

# PARLIAMENT WATCH – SRI LANKA\*

JUNE 2011



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\* Conceptualised, implemented and funded by South Asians for Human Rights; Research carried out and assistance provided by Transparency International, Sri Lanka

## Overview

June was marked by the government's continued obstruction to the presentation of a bill on the Freedom of Information (FoI). An Opposition MP presented it as a Private Members' bill. Sri Lanka's ruling party lawmakers defeated the tabled Right to Information bill with a majority of 63 votes. According to Speaker Chamal Rajapaksa, there were 93 absentees in parliament at the time of the vote. The UNP, the Democratic National Alliance and the Tamil National Alliance voted in favour of the bill.

## Freedom of Information

When the 2004 draft bill on the subject was endorsed by both major parties, the general assumption was Sri Lanka would be among the first South Asian countries to pass such progressive legislation.<sup>1</sup> Former Minister of Constitutional Affairs, presently the Minister of External Affairs, Prof. G.L. Peiris in 2005 stressed in a statement to Parliament that, "in theory there is no reason why it should not be adopted."<sup>2</sup>

However, almost seven years after the presentation of the draft, the FoI Bill has not been adopted as a law. The UNP, having initiated the bill, has not made significant efforts to drum up political support. Nor have they attempted to educate citizens about the importance of access to information needed for accountable, transparent and effective governance.

Two days after the government voted against the opposition's FoI Bill, Cabinet Spokesman, Minister Anura Priyadarshana Yapa said that the government would bring its own Freedom of Information Bill after holding more discussions. He also added that the UNP Deputy Leader Kau Jayasuriya had not agreed to a decision of the party leaders, which in turn is why the government voted against the Bill.<sup>3</sup>

Jayasuriya presented the FoI draft bill as a private member's motion on June 21, 2011. The move was met with government resistance even before it could be presented to Parliament. Speaking to media, Jayasuriya said that senior ministers had vowed not to allow any discussion on the bill in Parliament.<sup>4</sup>

Subsequent to the presentation of the bill, Chief Government Whip, Dinesh Gunawardene, once again reminded the House that the government remained committed to bringing its own RTI Act and requested the opposition MPs to be patient.

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<sup>1</sup> The case for a freedom of information act in Sri Lanka, Rohan Edrisinha.  
<http://sanvada.org/policyanalysis/sanvadaFreeInfo5/Freedom%20of%20Information%20Rohan%20Edrisin%20ghe.pdf>.

<sup>2</sup> World Bank backs media and civil society for right to information in Sri Lanka, LBO, May, 30, 2005  
<http://www.lankabusinessonline.com/fullstory.php?nid=112375300>.

<sup>3</sup> Sri Lanka Govt. rejects our right to know <http://www.lankanewspapers.com/news/2011/6/68375.html>

<sup>4</sup> 'Govt. Rude, Drunk with Power' – KaruJayasuriya, by RathindraKuruwita, Lakkbima News  
[.http://www.lakbimanews.lk/index.php?option=com\\_content&view=article&id=2007%3Afoi-govt-rude-drunk-with-power&Itemid=56](http://www.lakbimanews.lk/index.php?option=com_content&view=article&id=2007%3Afoi-govt-rude-drunk-with-power&Itemid=56)

His words were indicative of the level of hypocritical attitude the government appears to have taken regarding FoI.

*“We have already given a promise to present our own bill. There was an agreement on it at the party leaders meeting. That was the agreement, but you have presented your own version in breach of that agreement. So I suggest the honourable member to respect the agreement and talk to the government.”*<sup>5</sup>

### **Importance of FOI Legislation**

A few days after the bill was defeated, President Rajapaksa made a public statement that although the FoI was a prerequisite for combating corruption, there was no need for new laws to protect people’s right to information. The State-owned Sunday Observer quoted the President, *“I am prepared to ensure that all Sri Lankans have access to any information except what is covered by the Official Secrets Act and also matters related to National Security.”*<sup>6</sup>

It is pertinent to question as to whether there is actually a government draft and if so, where it is and when the government is likely to introduce the same. While President Rajapaksa may believe that he can personally guarantee people’s right to information, actual practice in June demonstrated that this is not the case. The following examples highlight issues in which a lack of access to information has affected the quality of governance and the accountability of government officials.

During June, three important examples of the need for an FOI law were seen. Meanwhile, rampant abuse of government funds remain obscured, and there is little follow up on serious allegations.<sup>7</sup> Lastly, a violent attack on TNA politicians went unpunished with no information released on the government’s investigation.<sup>8</sup>

- ***Commission reports***

Shortly after President Rajapaksa assumed duties in 2005, he appointed a commission presided over by Supreme Court Judge Shirani Thilakawardena to investigate alleged irregularities committed in military procurement of ammunition for the three armed forces between years 2000-2005.

The three-member committee, Shirani Thilakawardene, Nissanka Udalgama and Nimal Edward Dissanayake, handed the report over to the President on January 28, 2007.

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<sup>5</sup> Hansard, Volume 199 - No. 11, June, 21, 2011, 1524, Dinesh Gunawardane.

<sup>6</sup> Voice of the president, Sunday Observer, July, 3, 2011.  
<http://www.sundayobserver.lk/2011/07/03/pol04.asp>.

<sup>7</sup> Corruption and incompetence brings Sri Lanka’s SLPL T20 tournament to its knees, Island Cricket, June 19, 2011 < <http://www.islandcricket.lk/news/srilankacricket/116340619/corruption-and-incompetence-brings-sri-lanka-s-lpl-t20-tournament-to-> >, accessed on May 30, 2012

<sup>8</sup> Bring these thugs to justice, The Island, June 18, 2011 < <http://pdfs.island.lk/2011/06/18/p8.pdf>>, accessed on May 30, 2012.

