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2009 Human Rights Report: Sri Lanka

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
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Sri Lanka is a constitutional, multiparty republic with a population estimated at 21 million. President Mahinda Rajapaksa, elected in 2005, and the parliament, elected in 2004, both for six-year terms, share constitutional power. The government is dominated by the president's family; two of his brothers hold key executive branch posts, defense secretary and senior advisor to the president. International observers generally characterized the 2005 national elections as free and fair; however, the Liberation Tigers of Tamil Eelam (LTTE) enforced a boycott of the presidential polls by ethnic Tamils in the north and east, and many observers believed that this affected the electoral outcome in favor of the current president. The government declared victory over the LTTE on May 18 after more than 25 years of armed conflict. While civilian authorities generally maintained effective control of the security forces, observers linked the government closely to paramilitary groups believed responsible for serious human rights violations.

The government's respect for human rights declined as armed conflict reached its conclusion. Outside of the conflict zone, the overwhelming majority of victims of human rights violations, such as extrajudicial killings and disappearances, were young male Tamils, while Tamils were estimated to be only 16 percent of the overall population. Credible reports cited unlawful killings by paramilitaries and others believed to be working with the awareness and assistance of the government, assassinations by unknown perpetrators, politically motivated killings, and disappearances. The government was credibly accused of arbitrary arrests and detentions, poor prison conditions, denial of fair public trial, government corruption and lack of transparency, infringement of freedom of movement, harassment of journalists and lawyers critical of the government, and discrimination against minorities. Human rights observers alleged that progovernment paramilitary groups and security forces participated in armed attacks against civilians and practiced torture, kidnapping, hostage-taking, and extortion with impunity. During the year there were no indications or public reports that civilian or military courts convicted any military, police, or paramilitary members for human rights abuses. In some cases the military turned over military members to the civilian judicial system for processing. The executive failed to appoint the Constitutional Council, which is required under the constitution, thus obstructing the appointment of independent representatives to important institutions such as the Human Rights Commission, Bribery Commission, Police Commission, and Judicial Service Commission.

In May the Sri Lankan Army (SLA) defeated the LTTE when the SLA captured all remaining LTTE-controlled territory and killed its leader, Velupillai Prabhakaran. During the final months of the war, the LTTE engaged in torture, arbitrary arrest, and detention; denied fair public trials; arbitrarily interfered with privacy; and denied freedoms of speech, press, assembly, and association. The LTTE prevented civilians under its control from crossing over to government-held territory by shooting and killing those attempting to escape. As the conflict intensified, the LTTE forcibly recruited both adults and children for combat and reportedly located mortars and other heavy weapons near or in civilian encampments, drawing government military fire in the process. Until its defeat in May, the LTTE continued to organize bomb attacks in areas that it did not control, particularly in the south, targeting military, political, and civilian persons and property.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were numerous reports that the government or its agents committed arbitrary or unlawful killings, but reliable statistics on such killings by the government, its paramilitary allies, and the LTTE were difficult to obtain because past complainants were killed and families feared reprisals if they filed complaints (see section 1.g.).

Police or other security forces killed several detained suspects. For example, on August 13, police arrested M.B. Dinesh Tharanga Fernando and Dhanushka Udayanga Aponsu in Angulana. No formal charges were filed and the men's relatives were not allowed to see them. Their bodies were found the following morning with fatal gunshot wounds. The Mount Lavinia district magistrate ordered an investigation by the Criminal Investigation Division, and the government took nine members of the Angulana police force into custody as suspects.

According to official accounts, other deaths occurred when security forces took the suspects to the scenes of their alleged crimes, and shot and killed them while they allegedly were trying to escape. On March 13, six persons were arrested in connection with the killing of a schoolgirl in the Trincomalee area. Police reported that two of the six were killed in the jungle near Kanniya by LTTE forces; the police shot and killed one person who tried to escape as he was being transferred to court; and a fourth suspect died in police custody.

During the year unknown actors suspected of association with paramilitary groups reportedly assisting government military

forces committed numerous killings and assaults of civilians. These included the Tamil Makkal Viduthalai Pulikal (TMVP), led by breakaway-LTTE eastern commanders Vinayagamurthi Muralitharan, alias "Karuna," and Sivanethurai Chandrakanthan, alias "Pillaiyan," in the east as well as the Eelam People's Democratic Party (EPDP), led by Minister of Social Services and Social Welfare Douglas Devananda, in Jaffna. Other progovernment paramilitaries increasingly were active in Mannar and Vavuniya. The TMVP increasingly became a political organization but with armed and allegedly criminal elements.

There were no developments in the November 2008 case of the killing of Pillaiyan's private secretary, Kumaraswamy Nandagopan, which was allegedly carried out by supporters of rival TMVP leader Karuna.

In June the Commission of Inquiry (COI), set up under retired Supreme Court justice Udalgama to investigate high profile killings and disappearances, ceased operation. The COI did not issue a public report and reportedly investigated only seven of the 17 cases it was asked to review. One of the cases the COI did complete involved the 2006 killing of 17 local staff of the French NGO Action Against Hunger (ACF), but COI's methods raised serious concerns about its fairness. The COI reportedly determined that ACF was to blame for the deaths for having allowed their employees to work in an area where violence was likely to occur. The COI also exonerated all government security forces by saying the LTTE had killed the workers, contrary to many independent analyses of available evidence that pointed toward involvement in the killings by police, Muslim Home Guard, and Special Task Force members. Security forces visited the victims' families and asked them to sign letters blaming ACF for the deaths and calling for a foreign government to provide further compensation. It was unclear how many families had agreed to sign the letters.

A separate commission set up under retired Supreme Court justice Tillekeratne to investigate abductions, disappearances, killings, and unidentified bodies completed its mandate on December 31 with a final report to the president due in early 2010. In November the commission told the press that in many cases relatives of disappeared persons had not filed reports with the local police, hampering investigations. Other observers commented that this was likely due to mistrust of local security forces and a belief that, at best, the local police were unlikely to be of any assistance.

There was no progress on several high profile killings; for example, the January 8 killing of the chief editor of the *Sunday Leader* and *Morning Leader* newspapers, Lasantha Wickrematunga, by four assailants.

There was no investigation into the killing of a young man at a polling station in a Colombo suburb on April 25, the day of Western Provincial Council elections. Leading United Peoples Freedom Alliance candidate Duminda de Silva was involved in an altercation at a polling site in the Mount Lavinia neighborhood. De Silva's security personnel pushed him into his vehicle after he pulled out a gun, but then a shot was fired from inside the vehicle as it departed the scene, killing a young man in the crowd. The case was dropped shortly after, and no further investigation occurred.

Prior to its defeat in May, human rights groups implicated the LTTE in a number of attacks on political opponents and civilians. For example, on February 9, an LTTE female suicide bomber killed 28 persons and injured 64 others at an internally displaced persons (IDP) rescue center. Civilians accounted for 25 of those killed and 40 of those injured. On February 20, two LTTE airplanes launched a suicide attack on Colombo. One of the planes struck the Inland Revenue building, exploding on impact and killing two civilians. On March 10, a LTTE suicide bomber attacked a local mosque's parade in Akuress, Matara District, killing 15 persons and injured dozens of others, including several government ministers and local officials.

b. Disappearance

Disappearances continued to be a significant problem, but declined from previous years, in particular after the end of the war. Reliable statistics on the number of disappearances were difficult to obtain, but estimates from some sources ranged from 300 to 400, with the majority occurring in the north and east. Government reports on disappearances often claimed that most cases actually involved persons who had left the country for foreign employment and had not informed family members; however, civil society organizations disputed this interpretation.

