

Sri Lanka (47)

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U.S. Department of State

Sri Lanka Country Report on Human Rights Practices for 1998

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SRI LANKA

Sri Lanka is a longstanding democratic republic with an active multiparty system. Constitutional power is shared between the popularly elected President and the 225-member Parliament. President Chandrika Kumaratunga leads the governing People's Alliance (PA), a coalition of parties. Both the Parliament and the President were elected in free and fair elections in 1994. The Government respects constitutional provisions for an independent judiciary.

For the past 15 years the Government has fought the Liberation Tigers of Tamil Eelam (LTTE), an insurgent organization fighting for a separate state for the country's Tamil minority. The conflict has claimed over 55,000 lives. In May 1997 the fighting intensified, with the Government launching a major offensive aimed at opening a land route to the Jaffna peninsula through LTTE-controlled territory in the north. The offensive, which concluded in December, has resulted in approximately 5,000 combatants killed on both sides and has displaced tens of thousands of persons from their homes.

The Government controls all security forces. The 50,000-member police force is responsible for internal security in most areas of the country and also has been used in military operations against the LTTE. The 118,000-member army (which includes the Army Volunteer Force), the 15,000-member navy and 17,000-member air force bear principal responsibility for conducting operations against the LTTE insurgents. The Police Paramilitary Special Task Force (STF) also battles the LTTE. The more than 15,000-member Home Guards, an armed force drawn from local communities and responsible to the police, provides security for Muslim and Sinhalese village communities in or near the war zone. The Government also arms and directs various Tamil militias opposed to the LTTE, although at times these groups act independently of government authority. During the year, some members of the security forces committed serious human rights abuses.

Sri Lanka is a low-income country with a market economy that is based on the export of textiles, tea, rubber, coconuts, and gems and on earnings from tourism and repatriated earnings of citizens employed abroad. The gross domestic product per capita is approximately \$850. The economy's growth rate was 6.8 percent in 1997 and growth for 1998 was expected to be 5.0 percent due to continued strong garment and tea exports. In 1997 the Government made significant steps toward economic reform and liberalization, including privatizing some government enterprises and promoting foreign investment and trade. These steps continued in 1998.

The Government generally respected the human rights of its citizens in areas not affected by the insurgency; however, the ongoing war with the LTTE continued to be accompanied by serious human rights abuses by the security forces. Security forces committed at least 33 extrajudicial killings, and apparently killed prisoners captured on the battlefield. In addition, up to 11 individuals disappeared from security force custody in Vavuniya and in the east. At least 25 other persons reportedly disappeared or were killed after last being seen near the army's forward defense lines in the north, areas that

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civilians are ordered by the military to avoid. The circumstances of such disappearances and killings were unclear. Torture remained a serious problem, and prison conditions remained poor. Arbitrary arrests--including short-term mass arrests and detentions-- continued, often accompanied by failure of the security forces to comply with some of the protective provisions of the Emergency Regulations (ER). Impunity for those responsible for human rights abuses remained as a serious problem. No arrests were made in connection with the disappearance and presumed killing of at least 350 LTTE suspects in Jaffna in 1996 and 1997. Progress was made in a few longstanding high profile cases of extrajudicial killing and disappearance. However, in most cases, no progress was made, or there was no investigation or prosecution at all, giving the appearance of impunity for those responsible for human rights violations. The Government infringed on citizens' privacy rights and at times restricted freedom of the press. The Government engaged in direct censorship of domestic newspaper reporting and foreign television broadcasts on military and some security operations from June through the end of the year. On occasion security forces harassed journalists. There were some restrictions on freedom of movement. Discrimination and violence against women, child prostitution, and child labor continued to be problems.

In positive developments, the Government took steps to control the abuses. The national Human Rights Commission (HRC) continued its operations at 10 offices around the nation; however, human rights observers believed that the HRC was not pursuing aggressively its mandate due to poor leadership. The Government also established a cabinet-level committee to inquire into undue arrest and harassment; initially known as the Anti-Harassment Committee, to investigate complaints and take remedial action as necessary to alleviate problems associated with alleged harassment and arrests and other security force actions. In the Krishanthi Kumaraswamy murder and rape case, in which a young woman and three other individuals were killed in September 1996 in Jaffna, the Government concluded an expedited trial for the eight persons accused, the ninth having died of natural causes. The trial, which began in September 1997, ended on July 3. Six of the accused were found guilty and sentenced to death; the two other accused persons were acquitted. One of the soldiers convicted claimed to have knowledge of a mass grave at Chemmani in Jaffna where the bodies of up to 400 Tamils killed by security forces were buried. The Government has been slow to investigate this claim. There was no attempt, as in the past, to use the ER to cover up security force misdeeds. Through its rulings, the judiciary continued to exhibit its independence and uphold individual civil rights. Government security forces continued to take effective measures to limit civilian casualties during military operations. The Government also continued to provide relief to those displaced by the conflict even though many were still in areas under LTTE control such as the Vanni area. However, government restrictions on medical supplies and a significant reduction in food rations contributed to poor health conditions for civilians in the Vanni. Three regional commissions established to investigate disappearances over the period from 1988 to 1994 completed their investigations in 1997 and their reports finally were made public in February. The reports concluded that more than 16,000 persons had disappeared after having been forcibly removed by security forces (including paramilitary organizations) and anti-government elements, primarily the leftist Janatha Vimukthi Peramuna (JVP). Following their publication, the Government began submitting cases of alleged human rights abuses to the Attorney General's office for review and possible prosecution of those involved. The Attorney General had referred over 100 indictments to the courts and action reportedly had been filed against 28 security force personnel by year's end. A fourth commission was established in May to investigate those cases of disappearance that the first three commissions could not investigate before their mandates expired.

There are several former Tamil insurgent organizations that now are aligned with the Government. These progovernment Tamil militants sometimes committed extrajudicial killings and were responsible for disappearances, torture, detentions, extortion and forced conscription in Vavuniya and the east. The military wing of the People's Liberation Organization of Tamil Eelam (PLOTE) committed many such abuses. The Government took no clear action to stop such abuses.

The LTTE attacked civilians during the course of the year. The LTTE regularly committed extrajudicial killings, including killing prisoners taken on the battlefields, and also was responsible for disappearances, torture, arbitrary arrests, detentions, and extortion. The LTTE killed 13 worshipers, including several children, in a truck bombing of the "Temple of the Tooth" on January 25. The temple is the holiest Buddhist shrine in the country. On March 5, a vehicle bomb in downtown Colombo killed 36 persons, including the LTTE suicide bomber. More than 250 persons were injured in the attack. The LTTE also killed the newly elected mayor of Jaffna on May 17 and killed a Tamil Member of Parliament, his 3-year-old son, and three others on July 15. On September 11, a powerful LTTE bomb in a municipal building in Jaffna killed 12 persons, including the succeeding mayor of Jaffna, 4 other civilians, and 7 security force personnel. On December 29, the LTTE killed another senior Tamil politician in Jaffna. Several LTTE "lamp post" killings occurred in which those found guilty of offenses by the LTTE's self-described courts were executed and their bodies tied to lamp posts or otherwise left for public display. Through a campaign of killing and intimidation, the LTTE undermined the work of local government bodies in Jaffna whose members had been elected in free and fair elections on January 29. LTTE attacks on international shipping continued, with the LTTE hijacking an Omani-flagged cargo vessel on August 14.

The LTTE continued to control large sections of the north and east of the country through authoritarian military rule. It denied the people under its authority the right to change their government, infringed on their privacy rights, routinely violated their civil liberties, operated an unfair court system, restricted freedom of movement, and severely discriminated against ethnic and religious minorities.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

Police, home guards, and army personnel committed extrajudicial killings in the eastern province, and army personnel also were responsible for killing a number of persons in the Vavuniya area in Jaffna in the north. At least 33 such killings occurred, many of them associated with operations against the LTTE insurgents or with the interrogation of suspected terrorists. In at least 18 other cases, persons were killed near the army's forward defense lines near Vavuniya, Mannar, and Kilinochchi where civilians are warned not to proceed. Security force bombs and artillery fire also killed civilians (see Section 1.g.). The exact number of extrajudicial killings was impossible to ascertain due to censorship of news relating to military or police operations, and to lack of regular access to the north and east where the war was being waged.

In some cases these extrajudicial killings were reprisals against civilians for LTTE attacks in which members of the security forces or civilians were killed or injured. In most cases, the security forces

claimed that the victims were members of the LTTE, but human rights monitors believe otherwise. In Thampalakamam in the Trincomalee district on February 1, police and home guards allegedly massacred eight Tamil civilians, including three children, possibly in reprisal for the LTTE bombing of the "Temple of the Tooth" 1 week earlier. Some 31 police officers and 10 home guards were arrested in connection with the case. In September 21 of these individuals were charged, 4 with murder and 17 with unlawful assembly. The other 20 were released after the Attorney General determined that there was insufficient evidence against them. The cases were scheduled to be heard in early 1999. The case was continuing at year's end. The perpetrators of most extrajudicial killings had not been arrested by year's end.

