

**A Safer World For The Truth**



**PEOPLE'S TRIBUNAL ON THE  
MURDER OF JOURNALISTS**

**PROSECUTION CLOSING BRIEF**

## **CLOSING SUBMISSION**

In response to the alarming number of journalists who are murdered in relation to their work, and the significant levels of impunity, the Prosecution has indicted the Democratic Socialist Republic of Sri Lanka, the State of Mexico, and the Syrian Arab Republic in relation to their conduct in the cases of respectively, journalists Lasantha Wickrematunge, Nabil Al-Sharbaji and Miguel Ángel López Velasco – each marked by continued impunity, reflective of a wider pattern of violence against journalists in these countries and illustrative of the way in which these States, by act or omission, have failed to honour their obligations under international human rights law.

The Prosecution has substantiated these allegations through reports, the testimony of experts and witnesses relating to these three emblematic cases to analyse: i) the incidents relating to the specific murders, ii) the patterns in the overall context and challenges faced by individual journalists and their surviving family members.

On the basis of the evidence adduced in the course of the three hearings,<sup>1</sup> the Prosecution submits that impunity is almost absolute in the Democratic Socialist Republic of Sri Lanka, the State of Mexico, and the Syrian Arab Republic with regards to the accountability for crimes against journalists.

Despite the fact that the institutional organization of these three states is different in nature – the Democratic Socialist Republic of Sri Lanka being an illiberal democracy, the State of Mexico being a democracy with authoritarian features and collusion with

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<sup>1</sup> The Mexico Hearing in Mexico City on 26 and 27 April 2022, and the Sri Lanka and Syria Hearings in The Hague on 12 and 13 May and 16 and 17 May.

criminal actors at the local level, and the Syrian Arab Republic, an authoritarian regime, the three states all demonstrate similar patterns of attacking - or failing to prevent attacks on - journalists who are reporting about the truth and exposing the state for violence, criminal activity and repression. Moreover, the lack of effective prosecution and valid accountability mechanisms remains the rule for these cases in all three countries.

In this regard, the Prosecution would like to acknowledge the victims of the three cases selected for this Tribunal: Lasantha Wickrematunge, Nabil Al-Sharbaji and Miguel Ángel López Velasco and their family members for their suffering. These three journalists were treated in the same way, in different countries, for doing the same thing: exposing a state that engages in violence, criminal activity or is an accomplice to it.

The Prosecution wishes to highlight that these individuals were murdered for exercising their professions and their constitutional rights to freedom of expression.

In these three situations, as in many other parts of the world, States are failing to protect journalists. Further than that, these three states have aggravated the circumstances of repression by creating defamation laws, inventing legal proceedings and maneuvers to increase the hostility and harassment of journalists over the exercise of their right to freedom of expression.

The Prosecution submits that impunity with regards to the murder of journalists will not be successfully addressed until we understand the following:

- a) Journalists are being killed because they are exercising their freedom to inform and it is in that context that the investigation should be taking place. The context cannot and should not be ignored to achieve effective accountability;
- b) journalists and their family members are not sufficiently supported in their quest for justice;
- c) the murder of journalists is a transnational and international problem that demands an international exercise of responsibility.

Similarly to the growing awareness as it happened with gender-based violence, crimes against the freedom of the press are a category in their own right, with transversal components that need to be identified and addressed. A specific protection mechanism needs to be designed in response to the specific nature of threats that journalists face.

The Prosecution's view is that the indignation runs deep, both of locally and globally, with regards to the impunity with which journalists are being murdered, and the time has come to address:

- a) the States' systematic failure to protect journalists;
- b) the States' participation in the targeting of journalists speaking up against the it;
- c) the States' failure to investigate and hold the perpetrators of the crimes against journalists accountable;
- d) the States' suppression of the freedom of expression through fraudulent charges, legislation aimed at censorship;
- e) the States' engagement in the coverup of crimes against journalists; and

- f) the States' failure to recognise the family members of journalists as victims and provide remedies for accountability;
- g) the State's creation of a hostile climate for press freedom in which journalists are subject to fraudulent charges and legislation aimed at censorship forcing journalists to self-censor, which in turn, reduces the transparency of state actors, prevents the media from acting as a counterbalancing power to governments and leaders and increases the vulnerability of journalists to physical attacks on their safety.