During the year the government did not publish any investigations into past disappearances aside from releasing some statistics, nor did it indict or convict anyone of involvement in disappearance-related cases. There were several high profile disappearances during the year. On May 7, four persons in a white van and wearing SLA uniforms abducted Stephen Sunthararaj, project manager at the Center for Human Rights and Development. Sunthararaj had been held by police with no charges since February and had just been released by the courts, which had ruled that there was no evidence upon which to charge him with a crime. Sunthararaj's wife received ransom demands in the weeks after his abduction, but she was not able to win his release and received no further word about her husband.

In the east credible sources linked the TMVP to the October 29 abduction of Sankarapillai Shantha Kumar, a member of the nongovernment organization (NGO) consortium in Akkaraipattu, Ampara District. Although family members filed a complaint with police, at year's end he remained missing and there was no progress on the investigation.

There were reports of disappearances during the year in connection with the conflict and resulting IDP camps (see section 1.g.).

Witnesses and victims who were released after their abductions often identified the perpetrators as Tamil-speaking armed men using white vans without license plates. The government generally failed to investigate these incidents.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law makes torture a punishable offense and mandates a sentence of not less than seven years' imprisonment. Human

rights groups alleged that some security forces believed torture to be allowed under specific circumstances. Following a 2007 visit, UN Special Rapporteur (UNSR) on Torture Manfred Nowak concluded that "torture is widely practiced in Sri Lanka." No accurate, publicly released statistics on reported torture cases were available.

Civil society groups and former prisoners reported on several torture cases. For example, former detainees of the Terrorist Investigation Division (TID) at Boosa Prison in Galle confirmed earlier reports of torture methods used there. These included beatings, often with cricket bats, iron bars, or rubber hoses filled with sand; electric shock; suspending individuals by the wrists or feet in contorted positions, abrading knees across rough cement; burning with metal objects and cigarettes; genital abuse; blows to the ears; asphyxiation with plastic bags containing chili pepper mixed with gasoline; and near-drowning. Detainees reported broken bones and other serious injuries as a result of their mistreatment.

In the east and conflict-affected north, military intelligence and other security personnel, sometimes working with armed paramilitaries, carried out documented and undocumented detentions of civilians suspected of LTTE connections. The detentions reportedly were followed by interrogations that frequently included torture. There were cases reported of detainees being released with a warning not to reveal information about their arrests and threatened with rearrest or death if they divulged information about their detention. There were also reports of secret government facilities where suspected LTTE sympathizers were taken, tortured, and often killed.

Human rights groups estimated that approximately 2,400 LTTE suspects were in regular detention centers. An unknown additional number of unidentified detainees were thought to be held in police stations, the CID, the TID, army or paramilitary camps, or other informal detention facilities, with some organizations estimating this group to number as high as 1,200. Approximately 11,700 former LTTE combatants also were held by the government since the end of the conflict in detention centers near Vavuniya. Because of limited access to these detainees, few details were available about their treatment and whether such treatment met international standards. There were concerns that LTTE detainees could be abused in a manner similar to suspected LTTE sympathizers.

Prison and Detention Center Conditions

Prison conditions did not meet international standards due to acute overcrowding and lack of sanitary facilities. According to prison official and civil society sources, prisons designed for approximately 10,000 inmates held an estimated 26,000 prisoners. Approximately 1,400 of these were women. Some 12,000 of these total prisoners were convicted, while the remaining 14,000 were in detention, either awaiting or undergoing trial. In some cases juveniles were not held separately from adults. Pretrial detainees were often not held separately from those convicted. In many cases prisoners were reported to be sleeping on concrete floors and often without natural light and sufficient ventilation. Female prisoners were held separately from male prisoners and in generally better conditions, but some human rights groups alleged that isolated incidents of degrading treatment, including corporal punishment, overcrowding, maltreatment, or abuse of female prisoners occurred. According to the assessment by UNSR Nowak, "the combination of severe overcrowding and antiquated infrastructure of certain prison facilities places unbearable strains on services and resources, which for detainees in certain prisons, such as the Colombo Remand Prison, amounts to degrading treatment." Nowak also noted the absence of an independent institution responsible for monitoring conditions in detention facilities, holding private interviews, and conducting medical evaluations of detainees.

The government permitted visits to regular and remand prisons by independent human rights observers and the International Committee of the Red Cross (ICRC). The government ended ICRC access to detention camps near Vavuniya for former LTTE combatants in July and withdrew permission for the ICRC to work in the Eastern Province. The government requested the ICRC to negotiate a new, postwar mandate covering their operations throughout the country before continuing such work. The government did not provide access to any detention facilities operated by military intelligence, stating that none existed. The ICRC was not allowed to visit suspected illegal detention facilities operated by paramilitaries.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; in practice such incidents occurred. Under the arrest and detention standards imposed by the emergency regulations, the law does not clearly define what constitutes an arbitrary arrest. Data concerning arrests made during the year under the emergency regulations were fragmentary and unreliable. In addition to several hundred thousand IDPs who were unable to leave the IDP camps, an unknown number of individuals were detained at least temporarily by the government. Observers said although many were released within two days if no official detention order was produced, others were known to be detained for much longer.

Some arrests appeared arbitrary. In June police detained Chandrasiri Bandara, an astrologer, for one week without charges for negative forecasts concerning the president.

Role of the Police and Security Apparatus

The inspector general of police (IGP) is responsible for the 80,000-member Sri Lanka Police Service (SLPS). The SLPS conducted civilian police functions such as enforcing criminal and traffic laws, enhancing public safety, and maintaining order. The IGP reported to the minister of defense, public security and law and order (in a separate chain of command from that of the armed forces and other military units). The 5,850-member paramilitary Special Task Force (STF) is within the structure of the SLPS, although joint operations with military units in the recent defeat of the LTTE led to questions among observers over who actually was directing the STF. There was no independent authority to investigate complaints. Senior officials in the police force handled complaints against the police. Of the police officers serving in Tamil majority areas, few were Tamil and most did not speak Tamil or English. There were 791 ethnic Tamils on the police force and 971 Muslim Tamil speakers. The government hired 50 new Tamil-speaking police in Jaffna including two women, however,

there was concern by some observers that many of these were members of Tamil paramilitary groups. Impunity, particularly for cases of alleged police torture and the disappearances of civilians within High Security Zones (HSZs), was a serious problem, as was corruption. A 2007 Asian Human Rights Commission assessment cited the government's tolerance of pervasive corruption as a major reason for the police force's incapacity to investigate and prosecute cases effectively.

Arrest Procedures and Treatment While in Detention

Under the law authorities are required to inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours, but in practice it often took several days and sometimes weeks or months before detained persons appeared before a magistrate. A magistrate could authorize bail or continued pretrial detention for up to three months or longer. Police do not need an arrest warrant for certain offenses, such as murder, theft, robbery, and rape. In the case of murder, the magistrate is required to remand the suspect, and only the High Court could grant bail. In all cases suspects have the right to legal representation. Counsel is provided for indigent defendants in criminal cases before the High Court and the Courts of Appeal, but not in other cases.

A number of observers complained about the slow pace of the judicial process. One observer stated that approximately 55 percent of all persons in prison were either undergoing pretrial or trial detention.

Under the emergency regulations, the armed forces have the legal authority to arrest persons, but they are required to turn suspects over to the police within 24 hours. Police could detain a person for a period of not more than one year under detention orders issued by a deputy inspector general of police or by the secretary of defense. The defense secretary extended some detentions beyond one year under the Prevention of Terrorism Act (PTA). Numerous NGOs and individuals complained that the armed forces and their paramilitary allies arrested suspected LTTE sympathizers and did not turn them over to the police, blurring the line between arrests and abductions. Credible reports alleged that security forces and paramilitaries often tortured and killed those arrested rather than follow legal safeguards.