Impunity remains a serious problem. Since April 1995 at least 740 persons have been killed extrajudicially by the security forces or have disappeared after being taken into security force custody and are presumed dead. With the exception of the six security force personnel convicted in the 1996 killing of Krishanthi Kumaraswamy, no member of the security forces has been convicted for any of these crimes. In the vast majority of cases where military personnel may have committed human rights violations, the Government has not identified those responsible and brought them to justice. The military leadership has failed also in this regard. Almost all senior military officers now serving were midlevel officers during the Janatha Vimukthi Peramuna (JVP) uprising in 1988-91, when security forces were given great leeway in dealing with that threat to the nation's security. Attitudes and practices have been slow to change.

On August 4, the Government reimposed a state of emergency nationwide. There was no evidence that the Government was using the Emergency Regulations, as in previous years, to conceal extrajudicial killings or disappearances. Nevertheless, crucial safeguards built into the ER and the legislation establishing the HRC often were ignored routinely by the security forces--especially those provisions requiring receipts to be issued for arrests and ordering the security forces to notify the HRC of any arrest within 48 hours. Although security force personnel can be fined or jailed for failure to comply with the ER, none were known to have been punished during the year.

Security force personnel probably were responsible for the 1997 death of Reverend Innasi Arulpanan, a priest from the Jaffna diocese of the Church of South India. Although the University Teachers for Human Rights-Jaffna (UTHR-J) reported that witnesses claimed to have seen Reverend Arulpanan and two other individuals being taken away by the army on August 25, 1997, subsequent investigations by reliable, independent sources failed to identify any witnesses that actually saw the three in army custody. Their mutilated bodies were found on September 9, 1997. Although initially the military formally denied responsibility for the incident and placed the blame on the LTTE, senior military officials since have suggested that the Reverend may have been killed accidentally, since his death took place near the army's forward defense lines, an area where confrontations with the LTTE were common. Although it promised a further investigation into the matter, by year's end the Government had not produced additional information regarding the case and no further inquiries into the Reverend's death were continuing.

In November 1996, 16 police and army personnel were arrested for the rape and murder of Krishanthi Kumaraswamy, the murder of two of her family members, and the rape and murder of another individual. Nine of these security force members subsequently were charged in the case. The Government in February 1997 ordered a trial at bar against the accused in an effort to expedite the case. (A trial at

bar means that the case is heard by a panel of judges, dispensing with a lengthier trial by jury.) This was only the fourth time since independence that the Government had taken the step of ordering a trial at bar. The case came to trial in September 1997 and, on July 3, six of the accused were found guilty and sentenced to death. Two other persons accused were acquitted. One died in custody of natural causes in February. On March 18, two detainees in the case escaped from custody during the trial; but both were recaptured by year's end.

On December 12, 1997, three Tamil prisoners were hacked to death in prison by Sinhalese prisoners at Kalutara prison. Prison staff and army personnel at the prison allegedly failed to take measures to protect the detainees even as the attack occurred.

At his sentencing in the Kumaraswamy case, one of those convicted claimed that he had knowledge of a mass grave at Chemmani in Jaffna where the bodies of up to 400 persons killed by security forces in 1996 had been buried. On July 22, the Ministry of Defense (MOD) issued a statement indicating that the police criminal investigation department had been directed to investigate the allegation. In August the Ministry of Defense (MOD) stated that a forensic expert, a government analyst, and police detectives would visit the site. The Human Rights Commission also was involved in investigating the claim and asked for United Nations' forensic assistance. Although by year's end it was apparent that the Government was not pursuing the investigation vigorously, it was also evident that the security threat in Jaffna and the LTTE's efforts to disrupt civilian administration there were impeding progress into the investigation.

The case against the eight soldiers and one reserve police constable arrested in February 1996 in the Kumarapuram massacre of 24 Tamil villagers came to trial in September 1997. In November six of the soldiers were indicted for murder and the case was scheduled for trial in 1999. The other accused security force personnel were released due to lack of evidence.

In July 1996, the charred body of a Tamil textile merchant who had been detained under the ER was found at Giribawa in the North Central province. Six police officers, including the officer in charge of the police countersubversive unit in Vavuniya, were arrested and detained under the ER. The officer in charge was released on bail at the end of December 1996; the other officers were released in January 1997. The Attorney General had not made a recommendation to the High Court at year's end.

In October 1995, 22 members of the STF were arrested and detained under the ER on suspicion of murdering 23 Tamil youths whose bodies were found floating in Bolgoda Lake and other waterways near Colombo earlier that year. The suspects were released on bail and resumed their police functions in February 1996. In November 1997, three of the STF members were indicted on charges of abduction and illegal detention. The case is to be heard in March 1999.

In 1996 a presidential commission was established to investigate alleged torture and murder during the 1980's JVP uprising at a government-run detention center at Batalanda housing estate near Colombo. In August, five senior police officials were placed on compulsory leave for their involvement in the case, but they reportedly had been returned to duty by December. The investigation was continuing at year's end.

The People's Alliance (PA) Government came to power in 1994 and promised to bring to justice the perpetrators of extrajudicial killings from previous years. In 1994 it began prosecutions of suspects in several extrajudicial murders allegedly perpetrated by members of the security forces. The trial of 21 soldiers accused of massacring 35 Tamil civilians in 1992 in the village of Mailanthani in Batticaloa district was transferred to the Colombo High Court in 1996. The trial was continuing at year's end.

There were no developments in the government investigations into the mass graves at Sooriyakanda, which contain an estimated 300 bodies, or the grave at Ankumbura, which is thought to contain the bodies of 36 people killed by the police in 1989. There were also no developments in the Nikawera-tiya army camp incident in which soldiers allegedly killed 20 youths in 1989 during the period of the JVP uprising.

Former insurgent Tamil militant groups now aligned with the Government committed extrajudicial killings in the eastern province and in the Vavuniya area in the north. The military wing of PLOTE and the Raseek Group were responsible for killing a number of persons. The security forces arm and use these militias and a number of other Tamil militant organizations to provide information, help identify LTTE insurgents, and, in some cases, to fight in military operations against the insurgents. The exact size of these militias is impossible to ascertain but they probably total less than 2,000 persons. Although the army in some instances took steps to convert Tamil militia groups into regular army units, military oversight of these groups is generally inadequate. These groups frequently operated beyond government control. Complaints about their activities continued, especially in transit camps for internally displaced persons (IDP's) in Vavuniya. The militias gain access to these camps through a variety of means, including bribery and threats. It was impossible to determine the number of victims because of the secrecy with which these groups operated. Those killed by these militants probably included both LTTE operatives and civilians who failed to comply with extortion demands. The Government took no clear steps to prevent human rights abuses committed by these Tamil militant organizations.

The LTTE continued to commit extrajudicial killings, including both targeted attacks and bombings. For example, on January 25, LTTE suicide bombers attacked the Buddhist "Temple of the Tooth" in Kandy, killing 13 worshipers including several children (see Section 1.g.). On May 17, the LTTE killed the newly elected mayor of Jaffna, and on July 15 killed a Member of Parliament (M.P.) and his 5-year-old son in Vavuniya. On June 30, suspected LTTE members attempted to kill a Tamil Member of Parliament when he was visiting the prison in which they were incarcerated; the M.P. was injured seriously. On September 11, an LTTE bomb placed in a municipal building in Jaffna killed 12 persons, including the succeeding mayor of Jaffna (see also Section 1.g.). Killings of political opponents in the east continued, some perpetrated by "pistol gangs", which successfully carried out their attacks using motorcycles and revolvers. The LTTE continued to execute suspected government informants and conducted several "lamp post" killings in which the bodies of those executed were tied to lamp posts or otherwise left for public display. In the past, the LTTE has killed university professors, members of nonviolent Tamil opposition parties, and human rights monitors.

The LTTE also attacked government installations. Attacks on police stations and military bases in the north and east killed or wounded more than a hundred civilians. The LTTE also sometimes kills its own injured troops to avoid their capture.

In July 1997, the Attorney General determined that there was insufficient evidence to charge anyone in the October 1994 suicide bombing that killed the United National Party's presidential candidate, Gamini Dissanayake, and 58 other persons, although the LTTE generally is believed to be responsible. No further investigations were continuing.

b. Disappearance

Disappearances at the hands of the security forces continued in the north and east. During the year, there were no reports of disappearances in Colombo, Trincomalee or Jaffna. At least 11 disappearances involved cases where individuals were last known to be in security force custody in Vavuniya and the east. In at least seven cases, individuals disappeared after last being seen near the army's forward defense lines in the north. As with extrajudicial killings, the exact number of disappearances was impossible to ascertain due to censorship of news about security force operations and infrequent access to the north and east.

