all humanity, and not just states. It should also focus on sources of harm rather than just military threats to a state.

In the context of small states, the issue of security has multiple dimensions. Apart from the traditional aspect of security threats of small states, the non-traditional aspect is very important to identify the security threats of small states. The study of Dietrich Fischer on *Non-military Aspects of Security: A Systems Approach* (1993) takes a broad, comprehensive view of security which includes not only protection from military attacks but from anything that may threaten the continued existence of a state or the life, welfare and freedom from coercion of its citizens. According to Fischer security does not imply mere preservation of the status quo, but it a dynamic concept that includes human development and redressing of injustice, as well as physical security. In addition to this, the work of Barry Buzan, *People, States and Fear: The National Security Problem in International Relations* (1983) is enormously important and is considered as a landmark in the development of security studies. The key element in Buzan's book is broadening of the security agenda so as to involve five sectors rather than deal only with five, which is traditionally in focus. To this, Buzan added political, economic, societal and ecological sectors. Importantly, Buzan sought to widen the definition of security to encompass five sectors and to focus discussion about security on three levels namely sub-state, the state and international system. While Buzan himself is a strong advocate of the broadening of the focus of security studies to non-military threats, he assumes the larger international system to be based on the universal European model. In this broader context, one of the most important aspects of non-traditional security thus, is that people should be able to live in a society that honours their political security, including their basic human rights, media freedom, religious freedom, academic freedom, freedom of assembly, ethnicity, Independence of judiciary, freedom from systematic discrimination etc.

Sri Lanka is one of the democratic countries in the South Asian subcontinent. According to the 1978 constitution, the President who is vested with strong executive powers is directly elected by the people for a six-year term and can dissolve Parliament. Further the Prime Minister who is the head of the leading party in Parliament has limited powers and functions. The unicameral legislature consists of 225-members who are elected by the people through a mixed proportional-representation system for a six-year term. Elections are open to multiple parties, and fair electoral laws and equal campaigning opportunities ensure a competitive political process. Some observer's charge that centralize and authoritarian approach of the ruling party of the Government of Sri Lanka has led to a lack of protection of political security. In this broader context, there is an argument that the situation of political security of Sri Lankan remains grim. Thus, this study makes an effort to answer whether the political security of Sri Lanka is being challenged in the context of power political paradigm.

## **Conceptualization of Non-traditional Security Discourse**

The traditional definitions of security have been challenged in discussions of non-traditional security within the academia, and within international relations in particular. The concept of non-traditional security emerged from the effort to widen and deepen the security agenda. Robert McNamara was one of the first scholars to criticize the almost exclusive focus on military threat in traditional thinking of national security. Robert McNamara criticized the traditional definitions of security and evokes a more subjective concept related to stability and freedom from internal threats.<sup>1</sup>

Similarly, Richard Ullman emphasizes that 'defining national security merely (or even primarily) in military terms conveys a profoundly false image of reality'<sup>2</sup>. Further, he argues that the emphasis on military

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<sup>1</sup> Robert McNamara, *The Essence of Security*, Harper and Row-New York, 1968, p. 149

<sup>2</sup> Richard H. Ullman, "Redefining Security", *International Security*, 8(1), 1983 p. 123

threats arising from beyond the borders of one's own country is doubly misleading. First, it draws attention away from the non-military threats that may undermine the stability of nations. Second, it presupposes that threats arising from outside a state are somehow more dangerous to its security than threats that arise within it. Adopting a broader definition of security, Ullman contends that: "*a threat to national security is an action or sequence of events that (1) threatens drastically and over a relatively brief span of time to degrade the quality of life for the inhabitants of a state, or (2) threatens significantly to narrow the range of policy choices available to the government of a state or to private, nongovernmental entities (persons, groups, corporations) within the state*".<sup>3</sup>

In a similar fashion, Joseph S. Nye and Sean M. Lynn-Jones states that most security policies are designed to insure social autonomy as a group, and a degree of political status, not merely to insure the physical survival of individuals within national boundaries.<sup>4</sup> In addition to this, going beyond the traditional definitions of national security, the 'Copenhagen School' led by Barry Buzan embraces upon the social aspect of national security. In their work entitled *Security: A New Framework for Analysis* Buzan, Waever and De Wilde define the framework of national security as follows; "*Threats and vulnerabilities can arise in many different areas, military and non-military, but to count as security issues they have to meet strictly defined criteria that distinguish them from the normal run of the merely political*".<sup>5</sup>