In cases when security force personnel were alleged to have committed human rights abuses, the government generally did not seek to identify those responsible or bring them to justice. Case law generally failed to uphold the doctrine of command responsibility for human rights abuses. Human rights organizations noted that some judges appeared hesitant to convict on cases of torture because of a seven-year minimum mandatory sentence with no room for issues of severity or duress.

According to human rights organizations, obtaining medical evidence of torture was difficult, since there were fewer than 25 forensic specialists, equipment was lacking, and medical practitioners untrained in the field of torture assessment examined most torture victims. In some cases police intimidated doctors responsible for collecting evidence, and any potential victim receiving a medical examination usually was accompanied by his or her detainer, often the person who had allegedly committed the torture. At year's end there was no functioning witness protection program.

Persons convicted and undergoing appeal did not receive credit towards their original sentence for time served in prison while the appeal was ongoing. Appeals often took several years to resolve.

Amnesty

The president granted amnesty to a number of military deserters on several occasions throughout the year, including more than 500 in June and more than 1,900 in July. Approximately 13 women over the age of 60 were granted amnesty to commemorate International Women's Day, including the wife of a government minister, who was serving a life term for murder.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but in practice the judiciary at lower levels remained reliant on the executive. The president appoints judges to the Supreme Court, the High Court, and the Courts of Appeal. A judicial service commission, composed of the chief justice and two Supreme Court judges, appoints and transfers lower court judges. The Supreme Court demonstrated significant independence from the government in several decisions with regard to detentions and various actions of the executive that it found to be arbitrary. However, since 2005 the government has failed to appoint the Constitutional Council, whose function was to ensure the independence of constitutional bodies such as the Judicial Service Commission. As a result a series of important checks on executive power were absent. Judges may be removed for misbehavior or incapacity but only after an investigation followed by joint action of the president and the parliament.

There was no procedure in place to address the legal status of the approximately 11,700 former LTTE combatants held in detention centers after the end of the war.

Lawyers who defended human rights cases sometimes were under physical and verbal threats. On January 28, police officers made death threats against Amitha Ariyaratne, a lawyer in past prominent human rights cases, and on January 30, his house was burned.

In July the Defence Ministry's official Web site called five lawyers, who were appearing for editors of *The Sunday Leader* in a case against the secretary of defense, "traitors." The Bar Association of Sri Lanka protested this as an infringement of lawyers' right and duty to provide representation. Lawyers defending journalist J.S. Tissainayagam reported receiving anonymous threats.

There was no progress in the investigation of a 2008 grenade attack on the home of J.C. Weliamuna, a local human rights lawyer.

Trial Procedures

In criminal cases juries try defendants in public. Defendants are informed of the charges and evidence against them, and they have the right to counsel and the right to appeal. The government provides counsel for indigent persons tried on criminal charges in the High Court and the Courts of Appeal but not in cases before lower courts. Private legal aid organizations assisted some defendants. Juries were not used in cases brought under the PTA, but defendants in such cases had the right to appeal.

Defendants are presumed innocent. Confessions obtained by coercive means, including torture, are inadmissible in criminal courts, except in PTA cases. Defendants bear the burden of proof, however, to show that their confessions were obtained by coercion. Defendants have the right to question prosecution witnesses during their trials, and are allowed access to the prosecution's evidence. Subject to judicial review, in certain cases defendants may spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases came to trial, decisions usually were made relatively quickly.

The law requires court proceedings and other legislation to be available in English, Sinhala, and Tamil. In practice most courts outside of Jaffna and the northern parts of the country conducted business in English or Sinhala. A shortage of court-appointed interpreters restricted the ability of Tamil-speaking defendants to receive a fair hearing in many locations, but trials and hearings in the north were in Tamil and English. Few legal textbooks existed in Tamil.

Political Prisoners and Detainees

There were no reports of persons being formally held as political prisoners or detainees. Some cases, however, such as one brought against journalist J.S. Tissainayagam under the PTA, appeared to be politically motivated.

Civil Judicial Procedures and Remedies

Citizens were allowed to file fundamental rights cases to seek redress of human rights violations. The judiciary exhibited some independence and impartiality in adjudicating these types of cases, and plaintiffs were awarded damages in a number of instances. Observers cited bureaucratic inefficiencies in this system, leading to delays in the resolution of many cases, and cases filed by persons suspected of having ties to the LTTE appeared to be subject to delays much more frequently. Where damages were awarded, there were relatively few problems in enforcing the court orders.

Property Restitution

Seizure of private lands by various actors remained a problem across the country and particular in the north and east. Significant amounts of land were seized during the war by the military to create security buffer zones around military bases and other high-value targets which the government called HSZ. The declaration of HSZs resulted in a number of displaced persons, particularly in the Jaffna Peninsula, and rendered inactive approximately 40 square kilometers of agricultural lands. While the government discussed reducing the size of these HSZs towards the end of the year, there was no action taken by year's end.

Paramilitary actors were often cited as being responsible for other land seizures. While a legal process exists for private landowners to contest such seizures, in practice it proved very slow, and many victims did not take advantage of it for fear of violent reprisals by those who had seized the property in question.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law provides for the right to privacy; however, the government infringed on these rights, particularly when conducting cordon and search operations in Tamil neighborhoods. The emergency regulations allowed security forces to conduct searches of property, engage in wiretapping and surveillance of private citizens with little judicial oversight. The government limited the ability of IDPs to correspond with or communicate with persons outside of the IDP camps.

When it controlled territory, the LTTE routinely interfered with the privacy of citizens by maintaining a network of informants.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

Government security forces, progovernment paramilitary groups, and the LTTE used excessive force and committed abuses against civilians. During the SLA offensive against the LTTE, several hundred thousand ethnic Tamil civilians were trapped in LTTE-held land. As the conflict reached its final months, the government declared two no-fire zones, areas into which it would not fire weapons. As the conflict progressed, the LTTE and civilians under its control were confined to an increasingly small area.

The government and the LTTE did not allow any independent observers, media, or international staff of humanitarian organizations to work in the conflict zone. Eyewitness accounts of the end of the conflict were difficult to obtain because most of the involved civilians remained confined in large IDP camps with little access to independent observers.

Killings

Artillery shelling, mortar fire, and aerial bombing reportedly killed many civilians during the final five months of conflict. While only the Sri Lankan Air Force used aerial bombs, it was difficult to attribute artillery and mortar fire to one side or the other. There were frequent reports of the LTTE positioning artillery and mortar positions close to and among civilian encampments, hospitals, and churches, drawing return fire from the government. Some reports estimated that fighting in the last week of the conflict may have killed 1,000 civilians per day.

Government and other observers reported numerous occasions when the LTTE fired on civilians who attempted to flee, reportedly killing and wounding many individuals. Trapped Tamil civilians reported being afraid to cross over to the government side for fear of being subjected to killings, disappearances, and abuse by the SLA.

Progovernment paramilitary groups allegedly were used to identify, abduct, and kill suspected LTTE sympathizers or operatives immediately after the conflict and in the IDP camps.

Abductions

There were reports that persons among the IDP population had disappeared on their way to an initial military checkpoint at Omanthai.