There were approximately 125 confirmed cases of disappearance in 1997, 350 in 1996, 34 in 1995, and 10 in 1994. The large number of disappearances in 1996 corresponded to an intensification of the conflict with the LTTE, including the Government's capture of the Jaffna peninsula and several acts of terror by the LTTE, including a suicide bombing in Jaffna in July 1996. Those who disappeared in 1998 and in previous years are presumed dead. The commander of the army and the inspector general of police have both condemned disappearances and stated that perpetrators would be called to account. However, no security force personnel have been prosecuted to date.

In November 1996, the Ministry of Defense established a board of investigation to look into disappearances in the north and east and review security force procedures. According to press reports, the board received more than 2,500 complaints of disappearances. After eliminating duplicate names, the board found that 730 persons were alleged to have disappeared. It was able to trace 182, who were located at home or in custody. The balance of 548 cases was unresolved. The board completed its activities and disbanded at the end of 1997. By year's end, its findings had not been made public, nor had the Government publicly identified or charged those responsible for disappearances, although government officials have indicated that those responsible would be held accountable. The Jaffna office of the HRC also conducted inquiries into hundreds of those cases.

Three regional commissions set up in November 1994 to inquire into disappearances occurring after January 1, 1988, submitted their final reports to President Kumaratunga in September 1997. The reports were made public in February and made available to the United Nations Working Group on Disappearances. The commissions investigated 19,079 cases of disappearance, most of which occurred during the 1988-89 period of the JVP uprising. The commissions found evidence that 16,742 persons disappeared after having been removed involuntarily from their homes, in most cases by the security forces. In other cases, antigovernment elements--in particular the leftist JVP--were determined to be responsible for the disappearances. Based on information contained in the reports, the Government began submitting cases of alleged human rights abuses to the Attorney General's office for review and possible prosecution of those involved. By year's end, the Attorney General's office had opened over 400 files and had referred over 100 indictments on abduction and murder charges to the appropriate courts. The courts had initiated proceedings in at least 28 of those cases by year's end.

In May a fourth commission was established to look into those cases of disappearance that the initial three commissions had been unable to investigate before their mandates expired. The commission began operating on July 10. The commission is not to investigate new cases of disappearance, but is to focus on approximately 13,000 cases that were not completed by the first three commissions. Human rights observers have criticized the Government for not extending the mandate of this commission to include cases of disappearance that have occurred since the Government took office in 1994. The commission submitted an interim report to President Kumaratunga on December 31 and is scheduled to complete its work in April 1999.

The trial of 9 suspects, including an army brigadier general, in the disappearance of 32 youths from the southern town of Embilipitiya in 1989 and 1990 concluded, but the court had not delivered a verdict by year's end. Charges against two persons formerly charged in the case were dropped for insufficient evidence. There were no developments in the Vantharamulle case, in which army troops allegedly abducted 158 Tamils from a refugee camp in the Batticaloa district in 1990. Observers maintain there is credible evidence identifying the alleged perpetrators. There was also no progress in the case of 31 youths that allegedly disappeared following their arrests in Divulapitiya in 1989.

The Government continued to give the International Committee of the Red Cross (ICRC) unhindered access to approximately 250 detention centers, police stations, and army camps throughout the country that are recognized officially as places of detention. This played an important role in enabling the ICRC to monitor the human rights practices of the security forces. The HRC through its 10 regional offices also visited places of detention, though human rights observers believed that due to inadequate leadership and a failure of the HRC to give long term contracts to many of its workers, the organization was not pursuing its mandate aggressively.

Progovernment Tamil militias also were responsible for disappearances. These militias detain persons at various locations that serve, in effect, as undeclared detention centers. Human rights observers believe that the PLOTE was a major offender in the case of disappearances. The HRC has no mandate or authority to enforce respect for human rights among these militia groups. It was impossible to determine the exact number of victims because of the secrecy with which these groups operated. The Government has taken no clear steps to stop these militants' actions.

Progovernment Tamil militants in the east and north, acting independently of government authority, were responsible for disappearances. As in the case of extrajudicial killings, it was impossible to determine the exact number of victims because of the secrecy with which these groups operated. The Government has taken no clear public steps to stop the militants' actions.

The LTTE was responsible for an undetermined number of civilian disappearances in the north and east of the island during the year. Most of the 400 to 600 police officers captured by the LTTE in 1990 are believed to be dead, as well as over 200 security force personnel captured at a battle in Pooneryn in 1993. Although the LTTE denies taking any prisoners following major battles such as Mullaitivu in 1996 and at Kilinochchi in September, it is suspected of holding some. The LTTE has not notified the ICRC of any new security forces prisoners since 1994.

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

Despite legal prohibitions, the security forces continue to torture and to mistreat persons. In 1994 the Government acceded to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Parliament subsequently enacted legislation to implement the Convention Against Torture (CAT) by making torture a punishable offense. The Convention Against Torture Act of November 25, 1994 strengthened the legal mandate of prosecuting authorities to investigate and prosecute cases of torture. Torture is defined as a specific crime, and the High Court has jurisdiction over violations of the act. The Government, however, has not yet developed effective regulations under the new legislation to prosecute and to punish military and police personnel responsible for torture, though it has ceased paying fines incurred by security force personnel guilty of the offense. Security forces personnel have been fined under civil law for engaging in torture, but have not been prosecuted under criminal law. Members of the security forces continued to torture and mistreat detainees and other prisoners, both male and female, particularly during interrogation. Most torture victims were Tamils suspected of being LTTE insurgents or collaborators. Humanitarian organizations reported that while torture and abuse by the security forces remained widespread, its use had diminished, especially on the Jaffna peninsula.

Methods of torture included electric shock, beatings (especially on the soles of the feet), suspension by the wrists or feet in contorted positions, burnings, and near drownings. In other cases, victims are forced to remain in unnatural positions for extended periods, or have bags laced with insecticide, chili powder, or gasoline placed over their heads. Detainees have reported broken bones and other serious injuries as a result of their mistreatment. There were no reports of rape in detention.

Under fundamental rights provisions in the Constitution, torture victims may file civil suit for compensation in the Supreme Court. The Court has granted awards ranging from \$200 to \$2,500. Most cases, however, take 2 years or more to move through the courts. Moreover, because the 1994 Anti-Torture Law imposes a heavy minimum punishment of 7 years' imprisonment, the Court is scrutinizing fundamental rights cases more carefully than in the past, since findings would weigh heavily in criminal prosecutions of torturers. During the year, there were no cases brought before the courts under the Anti-Torture Law.

Progovernment Tamil militants in the east and north, directly responsible to the security forces, also engaged in torture.

The LTTE reportedly used torture on a routine basis. Security force prisoners released by the LTTE said that they occasionally had been beaten during their captivity. LTTE ship hijackings continued, with the LTTE hijacking an Omani-flagged vessel in August.

Prison conditions are generally poor and do not meet minimum international standards because of overcrowding and lack of sanitary facilities. An increase in detentions associated with the war with LTTE caused a significant deterioration in already poor standards in short-term detention centers.

The Government permitted representatives from the ICRC to visit approximately 250 places of detention. The HRC also visited prisons on an ad hoc basis and other places of detention more regularly. The HRC made over 1,000 visits to such detention facilities during the course of the year.

Conditions also are poor in detention facilities operated by the LTTE. Some former prisoners reported being handcuffed and shackled during much of their captivity.

The LTTE permitted the ICRC to visit only a few detainees (see Section I.d.).

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention are problems. Under ordinary law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours. In practice, persons detained under ordinary law generally appear before a magistrate within a few days of arrest. The magistrate may authorize bail or order continued pretrial detention for up to 3 months or longer. Under the ER and the Prevention of Terrorism Act (PTA), security forces may detain suspects for extended periods of time without court approval. The ER, in force nationwide as of August 4, allows pretrial detention for a maximum of four consecutive 3-month periods. A magistrate must order further detention. Detainees may challenge their detention and sue the Government for violating their civil rights in the Supreme Court.

In spite of the Government's announcements that it would close all secret detention centers, there were continued reports that the security forces held persons in such a manner on the Jaffna peninsula and in the east.

On August 31, Pararajassan Kugathanan escaped from a secret detention center in Rambaikulam, Vavuniya, run by the PLOTE. He showed signs of torture all over his body when he reached a nearby church. Timely intervention by police kept him from being returned to the detention center by PLOTE members. Detention of Tamils continued as a result of the continuing hostilities with the LTTE. The Government continued to hold more than 1,500 detainees under the ER, the same approximate number as in 1996 and 1997. Many of these detainees were arrested during operations against the LTTE. The Government continued to detain up to 300 individuals under the PTA, which permits detention without charge for up to 18 months. In some cases, Tamils have been detained without charge under the PTA for up to 4 years. According to the Attorney General, there were almost 1,000 cases under the PTA or ER before the high courts.

