

New Media, Old Mindsets: A Bridge Too Far?

by Nalaka Gunawardene

Nalaka Gunawardene has been associated with media, communication and development spheres for 25 years in a multitude of roles including reporter, feature writer, TV host, journalist trainer and communication consultant.

The author, a science writer and new media watcher, offers his perspectives on how Sri Lankan policy and regulatory systems, and society as a whole, are responding to the proliferation of new media, principally mobile telephony and Internet. The rapid growth in new communication technologies, expansion in their service coverage and the lowering of access barriers have not been accompanied by adequate policy preparedness or societal acceptance. This mismatch has led to an uneasy coexistence of analogue-era thinking with digital tools, platforms and opportunities, creating distrust and friction. Resolving these post-connectivity challenges is crucial to harness the full potential of new media for socio-economic development, national integration and democratic pluralism. To be fair, policy makers, law reformers, researchers and social activists operate in a difficult environment. At the same time, advocates of right to information and freedom of expression have to better communicate the tangible benefits of their conceptual ideals, so that the currently apathetic public would appreciate and demand such freedoms. There are many opportunities in the networked world to promote the public interest and achieve better social and cultural cohesion -- but only if fundamental freedoms are valued and defended.

1. Introduction

“The communications revolution... carries with it a promise that is, in the same instant, both exciting and frightening. Which of these alternative ‘futures’ we realise will depend on how responsibly the human race is able to face its obligations to its fellows.”

Sir Arthur C Clarke (1917 – 2008), who was Sri Lanka’s most prominent foreign resident for half a century, offered this caution in an essay written on the eve of the new millennium.¹

Clarke was well aware the wider societal, cultural and political implications of new information and communications technologies (ICTs). Having first proposed (in 1945) the concept of geosynchronous communications satellites for worldwide telecommunications and broadcasting, he then chronicled and critiqued the gradual rise of today’s information society during the second half the Twentieth Century. His perspectives are relevant as Sri Lanka grapples with policy, legal and regulatory challenges arising from the rapidly evolving new media -- especially mobile telephony (introduced in 1989) and Internet (1995).

¹ “2001: A Cyber Odyssey” by Arthur C Clarke, in *Himal Southasian*, November 1999.
<http://himalmag.com/component/content/article/2347-2001-A-Cyber-Odyssey.html>

This is not the first time that Lankan society has confronted a new and transformative communications technology. The most notable recent example is the introduction of television broadcasting (1979) and the dawn of trans-boundary satellite television over Asia during the 1990s.

Many global level developments in ICT and mass media have historically taken time -- years or decades -- to arrive in Sri Lanka. In 2009, I compiled a rough chronology covering the key media and telecom developments during the past two centuries. This is given in Annex 1.²

This chronology raises some interesting questions. For example: while fixed telephone and AM radio services were introduced in Sri Lanka within a few years of their market introduction elsewhere in the world, FM radio and TV broadcasting took several decades to arrive. How and why this happened is open to speculation by media scholars and cultural researchers.

But what is clear from this chronology is that the “time lag” between global and local has been steadily shortening. Where mobile telephony and Internet are concerned, the global rollout has been especially rapid. With economic and information globalisation gathering pace, Sri Lanka has been receiving 'new waves' of media/telecom innovations faster since the mid 1980s.

This is both good news -- and bad news.

On the positive side, a developing country like Sri Lanka -- now a low middle income country (with a per capita GDP of USD 2,877 in 2011) -- is no longer such a ‘laggard’ when adopting newer ICTs and media.

However, it also means that Sri Lanka must confront the policy, law and regulatory challenges of ICTs without having the time or opportunity to study how other comparable economies and societies respond to them. The scope for experimentation and innovation still exists. So does the room to make policy blunders or wrong technology choices with costly results.

2. Internet and mobile telephones in Sri Lanka: A brief history

The privately owned Oriental Telephone Company introduced telephony in Ceylon in 1881, but the government took over the service in 1896. The Department of Posts and Telecommunications (DPT) operated and self-regulated the state telecommunications monopoly for the next eight decades.

Reforms started when the postal and telecom functions were separated in 1980, and gathered momentum in 1991 when the department was turned into a government owned corporation called Sri Lanka Telecom. The office of the Director General of Telecommunications was set up as the regulatory body (renamed in 1996 as Telecommunication Regulatory Commission of Sri Lanka, or TRCSL). Allowing local and foreign private companies to enter the telecom market led to a rapid modernisation of services, accompanied by a phenomenal expansion of service both in quantity and quality.

² Originally included in keynote speech by Nalaka Gunawardene at the Sri Lanka launch of *Asia Media Report 2009* at Galle Face Hotel, Colombo, 4 August 2009.

It was this deregulation of the telecommunications sector that paved the way for introduction of mobile phones, and commercial Internet services. Sri Lanka was the first country in South Asia to introduce mobile telephony as well as commercial Internet services. Although some limited Internet and email facilities were available in academic institutions since 1984, commercial Internet services became available to private subscribers only in April 1995, when Lanka Internet Services Limited (LISL) started operations.