In addition to this, the International Conference on the Relationship between Disarmament and Development, convened by the United Nations General Assembly in New York from August 24 to September 11, 1987, adopted a definition of security that also encompasses non-military aspects. Moreover, the meeting of a group of experts on non-military aspects of security in Tashkent in May 1990 used the following definition of security: "*Security is a condition in which states consider that there is no danger of military attack, political pressure or economic coercion, so that they are able to pursue freely their own development and progress. The security of individuals and communities of which states are constituted is ensured by the guarantee and effective exercise of individual freedom, political, social and economic rights, as well as by the preservation or restoration of a liveable environment for present and future generation. Security also implies that essential human needs, notably in the field of nutrition, education, housing and public health are ensured on a permanent basis. An adequate protection against dangers to security should also be maintained. The way and means to attain security may be defined in national, intergovernmental, non-governmental or global terms*".<sup>6</sup>

Since the end of the Cold War, the United Nations (UN) has been advocating a new security concept and related notions, including human security, common security, and global security. This has led to the transformation from a traditional to a non-traditional UN security concept. As a result of the balancing of different national and regional security needs, the new UN security concept is characterized by more idealism, institutionalism, and globalism. In addition to this starting in 1994 the multilateral system began to develop a concept of non-traditional security that has been receiving increasing attention in multilateral agencies. It is being transformed into a point of reference for the main global security trends of the twenty-first century. In this regards, it emphasizes that 'the world can be never be at peace unless people have security in their daily lives'. It is important to mention here that non-traditional security challenges have taken as their reference point the concept of human security in order promote a focus on the security of individuals, societies and groups, and

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<sup>3</sup> *Ibid*, p. 133

<sup>4</sup> Joseph S. Nye and Sean M. Lynn-Jones, "International Security Studies: Report of a Conference on the State of the Field" *International Security*, Vol. 12, No. 1, Spring 1988, p. 6

<sup>5</sup> Buzan et. al, *Security: A New Framework for Analysis*, Lynne Rienner Publishers-London, 1998, p. 5

<sup>6</sup> Dietrich Fischer, *Nonmilitary Aspects of Security: A System Approach*, Dartmouth Publishing-England, 1995, p. 10.

to encompass the chronic and complex insecurities. The contrast between traditional security and non-traditional security can be summarized as follows.

**Table 01**  
**Nature of Traditional Security and Non-traditional Security**

	<b>Traditional Security</b>	<b>Non-traditional Security</b>
Security for whom	Primarily the state	Primarily the individual
Security from what values	Territorial integrity and national independence	Personal safety and individual freedom
Security from what threats	Direct threats from other states	Direct threats from states and non-state actors, indirect threats
Security by what means	Force as primary instrument of security to be used unilaterally for a state's own safety	Force as a secondary instrument to be used primarily for cosmopolitan ends and collectively sanctions human development and human governance as key instruments of individual-centred security

**Source:** Kanti Bajpai, *Beyond Comprehensive Security: Human Security*, Delhi Policy Group, New Delhi, 2002, p. 63

The security concept, the non-traditional security and traditional security are all integrated security areas is the concept of comprehensive security are two basic aspects. When compared to traditional security, the non-traditional security implications and impact of a more diverse and complex. Traditional security mainly refers to a number of traditional senses of the high Political and security issues, such as defense issues, territorial disputes, the issue of sovereignty, the state's military posture, etc. These issues are related to national, state and regime survival which have always been considered safe in the core problem. Non-traditional security refers to the traditional security issues other than security issues. These issues are generally defined as the past, the so-called low Political and security issues, such as economic security, terrorism, environmental pollution, population explosion, drug trafficking, transnational crime, the spread of AIDS and so on.