Arrests and detentions by the police took place in violation of the legal safeguards built into the ER and other legislation, particularly regarding requirements that receipts be issued and that the HRC be notified of any arrest within 48 hours. Those arrested by the army generally were turned over to the police within 24 hours as required under the ER. The HRC has a legal mandate to visit those arrested and police officials generally respected this mandate. Due to censorship and infrequent access to the area, it was unclear what was happening to detainees in the north and east. The ICRC visits declared detention centers, but there are undeclared detention centers in the north that are not visited on a regular basis. Instead, undeclared detention centers are visited as needed when information received indicates that persons are being held there. There are reportedly fewer than 100 individuals being held in undeclared detention camps. In Jaffna, the vast majority of detainees are held in the main detention center, where conditions reportedly are quite good. On the other hand, conditions in the undeclared centers range from adequate to extremely poor.

Security forces continued to conduct mass detentions and arrests of young Tamils, both male and female. Major sweeps and arrests occurred in Colombo, the east, and on the Jaffna peninsula. Although exact numbers of arrests were impossible to determine, they reached into the thousands. Hundreds of Tamils at a time were picked up during police actions. Most were released after identity checks lasting several hours to several days. The Government justified the arrests on security grounds, but many Tamils claimed that the arrests were a form of harassment. In addition, those arrested, most of whom were innocent of any wrongdoing, were sometimes detained in prisons together with hardened criminals. Security force actions continued to result in other problems for Tamils. For example, following an attack by an LTTE suicide bomber near the air force headquarters in Colombo in February, security forces closed three rooming hotels, leaving hundreds of Tamils temporarily without lodging. In July the President appointed a cabinet-level Anti-Harassment Committee, which was renamed as the Committee to Inquire into Undue Arrest and Harassment in September.

The Committee, which included senior opposition party and Tamil representatives, was tasked to look into complaints stemming from arrests and other security force actions and take remedial action as necessary. The Committee set up a telephone hot line and had received and investigated more than 100 complaints by year's end. Human rights observers generally believed that the work of the Committee acted as a deterrent to random arrests and helped to alleviate some of the problems encountered by detainees and their families.

The HRC continued to investigate the legality of detention in cases referred to it by the Supreme Court and private citizens. Although the HRC legally is constituted to exercise oversight over arrests and detentions by the security forces and to undertake visits to prisons, members of the security forces sometimes breached the regulations and failed to cooperate with the HRC.

Tamil militant groups, ostensibly under the direct control of the security forces, were known to be operating illegal--and unmonitored--detention centers in the east and in Vavuniya (see Section 1.b.).

The LTTE continued to detain civilians, often holding them for ransom. For example, on July 26 the LTTE reportedly detained 25 Muslim fishermen in the Trincomalee district, releasing them after 2 days once a ransom of \$45 per person was paid by their families. There continued to be unconfirmed reports that the LTTE was holding in custody more than 2,000 civilians in the northern part of the island. Those held included 12 civilian crew members of three vessels hijacked by the LTTE since 1995. These included three crewmen from the vessel Irish Moana and five from the ferry Missen. The LTTE did not permit the ICRC or any other humanitarian organization to visit its detainees aside from these crew members and 15 security force personnel. Four crewmen previously held were released during the course of the year, one in July and three in October. Six security force personnel also were released in October, while one died of natural causes during the year.

The Government does not practice forced exile. There are no legal provisions allowing or prohibiting its use.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects these provisions in practice.

The President appoints judges to the Supreme Court, the courts of appeal, and the high courts. A judicial service commission, composed of the Chief Justice and two Supreme Court judges appoints, transfers, and dismisses lower court judges. Judges serve until mandatory retirement age, which is 65 for the Supreme Court and 62 for judges on other courts. Judges can be removed for reasons of misbehavior or physical or mental incapacity, but only after a legal investigation followed by joint action of the President and the Parliament.

In criminal cases, defendants are tried in public by juries. They are informed of the charges and evidence against them, may be represented by the counsel of their choice, and have the right to appeal. The Government provides counsel for indigent persons tried on criminal charges in the high courts and the courts of appeal but not in other cases. Private legal aid organizations assist some defendants. There are no jury trials in cases brought under the Prevention of Terrorism Act. Confessions, which are inadmissible in criminal proceedings, are allowed in PTA cases. Most convictions under the PTA rely heavily on them. Defendants bear the burden of proof to demonstrate that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Although over 1,000 cases under the PTA and the ER were before the courts, no cases came to trial during the year.

Most court proceedings are conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, has restricted the ability of Tamil-speaking defendants to get a fair hearing. Few judges speak Tamil. There are also delays in publishing the Emergency Regulations in Tamil, and there are no law reports and few legal textbooks in Tamil.

In Jaffna LTTE threats to court officials disrupted normal court operations. The courts were operating on only a limited basis by year's end.

The LTTE has its own self-described court system, composed of young judges with little or no legal training. The courts operate without codified or defined legal authority and essentially operate as agents of the LTTE rather than as an independent judiciary. The courts reportedly impose severe punishments, including execution. During the course of the year the LTTE conducted several "lamp post" killings in which the bodies of those executed were left for public display (see Section 1.a.).

The Government claims that all persons held under the ER and the PTA are suspected members of the LTTE and, therefore, legitimate security threats. There is insufficient information to verify this claim and to determine whether these detainees or members of the now legal Sinhalese JVP, who were detained in similar fashion in past years, were political prisoners. Between 200 and 300 of those previously detained--mostly JVP members--have been convicted under criminal law and remain incarcerated. In many cases, human rights monitors question the legitimacy of the criminal charges brought against these persons.

The LTTE also holds a number of political prisoners. The number is impossible to determine because of the secretive nature of the organization. The LTTE refuses to allow the ICRC access to these prisoners.

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

The Government generally respects many of the Constitutional protections of individual privacy and the sanctity of the family and home; however, it infringed on these rights in some areas. The police obtain proper warrants for arrests and searches conducted under ordinary law. However, the security forces are not required to obtain warrants for searches conducted under either the ER or the PTA. The Secretary of Defense is responsible for providing oversight for such searches. There is no judicial review or other means of redress for alleged illegal searches under the ER.

The Government is believed to monitor telephone conversations and correspondence on a selective basis. The security forces routinely open mail destined for the LTTE-controlled areas and seize contraband. The Government censors international television broadcasts received in the country (see Section 2.a.).

In February security forces closed three rooming hotels and left hundreds of Tamils temporarily without lodging (see Section 1.d.).

Progovernment Tamil militant groups, nominally operating under government control, use forced conscription. There are credible reports that Tamil youth in the east in particular have been forced to join these groups under threats to themselves and their families.

The LTTE routinely invades the privacy of citizens. It maintains an effective network of informants. In 1990 the LTTE evicted thousands of Muslim residents from their homes in the north. These Muslims currently live in refugee camps. Although some Muslims returned to Jaffna in 1997, they did not remain there due to the continuing threat posed by the LTTE. There are credible reports that the LTTE has warned Muslims displaced from the Mannar area (approximately 50,000 persons) not to return to their homes until the conflict is over. The LTTE forcibly recruits children (see Section 6.c.).

g. Use of Excessive Force and Violations of Humanitarian Law In Internal Conflicts

Hostilities between the Government and the LTTE continued throughout the year. The security forces generally exercised restraint in the use of excessive force and implemented practices that effectively limited civilian casualties. From October 1995 through April 1996, the Government conducted coordinated military attacks on LTTE-held territory in the Jaffna peninsula, resulting in the capture of Jaffna in December 1995 and the remainder of the peninsula by April 1996. In May 1997, government forces launched a major offensive north of Vavuniya in the Vanni region aimed at opening a land supply route to the Jaffna peninsula. The offensive was concluded in December without a land route having been opened. Casualties in the offensive were heavy. Over 300,000 persons, principally in the Vanni region, remain displaced by the past several years of fighting.

The fact that the Government was planning an offensive to open a land route to Jaffna was publicized widely well before it began, allowing civilians time to vacate the probable area of military operations. Civilian casualties also were reduced due to the slow and methodical manner in which government security forces pushed forward, enabling the relatively few civilians remaining in the area to flee well in advance of troop movements. In addition, the military issued warnings via public radio before commencing major operations, instructing civilians to congregate at safe zones around churches and temples. In the past, the military has dropped leaflets instructing civilians to avoid LTTE installations. However, security forces have killed civilians living or moving near the military's established forward

defense lines. Such killings have been a particular problem in the Vavuniya, Mannar, and Kilinochchi areas in the north. At least 18 such killings occurred in 1998. Despite the use of unmanned aerial vehicles to assess targets before attacks, bombings and artillery fire against LTTE installations have killed civilians working at those installations or living nearby. For example, several civilians were killed during an attack on an LTTE factory and administrative center in the Vanni on June 10. In the east, army artillery fire also has killed civilians. Human rights observers claimed that such artillery fire appeared at times to be indiscriminate. A lack of access to the area and the fluidity of the conflict in the east made it impossible to verify such claims. From January to August 1997, 37 civilians were killed and 30 injured during shelling of civilian targets.