4. Internet and telephone access: Current trends

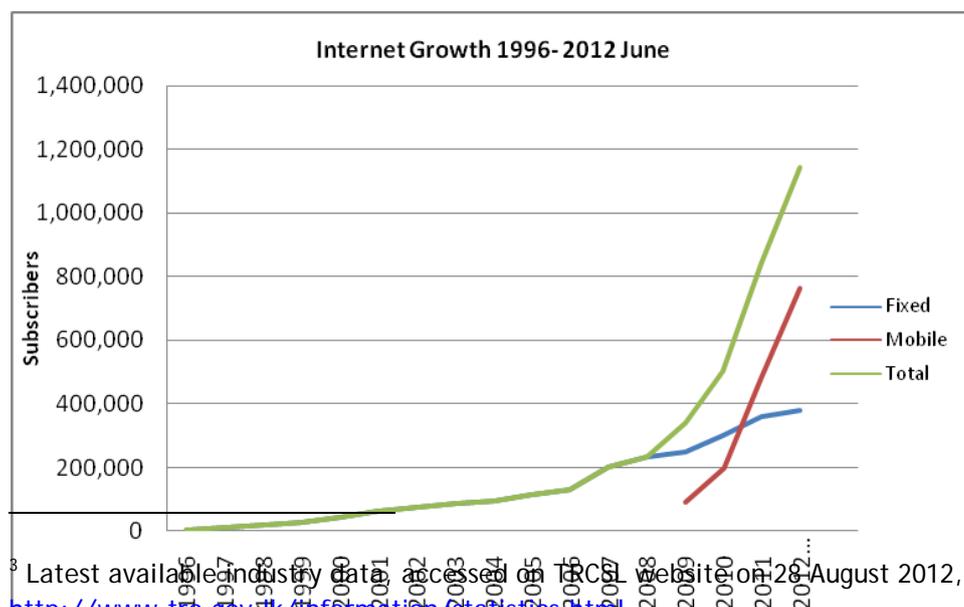
The growth in telephones and expansion of Internet use are closely linked. Connecting to the Internet, done through dial-up facilities with limited bandwidth and speeds for much of the first decade, is now possible via broadband of varying speeds and quality.

According to the TRCSL, the official collector and collator of telecom industry data, the total number of fixed phones went up from 121,388 subscribers in 1990 to 3,240,512 by June 2012. The number of mobile subscriptions, which was just 2,644 in 1992 (three years after mobile services were introduced), reached 19,272,324 by June 2012.

This means there are now more phone connections (fixed and mobile taken together) than people in Sri Lanka (which counted a total of 20,277,597 people in March 2012 during the latest census of population). The island's telephone density exceeded 100 in 2010, and had reached 105.1 phone connections per 100 persons by end 2011.

The number of Internet connections and users is a bit harder to ascertain precisely partly because it is a constantly growing market. TRCSL reported by end June 2012 a total of 380,525 fixed internet subscriptions and another 765,062 mobile internet subscriptions (the latter used via mobile devices such as laptops, smart phones and iPads, etc.).³ When added together, this produces a total of 1.15 million Internet subscriptions by mid 2012.

Determining the number of Internet users is open to interpretation: many fixed subscriptions -- in offices, homes and cybercafés -- have multiple users while mobile internet accounts are less likely to be shared. If we assume an average 3 users per subscription, whether fixed or mobile, the number of Internet users could be in the range of 3.45 million (or 17 per cent of the population).



³ Latest available industry data, accessed on TRCSL website on 28 August 2012, at: <http://www.trc.gov.lk/information/statistics.html>

Growth in officially known internet subscriptions in Sri Lanka: TRCSL website
<http://www.trc.gov.lk/information/statistics.html>

The International Telecommunications Union (ITU), the UN agency that tracks information society indicators and issues worldwide, estimated 15 per cent of Sri Lanka's total population regularly used the Internet by end 2011.⁴ Other analysts cite different figures. The latest number given by the Internet World Stats website for Sri Lanka is 2,503,194 Internet users by end 2011, which lists ITU as its source. A less reliable figure used by some data trackers is the number of Facebook users in a country. Internet World Stats cited this number for Sri Lanka as 1,235,080 on 31 March 2012.⁵

These raw numbers represent only part of a much larger and dynamic picture. The telecom services market, user types and profiles as well as socio-cultural and economic impacts of Internet use have all evolved during the 17 years of commercial Internet connectivity. While the constraints of connectivity and affordability have eased off in recent years, and Internet is no longer an urban or elite monopoly, there still exist some urban-rural disparities, as well as limitations in local language (Sinhala and Tamil) fonts and applications.

According to LIRNEasia, an Asian regional ICT think tank anchored in Colombo, Sri Lanka's recent increase in broadband use is primarily due to the high rate of adoption of third generation (3G) mobile technologies such as HSPA and HSPA+ dongles and associated SIM cards.

“This trend is typical of Sri Lanka and other South Asian countries which do not have access to widespread copper last mile connectivity, and therefore are reliant on wireless networks to increase access, be it simple voice or broadband. Several factors have contributed to Sri Lanka's success in connecting its citizenry to the internet via mobile broadband,” says a LIRNEasia study titled *Broadband in Sri Lanka: Glass Half Full or Half Empty?* (2011).⁶

The study, the most recent assessment of broadband Internet in Sri Lanka available in the public domain, added: “However, having reached this stage, Sri Lanka needs to overcome several challenges if it is continue on its early success and make broadband a truly mass-market product instead of the niche popularity it still enjoys.”