In addition to these differences, the non-traditional security threats, there are some characteristics different from traditional security issues. The first characteristic of non-traditional threats to security sources is the different actors and the traditional security. Traditional security issues and sources of actors is relatively clear, generally to the autonomy of national conflicts and conflicts between the interests, mainly the result of state and government behavior, and thus is a typical international issue. Non-traditional security issues are more actors and sources of diversity. Many non-traditional security threats are not only a direct result of acts of state, but the activities of various non-state actors' results. For example, the environment, population, drugs, AIDS and terrorism-related security threats, are mostly made up of many individuals and social groups, caused by acts, in most cases, these problems are not the results of national will, while it is contrary to national policy and is legal-oriented. Therefore, non-traditional security issues are different from the traditional security features of the second is that the former than the latter have a stronger social, transnational and global impacts. Non-traditional security issues with special social groups are directly related to personal behavior. With the expansion of scope of activities of specific groups, non-traditional security issues between the countries can easily transcend the various political, geographic, and cultural boundaries, from one country or region to other countries and regions, spreading to the worldwide proliferation of these issues , transmutation and diffusion, so that the problem of individual countries evolve into a global problem. Non-traditional security threats,

transnational, global and social nature of strong non-traditional security issues determine the third characteristic is that it is difficult to control, process long, comprehensive and strong. In this broader context, the concept of non-traditional security seeks to widen security by securitising the non-military aspect such as economic security, food security, health security, environmental security, personal security, community security and political security.<sup>7</sup>

## **Nature of Political Security**

The conceptual considerations of political security take place in the United Nations *Human Development Report* in 1994. Though the report demonstrably does not represent the first use of the concept in general, the force of its impact on global discussion is unquestionable. The well-known 1994 UNDP - Human Development Report begins with the premise that the large-scale geopolitical conception of security is not adequate. The Cold War model as well as the post-Cold War model builds upon a fundamental assumption that the wide-ranging threat to the global political order is the most significant threat to the well-being of all individuals.<sup>8</sup> In this broader context, the main components of the concept of political security can be summarized as follows;

1. Security of Right to Political Participation
2. Security of Right to Peaceful Assembly, Association and Expression
3. Security of Right to Independent institutions
4. Security of Right to Information

One of the most important aspects of non-traditional security is that people should be able to live in the society that honours their political security, including their basic human rights. Political security is those rights by which citizens are given a share in the political life of the community including that of the management of government. Further political security is the rights to political participation. Political participation can take many forms; the most notable form is the right to vote.<sup>9</sup> Political security also covers the right to join a political party; the right to stand as a candidate in an election; the right to participate in a demonstration; and freedom of association.

Security to peaceful assembly, association and expression is the final subdivision of the concept of political security. This is associated with the security to form associations. A citizen should have the freedom to prohibit any one from holding a meeting in the public interest.

Independent institutions are a key element of the political security. Together with the legislative, the executive and the judiciary, they provide for a sophisticated system of checks and balances, enhancing accountability and alleviating unjustified political influence.<sup>10</sup>

The security of right to information provides the opportunity to access to the relevant information for citizens which is under the control of the government. In addition to this the concept of political security implies that the security of right to information promotes transparency and accountability in the working of every public authority.

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<sup>7</sup> For more details see, United Nations Development Programme (1994) 'New Dimensions of Human Security, *Human Development Report 1994*, Oxford University Press-New York, 1994, pp. 22-25.

<sup>8</sup> **Ramesh Thakur and Edward Newman, *Broadening Asia's Security Discourse and Agenda: Political, Social and Environmental Perspectives*, United Nations University, New-York, 2004.**

<sup>9</sup> William M. Carpenter, David G. Wiencek, *Asian security handbook: an assessment of political-security issues in the Asia-Pacific region*, M.E. Sharpe, 1996

<sup>10</sup> Xavier Guillaume and Jef Huysman, *Citizenship and Security: The Constitution of Political Being*, Routledge, 2012

## Political Security Issues of Sri Lanka

The present study of the non-traditional security issues of small states is based on the case study of Sri Lanka. Going by the literature, it is clear that there is a lack of studies on the political security issues of Sri Lanka. On the contrary, literatures do not provide a comprehensive theoretical perspective on political security issues of Sri Lanka. From this perspective, the present study is an attempt to contemplate the above fissure by analysing the political security in Sri Lanka.