With this in mind, the Prosecution will present below a brief overview of the most relevant points in relation to each country respectively.

## **1. The murder of journalists in the State of Mexico**

### **1.1. Contextual background**

Throughout the hearing relating to Mexico, the Prosecution has adduced evidence of the overall context of rampant violence against journalists and impunity for these crimes. The evidence submitted confirms that Mexico has become one of the most dangerous places in the world for journalists, with the state of Veracruz being the most notorious for violence against journalists and impunity.

The Prosecution presented an overview of the factors described as having contributed to the increase in violence against journalists. As witness Anabel Hernández explained: "there is an increasing infiltration of organized crime groups in the political parties and

therefore there is a greater infiltration of criminal organizations in the Executive Branch.”<sup>2</sup>

The witnesses relating to the states of Baja California, Guerrero, Chihuahua, Tamaulipas and Veracruz,<sup>3</sup> among the states most affected by this violence, presented how journalists are specifically targeted for their work through individual cases of journalists threatened, attacked, harassed and murdered in the last two decades. Journalists Adela Navarro, Jorge Carrasco, and Noé Zavaleta highlighted the impact of these murders of several media outlets who lost several colleagues, including *Proceso*, *ZETA* in Baja California and *Notiver* in Veracruz. All witnesses painted a particularly bleak picture of the precarious nature of the work of the journalists in these areas both due to their economic status, the marginalization resulting from reporting about organized crime and corruption, the constant fear of violence and repression as well as their isolation due to the absence of recourse for support and assistance.

Beyond the systematic nature of these attacks, the individual cases presented illustrate the endemic lack of protection of journalists,<sup>4</sup> and the persisting impunity in the investigation and prosecution of perpetrators by both local and federal prosecutors. Witnesses across the board highlighted the shocking numbers from the 2021 National Census of State Justice Prosecution “out of 100% of the investigation files that are

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<sup>2</sup> Testimony Anabel Hernández, 26 April 2022, accessible via [https://www.youtube.com/watch?v=ky8\\_pytL3Xs&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=14&t=248s](https://www.youtube.com/watch?v=ky8_pytL3Xs&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=14&t=248s)

<sup>3</sup> Testimonies Adela Navarro, Jorge Carrasco, Patricia Mayorga, Priscilla Pacheco, Noé Zavaleta and Martha Olivia López Medellín on 26 April 2022, accessible via <https://www.youtube.com/playlist?list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR>

<sup>4</sup> Testimonies Lucia Lagunes, Balbina Flores and Miguel and Yazmin Lopez, on 26 and 27 April 2022, accessible via <https://www.youtube.com/playlist?list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR>

opened (...) only 1% have criminal proceedings”.<sup>5</sup> Relating to crimes against journalists specifically, the Prosecution submitted the evidence of Balbina Flores who referred to a report from Reporters without Borders citing "heavy impunity in Mexico," (report '*Bajo Riesgo*')<sup>6</sup> and the "absolute inaction, sometimes 100% (of inaction) in the investigations of the murders of journalists".<sup>7</sup>

Lucia Lagunes, member of the Advisory Council of the Protection Mechanism for Human Rights Defenders and Journalists, and Laura Borbolla, prosecutor (formerly tasked with the investigation of crimes against journalists at the federal entity *FEADLE*) both spoke about the Protection Mechanism, which was enacted by the Mexican State in 2010. The Mechanism was initiated due to the increase in violence against human rights defenders and journalists, but both witnesses described its structural and implementational flaws.<sup>8</sup> In this context Adela Navarro explained with regards to state mechanisms for protection that: "On two occasions the state tried to put us in the journalists' protection mechanism, which we rejected because it included the escort of two federal policemen, who at the time -and still now- were from the most corrupt corporations in this country. So, we thought that they were not going to protect us, that

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<sup>5</sup> Data retrievable from <http://en.www.inegi.org.mx/programas/cnpje/2021/>

<sup>6</sup> RSF. *Bajo Riesgo: Un informe inédito de RSF sobre las deficiencias de los mecanismos de protección a periodistas en América Latina*. 2021. Retrievable from [https://rsf.org/sites/default/files/relatorio\\_esp\\_final.pdf](https://rsf.org/sites/default/files/relatorio_esp_final.pdf)