Although this report was handed over to the President in early 2007 it has not yet been placed in the public domain.

As the contents of the report are largely unknown, UNP MP Ajith P. Perera sought to question in Parliament on June, 14 2011 whether any irregularities had been identified in the report of that Commission, if so whether persons who are responsible for the irregularities had been identified in that report and whether the report would be tabled. He added that although he has no interest in the detailed contents of the report, he was quite interested in determining whether action had been taken against those who hindered the war effort. Chief Government Whip, Minister Dinesh Gunawardena said in a response that the report was not published because of national security, adding that the President has the report and will act accordingly.<sup>9</sup>

Given the seriousness of the issue and the government's commitment to post war reconciliation, this lack of transparency is profoundly troubling. The fact that not even the Parliament is informed of the Commission's findings and the identities of parties responsible for acts of 'treachery,' demonstrates the Parliament's lack of influence. It further points to the lack of accountability before Parliament regarding core functions of national security and public finance.

- *Oversight committees*

Another example is that of the one-man Mahanama Tilakaratne Committee, which was charged with an investigation into the violence that occurred in the Katunayake Free Trade Zone. The Committee report was presented to the President on June 8, 2011 and that too has not been made public.<sup>10</sup>

The Committee on Public Enterprise (COPE) and the Public Accounts Committee (PAC), exist to ensure Parliamentary oversight of public finance and have broad investigative powers. However, despite the frequent revelations of corruption, malpractice and financial irregularities by these bodies, follow up action has not been taken to rectify the anomalies or take action against those responsible for violations. UNP Parliamentarian Ravi Karunanayake, himself a member of COPE, demanded that he be informed of any action the government has taken with regard to the findings of the COPE report, presented by former Chairmen of the Committee, John Amaratunga, Jeyaraj Fernandopulle, Rohitha Bogollagama and Wijeyadasa Rajapakshe. He has also raised the matter that the report submitted S.C. Mayadunne, the former Auditor-General on 20 July 2006, and the report submitted by MP Rauf Hakeem, in his capacity as Chairman PAC in November 2007 have been confined to the many shelves of Parliament with no action being taken.<sup>11</sup>

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<sup>9</sup> Hansard, Volume 199 - No. 7, June, 07, 2011, 911

<sup>10</sup> FTZ Report handed over, News.lk.

[http://news.lk/v2/index.php?option=com\\_content&view=article&id=18222:ftz-report-handed-over&catid=62:latest-news&Itemid=371](http://news.lk/v2/index.php?option=com_content&view=article&id=18222:ftz-report-handed-over&catid=62:latest-news&Itemid=371)

<sup>11</sup> Hansard, Volume 199 - No. 12, June, 22, 2011, 1666.

Minister Dinesh Gunawardene's response was to remind the House that a committee was appointed comprising Presidential Advisors, the heads of the relevant 26 government institutions and secretaries who were called before COPE and were instructed to take rectifying steps.<sup>12</sup> However, this report is also not accessible to the public.

- ***Attack on TNA Meeting***

On June 16, 2011, Tamil National Alliance (TNA) held a meeting with party cadres in Alaveddi, Jaffna. This meeting came under attack by an armed group in military attire. It was reported that a number of TNA Parliamentarians who were present at the meeting narrowly escaped physical harm.<sup>13</sup>

In addition to the obvious concerns over such targeted violence, the timing of this attack is also unsettling. The TNA party cadres came under attack at a time when the government and the TNA were engaged in discussion over the Tamil national question. This discussion was a follow-up to a high-level meeting between an Indian delegation and the President, regarding India's concerns over the lack of progress on the devolution of power mandated by the 13th Amendment.

Although the Secretary of Defence, the Jaffna Army Commander and the Police have all repeatedly promised to have the attack investigated, the public is yet to be made aware of any outcome arising out of the promised investigation.

TNA MP Suresh Premachandran told Parliament that several soldiers in full uniform, carrying automatic weapons and long poles in their hands, rushed into the hall and started assaulting the people.<sup>14</sup>

The attack on the TNA party meeting signifies that the government has not yet been able to establish post-war normalcy in Jaffna. The planned use of security forces personnel for the upcoming Local Government Election security are reminiscent of the attitude and tactics adopted by the J.R. Jayawardene administration during the now infamous District Development Council Elections, as well as the heavy armed tactics of the Liberation Tigers during their period of administrative control.

## **Conclusion**

Unfortunately, it seems that the government of Sri Lanka has been slow to learn from past experiences. After decades of dealing with public and private sector corruption which has hampered development and fostered poor governance, government administrators are still not willing to recognize that freedom of information would help to create efficient and accountable systems and support economic growth.

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<sup>12</sup> Hansard, Volume 199 - No. 12, June, 22, 2011, 1668.

<sup>13</sup> TNA meeting attacked, Ada Derana, June 17 2011. <http://www.adaderana.lk/news.php?nid=13730>

<sup>14</sup> Hansard, Volume 199 - No. 14 Friday, 24th June, 2011, 1704

Sri Lanka's culture of bureaucracy and secrecy remains a barrier to improved access to information. Despite some opposition efforts, the government continues to oppose a FoI Legislation. As politicians across the board have faced allegations of fraud and financial malpractice, it is difficult to imagine enough political will to overcome this resistance. Yet, as events demonstrated in the past, it is the people of Sri Lanka who continue to suffer from this failure.