### *Physical Nature of the Sri Lankan State*

Sri Lanka, Officially, is called the Democratic Socialist Republic of Sri Lanka, formerly known as Ceylon (pre-1972). As it is known Sri Lanka is a developing small island situated in the north of the equator specifically between latitudes 5<sup>o</sup>55' -9<sup>o</sup>51' North and longitudes 79<sup>o</sup> 41' -81<sup>o</sup> 53' East. It spans over an area of 65,525 square kilometres, and has a maximum length of 432 kilometres and a maximum width of 224 kilometres.<sup>11</sup> Further Sri Lanka is divided into nine provinces with twenty-four administrative districts. In terms of demography, Sri Lanka is occupied by a heterogeneous population, which is divided into several distinct ethnic groups. The last complete all-island Census in 2011 classified the population into *six ethnic groups: Sinhalese, Sri Lankan Tamil, Indian Tamil, Sri Lankan Moor, Burgher, Malay and Others* as well as total population is 20, 263,723.<sup>12</sup>

## Political Setting of Sri Lanka

Politically the Democratic Socialist Republic of Sri Lanka is an electoral democratic small island state in the South Asian sub-continent. According to the present constitution of Sri Lanka, the President who is directly elected by people for a six-year term vests executive power. The prime minister who is the head of the leading party in the parliament has limited powers.<sup>13</sup> Sri Lanka has a working multi-party democratic system despite relatively high levels of political violence. The unicameral legislature which comprises 225 members is elected by people for a six-year term through a proportional-representation system.<sup>14</sup> As a principle, elections are open to multiple parties, and fair electoral laws and equal campaigning opportunities make sure a competitive political process in Sri Lanka.

## Security of Right to Political Participation

In Sri Lanka elections are generally free and fair. Voter participation in elections in Sri Lanka has been high. Voter turn-out during the last 30 years, in Parliamentary and Presidential elections has been over 70 percent, except in 1988 and 1989 when there was an unsatisfactory security situation. The presidential election

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<sup>11</sup> Johan Pernetta (1993), *Marine Protected Areas Needs in the South Asia Seas Region: Sri Lanka*, vol. 05, Switzarland: IUCN, p. 01.

<sup>12</sup> The Department of Census and Statistics of Sri Lanka, *Census of Population and Housing 2012: Final Report*, Department of Census and Statistics of Sri Lanka of Sri Lanka, 2012.

<sup>13</sup> For more details see, W. A. Wiswa Warnapala, "Sri Lanka's New Constitution", *Asian Survey*, vol. 20, no. 9, 1980, pp. 914-30.

<sup>14</sup> Urmila Phadnis, "The Political Order in Sri Lanka under the UNP regime: Emerging Trends in the 1980s", *Asian Survey*, vol. 24, no. 03, 1984, pp. 282-83.

on 08<sup>th</sup> January 2015, voter participation reached more than 70% in several places in Sri Lanka. Especially voters were unusually busy in the Tamil people – dominated north and east provinces of the Sri Lanka which have boycotted national elections in the past.

It is important to mention here that the elections persist to be marred by several irregularities, violence and intimidation. The presidential election that was held in 2005 in the north was suppressed by the LTTE. The LTTE enforced to boycott the election through acts of violence.<sup>15</sup> In addition to this the provincial council election of Eastern Province which was held in May 2008 was accompanied by various reports of pressure by the TMVP, casting doubts on the credibility of the results. Further provincial council elections held in several southern provinces in 2009 were acknowledged to be generally free and fair despite isolated instances of violence and the abuse of state resources by the ruling alliance, according to the Center for Monitoring Election Violence (CMEV).<sup>16</sup> The CMEV reported that the parliamentary election in 2010 was significantly less under pressure by violence and malpractice than previous elections. In its independence report, the European Union's Election Observation Mission noted that the presidential election in 2009 proceeded fairly and smoothly, despite some improper use of state resources and biased coverage by both state-run and some private media.

Election related violence is not a new phenomenon to Sri Lanka. It has caused death, suffering and economic hardship to families and communities alike. Key factors include a daunting polarized political landscape, high stakes and a continued belief that the only response to violence is further violence.<sup>17</sup> During the presidential election in 2010 and Eastern and Sabaragamuwa Provincial Council elections in 2012 there were numerous violent attacks against candidates, campaigners and political activists. In the presidential election of 2015 supporters from the camps of two main candidates were blamed for igniting the violence. The perpetrators included criminal gangs and army deserters who were commissioned to threaten, coerce and even murder politicians and voters alike. According to the sources of the Centre for Monitoring Election Violence, at the end of the presidential campaign in 2015, there were 420 incidents of election violence with 237 categorized as major incidents and 183 as minor incidents. Further highest numbers of major incidents were reported from the war affected Jaffna District with 22 incidents followed by Badulla District with 19 incidents, Kurunegala 18 incidents and 17 incidents in the Kandy District.<sup>18</sup>