<sup>7</sup> Testimony Balbina Flores, 27 April 2022, retrievable from <https://www.youtube.com/watch?v=Lw55nyfj21E&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=15>

<sup>8</sup> Testimonies by Lucia Lagunes and Laura Borbolla, retrievable from <https://www.youtube.com/playlist?list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR>

they were going to spy on us. They were going to pass the information of our contacts, of our jobs to the Government or criminal entities. So we don't accept it.”<sup>9</sup>

Through lawyer Sara Mendiola from legal organization *Propuesta Civica*, who represented several family members of murdered journalists, the Prosecution adduced evidence describing the various institutional structures available at the state and federal level in Mexico for the investigation of crimes including specifically the crimes committed against journalists and that: “there is no collaboration or coordination between local or federal authorities (...)” giving examples of local prosecutors office that “absolutely refused to have a single collaboration with the federal prosecutor.”<sup>10</sup>

This was confirmed by a former prosecutor of the FEADLE, Laura Borbolla, who also testified that at both the state and federal level public policy actions to protect journalists and to investigate the crimes against them have been failing and lacking. The former FEADLE Prosecutor further expressed the opinion that “the Office of the Attorney General of the Republic, in all the issues that concern it to the Prosecutor's Office that involve investigating federal crimes, is not doing what it is supposed to do” and that there is no process of constitutional reform, substantive or procedural legislative reform to address the issue.<sup>11</sup>

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<sup>9</sup> Testimony by Adela Navarro on 26 April 2022, retrievable from <https://www.youtube.com/watch?v=inxnkzQaSOM&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=27>

<sup>10</sup> Testimony by Sara Mendiola on 26 April 2022, retrievable from <https://www.youtube.com/watch?v=YwcS6btrDtw&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=26>

<sup>11</sup> Testimony by Laura Borbolla on 26 April 2022, retrievable from <https://www.youtube.com/watch?v=h4FhOipxRVs&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=23>

The Prosecution further dissected the legislation that enables the Federal prosecutor to take over the jurisdiction for cases. FEADLE has no obligation to take over a case from the state prosecutor, often resulting in a significant gap in the accountability mechanism framework of Mexico for these cases. Presenting four case studies where she represented victims, the victims' lawyer, Sara Mendiola explained: "In all the cases that we represent, we see the same pattern: deficient investigations, no line of investigation towards actors or public officials, lines of investigation totally unrelated to journalistic activity, a delay in the investigation. (...) Four cases that present the same pattern of impunity: absolute abandonment and no single act of efficient investigation to locate not only the perpetrator, but also the aggressors."<sup>12</sup>

Various family members of murdered journalists from different states testified about the lack of support as victims and the absence of accountability efforts for the murders of their loved ones. Griselda Triana, the widow of journalist Javier Valdez, described how: "For the victims, there is an executive commission for victim assistance created to provide support to families(...) But the commission treats us as if we were going to ask for a favor. I understand that there are not enough resources to support the victims, but it is outrageous that the institutions created to fulfill a right and an obligation that they have with us do not do so, and instead re-victimize us. (...) On one occasion, the first time I heard that they told me that we had been lucky because they had killed Javier and that

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<sup>12</sup> Testimony by Sara Mendiola on 26 April 2022, retrievable from <https://www.youtube.com/watch?v=YwcS6btrDtw&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=26>

they had left him there (...) because they did not take him away, they did not torture him, they did not disappear him, as happens with many other journalists.”<sup>13</sup>

The witnesses who testified also outlined a particular pattern of victimization of female journalists as well as indigenous members of the journalistic profession.

Turning to the situation in Veracruz, the most dangerous state in Mexico for journalists, the Prosecution adduced evidence from academic researcher Celia del Palacio Montiel and other witnesses who explained the lack of security in Veracruz. They described how the violence particularly escalated when governor Javier Duarte came to power in 2010: “when organized crime groups entered (Veracruz), in collusion with the state governments (...) this was a stronger trigger of insecurity. (...) Journalists, in this context, found themselves stuck covering a war (...).”<sup>14</sup>

## **1.2. The murder of Miguel Ángel López Velasco**

The Prosecution presented evidence to show that Miguel Ángel López Velasco was an organised crime reporter, who was murdered with his is wife Agustina Solana and their son Misael on 20 June 2011 in Veracruz, Mexico during the tenure of the former Governor Javier Duarte. The Duarte regime is alleged to have been infiltrated by organized crime cartels, which saw a drastic increase in the number of extrajudicial killings of journalists.