The security forces continued to receive instruction in international humanitarian law as part of their training courses (see Section 4). According to the military, the army also has established human rights cells in each division and human rights offices in each brigade and battalion. Civilian casualties in the north and east battle zone remained relatively low during the year. The armed forces operate under written rules of engagement that severely restrict the shelling, bombardment, or other use of firepower against civilian-occupied areas such as villages. Although incidents occurred where the rules apparently were breached or waived, these were isolated cases. In some cases, poor targeting by the armed forces resulted in civilian casualties from artillery fire and bombs. The security forces use aerial observation for selecting targets for shelling and bombing. They also attempt to locate the source of incoming mortar fire before responding. However, government mortar and artillery fire is very inaccurate and killed civilians.

The Government continued to provide food relief to displaced and other needy citizens, including those living in areas controlled by the LTTE. Food is distributed by the Commissioner General for Essential Services (CGES) and the Multi-Purpose Cooperative Societies (MCPS). However, in July, the Government drastically cut the number of persons eligible to receive dry rations from 317,000 to 190,000. As a result, food shipments into the LTTE-controlled parts of the Vanni region dropped significantly from over 3000 metric tons per month to less than 1500 tons. The cut in numbers of persons eligible for rations followed years of debate regarding the actual number of people living in the Vanni region. The most reliable estimates put the population in LTTE-controlled areas at very roughly 300,000 persons, of whom over 200,000 may be displaced. The Government justified its decision to cut rations by citing financial constraints. Later, the Government argued that local food cultivation had increased to the point that there was an actual surplus of food in the Vanni region and that most persons no longer needed free dry rations. However, humanitarian and human rights workers noted that many displaced persons lacked the money necessary to purchase food, and thus were dependent on free government rations. The food situation in the Vanni region worsened following the Government's decision, particularly among the poorest of those displaced. In December, following a reassessment of the situation, the Government increased the number of persons eligible to receive dry rations to approximately 250,000. By year's end, it was not clear whether the overall reduction food rations had created a humanitarian problem in the Vanni.

The Government maintained a long list of prohibited "war-related" medical items, such as sutures, plaster of paris, intravenous liquid supplies, bandages, and some drugs. Nongovernmental organizations (NGO's) and other groups that sought to take these items to LTTE-controlled areas in the Vanni region needed permission from local officials as well as from the Ministry of Defense (MOD). Delays were common and approval was sometimes denied, due to fear that supplies would fall into the hands

of the LTTE. As a result, many medical items in the Vanni region were in short supply. This shortfall contributed to an already serious deterioration in the quality and quantity of medical care furnished to the civilian population. Government restrictions on the transport of items such as cement, batteries, and currency into the LTTE-controlled areas also had a negative impact on the relief work of NGO's in those areas.

The Government reported taking 29 LTTE prisoners on the battlefield during the year. Twenty-five of these LTTE fighters surrendered en masse on September 29. Of those who surrendered, most were below the age of 18, and at least one was only 13. In 1997 seven LTTE insurgents reportedly were taken prisoner. The Ministry of Defense also reported that during the course of the year, over 400 LTTE insurgents turned themselves in or were apprehended by security forces, with many of those arrested subsequently sent to rehabilitation centers. The ICRC continued to visit approximately 150 former LTTE members now in government rehabilitation camps who had surrendered during the previous 2 years. Given the scale of hostilities and the large number of LTTE casualties, observers found the number of prisoners taken under battlefield conditions to be extremely low; many LTTE fighters apparently were killed rather than taken prisoner. Observers believed that on the government side, an unwritten "take-no-prisoners" policy generally remained in effect. However, various other factors may have limited the number of prisoners taken, such as the LTTE's efforts to remove wounded fighters from the battlefield, the proclivity of its fighters to choose suicide over capture, and the LTTE's occasional practice of killing its own badly wounded fighters (see Section 1.a.). No army or other security forces personnel were prosecuted or disciplined for executing prisoners.

The Government refused to permit relief organizations to provide medical attention to wounded LTTE fighters, although it has offered to treat any LTTE wounded entrusted to government care. During the course of the year, there were verifiable instances of wounded LTTE militants surrendering to the Government and receiving appropriate medical care.

The LTTE admits that it kills security force personnel rather than take them prisoner. Eyewitness accounts confirm that the LTTE has executed wounded Sri Lankan soldiers on the battlefield. The LTTE admits to holding only 15 security force prisoners, all of whom were captured in 1993 and 1994. Six security force prisoners previously held were released in October, while one died of natural causes during the year. The LTTE is believed to have killed most of the police officers and security force personnel it has captured in recent years. However, the LTTE released two army deserters who surrendered to it during the course of the year.

The LTTE uses excessive force in the war. During the course of the year, the LTTE engaged in the killing of noncombatants, hostage taking, hijackings, torture, and bombing of civilian targets. On January 25, the LTTE bombed the most sacred Buddhist shrine in Sri Lanka, the "Temple of the Tooth" in Kandy. Thirteen civilians were killed in the attack. On March 5, an LTTE vehicle bomb exploded in downtown Colombo, killing 36 civilians (including the LTTE suicide bomber) and wounding 257. On September 11, a powerful bomb planted by the LTTE in the ceiling of a Jaffna municipal building killed 12 persons, including the newly appointed mayor, 4 city workers, and 7 security force personnel. At least 20 persons were injured in the bombing. There is also credible evidence that the LTTE shot down a civilian aircraft on September 29, killing all 55 passengers and crew aboard.

The LTTE has been accused in the past of using church and temple compounds, where civilians are instructed by the Government to congregate in the event of hostilities, as shields for the storage of munitions. In the July 1996 attack on the army base at Mullaittivu, the LTTE killed upwards of 1,500 government troops, reportedly killing even those troops who attempted to surrender. Similarly, the LTTE is believed to have killed more than 1,000 troops when it captured Kilinochchi in September. During the Government offensive on the Jaffna peninsula in 1995-96, LTTE fighters forced some civilians to abandon their homes and retreat with them, allegedly as human shields, in the face of advancing government troops. Reports that the LTTE was using children on the battlefield were verified when 25 LTTE fighters surrendered en masse in September. At least one of those who surrendered was 13 years old; most of the others were between the ages of 15 and 17.

The LTTE expropriates food, fuel, and other items meant for internally displaced persons, thus exacerbating the plight of such persons in LTTE-controlled areas. Malnutrition remained a problem in LTTE-controlled and other parts of the Vanni region. Experts have reported an increase in anemia and a lower birth rate, both indications of lower levels of nutrition. Nutrition levels were below the national average, and there were confirmed cases of malnutrition, including hundreds of cases of malnourished children. Malnutrition resulted from several factors, including food shortages, poverty, and conflict-related dislocations.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Although the Constitution provides for freedom of speech and expression, the Government restricts these rights in practice, often using national security grounds permitted by law. During the year, the Government strictly limited the access of domestic and foreign media to information and censored news relating to military and police matters. On June 5, the Government imposed direct censorship on all domestic and foreign media reports relating to ongoing or possible future military and other security operations. Censorship was still in place at year's end, despite the Media Minister's statement in June 1997 that all censorship would cease.

International television broadcasts received in the country were also censored during the same period, with references to Sri Lanka filtered out of the broadcasts. A journalist who regularly reports on defense matters, including corruption in military procurements, was attacked in his home by armed men on February 12. He and his family were threatened at gunpoint before the attackers fled. The Government criticized the attack, and subsequently arrested and indicted two air force personnel in the case, including the bodyguard of a former commander of the air force. The case was being heard at year's end. The journalist had been harassed on previous occasions in 1997. The Government controls the country's largest newspaper chain, two major television stations, and the Sri Lanka Broadcasting Corporation. However, there are a variety of independent, privately owned newspapers, journals, and radio and television stations. There is one privately owned newspaper published in Jaffna. There are no political restrictions on the establishment of new media entities.

A number of government actions during the year led to concern among the media. The Government still has failed to reform the Press Law and to privatize government-owned media as promised during the 1994 election campaign. In 1997 the Government presented a draft broadcasting reform bill in

Parliament, but there was considerable opposition from members of the media, and the Supreme Court subsequently ruled that the bill was inconsistent with the Constitution. A revised version of the bill was being considered by a parliamentary committee at year's end.