It has been revealed that public resources have purposely been abused in the electoral campaigns in Sri Lanka. Among the specific instances of public resources abuse of the electoral campaigns were: the use of the President's official residence for the entertainment of large numbers of people from different occupations/sectors; the use of Government buildings, printing presses and transport (helicopters, trucks, buses) for campaign purposes; the use of public sector employees for campaign work; and the use of the state media to almost exclusively promote the President's campaign.

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<sup>15</sup> Adam Erel, "Sri Lanka - Presidential Election," *State Department Press Statement*, November 18, 2005;

Chandra de Silva, "Sri Lanka in 2005," *Asian Survey*, vol. 46, no. 1, 2006, p. 116.

<sup>16</sup> For more details see, Southern Provincial Council Election-2009, Interim Report, October 08, 2009, Accessed on 02. 02. 2012, URL:

[http://cmev.files.wordpress.com/2009/10/cmev\\_interim\\_report\\_southern\\_provincial\\_council\\_election\\_2009.pdf](http://cmev.files.wordpress.com/2009/10/cmev_interim_report_southern_provincial_council_election_2009.pdf)

<sup>17</sup> For more details see, A. R. M. Imtiyaz, 'Politicization of Buddhism and Electoral Politics in Sri Lanka', in Ali

Riaz (ed.) *Religion and Politics in South Asia*, Routledge-London, 2010, p. 33

<sup>18</sup> Centre for Monitoring Election Violence, Presidential Election 2015, *CMEV Interim Campaign Report*, 2015, p. 03

**Major Incidents in the Presidential Election of Sri Lanka by Category of Offences**

01	Attempted murder	04
02	Hurt	01
03	Grievous Hurt	03
04	Assault	49
05	Threat and Intermediation	22
06	Misuses of State Resources	132
07	Robbery	01
08	Arson	09
09	Abduction	01
10	Damage to Property	13
11	Bribery	02

Source: Centre for Monitoring Election Violence, p. 7

Election related violence was identified by most Sri Lankans as one of the most serious political security related problems in the country. Most people pointed out that the lack of law enforcement is the main reason for the continuation of violence. Several representatives of civil society and members of political parties noted that there are existing laws to deal with many of the problems in the electoral process, but that these laws are simply not enforced. For example, campaign posters are not permitted by law, but are often used by candidates and parties, triggering violent confrontations by opposing parties, with little or no interference by the police. Because the police do not come under the direct supervision or control of the Election Commissioner during the election period, most Sri Lankans believe that the election administration is unable to sanction the police for failure to prevent violations.

It reveals that the election violence is most common in Sri Lanka. So the international community including international organizations such as the United Nations, the Commonwealth, The European Union, Amnesty International and several western and non- western governments call for free and fair elections in which all Sri Lanakan can choose their leader without violence or fear. I addition to this the election violence of Sri Lanka make the state weak, making it insecure and vulnerable to external constraints and incentives.

The voter registration procedure comes under attack by most representatives of civil society and general public. Their view is that the process is unduly time consuming, expensive, and ineffective. It is alleged that a variety of political security issues exists under the current voter registration process. Those issues are as follows;

1. Voters are not always provided with registration forms.
2. Forms are not always collected once a voter has filled them out.
3. Collected forms are not always entered into voter’s lists.
4. Opposition supporters are excluded from the register in some areas.

In addition to this, many internally displaced people are unable to get registration because they have neither the adequate documents nor access to their permanent residences. Moreover, it is revealed that Sri Lankans are unaware of their rights to review the lists prepared by the registration authority and that domestic observers are prevented from doing so.

A large number of Sri Lankans suggested that the Election Commissioner should be empowered to control the police forces during elections in relation to election-related security and policing issues, which would



appear to be a highly desirable reform. Likewise, domestic monitors should continue to report on incidences of violence and share information with local officials, police and members of the election administration. Civic education programs should also be instituted to encourage citizens not to participate in violence, and political parties should commit to a code of conduct that denounces violence in their campaigns.