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<sup>13</sup> Testimony by Griselda Triana on 26 April 2022, retrievable from <https://www.youtube.com/watch?v=gl0Dn2zWDM4&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=24>

<sup>14</sup> Testimony by Celia Palacio del Montiel on 27 April 2022, retrievable from <https://www.youtube.com/watch?v=gN7oOAobae0&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=20>

His murder was part of wider pattern of attacks targeting journalists in Mexico who report about organised crime and corruption of state officials. Balbina Flores from Reporters without Borders explained that: “the way the murder occurred at their home caused a lot of impact, (...) the way they were assassinated also caused a lot of impact, but for us, for me, the murder (...) was a watershed in the situation of freedom of the press in Veracruz. From that moment on, (...) uncontrollable violence broke out in the state of Veracruz against journalists, and we have been documenting that ever since.”<sup>15</sup>

The children of Miguel Ángel López Velasco, Jazmin and Miguel Lopez, his colleagues and young journalists who worked with him described him “as a foot journalist (...) in charge of editing the police section in Notiver” and spoke about the nature of his work.<sup>16</sup> The witnesses exposed the increase in the violence overnight in Veracruz, how his work adapted consequently and the repeated threats that he and his family faced as a result. In particular, Miguel, who worked with his father described the numerous violent threats that he personally faced both as a result of his father’s work and his own work as a journalist at Notiver.<sup>17</sup> Félix Márquez a photojournalist who worked with Miguel Ángel

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<sup>15</sup> Testimony Balbina Flores, 27 April 2022, retrievable from <https://www.youtube.com/watch?v=Lw55nyfj21E&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=15>

<sup>16</sup> Testimony Yazmin and Miguel Lopez, 27 April 2022, retrievable from <https://www.youtube.com/watch?v=L08icfejJd8&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=16>

<sup>17</sup> Testimony Yazmin and Miguel Lopez, 27 April 2022, retrievable from <https://www.youtube.com/watch?v=L08icfejJd8&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=16>

López Velasco and his sons described the threats they were subjected to and the high risks journalists take by the very nature of their profession.<sup>18</sup>

Both children described finding the bodies of their father, mother and brother and how the investigation:

- a) failed to analyse the murder in the context of the work of Miguel Ángel López Velasco and other murders of his colleagues,
- b) was negligent in various respects including that it covered up viable leads,
- c) focused on suspects who were deceased and
- d) was subjected to undue delay.<sup>19</sup>

Other journalists who testified spoke of the climate of intimidation in which journalists operate in Veracruz following the murder of several journalists and how the impunity for the crimes festered the violence. The journalists also referred to the resulting self-censorship of journalists in operation as a strategy to remain safe.

The Prosecution submits that the impunity in the case of Miguel Ángel López Velasco highlights the consistent lack of political will and corruption that results in the failure of both the local and federal prosecution mechanisms in delivering effective investigations and trials against perpetrators. This absence of policy to address crimes against

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<sup>18</sup> Testimony by Félix Márquez on 27 April 2022, retrievable from <https://www.youtube.com/watch?v=XSrgeHwn01s&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=18>

<sup>19</sup> Testimony Yazmin and Miguel Lopez, 27 April 2022, retrievable from <https://www.youtube.com/watch?v=L08icfejJd8&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=16>

journalists was confirmed across the states affected by such violence including by the witness Adela Navarro who stated that: “there was a protection of the Mexican state” towards alleged perpetrators.<sup>20</sup>

## **2. The murder of journalists in the Democratic Socialist Republic of Sri Lanka**

### **2.1 Contextual background**

The Prosecution presented how since the end of the Sri Lankan civil war between the government and the Liberation Tigers of Tamil Eelam (the ‘LTTE’), in particular from 2005 onwards, the Sri Lankan state has engaged in a campaign of repression and violence against journalists reporting about the violence and corruption within the government.