“High quality broadband is still a major problem in Sri Lanka,” says Helani Galpaya, chief operating officer of LIRNEasia and principal author of the study. “A key challenge is that of bringing a product of adequate quality to consumers. Budget broadband/budget telecom models mean low cost and therefore low prices. But they also mean low quality.”

⁴ <http://www.itu.int/ITU-D/ict/statistics/material/excel/Individuals%20using%20the%20Internet2000-2011.xls>

⁵ <http://www.internetworldstats.com/asia.htm#lk> and <http://www.internetworldstats.com/asia/lk.htm>

⁶ www.infodev.org/en/Publication.1113.html

Part of the reason is advertising that promises broadband speeds that are possible theoretically, but not in reality. But a bigger issue is in the infrastructure, especially bottlenecks in international connectivity due to high prices.

4. Lankan media online

The mainstream print and broadcast media in Sri Lanka started engaging the Internet as an additional publishing medium from the early days. In September 1995, the state-owned Associated Newspapers of Ceylon Limited (Lake House) was the first to introduce web editions of their flagship daily and Sunday newspapers.⁷ Wijeya Newspapers Limited (WNL) followed with web editions of their English newspapers in April 1996, and was also the first to produce a web edition of a Sinhala newspaper one year later.⁸

Radio and TV broadcasters were slower to get online, partly due to the serious limitations of bandwidth during the early, dial-up years. As bandwidth improved and more people connected to the web, this situation changed gradually. Today, most stations have their own websites for audience engagement and many offer live audio or video streaming. This has enabled the large number of overseas Lankans (estimated to be at least 1.5 million) to maintain stronger cultural links with their home country. In fact, the growing significance of Diaspora economics has inspired a few online media offerings particularly tailored for that audience.

The past few years have seen the emergence of entirely web-based news services that have no direct print or broadcast counterpart. Some, like Lanka Business Online (LBO), make a clear distinction between news and commentary.⁹ Others have blurred this separation, and have become platforms for expressing dissent and discussing contentious topics in a manner no longer possible in any print or broadcast media in Sri Lanka. A few of these, such as Colombo Telegraph, are operated by Lankan journalists living in self imposed exile.¹⁰

The dominant business model of Lankan news and current affairs websites, irrespective of their content, is based on advertising revenue. Attempts to introduce subscription based services, supported by pay walls, have so far failed.

5. Policy, legal and regulatory framework

Sri Lanka has a multitude of laws and regulations related to telecommunications, information technology, digital intellectual property and mass media. These have evolved over time and lack coherence to address media and technology convergence.

Sri Lanka's Constitution, under Article 14 (1)(a), guarantees the right to freedom of speech, expression and publishing. But this right is subject to various restrictions including public morality and national security. Also, there is no specific provision that recognises access to the Internet as a fundamental right, or guarantees online freedom of expression.

⁷ *The Sunday Observer's* first Internet edition was published on 10 September 1995, and it continues to be published at www.sundayobserver.lk

⁸ *Lankadeepa*, www.lankadeepa.lk, which started its web edition on 15 April 1997

⁹ <http://www.lbo.lk/aboutus.php>

¹⁰ <http://www.colombotelegraph.com>

The Supreme Court has recognised in past judgements the “indispensability” of freedom of expression to the “operation of a democratic system” and the importance of wide dissemination from “diverse and antagonistic sources”. However, the Court has not yet had the opportunity to consider the applicability of existing freedom of expression guarantees to the Internet.

Despite many years of advocacy and several false starts, there is no Right to Information (RTI) law. It seems unlikely that any will be introduced soon. The secretary to the Ministry of Mass Media and Information publicly declared in July 2012 that the Government will not be introducing the Right to Information (RTI) legislation “because it would compromise the country’s national security”. This statement was condemned by journalists’ associations and media freedom groups.¹¹

Thus, Internet users in Sri Lanka operate within a restrictive framework. Some restrictions arise from specific laws and regulations while others stem from seemingly arbitrary decisions made by the executive branch of government. These curb the basic freedoms as well as retard the evolution of a pluralistic information society.

Sri Lanka’s IT laws *per se* are focused more on combating computer crimes and intellectual property rights violations. Information contained within computers is admissible in civil and criminal judicial proceedings. Some laws make it an offence to report on or publish official secrets, information about parliament that may undermine its work, malicious content and any content that could be considered an incitement to violence or cause disharmony.¹²

As in most such situations, much depends on definitions and interpretations. “As a result, online content that can be deemed an incitement to ethnic and religious violence, or poses a threat to national security, runs the risk of restriction and/or criminalization,” notes the *Freedom On the Net 2012 Sri Lanka Report*, compiled by Freedom House in the US.¹³

The watchdog group has assessed Sri Lanka’s Freedom on the Net Status as “Partly Free”. The report says that while the country has not blocked any web 2.0 applications (such as YouTube, Twitter, Facebook), there have been attempts to regulate content critical of the government. It also cites some arrests of bloggers and other ICT users.¹⁴

The report further notes: “Despite recognition of the Internet’s value and impact on economic growth, the military campaign against the Liberation Tigers of Tamil Eelam (LTTE, or Tamil Tigers) — which ended in May 2009 — hindered adequate investment in the ICT sector and expansion of the internet across the country. Furthermore, the empowering impact of the Internet in Sri Lanka has been undermined by the government’s efforts to arbitrarily block, filter, and regulate online content that provides dissenting views and reportage on sensitive political issues.”