## **Security of Right to Peaceful Assembly, Association and Expression**

In Sri Lanka, the basic law provides for freedom of peaceful assembly, association and expression. In general the Government of Sri Lanka respects these rights in practice. However, some restrictions existed against these rights. For instance, the Emergency Regulations in Sri Lanka give the president the power to restrict meetings, assemblies, and processions. Under the Emergency Regulations a number of university students were detained following demonstrations at several universities in protest of plans to develop private universities in the country. The government alleged that these demonstrations were unauthorized and deliberately set up with the help of leftist political parties to disrupt classes and clash with the police. The government of Sri Lanka often used informants to target individuals for arrests and interrogation based on their association.

The delegations of European Union (EU) explained that although the freedom of expression is legally guaranteed in the Sri Lankan Constitution, in practice freedom of expression is restricted.<sup>19</sup> A diplomatic mission said that every activity related to political dissent is problematic. Political opposition can barely be expressed in public, neither by journalists nor other groups, and that there is no difference between ethnic groups when it comes to political dissent. The level of persecution also affects the civil servants and there are examples of transfers of critical judges as well as employees within the army who at the time of the presidential elections supported the opposition candidate.

As regards the situation for the opposition, a spokesperson from the British High Commission similarly stated that there are limited rights for expression, for instance, during the presidential elections, the campaign posters of candidate General Fonseka were taken down and some of his supporters lost their jobs. There were reports of members of parliament receiving threats. The spokesperson further commented that after the elections there have been few opponents expressing themselves in public.

The Norwegian Embassy stated that the situation for political opponents and journalists is difficult, especially since the last election when the government gained almost 2/3 of the votes. Many journalists have left Sri Lanka and journalists, including senior journalists, have stopped writing. The Executive Director of the National Peace Council said that people thought things had been improving before the presidential elections in January 2010 and parliamentary elections in April 2010, but that now they had become worse in the area of political freedoms. Protests and demonstrations by the opposition parties have been broken up by the police, opposition members of parliament have been arrested for making public protests, a media station critical of the government has been attacked in Colombo despite all the security presence without anyone being arrested.<sup>20</sup>

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<sup>19</sup> Human Rights and Security Issues concerning Tamils in Sri Lanka, Report from Danish Immigration Service's fact-finding mission to Colombo, Sri Lanka, 19 June to 3 July 2010

<sup>20</sup> For more details see, UN Human Rights Committee, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Addendum: Communications to and from Governments, A/HRC/14/24/Add.1, 18 June 2010, paras. 1027-1038, <http://www.unhcr.org/refworld/docid/4c29a7372.html>; Amnesty International, Silencing dissent: Media workers under attack in Sri Lanka, 3 May 2010 <http://www.amnesty.org/en/library/info/ASA37/001/2010/en>; International Federation of Journalists, Battle for Democracy - Press Freedom in South Asia 2009-2010, 29 April 2010,

## **Security of Right to Independent Institutions**

Governmental coherence has been improved by the fact that the executive and legislative branches are currently controlled by the same party. Some observers charge that the leadership of the current ruling party's centralized style of rule has led to a lack of transparent, inclusive policy formulation. According to a report by the Centre for Policy Alternatives (CPA), the president and his three brothers—who were appointed to head the ministries of Finance, Defense, Ports and Aviation, and Nation-Building and as such control an estimated 70 percent of Sri Lanka's budget—made all the crucial decisions and controlled most public spending, with the cabinet and other party stalwarts serving as implementers and advisers.

The 17th amendment to the constitution of Sri Lanka was designed to improve governance and depoliticize key institutions by creating a Constitutional Council responsible for appointing members to independent commissions overseeing the police, the judiciary, human rights, and public servants. Owing to a parliamentary impasse, the president failed to reconstitute the council in 2006 after the terms of its previous members expired, and instead made unilateral appointments to several commissions in 2007. In 2010, the 18<sup>th</sup> Amendment to the Constitution which was passed by Parliament with a two thirds majority removed restrictions that were imposed by the 17<sup>th</sup> amendment on the term limits of the President by replacing the Constitutional Council. In this regards, local and international community allege that the 18<sup>th</sup> Amendment to the Constitution has threatened the independence of the institutions. Further they asserted that the present situation has created a class of appointees who owe their positions to the president. A critical report issued by the International Crisis Group on the state of the judiciary raised a number of key issues, including the President's refusal to implement the 17<sup>th</sup> amendment; continuing executive power to make high-level judicial appointments; the chief justice's control over the Judicial Service Commission, which makes lower level appointments; and the lack of a mechanism to sanction biased or corrupt judges. There is a growing concern in Sri Lanka, that corruption remains fairly common in the lower courts, and those willing to pay bribes have better access to the legal system.