Starting by covering the end of the conflict in 2005 and the new regime under the governance of the Gotabaya and Mahinda Rajapaksa, the Prosecution presented witnesses who testified about the policy of the state to target journalists as part of silencing dissent: “The Rajapaksa regime, in general, was seen as a very nationalist, chauvinist and a regime that was showing a lot of signs of authoritarianism with regard to any kind of dissent, and particularly dissent in terms of their purported human rights violations, their attacks on the freedom of speech and assembly and on journalists in particular. In January 2008, they torched the offices of one of the leading dissenting

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<sup>20</sup> Testimony by Adela Navarro on 26 April 2022, retrievable from <https://www.youtube.com/watch?v=inxnkzQaSOM&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=27>

broadcasting corporations”.<sup>21</sup> The expert witness Dr. Paikasothy Saravanamuttu explained how this applies to all activists and journalists but that “the situation is a lot worse across the board as far as the north and east is concerned in comparison with the rest of the country” even though crimes in these areas are underreported.

The Prosecution presented evidence about the ethnic dimension of the targeting of journalists including with Bashana Abeywardane, coordinator of *Journalists for Democracy in Sri Lanka* (JDS), who stated that the state targeted both the Tamil journalists disproportionately but also the Sinhalese journalists reporting about the Tamil and Muslim minorities: “The period starting from April 2004 opened the doors for an entirely different period of terror. It all started by the killing of a Tamil journalist from the Eastern part of the island, Mr Aiyuthurai Nadesan, who was shot to death in May 2004. Since then, until the disappearance of Prageeth Eknaligoda in January 2010 (...) at least 44 journalists and media workers have been killed or disappeared. And out of that 38, 35 remain ethnic Tamils, which shows the ethnic dimension of the state-perpetrated crimes against media. (...) It clearly explains that the crimes against journalists that have been committed for the last 10, 15, or 20 years cannot be separated from the crimes committed against the Tamil people in the country. If a Sinhalese journalist was targeted and killed or abducted, that has always to do something with his or her position towards the Tamil question and the war. So there's an underlying truth about the persecution against journalists in the country, as always, to do something with the

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<sup>21</sup> Testimony by Dr. Paikasothy Saravanamuttu on 12 May 2022, retrievable from <https://www.youtube.com/watch?v=4PaEKPKZQGs&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=28>

positions they take towards the rights of the Tamil people and now the rights of the Muslim people as well.”<sup>22</sup>

Documentary evidence has been submitted by the Prosecution and confirmed by the witnesses who outlined the various ways in which journalists have been deliberately targeted including through intimidation, threats, harassment of journalists and their family members, kidnapping, torture, deportation, passing of legislation to restrict freedom of the press and presecution through orchestrated prosecutions.<sup>23</sup> As stated by Nushin Sarkarati: “Lasantha's attack followed a pattern of attacks that were occurring against other journalists at that time, which was essentially journalists that dared report on corruption or human rights abuses against the government would be labeled as terrorists or would be labeled as Tamil Tigers sympathizers. Their names would be put on a Ministry of Defense website. They would start receiving harassing letters, they'd be intimidated. Several journalists would be picked up in white vans, abducted, abused, and some individuals like Lasantha would be killed”.<sup>24</sup>

The evidence presented showed how the Sri Lankan state overextended the use of the Prevention of Terrorism Act to arrest, question and torture journalists both as means of

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<sup>22</sup> Testimony by Bashana Abeywardane on 12 May 2022, retrievable from <https://www.youtube.com/watch?v=shpK9lMABmc&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=29>

<sup>23</sup> Documentary included in the Case File submitted to the Judges of the Tribunal. A public version will be available on [www.ptmurderofjournalists.org](http://www.ptmurderofjournalists.org)

<sup>24</sup> Testimony by Nushin Sarkarati on 13 May 2022, retrievable from <https://www.youtube.com/watch?v=K8RtXhV7y8Q&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=1>

harassment, threat and repression to send a message to the other journalists about compliance with the state narrative.<sup>25</sup>

In addition to the subjects which the targeted journalists were covering - typically aimed at exposing state corruption, in all cases, the evidence pointed to a connection between the crimes and the Sri Lankan state despite the fact that the abductions were in some cases carried out by individuals in civilian clothing in white vans.<sup>26</sup>