¹¹ <http://www.sundaytimes.lk/120805/news/information-ministry-secs-comment-draws-fire-from-media-associations-8001.html>

¹² Official Secrets Act No. 32 of 1955; Parliament (Powers and Privileges) (Amendment) of 1997; and Prevention of Terrorism (Temporary Provisions) Act No 48 of 1979.

¹³ Freedom On the Net 2012 Report, Sri Lanka section, accessed on 25 September 2012 http://www.freedomhouse.org/report/freedom-net/2012/sri-lanka#_ftn1

¹⁴ Op cit.

Another global advocacy group, Reporters Without Borders (RSF), has also expressed similar concerns about Sri Lanka's restrictions on Internet freedoms. They noted in March 2012: "2011 was marked by violence, threats and propaganda aimed at journalists and media defenders seen as government critics. Resorting to censorship and disinformation, authorities have blocked access to websites considered unfavourable to the government, claiming legal justifications."¹⁵

6. Digital content filtering, blocking and web censorship

6.1 Broader context, local and global

Curbs on digital content generation and dissemination need to be seen in the broader context of freedom of expression in Sri Lanka. Threats to Internet freedoms take place in a society that has experienced many acts of harassment, intimidation and violence against independent media, intellectuals and other dissenting voices.

The Centre for Policy Alternatives (CPA), an independent think tank based in Colombo, argues that the murder and abduction of journalists, censorship, intimidation and tolerance of a culture of impunity, continues to directly impact on media freedom and also represent a threat to the freedom of expression online.¹⁶

These trends in Sri Lanka should also be viewed against the backdrop of global developments. Around the world, governments of all political persuasion are finding it a challenge to balance freedom of expression online with protecting societies from probable and perceived threats.

The use of blocking and filtering technologies without the provision of a legitimate reason is also a violation of Article 19 of the International Covenant of Civil and Political Rights (ICCPR). This was highlighted by Frank La Rue, the United Nations Special Rapporteur on Freedom of Opinion and Expression, in his path-breaking Report to the General Assembly in 2011 on the right to freedom of opinion and expression exercised through the Internet. As he noted, if "the specific conditions that justify blocking are not established in law, or are provided by law but in an overly broad and vague manner..." content risks "...being blocked arbitrarily and excessively".¹⁷

He further noted that, even where justification is provided, "blocking measures constitute an unnecessary or disproportionate means to achieve the purported aim, as they are often not sufficiently targeted".¹⁸

¹⁵ Reporters Without Borders, <http://en.rsf.org/sri-lanka-sri-lanka-12-03-2012,42068.html> accessed on 8 September 2012.

¹⁶ Freedom of Expression on the Internet in Sri Lanka, Centre for Policy Alternatives, Colombo. November 2011. <http://cpalanka.org/wp-content/uploads/2011/11/FOE-REPORT-NOV-2011-FINAL-CPA.pdf>

¹⁷ Report of the Special Rapporteur to the General Assembly on the right to freedom of opinion and expression exercised through the Internet, May 2011 http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf

¹⁸ Ibid.

6.2 Sri Lanka's growing web restrictions

Restrictions on mobile phone use and web content access commenced during the final phase of Sri Lanka's civil war, originally citing reasons of national security. Content producers and users, though not fully convinced, lived with an unknown and undisclosed level of such content control. Worryingly, these still continue, over three years after the war ended in May 2009.

The first documented blocking of access to a website within Sri Lanka occurred in June 2007, when TamilNet, a news website, was blocked by all major Internet Service Providers (ISPs) on the orders of the government.¹⁹ Since then, there have been many instances where access to websites has been blocked by local ISPs apparently acting under governmental instruction.

Beginning in 2007, CPA, RSF and other watchdog groups have chronicled many instances of arbitrary blocks on websites being accessed from within Sri Lanka. These monitors have discerned that many such blocked websites report or discuss human rights violations, corruption in state agencies and other governance related issues. Although there is no formal censorship in Sri Lanka, they claim that this is tantamount to unofficial and ad hoc censorship of web-based content that is critical of policies and actions of the government and ruling coalition.

In 2008, the President ordered the telecom regulator, TRCSL, to block access to adult entertainment websites, and in June 2009 in response to an application put forward by the Inspector General of Police, the Colombo Magistrates Court ordered TRCSL to block access to several pornographic websites.

These measures were introduced and promoted in the name of safeguarding children from exposure to pornography. While that objective was certainly laudable, concerns were raised on the methodology and efficacy of such content filtering -- and whether the coverage could easily extend to filtering political dissent as well.