The 1978 Constitution, which created the office of the Executive President, made further changes to the judiciary and vested the power of appointment of superior court judges in the President. Article 107 (2) of the Constitution states that judges of the Supreme Court and the Court of Appeal can be removed on the grounds of incapacity or proven misbehavior by an order of the President, after an address to Parliament supported by a majority of the total number of MPs. The resolution for the presentation of such an address requires the signatures of not less than 1/3 of total number of MPs. Although this provides for the security of tenure of judges, concentrating power in the executive makes the removal of judges who have the support of the executive or the ruling party virtually impossible.

As a principle judges can generally make decisions without overt intimidation from the political branches. In recent years there has been growing concern about the politicization of the judiciary, particularly with respect to the chief justice, Sarath Nanda Silva, who held the office from 1999 until his retirement in June 2009. In addition to this, according to the civil society organizations and public the removal of the chief justice, S. Bandaranayake, from her office in 2013 and appointment of Mohan Peres as new chief justice was unlawful and illegal work done by the President Mahinda Rajapaksa and the parliament of Sri Lanka. Further they emphasized that it is undermining public confidence in the rule of law and threatening to eviscerate the country's judiciary as an independent guarantor of constitutional rights. Finally Sri Lankan lawyers and civil society organizations carried out the large protest campaign outside the Supreme Court Complex in Colombo on 28

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<http://www.ifj.org/assets/docs/014/210/1cb020e-39a08d2.pdf>, and CPJ, Getting Away With Murder, 20 April 2010, <http://cpj.org/reports/2010/04/cpj-2010-impunity-index-getting-away-withmurder.php#more>

January 2015 demanding the controversial Chief Justice to resign from his post immediately. In the meantime the New President, Maithripala Sirisena, declared the controversial impeachment of S. Bandaranayake by the previous government, and the new President removed Mohan Peres from his office and appointed a new chief justice. But the removal of the controversial Chief Justice, Mohan Peres, and appointment of a new Chief Justice, K. Sripawan, has created a new political dilemma in Sri Lanka. In the parliament debate on the issue of the Chief Justice, the ruling party emphasized and informed the parliament that it needs to assure the international society that it has a judiciary that is competent, independent and impartial.<sup>21</sup>

## **Security of Right to Information**

The security of information rights is not fully protected by the Sri Lankan state. It has declined with a continued increase in intimidation of journalists. Especially the Security of Right to Information is not fully guaranteed to those who are covering the war or other political issues. Over the past few years several attempts have been taken to introduce legislation that will guarantee a right to information. The bill of right to information drafted with significant involvement of the civil society was approved by the Cabinet in 2003. Unfortunately, the drafted bill was not passed by Parliament. According to this draft law, *every person shall have a right of access to official information which is in the possession, custody or control of a public authority.*<sup>22</sup> The draft law stipulates that Information Officers (IOs) should be appointed in each public authority. These officers are mandated to respond to requests for information by the public and to provide any other assistance that the public requires in that regard.<sup>23</sup> In order to ensure that the IOs act independently, the law vests this office with immunity from civil or criminal proceedings in granting access to information under this act.<sup>24</sup>

It is important to mention here that the freedom of expression is a fundamental right which is guaranteed in the constitution of Sri Lanka. But large numbers of laws and regulations such as the Official Secrets Act, emergency regulations reintroduced in 2005, Antiterrorism Regulations in 2006 and the Prevention of Terrorism Act (PTA) have restricted this right. For example senior journalist J. S. Tissainayagam was detained under the PTA in March 2008 and he was sentenced to a 20-year prison term in September 2009. This is the first time the law was used against a journalist in Sri Lanka. In addition to this the state media have increasingly fallen under the influence of the government. In the meantime the private media have become more polarized. During the period of civil war in the North and East civilians were restricted by bans to access the conflict zones in the country. After the ending of the war, reporters were denied entry to cover local elections held in some eastern parts of the country in August. Moreover a number of Tamil-language newspapers have been banned or seized by various factions, distributors have been attacked or warned not to sell certain papers, several independent outlets have been closed due to threats, and other such as *Uthayan* faced harassment from numerous sources.