Sandhya Eknaligoda, the wife of a murdered journalist Prageeth Eknaligoda, detailed the threats and attack on her husband, and how the relevant state institutions including the various local Police stations and the Sri Lanka Human Rights Commission refused to receive complaints following the disappearance of her husband. She explained how the judicial system failed to appropriately handle an application for habeas corpus to compel the state to report about the location of her husband, how she was threatened by high level state figures (including death threats and harassment by police officers, the former Attorney General of Sri Lanka and representative of the Human Rights Council and a senior Buddhist priest associated with the state) during the judicial process and how the Attorney General's Department presented false facts in the course of the hearings.<sup>27</sup>

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<sup>25</sup> Testimony by Steve Butler on 12 May 2022, retrievable from <https://www.youtube.com/watch?v=HE8f9TIQlxY&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=30>

<sup>26</sup> Testimony by Steve Butler on 12 May 2022, retrievable from <https://www.youtube.com/watch?v=HE8f9TIQlxY&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=30>

<sup>27</sup> Testimony by Sandhya Eknaligoda on 13 May 2022, retrievable in English and Sinhala from <https://www.youtube.com/playlist?list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR>

From the evidence heard, it is clear that the state had a policy for impunity for crimes against journalists. The Prosecution adduced evidence about the Presidential Task Force set up by the Rakapasksa regime in 2019 that recommended the release of intelligence officers in custody as suspects in the murder of journalists, and the prosecution of the Police officers who conducted investigations in these cases. Witnesses also testified to the cover-up operations and the persistent climate of impunity irrespective of the governments in power. Nushin Sarkarati stated: “It became clear that an investigation couldn't move forward while the Rajapaksas were in power. And even after they were removed from power, the Sirisena government also did not really provide a viable option for accountability for victims either.”<sup>28</sup>

As a result of this persecution, witnesses spoke of the wave of emigration of human rights defenders and journalists to escape violence.

## **2.2 The murder of Lasantha Wickrematunge**

Specifically relating to the case of Lasantha Wickremantunge, the Prosecution presented evidence relating to the nature of his work at the Sunday Leader including the last article that he wrote foretelling his death, the context in which he was working, and the threats that he received for doing so. Witnesses who worked with him or who knew him testified of the many death threats that he received.<sup>29</sup>

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<sup>28</sup> Testimony by Nushin Sarkarati on 13 May 2022, retrievable from <https://www.youtube.com/watch?v=K8RtXhV7y8Q&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=1>

<sup>29</sup> Testimony by Dilrukshi Handunetti on 13 May 2022, retrievable from [https://www.youtube.com/watch?v=1a9C\\_naq64s&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=34&t=368s](https://www.youtube.com/watch?v=1a9C_naq64s&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=34&t=368s)

The Prosecution also adduced evidence relating to his murder specifically showing how, on the basis of cell phone tower data, the murderers, who were connected to the a specific unit of the Military Intelligence called the Tripoli Unit - specialised in attacking journalists that ultimately reports to Gotabaya Rajapaska himself, followed Lasantha Wickrematunge in the days leading up to his death and on the day itself cornered him on a stretch of road to assassinate him.<sup>30</sup>

Through the evidence of a former officer of the Criminal Investigation Division, Nishantha da Silva, who himself investigated the murder following the inaction of the local authorities, the Prosecution dissected the loopholes in the investigation by the Sri Lankan executive during the Rajapaksa administration, the attempts at setting up fake evidence, ignoring relevant leads, the destruction of relevant evidence, the premature release, the sudden transfers abroad, and unexplained deaths of suspects (including in state custody) ultimately resulting in impunity for the perpetrators.<sup>31</sup>

Evidence presented relating to other cases of journalists abducted around the same time by the same unit of the Military Intelligence demonstrated not only the control of the Secretary of Defence, Gotabaya Rakapaksa's control over the unit but also the pattern in the attacks against journalists such as Lasathan Wickrematunge.

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<sup>30</sup> Testimonies by Nishantha da Silva and Robert Knight on 13 May 2022, retrievable in English and Sinhala from <https://www.youtube.com/playlist?list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR>

<sup>31</sup> Testimonies by Nishantha da Silva and Nushin Sarkarati on 13 May 2022, retrievable in English and Sinhala from <https://www.youtube.com/playlist?list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR>

### **3. The murder of journalists in the Syrian Arab Republic**

#### **3.1 Contextual background**

The Prosecution submitted that between 2011 and 2020, Syria, which has experienced an international armed conflict, has become one of the most dangerous places in the world for journalists. Since the 2011 Arab Spring in Syria, crimes against journalists have been widespread and systematic in government controlled areas.