As Sanjana Hattotuwa, editor of the online journal 'Groundviews', wrote in March 2009: "*I certainly agree with the fact that we need to protect our children from pornography, but it does not really tell us how it is going to do this. It is an incredible technical challenge to do this. It could also be pornography today but the same technology can be used to create what is called the Great Firewall of China.*"²⁰

6.3 Absence of enabling laws

The executive has engaged in such activity without specific legal provisions to do so. CPA says that "almost all attempts by the government to block web content have been extra-legal, circumventing the minimum requirement of judicial intervention and based on arbitrary orders issued by government authorities".

In the most comprehensive report on Internet freedom in Sri Lanka, released in November 2011, CPA noted: "The directives of national security and arbitrary judgements by government officials on what constitutes the national interest and public morality have been

¹⁹ Tamilnet blocked in Sri Lanka, BBC Sinhala.com
http://www.bbc.co.uk/sinhala/news/story/2007/06/070620_tamilnet.shtml

²⁰ <http://ict4peace.wordpress.com/2009/03/14/revisiting-the-colombo-media-declaration-rough-transcript-of-presentation/>

manipulated to stifle dissent and block web content that is considered offensive. The situation is compounded by a legislative framework with broad provisions that allow for civil liberties to be trumped in favour of national security provisions and regulatory standards that demand neither an independent regulatory commission nor transparent administrative practices and adequate protection of data and privacy.”²¹

The report offers a sound analysis of the prevailing national security laws and general laws that are cited and used for restricting freedom of expression and dissent, both in established print and broadcast media and in new media.

6.4 Registration of news websites

In November 2011, the Department of Information issued a press release requiring 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”. The registration authority was the Ministry of Mass Media and Information.

The immediate reason for this was cited as some individuals (including politicians and entertainment industry figures) being maligned and defamed by certain websites.

This was once again a public demonstration of the befuddled mindset of officials handling information and communication related policy and regulation. For example, did this cover only web-based news services, or even private individuals engaged in blogging about local issues of their interest? Even if a mandatory registration was introduced, how could it be enforced in practice especially for content generators based outside Sri Lanka?

The vague and overbroad nature of this measure was pointed out by civil society groups and activists. In a statement issued shortly afterwards, they noted: “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.”²²

In December 2011, the operator of a website who had challenged the blocking of his site through a fundamental rights petition in the Supreme Court agreed to a settlement with TRCSL and other state institutions. In return for lifting the block on that website, the settlement required compliance with several terms and conditions that included the immediate registration with the TRCSL and the Ministry of Mass Media and Information.²³

By August 2012, some news and current websites had registered with the Department of Information, while others had declined to do so.

6.5 Intermediary liability

²¹ Op cit 17

²² Arbitrary Blocking and Registration of Websites: The Continuing Violation of Freedom of Expression on the Internet. Civil society statement issued on 9 November 2011.

<http://www.sacw.net/article2383.html>

²³ http://www.freedomhouse.org/report/freedom-net/2012/sri-lanka#_ftn20

This report has also brought into sharp focus the role and liabilities of communication service providers or intermediaries: the ISPs and mobile telecom operators who have always conformed to the government's arbitrary requests for blocking and filtering of web content, shutting down SMS services²⁴, and, during the last stages the war, cutting off entire telephony services to hundreds of thousands of people in some areas.²⁵

Freedom House in its latest country report says that any legal requirement for ISPs to comply with requests from TRCSL to block websites is based either on political pressure, or specific licence conditions. The latter is difficult to confirm, it says, given the lack of transparency in telecom licensing.²⁶

Apart from the pornographic websites specifically mentioned in judicially sanctioned blocking, there is no other list of websites whose access is blocked by ISPs in Sri Lanka. Even in a competitive telecom market, ISPs and mobile operators disregard individual consumers' rights to the service they pay for. This aspect has received little attention from consumer activists who are mostly preoccupied with adulterated goods or financial scams.

7. Post-connectivity challenges of the Information Society

Sri Lanka is slowly but surely evolving into an information society. The policy dilemmas and contentious debates outlined above are but part of that process.

Connectivity and basic access issues dominated the public discourse during the first dozen years after the introduction of Internet services. As these ease off across socio-economic groups and the urban-rural disparities gradually recede, we now face a more complex and nuanced set of challenges.

These post-connectivity challenges include the following:

7.1 Improving IT literacy and web literacy

Measuring computer literacy is not based on precise methodologies and much depends on definitions. Different figures have been cited on how many among Sri Lanka's 20.2 million people have computer literacy.

The Household Income and Expenditure Survey 2009/10 carried out by the Department of Census and Statistics revealed that 12.5 per cent of Lankan homes have a computer.²⁷ The same Department, in a separate survey on computer awareness and literacy in 2009, assessed that 20.3 per cent of people (aged 5 to 69) had the ability to use a computer on their own.²⁸

²⁴ <http://lirneasia.net/2008/02/the-great-firewall-of-china-and-its-sri-lanka-equivalent/>

²⁵ Over 200,000 in Jaffna deprived of phone service now for two months. LIRNEasia, 30 October 2006. <http://lirneasia.net/2006/10/over-200000-in-jaffna-deprived-of-phone-service-now-for-two-months/>

²⁶ Op cit 14

²⁷ http://www.statistics.gov.lk/HIES/HIES2009_10FinalReport.pdf

²⁸ <http://www.statistics.gov.lk/Newsletters/Publication1%28Computer%20litalary%29.pdf>

There are geographical, income and educational factors that determine this skill which also has many levels. With over a million smart phones in use, all of which are internet-enabled, the web browsing skills are increasingly common. But no systematic survey of such skills has been done, so insights remain anecdotal.