In 1997 an editor of a leading national newspaper was found guilty of defaming the President, fined the local equivalent to \$180, and sentenced to 18 months in prison. The editor is appealing the verdict. Another defamation case filed by the President in 1995 and three others filed in 1997--all against editors of major pro-opposition newspapers--were pending at year's end. These cases were viewed by journalists as frivolous and intended only to harass and intimidate the media. In some instances, security forces took journalists into custody, treated them roughly, and destroyed their film. At least one such incident occurred while reporters were covering a mass arrest of Tamils in Colombo. In another incident, a journalist investigating police involvement in bootlegging reportedly was beaten by police and his home was burned down. In restitution the Government hired the journalist as a full-time employee of a government newspaper and rebuilt his home. In December the Supreme Court ruled that the journalist's fundamental rights had been violated and ordered the officer in charge of the police station responsible to pay him the equivalent of \$900 in compensation. Both foreign and national journalists are allowed to go to the conflict areas; however, they must receive permission from the Ministry of Defense. The Foreign Ministry also must approve visits to conflict areas by foreign journalists. Bureaucratic delays in processing requests have been reduced but still prevail. The Government occasionally arranges for groups of journalists to visit Jaffna and the vicinity of the front lines on tightly organized briefing tours. However, after censorship was imposed on June 5, the Government became the only source of most news about security and defense matters that could be disseminated to the public legally.

The LTTE does not tolerate freedom of expression. It tightly restricts the print and broadcast media in areas under its control. In the past, the LTTE has killed those reporting and publishing on human rights.

The Government generally respects academic freedom.

The LTTE does not respect academic freedom and has repressed and killed intellectuals who criticize it. The LTTE severely repressed members of a human rights organization, the University Teachers for Human Rights, which was formerly based on the Jaffna peninsula; most former members of this group have been killed.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government respects this right in practice. Although the PTA may restrict this freedom, the Government did not use the act for that purpose during the year. The Government generally granted permits for demonstrations, including those by opposition parties and minority groups. However, both the main opposition United National Party and the People's Alliance government continued to accuse each other of political thuggery and hooliganism, complaining that supporters of the opposing party occasionally disrupted rallies and other political events.

The law provides for freedom of association, and the Government respects this right in practice. Although the PTA may restrict this right, the Government did not use the act for that during the year.

The LTTE does not allow freedom of association in the areas that it controls. On the Jaffna peninsula, the LTTE occasionally has posted in public places the names of those Tamil civilians whose association with security forces and other Government entities it seeks to prevent. The LTTE has killed Tamil civilians who have cooperated with the security forces in establishing a civil administration in Jaffna under a political leadership elected freely and fairly in January.

c. Freedom of Religion

The Constitution establishes Buddhism as the official national religion, but it also provides for the right of members of other faiths to practice their religions freely, and the Government respects this right in practice. Foreign clergy may work in Sri Lanka, but for more than 30 years the Government has prohibited the entry of new foreign Jesuit clergy. Thirty years ago, the Government reached an agreement with the Catholic Church that new foreign clergy would not be permitted to enter the country on a permanent basis. As foreign clergy retired, Sri Lankans would replace them. It permitted those already in the country to remain. However, the Jesuits want their clergy to be replaced by foreign members of their order as they retire. The local Catholic Church hierarchy does not support the Jesuits in the dispute and is not lobbying the Government to change the agreement.

Evangelical Christians, who constitute less than 1 percent of the population, have expressed concern that their efforts at proselytization often are met with hostility and harassment by the local Buddhist clergy and others opposed to their work (see Section 5). They sometimes complain that the Government tacitly condones such harassment. However, there is no evidence to support this claim. The Assemblies of God filed a fundamental rights case with the Supreme Court, after the local village council in Gampaha had tried to block the construction of a church on the grounds that it would interfere with Buddhism. The Supreme Court ruled that the construction of the church could proceed. The construction of the new church was ongoing at year's end.

The LTTE has discriminated against Muslims, and in 1990 evicted tens of thousands of Muslims from areas under its control in the North.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to Sri Lanka." The Government generally respects the right to domestic and foreign travel; however, the war with the LTTE prompted the Government to impose more stringent checks on travelers from the north and the east and on movement in Colombo, particularly after dark. These security measures had the effect of restricting the movement of Tamils, especially young males.

Prior to the government military offensive on the Jaffna peninsula in 1995 and 1996, an estimated 600,000 citizens had been displaced by the insurgency. Most lived in camps financed by the Government and NGO's. The Jaffna offensive, in addition to the military advance on Kilinochchi in the Vanni region in July 1996, resulted in the displacement of hundreds of thousands of persons in LTTE-controlled areas of the Vanni region; some of these persons were being displaced for a second or third

time. Some of the displaced persons lived with friends or relatives, or in "welfare centers" in schools, religious institutions, and other public buildings. Many others lived in makeshift shelters or camped out under trees. The Government continued to supply them with food, medicine, and other essential supplies. The military offensive in the Vanni region that began in May 1997 created over 70,000 newly displaced persons. However, well over 100,000 persons have left the LTTE-controlled parts of the Vanni region since 1996, and this has helped to relieve the situation. Most of these displaced persons have returned to their homes on the Jaffna peninsula.

The movement of persons in Jaffna is strictly regulated by military checkpoints throughout the city, although by year's end the military had reduced the number of checkpoints there compared to 1997. For Tamils, travel from Jaffna to other parts of the country is extremely difficult, due in part to security restrictions imposed by the security forces and in part by the limited availability of transportation to the south.

From October 1996 until the end of 1998, over 130,000 persons are estimated to have moved out of LTTE-controlled regions through Vavuniya and other transit points in government-controlled regions. Of these, over 100,000 persons were repatriated to or otherwise reached Jaffna and other Tamil-majority areas. Many had left the Vanni region with the intention of proceeding south; they opted for other destinations only after learning that they would have to remain in transit camps until security clearances for southward travel were obtained. Obtaining a clearance was often a lengthy process and some human rights groups alleged that the procedures were arbitrary and unreasonably strict. Clearance procedures were applied to everyone, including the elderly and the very young. While the Government had a legitimate interest in identifying LTTE infiltrators, it also seemed reluctant to allow displaced Tamils to travel to Colombo where they would contribute to unemployment and other social problems. About 14,000 of these displaced persons continue to live in substandard conditions in camps in Vavuniya and Mannar. Many of these persons hope to return to their homes in the areas of conflict once the fighting stops.

Prior to 1996, the LTTE severely restricted the movement of Tamils under its control, often levying a large "exit tax" on persons who sought to travel to areas under government control and requiring travelers to leave all their property in escrow. In addition, it usually would grant permission to only one family member to travel at a time. However, following the government capture of Jaffna, the LTTE began to allow persons to move more freely into government-controlled areas, although it occasionally has disrupted for unknown reasons the flow of persons exiting the Vanni region through a transit point near Mannar. The LTTE also has disrupted the movement of IDP's from Trincomalee and Mannar to Jaffna by hijacking or attacking civilian shipping in the north. The LTTE also disrupted civilian air traffic to Jaffna; in August, it began warning civilians and humanitarian workers not to use civilian flights servicing the peninsula. Subsequently, the LTTE was accused of shooting down a civilian aircraft on September 29, killing all 55 passengers and crew aboard (see Section 1.g). There may be more than 200,000 IDP's in LTTE-controlled areas (see Section 1.g.).

Several thousand Tamils fled LTTE-controlled areas to Tamil Nadu in southern India in 1998. An estimated 64,000 Tamil refugees already were estimated to live in camps there, having left Sri Lanka at various times throughout the period of the conflict. Another 100,000 refugees are believed to have been integrated into Tamil society in southern India. On July 26, an estimated 47 Tamil refugees drowned when the boat carrying them to India overturned.

The Government cooperates with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise in 1998. The Government does not permit the entry of refugees into the country, nor does it aid those who manage to enter to seek permanent residence elsewhere. The law does not include provisions for granting refugee/asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, there were no instances of forcible repatriation of persons to a country where they feared persecution.

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

Citizens have the Constitutional right to change their government through periodic multiparty elections based on universal adult suffrage. This right was exercised during Parliamentary elections in August 1994, when the People's Alliance (PA) coalition ended the 17-year rule of the United National Party (UNP), and during the presidential election in November 1994, when PA presidential candidate Chandrika Kumaratunga won 62 percent of the vote. Local government elections were held in much of the island in areas under government control in March 1997. They were marked by significant violence and some charges of electoral fraud. A report published by the Centre for Monitoring Election Violence (CMEV) found that between February 5, 1997 and March 20, 1997, (prior to the March 21 elections), 2,237 incidents of violence were reported in the 30 police districts where elections were held. Most of the incidents were allegations of threats of violence, followed by assault, mischief, damage to property, and intimidation. There were, however, 5 reports to CMEV of murder, 2 reports of attempted murder, 53 reports of robbery, 50 reports of arson, and 40 complaints of injury. Although police allegedly were present when the incidents occurred, authorities have investigated few of the cases and none were brought before the court. The violence did not seem to be organized, except at the very local level by some groups of party activists representing the PA and UNP.

Nevertheless, election monitors generally believed that the outcome of the election--in which the PA won most council seats--was not affected. Neither political party took action to discipline party activists who engaged in the violence.

On January 29, the Government held local government elections in Jaffna for the first time in over a decade. Although turnout for the elections was relatively low due in part to threats from the LTTE and in part to outdated electoral registers, observers believed that the elections were free and fair. Voters elected 239 representatives from 5 Tamil political parties to serve on 17 local councils.