As witnesses testified, since 2011, “if anybody would write a post criticizing what was happening or the repression or the government and so on, it was enough to arrest him and put him under torture or whatever.”<sup>32</sup>

#### **3.2 The situation of journalist in Syria**

The Prosecuted submitted evidence demonstrating the various forms of control, persecution and repression exercised by the Syrian government in trying to limit the freedom of speech of journalists. The witnesses spoke of the strategy of Syrian state to monitor online posts to track down journalists, and human rights activists, to blacklist them to limit their movement and their systematic policy of arbitrary arrests,

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<sup>32</sup> Testimony by Hala Kodmani on 16 May 2022, retrievable from <https://www.youtube.com/watch?v=VtmAEKnTass&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=2>

interrogation and torture of journalists by various branches of the Syrian intelligence apparatus.<sup>33</sup>

Witnesses repeatedly mentioned how those arbitrarily detained had no access to their family members, no access to legal representatives, they were not afforded trials and were detained in horrid conditions. In fact, in several cases, those arbitrarily detained were not even able to inform their family members and in the several cases where those arbitrarily detained were murdered while in custody, their family members remained unable to identify their whereabouts.

The Prosecution witnesses exposed how the violence was systematically perpetrated by various units of the intelligence apparatus in regime controlled areas but that they all had the same objective: to silence criticism against the state.<sup>34</sup>

The witnesses and the cases mentioned spoke of how impunity was perpetuated by a system where the judiciary is not independent from the executive which has far reaching powers as well as a range of exceptional laws enacted solely for the purpose of providing control to the Syrian regime over dissenters. This legislative regime comprises not only the unimpeded authority to detain journalists and other civil society actors who are activists but also to actively provide immunity to the alleged state perpetrators of crimes

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<sup>33</sup> Testimony by Kholoud Helmi on 16 May 2022, retrievable from <https://www.youtube.com/watch?v=jbsNrBudpmM&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=4>

<sup>34</sup> Testimony by Prof. dr. Uğur Ümit Üngör on 6 May 2022, retrievable from <https://www.youtube.com/watch?v=VRyrWB4TNRM&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=3>

against journalists and facilitate impunity for crimes perpetrated by other actors against journalists.

The Prosecution also presented witnesses who confirmed the Syrian state's policy to directly target foreign journalists who entered the country without visas to report about issues that would otherwise never be exposed. The Prosecution also drew the attention of the Panel to the several cases where journalists including foreign journalists who entered Syria without visa who were targeted by the state in such a way including Marie Colvin, Edith Bouvier and Paul Conroy.<sup>35</sup>

The family members of journalists also consistently suffered from re-victimisation as well as targeting by state forces when seeking accountability for the crimes. The lack of access to a functional legal system meant that in some cases, family members were unable to obtain the relevant documentation to procedurally formalize the death of their loved ones unless they paid bribes to state officials.

### **3.2 The murder of Nabil Al-Sharbaji**

The Prosecution presented the evidence of several friends and colleagues of Nabil Al-sharbaji who spoke of his work, his involvement in the Darraya Youth Group that engaged in peaceful protests, and the circumstances in which he operated: underground in hiding from the Syrian authorities. They spoke of the precarious nature of his work

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<sup>35</sup> Testimony by Edith Bouvier and Paul Conroy on 16 May 2022, retrievable from <https://www.youtube.com/watch?v=ddqLB3g4OGA&list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR&index=5>

where he had to keep moving regularly, travel discreetly, post online with precaution and be careful of his communications to avoid being identified.<sup>36</sup>

The witnesses confirmed how Nabil Al-Sharbaji, after having been arrested once in 2011, Nabil was arrested again in February 2012 by the Air Force Intelligence, who identified him as a journalist. In both instances, Nabil was not charged, he did not have access to a legal representative and was only allowed a visit by a family member once before his passing away in Sednaya Military Prison in May 2015. He passed away as a result of the torture and maltreatment he endured in prison. The Prosecution exposed how, even though his family members were informed of his death, they were left without information about the circumstances of his passing, his body was not returned and they did not have access to any administrative or judicial process to request accountability.