The government is implementing, through its ICT Agency (ICTA), a five-pronged strategy which encompasses “building information infrastructure and an enabling environment; developing ICT human resources; modernizing government and delivering citizen services; leveraging ICT for economic and social development; and promoting Sri Lanka as an ICT destination”.²⁹ ICTA also says that the government aims to provide “diverse and unrestricted sources of information and means of communication” to all citizens.³⁰

7.2 Technical Standardisation

Both Sinhala and Tamil languages have their own distinctive alphabets whose fonts are very different from roman characters. Developing and disseminating content in local languages across different platforms and applications remains a challenge.

While Tamil content developers have been able to benefit from substantial technical innovation in southern India, their Sinhala language counterparts have had to localise entirely on their own. Because the state did not facilitate a standardisation process during the first decade, multiple Sinhala font systems developed in isolation have been marketed and adopted with no inter-operability.

The belated adoption of a Unicode Sinhala font, the international standard for non-Latin scripts, has helped. But retrospective conversion of existing, mutually exclusive applications remains a formidable challenge.³¹

7.3 Privacy and data protection

While the right to privacy is protected in specific instances in Sri Lanka’s legal system, there is no right to privacy under the Constitution of Sri Lanka. There are also no laws to protect general information gathering and handling, whether electronic or otherwise.

There are also concerns about the extent to which the data and privacy of customers is protected by mobile phone companies and ISPs: the circumstances under which telecom companies can intercept customers’ private communications are not clearly spelt out.

Another issue is telecom companies allowing certain political parties and candidates access to mobile phone numbers for sending out campaign text messages *en masse*. This occurred during the 2010 presidential and parliamentary elections, with operators claiming that the directive came from the TRCSL.

²⁹ ICT Agency website, <http://www.icta.lk/en/programmes.html> accessed on 31 August 2012.

³⁰ ICTA Nenasala website, <http://www.nanasala.lk>, accessed on 31 August 2012.

³¹ Guide to creating Sinhala and Tamil Unicode fonts, ICT Agency. November 2010. http://www.icta.lk/attachments/1090_Guide%20to%20creating%20Sinhala%20&%20Tamil%20Unicode%20fonts.pdf

7.4 Cyber surveillance

The Telecommunications Act No 25 of 1991 (amended in 1996) and the Computer Crimes Act No 24 of 2007 provide limited protection to Internet users from surveillance and other forms of intercepting communications. However, both the Acts contain provisions that allow law enforcement agencies and relevant Ministers to intercept communications without any apparent restrictions or guidelines on their exercise of this power.

Activists and international watchdog groups have expressed concern about possible Chinese technical assistance for web surveillance in Sri Lanka, especially in view of the increasing involvement of Chinese telecom giants, ZTE and Huawei.

As Sanjana Hattotuwa wrote in February 2012: “The communications network infrastructure in question connects us all, irrespective of any kind of party political, ethnic or other identity and geo-physical based divide. It is the DNA of our country, and determines how we engage with domestic challenges as well as global opportunities. It may be only of concern to a few today, but the implications of possible network intrusions, that can go undetected for years and the full scope of which may never be accurately known, affects us all.”³²

8. Nexus between established media and new media

Although most print and broadcast media organisations have developed their own websites, and some have also started reaching out on key social media platforms (notably Facebook and Twitter), they have yet to tap the potential of the new media in the full process of information gathering, processing and dissemination.

These limitations stem not so much from a lack of technology or human resources as from a fundamental lack of understanding of the nature and dynamics of the new media. Many media groups -- at both management and editorial levels -- are stuck in an analogue-era mindset that views new media merely as another “extension” of their print or broadcast output. They have yet to re-orient themselves to the new realities that have also flummoxed their counterparts in many other parts of the world.

Some acknowledgement of this new media reality was made, most notably on the 10th anniversary of the Colombo Declaration on Media Freedom and Social Responsibility in 2008.³³ Whereas the original declaration in 1998 contained no mention of the Internet and web-based media, its reiteration a decade later included the following new sections:

10.3 Internet: One of the most significant developments in the last ten years has been the growth of the Internet, which has resulted in the democratization of media and encouraged the emergence of non-professional journalists in the form of bloggers etc. We acknowledge the contribution of bloggers towards the promotion of free speech and democratic media. We also recognize that bloggers are as susceptible to controls by the state, misuse of their work as traditional print and broadcast media.

³² Are Chinese Telecoms acting as the ears for the Sri Lankan government? Sanjana Hattotuwa, Groundviews.org, 16 February 2012: <http://groundviews.org/2012/02/16/are-chinese-telecoms-acting-as-the-ears-for-the-sri-lankan-government/>

³³ The original declaration, adopted in 1998 and signed by the Sri Lanka Working Journalists Association, Free Media Movement, Newspaper Society of Sri Lanka, Editors Guild of Sri Lanka, is at: http://cpalanka.org/wp-content/uploads/2007/8/Colombo_Declaration.pdf

We take this opportunity to commit our support to responsible bloggers and other new media practitioners, and hope to work with them in solidarity towards establishing a convergent media which is strong and independent.