In addition to this, civil society organizations in Sri Lanka face considerable levels of pressure. Specially, state-controlled media are regularly used to smear individual journalists and civil society activists. Further a number of journalists and civil society activists received death threats and several journalists and civil society activists were subject to attempted or actual kidnapping and assaults. For instance Poddala Jayantha, general secretary of the Sri Lanka Working Journalists Association; Dilesha Abeysondera, a journalist at the weekly *Irudina*; Frederica Jansz and Munza Mushtaq, of the Leader media group; Upali Tennakoon, editor of the weekly *Rivira* have received death threats. In the most serious incident, the editor of the Sunday Leader,

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<sup>21</sup> Parliament Briefed over Judiciary, [www.colombogazette.com](http://www.colombogazette.com), accessed on 02 February 2015.

<sup>22</sup>The drafted Freedom of Information Bill, s. 2

<sup>23</sup> Ibid, s. 22

<sup>24</sup> Ibid, s. 23

Lasantha Wickrematunga was shot dead by unknown assailants. Generally access to the web sites is not controlled. But the government had occasionally blocked access to pro-LTTE websites since 2007.

When examining people's opinions about the media in Sri Lanka, some areas that were examined were how free people think the media is and whether there is a bias in coverage by state and private media with regard to political reporting. Around 42% of respondents expressed their agreement with the statement that the media in Sri Lanka is completely free to criticize the government as they wish, with 16% strongly agreeing. Almost 20% think that the media in Sri Lanka is not completely free to criticize the government, with around 10% strongly disagreeing. However, 30.3% of respondents stated that they did not know or were unsure as to whether they agreed or disagreed with the statement. 17% of urban and 16% rural respondents strongly agree that the media in Sri Lanka is completely free while 12.6% of urban and 7.7% of rural respondents strongly disagree. Finally during the period of field research, a number of journalists revealed that the current law applicable to public officials under the Establishments Code is being used as a safeguard by public officials to withhold information relating to ministerial actions/inactions that should lawfully be in the public domain.

Further it is important to have a definite law which provides the right to access official information in Sri Lanka. Such a law will help to promote the principles of good governance and accountability, and to eliminate corruptions in Sri Lanka. In addition to this it will also make it much easier for socially responsible, pro-active citizens and the mass media to help protect the rights of Sri Lankans. However, the need for such a law is also one of the recommendations of the government's own Lessons Learnt and Reconciliation Commission Report of Sri Lanka in 2011.<sup>25</sup> Furthermore in his presidential election manifesto in 2015, President Maithri Pala Sirisena has emphasized that he is planning to introduce a Right of Information Act which is helpful to the people access information relating to development activities.<sup>26</sup> In this broader context, it is noteworthy to mention here that the Government of Sri Lanka must urgently address the legacy of pressing information rights related issues left by the previous government of Sri Lanka.

## **Conclusion**

It is however suffices to say that the traditional conception of security is based on in their specific cultural context and the highly industrialized democracies of the west. Other countries have got very different conceptions of security. Many developing countries appear to emphasize the domestic as well as the economic and social dimensions of security. However scholars of security studies have long neglected the political security situation in the small states, where most members of the international system are located and where most of the conflicts are concentrated. In this broader context, from the discussion it is revealed that the Government of Sri Lanka is not very effective in protecting and promoting political security of the people. Moreover, the role of civil society organizations in protecting and promoting political security in Sri Lanka appears to be very limited also due to governmental interference in the work of these organizations. Therefore, the Government of Sri Lanka should assess, without delay, the potential value of establishing a system of basic political security provision with universal access for all, through a basic political security benefit package. The new government in 2015 has outstanding opportunity to usher in a new era of respect for political security of Sri Lanka.

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<sup>25</sup> *Lessons Learnt and Reconciliation Commission Report of Sri Lanka*, Government of Sri Lanka, 2011.

<sup>26</sup> *Manifesto*, Compassionate Government Maithri A Stable Country, New Democratic Front-Sri Lanka, 2015, p.17

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