The witnesses testified about the poor detention conditions in the different state controlled detention facilities where Nabil was kept including the lack of health care and access to food. The witnesses also spoke of how Nabil was repeatedly subjected to severe forms of interrogation and torture including by suspension, electrocution, beatings, isolation, torture by cold water among others.<sup>37</sup>

The Prosecution also presented the information available suggesting that, even while in detention, Nabil participated in the documentation of the names and fate of the fellow

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<sup>36</sup> Testimonies by Osama Nassar and Maimouna Allamar, Hanan Lakkoud and Oussama Chourbagi, Yaser Kholani and Kholoud Helmi on 16 and 17 May 2022, retrievable from <https://www.youtube.com/playlist?list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR>

<sup>37</sup> Testimonies by Osama Nassar and Maimouna Allamar, Mazen Darwish, and Marwan Alesh on 17 May 2022, retrievable from <https://www.youtube.com/playlist?list=PLtUs42nCDjcmfAPvkDY764yDlsW38lPSR>

detainees through pieces of cloth smuggled out of prison with the information aimed at the family members of the detainees.

The Prosecution also submitted documentary evidence showing how the treatment of Nabil Al-Sharbaji was demonstrative of a pattern of systematic targeting and impunity by the Syrian government against journalists and other human rights activists.<sup>38</sup>

**In addition to the evidence presented in the cases of Lasantha Wickrematunge, Nabil Al-Sharbaji and Miguel Ángel López Velasco, the Prosecution has presented evidence including references to the cases of the murders and disappearances of the following journalists:**

- Ján Kuciak
- Daphne Caruana Galizia
- Anna Politkovskaya
- Jamal Khashoggi
- Stan Storimans
- Anton Hammerl
- Jan Kuiper
- Yama Siawash
- Héctor Félix Miranda
- Jesús Blancornelas
- Luis Valero
- Francisco Javier Ortiz Franco
- Margarito Martínez Esquivel
- Regina Martínez
- Rubén Espinosa
- Miroslava Breach
- Javier Valdez
- Francisco Pacheco

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<sup>38</sup> Documentary included in the Case File submitted to the Judges of the Tribunal. A public version will be available on [www.ptmurderofjournalists.org](http://www.ptmurderofjournalists.org)

- Gustavo Sánchez Cabrera
- Julio Valdivia Rodríguez
- María Elena Ferral
- Yolanda Ordaz
- Gabriel Hüge
- Mohammad Anwar Quraitem
- Marie Colvin
- Rémi Ochlik
- Yara Abbas
- Akram Raslan
- Ferzat Jarban
- Khaled Qabisho
- Bilal Ahmed Bilal
- Khaled Al-Issa
- Ayham Mostafa Ghazzoul
- Prageeth Eknaligoda
- Aiyathurai Nadesan
- Kandasamy Aiyer Balanadarajah
- Lanka Jayasundera
- Dharmaratnam Sivaram (Taraki)
- Kannamuttu Arsakumar
- Relangi Selvarajah
- David Selvaratnam
- Yogakumar Krishnapillai
- L. M. Faleel (Netpittimunai Faleel)
- K. Navaratnam
- K. Navaratnam
- S. T. Gananathan
- Bastian George Sagayathas (Suresh)
- Rajaratnam Ranjith Kumar
- Sampath Lakmal de Silva
- Mariadasan Manojanraj
- Sathasivam Baskaran
- Sinnathamby Sivamaharajah
- S. Raveendran
- Subramaniam Ramachandran
- Chandrabose Suthakar
- Selvarasah Rajeevarman

- Sahadevan Nilakshan
- Anthonypillai Sherin Siththiranjana
- Vadivelu Nirmalaraj
- Isaivizhi Chempian (Subhajini)
- Suresh Limbiyo
- T. Tharmalingam
- W. Gunasinghe
- Paranirupesingham Devakumar
- Mohamad Rasmi Maharoofo
- Rasiya Jeynthiran
- Punniyamurthy Sathyamurthy
- Sasi Mathan
- Nalliyah Maheswaran
- Mariyanayagam Anton Benedict
- Rajkumar Mary Densey
- Jeyaraja Susithara (Suganthan)
- Mari Arulappan Antonykumar (Antony Cruise)
- Thuraisingham Tharshan
- Isai Priya aka Shobana Dharmaraja
- Thirukulasingham Thavabalan