NGOs and international sources reported that paramilitaries abducted civilians from the IDP camps. Verification of such incidents was complicated by reports that large numbers of persons paid bribes to officials and others to escape the camps. Estimates on the number of persons who escaped the camps in this manner varied widely, but most observers suggested it was at least 10,000. There was no practical way to verify how many had left the camps this way, and no way to determine whether some of these numbers were not disappearance cases.

Physical Abuse, Punishment, and Torture

The SLA held approximately 11,700 alleged former LTTE combatants mainly in detention centers near Vavuniya. There were several detention centers, with one set aside for women. Before the government halted access to the detainees in July, while ICRC renegotiated its operating mandate with the government, the ICRC had registered 9,500 of these detainees.

Prior to the end of the war, the LTTE and the TMVP continued to interfere with the work of international NGOs. The LTTE prevented refugees from leaving areas under its control in the north and sought to influence aid organizations in areas under its control.

Child Soldiers

From January to May the LTTE dramatically increased its forced recruitment of child soldiers. Reports from the conflict zone during these months stated that both boys and girls as young as 12 were forced to join the fighting. The numbers of children killed in fighting were unknown, but the government reported 527 former LTTE child soldiers in its custody several months after the end of the war. These children were being held in government-run detention centers but were undergoing rehabilitation in accordance with international standards at year's end.

The government made significant progress towards its goal of eliminating the child soldier problem among the TMVP. By December 31, the UN Children's Fund reported that the number of child soldiers still involved in the TMVP was down to five. TMVP officials claimed they did not know where these five individuals were located, and the government was actively working to find them.

Other Conflict-related Abuses

The government consistently underestimated the number of civilians trapped behind LTTE lines, leading to a severe shortage of food and medicine shipped into the no-fire zones over the final months of fighting. Many international observers disputed the government's population estimates at the time, and some accused the government of deliberately lowering their estimates in an effort to starve the civilians out from behind LTTE lines to cause more difficulties for the LTTE soldiers. The government often prevented medicine, including all anesthetics, from being delivered to trapped civilians by ICRC, stating that it would instead be used by LTTE forces to treat wounded soldiers. It was not possible to determine how many civilians may have died as a result of this shortage of food and medicine.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press but in practice this was not always supported. The government owned the country's largest newspaper chain, two major television stations, and a radio station. However, private owners operated a variety of independent newspapers, journals, and radio and television stations. The government imposed no political restrictions on the establishment of new media enterprises. While foreign media outlets operated in the country, some foreign journalists had their visas revoked or were asked to leave the country when they reported on sensitive issues in a manner that the government disliked.

Media freedom deteriorated in the Colombo area, as well as in the conflict-affected north and east. Most journalists practiced self-censorship. National and international media freedom organizations and journalists' associations expressed concern over media freedom and were sharply critical of the Defense Ministry's role in harassing and intimidating journalists and their lawyers.

Senior government officials repeatedly accused critical journalists of treason and often pressured editors and publishers to run stories that portrayed the government in a positive light. Lawyers who defended journalists were also threatened and pressured by defense and government officials.

In addition to high-profile killings, such as the death of the newspaper editor Lasantha Wickrematunga, media personnel were often subject to threats and harassment during the year. Statements by government and military officials contributed to an environment in which journalists who published articles critical of the government felt under threat.

On January 2, men in an unregistered white van burned the broadcasting station of MTV/MBC in Pannipitiya. The police failed to respond to requests for additional security, and four days later armed men, arriving in unregistered vans, destroyed the studio with guns, clubs, grenades, and a claymore mine. Five suspects were arrested two weeks later, but the magistrate granted them bail and alleged misconduct in the police investigation of the attack. No progress had been made in the case at year's end.

On February 27, three men in civilian clothes and three men in police uniforms in a van abducted Nadesapillai Vithyatharan, editor of the *Sudar Oli*, a leading Tamil-language newspaper. After telephone calls by foreign diplomats to senior authorities, police announced that he had been arrested. Authorities held Vithyatharan until April 25, and then released him without charges.

On June 1, the head of the Sri Lanka Working Journalists Association Poddala Jayantha was abducted and severely beaten near Colombo. The attack seemed to have been encouraged by the government, which had aired photos of journalists—including a close-up of Jayantha—during comments by the Inspector General of Police Jayantha Wickramaratne, who called journalists traitors who would be dealt with.

On August 30, a court convicted and sentenced journalist J.S. Tissainayagam to 20 years in prison with hard labor. A number of witnesses testified that his articles did not incite intercommunal tension, the primary charge against him, and there were doubts about the source of charges made to his written confession. His conviction represented the first time that a journalist had been convicted under the PTA for their writings. As international criticism of Tissainayagam's conviction mounted, government officials made new accusations against him but offered no new evidence and filed no additional formal charges.

On several occasions during the year, copies of the *Economist* newsmagazine were confiscated by government authorities at the international airport, preventing their release to the magazine's local distributor. This occurred when articles in the issue were critical of the government.

On July 9, the government officially reactivated the Press Council Act of 1973. This act, which includes power to fine and/or impose punitive measures including lengthy prison terms, proscribed the publishing of articles that discussed internal communications of the government and decisions of the cabinet, matters relating to the military that could affect national security, and details of economic policy that could lead to artificial shortages or speculative price increases. Several demonstrations by journalists took place throughout the latter part of the year against the resurrection of this council.

Internet Freedom

There appeared to be some limited government restrictions on access to the Internet, including suspicions that the government was behind the blocking of Internet access to several Tamil news Web sites, including the pro-LTTE TamilNet.

High-speed Internet was available in major cities and towns, with more widespread use among younger populations. Cell phone use, including text-messaging, was high across a broad spectrum of society. The government did not restrict short message service (SMS) or cell phone usage.

According to International Telecommunication Union statistics for 2008, approximately 5.8 percent of the country's inhabitants used the Internet.

Academic Freedom and Cultural Events

There were no reports of government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice; however, some restrictions existed. For example, the 2005 emergency regulations gave the president the power to restrict meetings, assemblies, and processions. The law states that rallies and demonstrations of a political nature could not be held when a referendum was scheduled, but the government generally granted permits for demonstrations, including those by opposition parties and minority groups.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice; however, some restrictions existed, such as those under the emergency regulations. The government often used informants to target

individuals for arrests and interrogation based on their association.

Before the end of the conflict, the LTTE did not allow freedom of association in the areas it controlled.

c. Freedom of Religion

Although there was no state religion, the law accords Buddhism a foremost position. It also provides for the right of members of other faiths to practice their religions freely, and the government generally respected this right in practice. The majority of citizens were followers of Buddhism. The Ministry of Religious Education and Moral Uplift Islamic section monitored the doctrinal content of Islamic teachings at mosques in an effort to prevent "extremist" viewpoints from gaining traction among Muslim congregations. The ministry also administered an Islamic charity funded by new mosque registrations. The Buddhist section did not regulate the content of Buddhist religious observances. All new religious buildings are required to register with the government.

Foreign clergy could work in the country, but the government sought to limit the number of foreign religious workers given temporary work permits. Permission usually was restricted to denominations registered with the government.

While the courts generally upheld the right of Christian groups to worship and to construct facilities to house their congregations, local authorities manipulated rules to prevent registration of new Christian denominations or construction or expansion of worship facilities. The Supreme Court ruled in 2003 that although the constitution supported the right of individuals to practice any religion, it did not support the right to proselytize.

Societal Abuse and Discrimination

In July two persons were killed and 12 injured when a disagreement between two Muslim congregations over methods of ritual sacrifice erupted into violence. Persons attached to a mosque in Galle set a mosque in Beruwela on fire. Police arrested a number of persons involved, and a court case was ongoing at year's end.