*10.4 We specifically call on the government to recognize the internet as an important space for deliberative democracy, and extend to it, all such policies as would enhance the space of free speech on the Internet, and to avoid all policies of banning, blocking, or censoring websites without reasonable grounds. There is now a convergence between the traditional print media and the internet, with a number of newspapers being accessed through the internet, and we would strongly urge that all the privileges and protections sought in this declaration be extended to the web editions of newspapers.*³⁴

Despite this, the established media organisations still adopt an ambivalent attitude towards entirely web-based news services and citizen journalists and other web-based new media initiatives promoting the public interest.

With or without the mainstream media's endorsement, citizen journalism thrives in Sri Lanka. Over a 1,000 local bloggers are syndicated by one aggregator named Kottu.³⁵ Other services, and a loose alliance of Sinhala language bloggers, have seen numbers and activity grow.

Without the trappings and inertia of the more institutionalised media, citizen journalists are quick to adopt new communication tools and platforms. This is especially evident at times of national distress. For example, some of the first images of the devastating flooding that engulfed nearly half of Sri Lanka in January and February 2011 were posted on Facebook. Tweets with vital updates came from grassroots organisations like Sarvodaya, who leveraged Twitter and Facebook to raise awareness and solicit flood relief donations. The mainstream media, in contrast, struggled to cover this diverse and rapidly evolving story and failed to use new digital tools to communicate information in a user-friendly manner.

As I noted in a commentary at the time: "Our cyber-illiterate editors, who have repeatedly shown their inability to lead, must either follow their digitally-savvy younger colleagues -- or just get out of the way! To survive the new media tsunami, media managers must come to terms with the new reality of collaborative, user-involved news generation and consumption. Business as usual is not an option."³⁶

9. Public perceptions of Internet-based new media

Even after 17 years of commercial Internet services, Lankan society at large is still uneasy with the medium despite its increasing economic, educational and other applications. This, in turn, has policy and regulatory implications.

³⁴ Full text at: <http://ict4peace.wordpress.com/2009/03/18/full-text-colombo-declaration-on-media-freedom-and-social-responsibility-october-2008/>

³⁵ <http://www.kottu.org/>

³⁶ Drowning in media indifference, by Nalaka Gunawardene, Himal Southasian, March 2011 <http://www.himalmag.com/component/content/article/4293-drowning-in-media-indifference.html>

During the early years of connectivity, from 1995 to 2000, the Internet was widely seen as an elite medium used by the English-educated, urban middle class -- and even in this socio-economic group, it was the younger persons typically under 40 years who engaged it. During the past decade, as detailed earlier, access has improved substantially. There has also been a steady growth in locally relevant content in local languages.

Despite this, the Lankan public has a love-hate relationship with the web. This probably stems from several factors, *inter alia*:

- a general suspicion of all new forms of communication;
- a deeper distrust of technology and forces of globalisation;
- deliberate vilification of the web by certain activist and political groups; and
- distorted coverage of new media issues in the mainstream media that magnifies negative social and cultural effects.

As new media becomes more relevant to the island's culture, economics and politics, these and other factors needs to be studied in depth.

Unfortunately, such intellectual leadership has not been evident among a majority of Lankan academics and researchers: many have avoided probing the confluence of ICT, society and culture while some have even helped reinforce popular myths and misconceptions about new media. I had a glimpse of this during 'National Media Summit 2012' organised by the island's oldest mass communication department at the University of Kelaniya in May 2012.³⁷

This event was attended by academics and researchers on journalism and mass communication from several universities. From my own engagement as a speaker, it was evident that they are either oblivious -- or indifferent -- to the various policy dilemmas, regulatory challenges and balancing of interests that new media proliferation requires of a society and its government. Instead, their attention seemed exclusively focused on the adverse social and cultural impacts of Internet and mobile phones and the need to 'control' these media supposedly in the public interest.

Part of the confusion -- alarmingly common among many policy makers, opinion leaders in Sri Lanka -- arises from a fundamental lack of understanding of the nuances and dynamics of the new media landscape.

For example, many conflate private communications online (e.g. *via* Facebook) with the open, public-access online content (e.g. blogs) and public access content that performs public media functions (e.g. news websites). Similarly, the critical need for common technical standards (to ensure inter-operability) is misinterpreted by some as a justification for government imposed content monitoring and censorship.

A convergent medium like the Internet poses challenges to policy makers and law makers. Trends like Citizen Journalism, user-generated content, privacy and right to information are often discussed in abstract terms in Lankan mainstream media or academic circles without focusing on what options and choices policy makers have when confronted with rapidly evolving new media.

10. Sri Lanka's 'Other Digital Divide'

³⁷ <http://nalakagunawardene.com/2012/05/25/new-media-old-minds-a-bridge-too-far/>

Sri Lanka's last two decades of experience in adopting the newer technologies of mobile phones and Internet provides useful insights into how a highly conservative -- and according to some, semi-feudal -- Lankan society is struggling to come to terms with modernity as a whole. Researchers and promoters of new media have found considerable scepticism, cynicism and resistance from old mindsets that still dominate many areas of political, cultural and academic activity.