Elections for five of the country's nine provincial councils, scheduled for August 28, were postponed indefinitely on August 4 after the Government extended the Emergency Regulations (ER) to cover the entire country. The state of emergency must be debated and renewed by Parliament each month; it provided the only legal mechanism available to postpone the vote. The Government supported its decision by arguing that troops engaged in the offensive against the LTTE could not be spared to provide security for the elections. The Government promised to hold the elections as soon as possible, but had not done so by year's end.

The Commissioner of Elections recognizes 34 parties; however, only 10 parties actually hold seats in the 225-member Parliament. The two most influential parties, the Sri Lanka Freedom Party (the prin-

cipal component party of the governing PA coalition) and the UNP, generally draw their support from the majority Sinhalese community. Historically, these two parties have alternated in power.

Although there are no legal impediments to the participation of women in politics or government, the social mores in some communities limit women's activities outside the home. Nonetheless, in August 1994, voters elected a Parliament that chose a female Prime Minister for the third time in the country's history. In November 1994, a woman was elected President for the first time. Eleven women hold seats in the Parliament. In addition to the Prime Minister and the Minister for Women's Affairs, four deputy ministers are women.

There are 27 Tamil and 20 Muslim M.P.'s.

The LTTE refuses to allow elections in areas under its control. Through a campaign of murder and intimidation, it effectively undermined the functioning of local government bodies in Jaffna, whose members were elected in January. This campaign included the murder of two of Jaffna's mayors and death threats to members of the 17 local councils. Throughout the period of the conflict, the LTTE has killed popularly elected politicians, including those elected by Tamils in areas that the LTTE claims to be part of a Tamil homeland.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are several local NGO human rights groups, including the Movement for Interracial Justice and Equality (MIRJE), the University Teachers for Human Rights, the Civil Rights Movement (CRM), and the Law and Society Trust (LST), that monitor civil and political liberties. There are no adverse government regulations governing the activities of local and foreign NGO's. The Government generally cooperated with these NGO's, with members of Parliament, and with other officials, frequently participating in seminars and other events concerning human rights and humanitarian affairs.

The Government continued to allow the ICRC unrestricted access to detention facilities. In the past, the ICRC provided international humanitarian law training materials and training to the security forces on an ad hoc basis. The UNHCR, the ICRC, and a variety of international NGO's assisted in the delivery of food, medical, and other essential supplies to the northern conflict zone. Following the capture of the Jaffna peninsula in April 1996, the army seriously restricted the movement of supplies (including building materials and equipment) by international organizations and NGO's to LTTE-controlled areas. Although most of these restrictions were lifted by the end of 1997, humanitarian organizations noted that during the course of 1998 restrictions on such supplies again had increased (see Section 1.g.). Some observers believed that increased restrictions on relief work, coupled with a cut in dry food rations, were linked to a government policy to draw persons out of the LTTE-controlled parts of the Vanni region. There was insufficient evidence to verify this claim.

In July 1996, Parliament passed the Human Rights Commission Act, which created a permanent Human Rights Commission, the HRC. The five-member body is empowered to monitor government human rights practices, to ensure compliance with constitutional fundamental rights provisions, and to investigate complaints of human rights abuse. The legislation also provides safeguards for persons detained under the PTA and the ER and gives the HRC the power to monitor the welfare of detainees.

During the year, the HRC conducted more than 1,000 visits to police stations and over 300 visits to detention facilities. It is estimated that the HRC has well over 2,000 cases of alleged human rights abuse pending. However, human rights observers believed that the work of the HRC was hampered severely by a lack of strong leadership within the organization. For example, such observers noted that the HRC failed to open an office in Mannar, did little more than visit prisons despite its very broad mandate, and did not aggressively follow up on the allegation of a mass grave at Chemmani in Jaffna (see Section 1.a.). Moreover, despite the establishment of a cabinet-level Anti-Harassment Committee in July, some observers argued that the need for such a committee demonstrated the HRC's ineffectiveness, since its responsibilities clearly fell within the HRC's mandate (see Section 1.d.).

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal rights under the law for all citizens and the Government generally respects these rights. The Supreme Court regularly upholds court rulings in cases in which individuals file suit over the abridgment of their fundamental civil rights. The Human Rights Commission and the newly established Anti-Harassment Committee (later renamed the Committee to Inquire Into Un-due Arrest and Harassment) are other mechanisms the Government has established to ensure enforcement of constitutional provisions in addition to access to the courts (see Section 1.d.).

Women

Sexual assault, rape, and spousal abuse (often associated with alcohol) represent serious and pervasive forms of societal violence against women. New amendments to the Penal Code introduced in 1995 specifically addressed sexual abuse and exploitation. Rape laws were modified to create a more equitable burden of proof and to make punishments more stringent. Marital rape is considered an offense in cases of spouses living under judicial separation, and laws govern sexual harassment in the workplace and sexual molestation. While the Penal Code may ease some of the problems faced by victims of sexual assault, many women's organizations believe that greater sensitization of police and judicial officials also is required. Police statistics indicated that there were 26,565 crimes against women during the period from January to June, compared with 26,862 crimes during the same period in 1997. Laws against procuring and trafficking were strengthened in 1995, facilitating the prosecution of brothel owners.

The Constitution provides for equal employment opportunities in the public sector, but women have no legal protection against discrimination in the private sector, where they sometimes are paid less than men for equal work, often experience difficulty in rising to supervisory positions, and face sexual harassment. Women constitute approximately one-half of the formal work force.

Women have equal rights under national civil and criminal law. However, issues related to family law, including divorce, child custody, and inheritance, are adjudicated by the customary law of each ethnic or religious group. In 1995 the Government raised the minimum age of marriage for women from 12 to 18 years, except in the case of Muslims, who continue to follow their customary marriage practices. The application of different legal practices based on membership in a religious or ethnic group often results in discrimination against women.

Children

The Government is committed to protecting the welfare and rights of children but is constrained by a lack of resources. The Government demonstrates a strong commitment to children's rights and welfare through its extensive systems of public education and medical care. Education is compulsory to the age of 12 and free through university. Health care, including immunization programs, is also free.

There is a significant problem of child prostitution in certain coastal resort areas. The Government estimates that there are more than 2,000 active child prostitutes in the country, but private groups claim that the number is much higher; estimates range as high as 15,000 to 20,000. A 1998 U.N. International Labor Office Study placed the total at 30,000. Although the bulk of child sexual abuse in the form of child prostitution is committed by citizens, many child prostitutes are boys who sell themselves to foreign tourists, and the Government has pushed for greater international cooperation to bring those guilty of pedophilia to justice. For example, the Government worked closely with another country's security and judicial branches during the course of the year to secure the conviction of a pedophile accused of committing crimes in Sri Lanka. In 1995 the Ministry of Media, Tourism and Aviation created a task force specifically to study the problem of sex tourism and related offenses. The task force was abolished at the end of 1997, and superseded by a presidential task force on child protection.

In August, the Government presented a national Child Protection Authority (CPA) bill to Parliament, which was passed on September 8. The law consolidated existing legislation and defined a child as anyone under age 18. 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. The legislation further widened the definition of child abuse to include the involvement of children in war. The CPA is to be composed of senior law enforcement officers as well as representatives from education and the medical and legal professions. The CPA will report directly to the President. The CPA had not yet been constituted at year's end.

In the first half of the year, the police recorded 1,752 cases of crimes against children, compared with 1,633 crimes in the first half of 1997. Although NGO's welcomed the CPA legislation, many attribute the problem of exploitation of children to the lack of law enforcement rather than inadequate legislation. Many law enforcement resources are diverted to the conflict with the LTTE.

Labor force surveys over the past several years have suggested that more than 20,000 children may be fully employed (see Section 6.d.). Additional thousands of children are believed to be working in domestic service. There have been reports of rural children working as domestic servants in urban households--often given into service by poverty stricken parents--and being abused by their employers. Some of these children reportedly have been starved, beaten, sexually abused, and forced into prostitution (see Section 6.c.). The Government states that it does not have sufficient resources to protect these children from such exploitation (see Section 6.d.). However, the Government has supported a high-profile UNICEF advertising campaign aimed at combating child labor.

The LTTE recruits children for use in battlefield support functions and in combat. It has been confirmed that some of these children are as young as 13, and some are recruited forcibly. In May the

LTTE gave assurances to the Special Representative of the U.N. Secretary General for Children in Armed Combat that it would not recruit children under the age of 17. By year's end, it was apparent that the LTTE had not honored that pledge.

People With Disabilities

The law does not mandate accessibility to buildings or government services for the disabled. The World Health Organization estimates that 7 percent of the population is disabled. Most disabled persons who are unable to work are cared for by their families. The Department of Social Services operates eight vocational training schools for the physically and mentally disabled and sponsors a program of job training and job placement for graduates. Some private companies, at the urging of the Government, have provided training and jobs to disabled veterans. The Government also provides some financial support to NGO's that assist the disabled, subsidizes prosthetic devices and other medical aids for the disabled, makes some purchases from disabled suppliers, and has registered 74 schools and training institutions for the disabled run by NGO's.