On July 5, an estimated 100 persons and 50 Buddhist monks forcibly entered the Assemblies of God church in Dickwella, Matara District to try to halt their activities.

In July the Vineyard Community Church in Makandura, Kurunegala District, was attacked on several occasions. This included a single individual attacking two persons and a subsequent attack on July 12 by several others. The building was vandalized and fliers against the church were distributed. Several complaints were filed with the police, and a court case was in progress at the end of the year.

There were reports that smaller, less-established Christian churches faced building code restrictions when attempting to build new places of worship, requiring such things as a petition signed by a majority of neighbors allowing such a building.

The Jewish population remained very small, and there were no reported cases of anti-Semitism.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to the country." In practice, however, the government severely restricted this right on multiple occasions. The additional checks on travelers from the north and the east and on movement to and in Colombo remained in effect. Colombo police refused to register Tamils from the north and the east, as required by Emergency Regulation 23, sometimes forcing them to return to their homes in areas affected by the conflict.

The government required Tamils who wished to move within the country, especially those Tamils living in Jaffna, to obtain special passes issued by security forces. Ethnic Tamils' national identification cards were the only cards printed in both Sinhala and Tamil. For most of the year, citizens of Jaffna were required to obtain permission from the army's civil affairs unit, or in some cases from the EPDP, to leave Jaffna, but the requirement was lifted in December. Curfews imposed by the army also restricted the movement of Jaffna's citizens, although this curfew was reduced after the end of the war.

Security forces at army checkpoints in Colombo frequently harassed Tamils. After the government assumed effective control of the east, both the government and the TMVP operated checkpoints that impeded the free movement of residents, especially Tamils.

The government maintained a partial closure of the A-9 highway leading to Jaffna for most of the year, requiring special authorization from security forces for any vehicles traveling the road north of Vavuniya. These restrictions were largely lifted in December, although there were still restrictions in place at the end of the year on private vehicles traveling on the A-9 at night. The government continued security checks on movements in all directions north of a key junction near Medawachiya, although they were less stringent by the end of the year than existed during and immediately following the war.

Limited access continued near military bases and the HSZ where civilians could not enter. The HSZs extended in an approximately 2.5-mile radius from the fences of most military camps. Some observers claimed the HSZs were excessive and unfairly affected Tamil agricultural lands, particularly in Jaffna. There were allegations after the war ended that the government was allowing non-Tamil businesses to locate inside HSZs, taking over valuable land before local citizens were allowed to return.

The government did not expel citizens from one part of the country to another, nor did it forcibly exile any citizens abroad. However, over a dozen journalists were in self-exile due to safety fears with many having received physical threats.

In July the UN High Commissioner for Refugees (UNHCR) reaffirmed his recommendation that Tamils from and in the north be eligible for asylum status given the human rights situation in the country. As of October the number of Tamil refugees from the country living in South India included approximately 76,000 in refugee camps, and an additional 100,000 living outside of camps among the Indian population. Some Tamil refugees returned to Sri Lanka over the course of the year. Tamil refugees were also present in significant numbers in the United Kingdom, Canada, Australia, and other countries.

Internally Displaced Persons (IDPs)

The country had a significant population of IDPs which was caused both by past and recent conflicts. Almost all IDPs were ethnically Tamil although approximately 80,000 were Tamil-speaking Muslims who had been displaced from Jaffna by the LTTE. Large-scale returns of IDPs began in the final three months of the year, in particular of the approximately 280,000 more recently displaced persons who had been held in IDP camps since the end of the war in May. Of that group, approximately 155,000 had been returned to their home districts by the end of the year. Many of these were not able to return to their actual homes due to significant damage from the war or uncleared land mines. An additional 108,000 remained mostly in the government-run Manik Farm IDP camps near Vavuniya by year's end. The Manik Farm camps had originally held approximately 250,000 IDPs, without freedom of movement, from the end of the war in May until late October. IDPs remaining in Manik Farm were not given freedom of movement until December, when a system of temporary exit passes was implemented for those who had not yet been returned to their districts of origin and remained in Manik Farm. Some observers said this exit pass system still did not qualify as freedom of movement.

In addition to this group of newer IDPs, there were an estimated 200,000 previously displaced Tamils. Most of these IDPs were displaced prior to the last big offensive in 2008, and were living either with relatives or friends. It was unclear at the end of the year how or when they might be returned to their places of origin, or if any would prefer to stay where they currently were after being displaced for many years.

The government-run Manik Farm IDP camp provided basic assistance for IDPs, along with a number of other much smaller camps scattered throughout the north and east of the country. The government did not allow open access to Manik Farm, although access for UN agencies and some NGOs improved as the year progressed. During the months of detention at Manik Farm and other smaller camps, international observers and local legal experts questioned the legality of this long-term detaining of IDPs under the law, including the emergency regulations and the PTA. These laws require that any detainee be specifically named and detained pending further investigations, and informed of the reason for the detention.

The government accepted assistance from NGOs and international actors for the IDP camps but management of the camps and control of assistance was under the military rather than civilian authorities. Food, water, and medical care were all insufficient in the first several weeks after the end of the war, but by July the situation had stabilized and observers reported that basic needs were being met.

In June the military withdrew from inside the camps but continued to provide security around the barbed wire-enclosed perimeter. There were allegations of crimes and sexual assaults inside the camps, both by outside persons and by other IDPs, but access was not allowed to independent observers to evaluate these reports or to determine if there was significant variance in the number of such crimes over the level expected for a non-refugee population of similar size.

The government released IDPs arbitrarily and did not effectively coordinate with local or international aid agencies who were asked to provide assistance on short notice. The government failed to coordinate with military personnel in the IDPs' home locations. In September several small groups of IDPs were released from Manik Farm but were detained for several weeks in closed "transit" camps until the local military officials had rescreened them.

Among the long-term displaced were tens of thousands of Muslims evicted from Jaffna in 1990 by the LTTE, many of whom remained in camps in Puttalam. During the year the government announced these Muslims would be allowed to return to Jaffna. A small number had reportedly moved back by the end of the year, but many others were either unaware yet of the change in policy, or had younger family members who felt more at home in Puttalam. The government had not permitted other IDPs, primarily Tamils, to return home because their places of origins were declared HSZs, despite announcements during the year that these HSZs would soon be reduced or eliminated.

The government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs, however, it ended access for ICRC's protection work in IDP camps in July, requesting that a new, postwar operating mandate be negotiated before such work could be resumed. By year's end this negotiation was not yet complete, leaving the ICRC unable to provide protection support in the IDP camps.

Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, the laws do not provide for the granting of asylum or refugee status, and the government had not established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Stateless Persons

The 2003 Grant of Citizenship to Persons of Indian Origin Act recognized the Sri Lankan nationality of previously stateless persons, particularly Hill Tamils. The government made limited progress towards naturalizing and providing citizenship documentation to stateless persons. By December approximately 30,000 Hill Tamils, versus 70,000 at the beginning of 2008, lacked identity cards and citizenship documents. Those lacking identity cards remained at higher risk for arbitrary arrest and detention. Reliable sources estimated that approximately 70 such persons were arrested under Emergency Regulations by October. It was not known how many of those persons remained detained at year's end.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

Elections and Political Participation

The president, elected in 2005 for a six-year term, holds executive power, while the 225-member parliament, elected in 2004, exercises legislative power.

The EU Election Observation Mission described the 2005 presidential election as generally satisfactory. The LTTE enforced a boycott of the polls and conducted seven grenade attacks in the north and east. As a result, less than 1 percent of voters in the north were able to exercise their right to vote. Persistent allegations of a preelection agreement and bribe between the Rajapaksa campaign and the LTTE to suppress Tamil votes remained. A parliamentary investigation of these allegations was opened in 2007, but Soori Yarachchi, the member of parliament who was placed in charge of the investigation, was killed in a car accident in 2008, and the investigation did not advance any further.