Such negativity is not necessarily confined to 'Digital Immigrants', or those who started using digital technologies in their adult lives. Deep rooted suspicions about these ICTs are also found among some 'Digital Natives', young persons raised in an increasingly digital world.³⁸

I call this the 'Other Digital Divide' -- a successor to the better known divide created by disparities in access and/or affordability. As basic connectivity issues have eased out, a new gulf has appeared inside the minds of some users of devices and services. This might be the result of insularity and insecurity nurtured by conspiracy theorists and sections of the media.

This essay was not intended to investigate such contentious -- *albeit* intriguing -- issues of cultural identity and technological anthropology raised by this collision of different worlds. We must acknowledge, however, the larger picture against which policy makers, law reformers, researchers and activists have to promote the public interest in a country where that very notion has been under siege for at least three decades.

11. The bigger picture: Social and political context

Many negative reactions to new media proliferation in Sri Lanka stem from a deeper disorientation in society. To repeat a key question I have raised in recent public forums: is there sufficient public and societal demand for ideals such as freedom of expression, Rule of Law, right to information, transparency (in state and corporate sectors) and overall good governance? If not, why?

In my view, many researchers, journalists and activists have not paid sufficient attention to this *demand* side of the freedom equation even as they work hard -- and under many pressures -- to increase the *supply* of basic freedoms and other public goods. Public demand cannot simply be presumed.

For sure, we cannot apply a strict economics analysis of supply and demand here. At the same time, why do the products of investigative journalism, civil society advocacy and human rights advocacy seem to elicit such limited enthusiasm from a largely apathetic Lankan public today?

One explanation is that three decades of civil war have left behind some unhealthy legacies where public information and communication are concerned. For much of that time, successive governments asked the Lankan public to tolerate the curtailment of civil liberties under Emergency Regulations. In the interests of counter-terrorism, we lived with various restrictions on information flows.

³⁸ For a detailed exploration of these concepts in relation to new media and mainstream media in Sri Lanka, see 'Confessions of a Digital Immigrant', Groundviews.org, 21 November 2009. <http://groundviews.org/2009/11/21/confessions-of-a-digital-immigrant/>

Over time, these restrictions created an entire generation that does not know what normalcy is. The public administration system became used to excessive controls and the withholding of public information citing the catch-all cause of national security. Law enforcement agencies were granted wide powers with limited judicial oversight. The mass media became increasingly uncritical and submissive so as to prove their ‘patriotic’ credentials. Professional bodies also muted their criticism of authority.

The Lankan war officially ended in May 2009, but more than three years later, the dominant mentality of a National Security State still casts a long and formidable shadow over much of the island’s polity, society and processes of governance. The prevailing logic seems to be that anyone who questions authority -- let alone confronts it -- is an “enemy of the state”.

Does this, in turn, inhibit the *demand* side for basic freedoms and other public goods in a country that is still struggling to achieve a really post-conflict society? Uncomfortable though this question is, it needs to be confronted.

12. Conclusion: A Choice of Futures

We can react to the emerging information society in two different ways.

One choice is to view the status quo with alarm and despair over the gradual loss of privacy, death of anonymity and the feared rise of Big Brother like scenarios.

The other choice is to be cautiously optimistic and hopeful. The always-connected, networked modern world presents many new opportunities to promote the public interest.

I far prefer the latter. Even when the current situation is not too promising, we can and must reflect on these issues in aspirational terms.

At the same time, let us not forget Marshall McLuhan’s caution decades ago: “*The price of eternal vigilance is indifference.*”

Annex 1

Information and communication technologies (ICT) in Sri Lanka: A brief chronology: 1832 - 2012

Mass media type or communications technology	Public/commercial introduction in the world	Sri Lanka's commercial/public adoption
Modern newspapers printed with movable type	France & The Netherlands Early 17 th century	<i>Colombo Journal</i> 1832
Fixed telephone services	The Telephone Company, UK, 1879	Oriental Telephone Company, 1881
AM Radio broadcasting	The Netherlands, 1919 USA & UK, 1922	Colombo Radio Dec 1925
FM Radio broadcasting	USA, 1937	SLBC's City FM Nov 1989

Mass media type or communications technology	Public/commercial introduction in the world	Sri Lanka's commercial/public adoption
Terrestrial Television broadcasting	USA, 1929	ITN, April 1979
Mobile telephone services (commercially available)	NET, Japan, 1979	Celltel, 1989
Email only Internet (academics only)	MAILBOX, MIT, 1965 ARPANET, 1973	LEARN, 1990
Commercial Internet connectivity (dial-up)	Late 1980s	Lanka Internet Services, 1995
Broadband Internet connectivity	Cable modem service by Rogers Communications, Canada, 1996	Sri Lanka Telecom ADSL, 2002
3G mobile telephony	NTT DoCoMo, Japan, Oct 2001	Dialog Telekom 2006

Principal sources were the Wikipedia entries for various ICTs, and *Handbook of the Media in Asia*, Shelton Gunaratne, ed., Sage, 2000.

Note that the dates used refer not to their invention, but the market introduction of a new communications technology or media.