On August 8, the government held municipal council elections in Jaffna. While there were few reports of election-related violence or overt fraud, ethnic Tamil-based parties not aligned with the government faced severe restrictions on traveling to Jaffna to campaign prior to the election. EPDP candidates ran under the governing coalition's party symbol and enjoyed frequent campaign visits from top government officials, who announced major infrastructure projects and the reduction of security restrictions while speaking at campaign events.

During provincial council elections held in Uwa Province on August 8, and the Southern Province on October 10, there were widespread allegations that government officials used state resources, including vehicles, offices, and state employees in their personal and party campaigns. For a number of months, several opposition parties were prevented by security forces from visiting the large Manik Farm IDP camps, while figures from government allied parties were under no such restrictions.

There were 13 women in the 225-member parliament, five female ministers, and two women out of 11 justices on the Supreme Court. There were 34 Tamils and 25 Muslims in the parliament. There was no provision for or allocation of a set number or percentage of political party positions for women or minorities.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials in all three branches of the government frequently engaged in corrupt practices with impunity.

The tendering and procurement process for government contracts was not transparent, leading to allegations of corruption by the losing bidders. Senior officials served as corporate officers of several quasi-public corporations, including Lanka Logistics and Technologies, which the government established in 2007 and designated as the sole procurement agency for all military equipment. Critics alleged that large kickbacks were paid during the awarding of certain defense contracts. In 2007 the government used state pension funds to set up a new budget airline, Mihin Air, with many of the same officials serving as corporate officers. On May 1, Mihin Air went bankrupt, but the current budget allocated several million dollars to restart operations.

In 2008 the Supreme Court found then treasury secretary P.B. Jayasundera, guilty of a violation of procedure in the awarding of a large contract for the expansion of the Port of Colombo. The court barred him from holding the treasury position. In June after President Rajapaksa named a new Supreme Court chief justice, the Supreme Court allowed Jayasundera to proceed with a fundamental rights case protesting the original decision. The Supreme Court then overturned the previous decision and allowed Jayasundera to be reinstated as secretary of the treasury.

The Commission to Investigate Allegations of Bribery or Corruption received 3,224 complaints, of which 1,035 were under investigation at year's end.

There was no law providing for public access to government information.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups continued to investigate and publish their findings on human rights cases despite increasing government restrictions and physical threats to their work. The government often criticized local NGOs critical of government actions, failed to respond to requests for assistance, and put pressure on those who sought such assistance. For example, the government failed to investigate a death threat in August against one prominent civil society leader and instead opened an investigation of those who signed a public petition calling for an investigation.

During the conflict the government and the LTTE allowed only limited operations by NGOs within the conflict zone, mainly to bring food and medical shipments to civilians and to evacuate the wounded and sick to safety. During the last few weeks of the conflict, neither side ceased hostilities long enough to allow the assistance to enter or the wounded to leave the conflict zone.

After the conflict the government sought to limit the role of the ICRC and requested it to withdraw from the Eastern Province. At year's end the ICRC continued in discussions with the government over its mandate.

The government continued to refuse the request by the UNHCR for an expanded mission and an independent presence in the country. The Ministry of Defense, other government officials, and diplomatic missions abroad regularly accused human rights NGOs and UN bodies of bias against the government.

International personnel of NGOs often had trouble getting visa renewals to continue working in the country. The government canceled the visas of two employees of UN agencies after they made public remarks perceived to be critical of the government.

By statute the Sri Lanka Human Rights Commission (SLHRC) had wide powers and resources and could not be called as a witness in any court of law or be sued for matters relating to its official duties. However, in practice the SLHRC rarely used its powers. The SLHRC did not have enough staff or resources to process its caseload of pending complaints, and it did not enjoy the full cooperation of the government. From January to September, 116 cases were reported to the SLHRC Jaffna Branch. While all the cases underwent an initial investigation, by October only 11 cases were resolved, and the remaining 105 were pending. The SLHRC had a tribunal-like approach to investigations and declined to undertake preliminary inquiries in the manner of a criminal investigator. In 2007 the International Coordinating Committee of National Human Rights Institutions downgraded the SLHRC to observer status, citing government interference in the work of the SLHRC.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for equal rights for all citizens, and the government generally respected these rights in practice; however, there were instances where gender and ethnic-based discrimination occurred.

Women

The law prohibits rape and domestic violence but it was not effectively enforced. Sexual assault, rape, and spousal abuse were pervasive societal problems. The law specifically addresses sexual abuse and exploitation, and it contains provisions in rape cases for an equitable burden of proof and stringent punishments. Marital rape is considered an offense only in cases of spouses living under judicial separation. While the law could ease some of the problems faced by victims of sexual assault, many women's organizations believed that greater sensitization of police and the judiciary was necessary. The Bureau for the Protection of Children and Women (BPCW) within the police conducted awareness programs in schools and at the grassroots level, prompting women to file complaints. The BPWC received 714 complaints of grave violent crimes and 2,391 minor crimes against women during the year.

There were reports that individual cases of gender-based violence perpetrated by members of the security forces occurred more frequently during the conflict, but others stated that military officials were responsive to reports of such incidents and showed a willingness to prosecute the offenders. However, the government did not release any details about prosecutions or punishments for offenses during the conflict. Statistics on numbers of such cases were unavailable because few victims reported such incidents. Human rights groups in northern districts alleged that the wives of men who had been killed as a result of the conflict often fell victim to prostitution because of their economic vulnerability.

According to the BPWC, 175 reported incidents of rape occurred through August, but reported incidences of rape were unreliable indicators of the degree of this problem, as most victims were unwilling to file reports. Services to assist victims of rape and domestic violence, such as crisis centers, legal aid, and counseling, were generally scarce due to a lack of funding.

Prostitution, although illegal, was prevalent. Trafficking in women for prostitution and forced labor also occurred.

Sexual harassment was a criminal offense carrying a maximum sentence of five years in prison; enforcement of this law, however, was not widespread.

Couples and individuals were generally free to decide the number, spacing, and timing of their children. An estimated 40 percent of the population used modern contraceptives, and skilled attendance during childbirth was estimated at approximately 97 percent. Women appeared to be equally diagnosed and treated for sexually transmitted infections, including HIV. The UN and World Health Organization estimated approximately 4,000 persons were infected with HIV in 2007.

The law provided for equal employment opportunity in the public sector. In practice women had no legal protection against discrimination in the private sector, where they sometimes were paid less than men for equal work and experienced difficulty in rising to supervisory positions. Although women constituted approximately half of the formal workforce, according to the Asian Development Bank, the quality of employment available to women was less than that available to men. The demand for female labor was mainly for casual and low-paid, low-skill jobs. Women's participation in politics was approximately 5 percent in the parliament and the provincial councils.

Women had equal rights under national, civil, and criminal law. However, adjudication according to the customary law of

each ethnic or religious group of questions related to family law, including divorce, child custody, and inheritance, resulted in de facto discrimination.

Children

Citizenship was obtained by birth within the territory of the country and from a child's parents if born to citizen parents overseas. The law required children between the ages of five and 14 to attend school. The government provided extensive systems of public education and medical care. Education was free through the university level. Health care, including immunization, was also free and available equally to boys and girls.

Under the law the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. It also defines child abuse to include the involvement of children in war.

NGOs attributed the problem of exploitation of children to the lack of enforcement, rather than to inadequate legislation. The conflict with the LTTE both before and after the end of the war had priority in the allocation of law enforcement resources. However, the police's BPCW conducted investigations into crimes against children and women. The National Child Protection Authority (NCPA) included representatives from the education, medical, police, and legal professions and reported directly to the president. During the year the BPWC received 1,974 complaints of grave violent crimes and 986 of minor crimes against children.

The government advocated greater international cooperation to bring those guilty of sexual exploitation of children to justice. Although the government did not keep records of particular types of violations, the law prohibits sexual violations against children, defined as persons less than 18 years of age, particularly in regard to child pornography, child prostitution, and the trafficking of children. Penalties for violations related to pornography and prostitution range from two to five years of imprisonment. The penalties for sexual assault of children range from five to 20 years' imprisonment and an unspecified fine. By the end of the year the government opened 1,575 files, of which 497 resulted in indictments for sexual assault and exploitation of children, including kidnapping, cruelty to children, rape and statutory rape; 299 cases were dismissed, and 303 cases were referred to the police for further investigation. The remaining were pending at year's end.

Commercial sexual exploitation of children remained a problem in coastal resort areas. Private groups estimated that approximately 6,000 children were exploited for commercial sex in the country, and that local citizens were responsible for much of the exploitation. Other groups believed foreign tourists were more frequently the exploiters of thousands of children, especially boys, for commercial sex, most of whom were reportedly forced into prostitution by traffickers. There was little solid data to elucidate these reports. The Department of Probation and Child Care Services provided protection to child victims of abuse and sexual exploitation and worked with local NGOs that provided shelter. The tourist bureau halted programs to raise awareness for at-risk children in resort regions prone to sex tourism due to a lack in funding.

Children in the large, postwar IDP camps were exposed to the same difficult conditions as other IDPs in the same camps. School facilities were set up by the government early on, but were rudimentary and lacked many basic supplies. Medical care in the camps was limited, but improved over time as the government was better able to organize its resources and allowed increased assistance from outside organizations.

Trafficking in Persons

The law prohibits trafficking in persons. Legal penalties for trafficking include imprisonment for two to 20 years and a fine. For trafficking in children, the law allows imprisonment of three to 20 years and a fine.

The country was both a point of origin and destination for trafficked persons. Sri Lankan men and women migrated legally to the Middle East, Singapore, Hong Kong, Malaysia, and South Korea primarily to work in construction, factories, and as domestics. A small percentage of those who went abroad found themselves in situations of involuntary servitude, facing restrictions on movement, threats, and physical or sexual abuse. Illegal recruitment agencies charged large predeparture fees that forced some migrants into debt bondage.

The Bureau of Foreign Employment (BFE) had responsibility to protect and assist workers who went abroad for work. The BFE estimated that approximately 1.8 million citizens were working abroad during the year. The BFE licensed recruitment agencies and had three offices to protect migrant workers abroad: a police detachment that raided and arrested bogus recruitment agencies, an office that mediated with foreign employers and recruiting agencies to resolve workers' complaints, and a prosecutorial department that tried cases against unlicensed recruiting agencies. The BFE conducted a publicity campaign to warn of the dangers of going abroad illegally and of using illegitimate recruitment agencies. Lack of effective enforcement against violators and the infrequency of punishment for abuses provided little incentive for operators to refrain from illegal but lucrative practices. In 2008 the BFE received 9,664 complaints. Some 17 percent of these were for nonpayment of wages.

Women and children were reportedly trafficked internally for domestic and sexual servitude. No statistics were available on the extent of this problem. A number of Thai, Chinese, and Russian women, and women from the former Soviet Union were also trafficked into the country for commercial sexual exploitation.

The NCPA had primary responsibility for prevention of trafficking in children. It had a Special Police Investigations Unit, with arrest authority, that focused on combating the trafficking of children for commercial and sexual exploitation. The NCPA had several cases pending against child traffickers, but no trials were completed by the end of the year. Trials were slow, taking as long as 10 years. The NCPA operated centers for children vulnerable to trafficking in Anuradhapura,

Kalmunai, Puttalam, and Trincomalee, targeting populations affected by the war, the 2004 tsunami, and economic challenges.

The government continued its programs to monitor the movements of suspected traffickers or sex tourists, including a cyberwatch project to monitor suspicious Internet chatrooms.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law forbids discrimination against any person on the grounds of disability; however, in practice discrimination occurred in employment, education, and provision of state services. The Department of Social Services operated eight vocational training schools for persons with physical and mental disabilities and sponsored a program of job training and placement for graduates. The government provided financial support to NGOs that assisted persons with disabilities including subsidizing prosthetic devices, making purchases from suppliers with disabilities, and registering 74 NGO-run schools and training institutions for persons with disabilities. The Department of Social Services reportedly discontinued a program that had allowed job placement officers to help the estimated 200,000 work-eligible persons with disabilities find jobs, due to a lack of funding. This program had assisted 147 disabled persons in finding jobs in 2008. Persons with disabilities faced difficulties due to negative attitudes and societal discrimination.

On October 14, the Supreme Court directed that steps be taken to provide easy access for persons with disabilities to public buildings. There were regulations on accessibility, but in practice accommodation for access to buildings for persons with disabilities was rare. The Department of Social Services provided housing grants, self-employment grants, and medical assistance to persons with disabilities. During the year the department provided a monthly allowance grant of approximately 3,200 rupees (\$30) to approximately 2,100 families of disabled persons.

National/Racial/Ethnic Minorities

Both local and Indian origin Tamils maintained that they suffered longstanding systematic discrimination in university education, government employment, and in other matters controlled by the government. According to the SLHRC, Tamils also experienced discrimination in housing. Landlords were required to register any Tamil tenants and report their presence to the police.

Tamils throughout the country, but especially in the conflict-affected north and east, reported frequent harassment of young and middle-aged Tamil men by security forces and paramilitary groups.

A small ethnic group known as Kaffari or Kaffirs existed in very small numbers, mostly in the coastal areas of Negombo, Trincomalee and Batticaloa. They were thought to be the descendants of African slaves originally brought to Sri Lanka by the Portuguese sometime in the 16th century. They numbered approximately 1,000, and had dwindled in number largely due to many years of intermarriage. They did not appear to suffer from any overt discrimination, but because of their small number struggled to maintain any distinct cultural identity.

Indigenous People

The country's indigenous people, known as Veddas, by some estimates numbered fewer than 1,000. Some preferred to maintain their traditional way of life and are nominally protected by the law. There were no legal restrictions on their participation in political or economic life. However, lack of legal documents was a problem for many. Vedda communities complained that they were pushed off their lands by the creation of protected forest areas, which deprived them of traditional livelihoods.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law criminalizes homosexual activity, but this was not officially enforced. Some NGOs working on lesbian, gay, bisexual, and transgender (LGBT) issues did not register with the government. In recent years human rights organizations reported that while not actively arresting and prosecuting LGBT activity, police harassed, extorted money, or sexual favors from, and assaulted gays and lesbians in Colombo and other areas. This led to many incidents of crimes against members of the LGBT community going unreported. There were LGBT organizations, and several events were held throughout the year. In addition to pressure, harassment, and assaults by police, there remained significant societal pressure against members and organizations of the LGBT community. There were no legal safeguards to prevent discrimination based on sexual orientation or gender identity.

Other Societal violence or Discrimination

There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS, although there was societal discrimination against these groups.

Section 7 Worker Rights

a. The Right of Association

The law allowed workers to form and join unions of their choice without previous authorization with the exception of members of the armed forces and police officers, who are not entitled to unionize. Seven workers could form a union, adopt a charter, elect leaders, and publicize their views. To compel an employer to recognize a union required forty

percent of the staff. In practice such rights were resisted by the management of individual factories and administrative delays by the government in registering unions. Approximately 20 percent of the seven million-person workforce nationwide and more than 70 percent of the plantation workforce was unionized. In total there were more than one million union members. Approximately 11 percent of the nonagricultural workforce in the private sector was unionized. Unions represented most workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions. Public sector employees were unionized at very high rates.

Under the law workers in the 12 Export Processing Zones (EPZs) had the same rights to join unions as other workers. Although some unions were able to organize EPZ workers, forming trade unions was more difficult in the zones, as some employers tried to undermine the formation of unions there. As a consequence the unionization rate within the EPZs was under 10 percent of the workforce. As of December, 11 trade unions were active in EPZs. According to the Board of Investment (BOI), in September 2007, unions were operating in 31 out of 259 factories in the EPZs.

Most large unions were affiliated with political parties and played a prominent role in the political process, although some major unions in the public sector were politically independent. The Ministry of Labor Relations and Manpower was authorized by law to cancel the registration of any union that did not submit an annual report, the only grounds for the cancellation of registration.

By law all workers, other than police, armed forces, prison service, and those in essential services, had the right to strike, but the government did not enforce this law uniformly. Workers may lodge complaints with the commissioner of labor, a labor tribunal, or the Supreme Court to protect their rights. Strikes were forbidden in areas that were determined by the president to be "any service which is of public utility or is essential for national security or for the preservation of public order or to the life of the community and includes any Department of the Government or branch thereof." On November 15, in the face of threatened strikes, the petroleum corporation, the water board, the Ceylon Electricity Board and the port facilities were all declared to be essential services.

The law prohibited retribution against strikers in nonessential sectors; in practice, however, employees were sometimes fired for striking. Those employees affected under the November 15 essential services ruling returned to work without any major incidents.

During the year the Supreme Court did not intervene to stop public sector trade unions from striking. The law allows unions to conduct their activities without interference, but the government enforced the law unevenly. By law public sector unions are not allowed to form federations, but the law was not generally enforced. In prior years the International Trade Union Confederation (ITUC) reported that union officials and organizers were harassed and intimidated with impunity, including arrests, libel, and death threats, but no report was obtained for the current year. Employees of the Ceylon Petroleum Corporation were harassed and assaulted by unidentified assailants.

b. The Right to Organize and Bargain Collectively

The law provides for the right to collective bargaining; however, the government did not enforce it. All collective agreements are required to be registered at the Department of Labor. Collective agreements normally were for three years, five were registered during the year, and 18 were registered in 2008.

The Employer's Federation of Ceylon (EFC) employed an estimated 15 percent of the country's three million private sector workforce, primarily in the tourism, finance, plantations, manufacturing, and services sectors. The EFC did not have members from the large informal sector or foreign or government employees. About half of EFC's 520-company membership had a unionized workforce, and approximately 135 companies in the EFC had collective agreements with workers.

Employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities but could transfer them to different locations. Antiunion discrimination was a punishable offense liable for a fine of 20,000 rupees (\$177). During the year the Department of Labor filed action against one company for unfair labor practices under section 32A of the Industrial Disputes Act, reportedly the first time this has occurred since at least 1999. Some violations were previously prosecuted under various other labor laws, such as the Wages Board Act, Employees Provident Fund Act, Termination Act, or other sections of the Industrial Disputes Act, and several employers were under investigation. In practice employers often delayed recognition of unions for collective bargaining indefinitely. The ITUC reported that employers used these delays to identify, victimize, terminate, and sometimes assault or threaten union activists.

In most EPZ enterprises, worker councils, composed of elected representatives of employees, engaged in labor and management negotiations. In accordance with BOI guidelines, they participated in labor-management negotiations. As of December worker councils were active in 156 factories. The International Labor Organization approved the right of worker councils to engage in collective bargaining, provided worker councils were not used to undermine the position of unions. NGOs and unions reported that undermining did occur.

Labor representatives alleged that the BOI and the Department of Labor discouraged union activity within EPZ factories and favored worker councils. Restricted access to the EPZs for union and NGO organizers made it difficult to organize. Labor representatives alleged that the labor commissioner, under BOI pressure, failed to prosecute employers who refused to recognize or enter into collective bargaining with trade unions. The government countered that employees preferred to work within a company to resolve disputes rather than via large unions spanning many companies.

c. Prohibition of Forced or Compulsory Labor

The law prohibited forced or bonded labor; however, there were reports that such practices occurred, particularly in the

informal employment sector such as agriculture, mining, and ropemaking.

d. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for employment was 14, although the law permitted the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training. Persons under age 18 could not be employed in any public enterprise that was considered dangerous.

There were no reports of children employed in the EPZs, the garment industry, or any other export industry. Children sometimes were employed in the plantation sectors and in nonplantation agriculture during harvest periods. Sources indicated that many thousands of children (between 14 years and 18 years of age) were employed in domestic service in urban households, although this situation was not regulated or documented. Some child domestics reportedly were subjected to physical, sexual, and emotional abuse. Employment of children commonly occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. There were cases of underage children recruited to serve as domestics abroad, primarily in the Middle East.

The National Child Protection Authority was the central agency for coordinating and monitoring action on the protection of children. The Department of Labor, the Department of Probation and Child Care Services, and the police were responsible for the enforcement of child labor laws. Approximately 220 complaints of child employment were received from January through November by the police Children's and Women's Desk, compared to 257 complaints the previous year. Information on litigation during the year was not available. Penalties for employing minors were 10,000 rupees (\$89) or 12 months' imprisonment.

The government identified a list of 49 occupations considered to be hazardous. Of these occupations, 40 were unconditionally prohibited for children under 18 years of age, with limited exceptions for the remaining nine occupations. However, by year's end the government had not passed implementing legislation.

e. Acceptable Conditions of Work

While there was no national minimum wage, 43 wage boards established by the Ministry of Labor Relations and Manpower set minimum wages and working conditions by sector and industry in consultation with unions and employers. The minimum wage in sectors covered by wage boards was increased to 5,750 rupees (\$51) in 2008. In addition to the minimum wage, employees covered by the wage boards received an allowance of 1,000 rupees per month (\$9) in 2005 that effectively brought the total minimum wage to 6,750 rupees per month (\$60). The minimum wages set by some wage boards was higher than the government stipulated minimum wage. These minimum wages, however, did not always provide a decent standard of living for a worker and family. The minimum wage in the public sector was higher than that governed by the wage boards. Workers in sectors not covered by wage boards, including informal sector workers, were not covered by any minimum wage.

The law prohibited most full-time workers from regularly working more than 45 hours per week (a five-and-a-half-day workweek). In addition the law stipulates a rest period of one hour per day. Regulations limit the maximum overtime hours to 15 per week. Overtime pay is 1.5 times the wage, and is paid for work done on either Sundays or holidays. Several laws protect the safety and health of industrial workers, but the Ministry of Labor Relations and Manpower's efforts were inadequate to enforce compliance. Health and safety regulations do not meet international standards. Workers have the statutory right to remove themselves from dangerous situations, but many workers were unaware or indifferent to such rights and feared they would lose their jobs if they removed themselves from the work situation. The government had approximately 680 labor inspectors. The ITUC reported that labor inspection was inadequate in the EPZs, as labor inspectors cannot make unannounced visits.

Migrant labor also faced abuse. There were cases when recruitment agencies promised one type of job to a migrant but changed the job, employer, or salary after the employee arrived.

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