In December 1996, Parliament passed legislation forbidding discrimination against any person on the grounds of disability. No cases are known to have been filed under this law.

Indigenous People

The indigenous people of Sri Lanka, known as Veddas, number less than 1,000. They prefer to maintain their isolated traditional way of life and are protected by the Constitution. There are no legal restrictions on their participation in the political or economic life of the nation. In August the Government fulfilled a long-standing Vedda demand when the President issued an order granting many Veddas the right to hunt and gather in specific protected forest areas. The executive order granted the Veddas the freedom to protect their culture and to carry on their traditional way of life without hindrance. Under a pilot program, special identity cards were issued to some Veddas to facilitate their use of these forest areas. However, some Veddas still complain that they are being pushed off of their land.

Religious minorities

Discrimination based on religious differences is much less common than discrimination based on ethnic group or caste. In general, the members of the various faiths tend to be tolerant of each other's religious beliefs. However, on occasion, evangelical Christians have been harassed by Buddhist monks for their attempts to convert Buddhists to Christianity (see Section 2.c.).

On January 25, the LTTE bombed the holiest Buddhist shrine in the country, the historic "Temple of the Tooth" in Kandy. Following a bombing in Colombo in October 1997, an LTTE suicide bomber threw a grenade into a temple compound and killed a Buddhist monk. In 1985 the LTTE massacred 150 people worshipping at a holy Buddhist site in Anaradhapura. In 1987 the LTTE killed 31 Buddhist monks.

In the northern part of the island, LTTE insurgents expelled some 46,000 Muslim inhabitants from their homes in 1990--virtually the entire Muslim population. Most of these persons remain displaced.

In the past, the LTTE has expropriated Muslim homes, lands, and businesses and threatened Muslim families with death if they attempt to return.

National/Racial/Ethnic Minorities

There are approximately 1 million Tamils of comparatively recent Indian origin, the so-called "hill Tamils" or "Indian Tamils," whose ancestors originally were brought to Sri Lanka in the 19th century to work on plantations. About 75,000 of these persons do not qualify for either Indian or Sri Lankan citizenship and face discrimination, especially in the allocation of government funds for education. Without national identity cards, they are very vulnerable to arrest by the security forces. However, the Government has stated that none of these people would be forced to depart the country.

Both Sri Lankan and "Indian" Tamils maintain that they have long been the victims of systematic discrimination in university education, government employment, and in other matters controlled by the Government. However, in recent years, there has been little clear evidence of overt discrimination in university enrollment or government employment, although some groups continue to assert that it exists. In January 1996, the Government established a Parliamentary select committee to consider a "devolution" package designed to devolve wide-ranging powers to local governments, thereby providing ethnic minorities greater autonomy in governing their local affairs. The devolution proposals were placed before Parliament in September 1997 and still were being debated at year's end.

Section 6 Worker Rights

a. The Right of Association

The Government respects the Constitutional right of workers to establish labor unions. Any seven workers may form a union, adopt a charter, elect leaders, and publicize their views. Over 70 percent of the plantation work force, which is overwhelmingly Tamil, is unionized. Approximately 20 percent of the nonagricultural work force in the private sector also is unionized. Unions represent most workers in large private firms, but those in small scale agriculture and small businesses usually do not belong to unions. Public sector employees are unionized at very high rates.

Most large unions are affiliated with political parties and play a prominent role in the political process. More than 30 labor unions have political affiliations, but there are also a small number of unaffiliated unions, some of which have active leaders and a relatively large membership. In 1997, the most recent year for which data are available, the Department of Labor registered 132 new unions and canceled the registration of 95 others, bringing the total number of functioning trade unions to 1,592. The Department of Labor is authorized by law to cancel the registration of any union that does not submit an annual report. This requirement is the only legal grounds for cancellation of registration.

All workers, other than civil servants and workers in "essential" services, have the right to strike. By law, workers also may lodge complaints with the Commissioner of Labor, a labor tribunal, or the Supreme Court to protect their rights. Before September 1994, the Government controlled strikes by declaring some industries to be essential under the ER. Subsequently, this practice largely ceased, with the Government permitting, for example, a 5-week postal strike early in the year. However, the President retains the power to designate any industry as an essential service. The International Labor

Organization (ILO) has pointed out to the Government that essential services should be limited to services where an interruption would endanger the life, personal safety, or health of the population.

Civil servants collectively may submit labor grievances to the public service commission but have no legal grounds to strike. Nonetheless, government workers in the transportation, medical, educational, power generation, financial, and port sectors have staged brief strikes and other work actions in recent years. There were 115 strikes during 1998. There were 156 strikes in 1997.

The law prohibits retribution against strikers in nonessential sectors. Employers may dismiss workers only for disciplinary reasons, mainly misconduct. Incompetence or low productivity are not grounds for dismissal. Any employees who have been dismissed have a right to appeal their termination before a labor tribunal.

Unions are free to affiliate with international bodies and many of them have done so.

b. The Right to Organize and Bargain Collectively

The law provides for the right to collective bargaining, and it is widely practiced. Large firms may have employees in as many as 60 different unions. In enterprises without unions, including those in the export processing zones (EPZ's), worker councils--composed of employees, employers, and often a public sector representative--are generally the forums for labor/management negotiation. However, the councils are not mandatory outside the EPZ's, do not have the power to negotiate binding contracts, and have been criticized as ineffective by labor advocates.

The law currently does not require management to recognize or bargain with unions, and, in some cases, employers have declined to recognize the unions in their factories. However, the law prohibits antiunion discrimination. Employers found guilty of such discrimination are required to reinstate workers fired for union activities but have the right to transfer them to different locations.

There are approximately 90,700 workers employed in the EPZ's, a large percentage of them women. Under the law, workers in the EPZ's have the same rights to join unions as other workers. However, no unions have been formed, largely because of severe restrictions on access by union organizers to the zones. Some labor representatives allege that the Government's Board of Investment (BOI), which manages the EPZ's, has discouraged union activity. Work councils in the EPZ's are chaired by the BOI and consist of equal delegations from labor and management, but councils only have the power to make recommendations. While employers in the EPZ's offer higher wages and better working conditions generally than employers do elsewhere, workers face other concerns, such as security, expensive but low quality boarding houses, and sexual harassment.

In most instances, wage boards establish minimum wages and conditions of employment, except in the EPZ's, where wages and work conditions are set by the BOI.

c. Prohibition of Forced or Compulsory Labor

Forced or compulsory labor is prohibited by provisions of the Abolition of Slavery Act of 1844. The act does not prohibit forced or bonded labor by children specifically, but government officials inter-

pret it as applying to persons of all ages. While forced or bonded labor by children is almost nonexistent, a few rural children are reported to be employed in debt bondage as domestic servants in urban households (see Section 5); some of these children reportedly have been abused. There are credible reports that some members of the police Special Task Force (STF) operating in the Batticaloa area force local villagers to work without compensation in clearing jungle areas and in other manual labor in and near STF camps. In some cases, the villagers are threatened directly or indirectly with physical abuse if they do not perform the work.

The LTTE continues to conscript high-school age children for work as cooks, messengers, and clerks. In some cases, the children reportedly help build fortifications. In the past, children as young as 10 were said to be recruited and placed for 2 to 4 years in special schools that provided them with a mixture of LTTE ideology and formal education. The LTTE uses children as young as 13 in battle, and children sometimes are recruited forcibly into the LTTE.

d. Status of Child Labor Practices and Minimum Age for Employment

On September 8, Parliament passed the National Child Protection Authority Act to combat the problem of child abuse, including as it pertains to child labor. The act consolidated existing legislation that clearly established what types of employment are restricted for children, which age groups are affected, and what the minimum age for child labor is for particular jobs. The minimum age for employment is 15. The law continues to permit the employment of younger children by their parents or guardians in limited agricultural work, however. It also permits employment in any school or institution for training purposes.

Persons under age 16 may not be employed in any public enterprise in which life or limb is endangered. Children are not employed in the EPZ's, the plantations, the garment industry, or any other export industry. About 85 percent of children below the age of 16 attend school. The law permits the employment of such persons for not more than 1 hour on any day before school. However, a 1995 labor survey of the plantations indicated that half of all children in plantations drop out of school after the fourth grade, leaving a large pool of children between the ages of 10 and 15 available to pursue employment.

Despite legislation, some child labor still exists. A 1997 Census and Statistics Department survey found that 16,511 children between the ages of 10 and 14 were fully employed. This included 11,132 males and 5,379 females. Additional thousands of children (estimates range from 50,000 to 100,000) are believed to be employed in domestic service, although this situation is not regulated or documented. Many child domestics often are subjected to physical, sexual, and/or emotional abuse. A significant portion of employed children work outside their families. In addition to domestic service, regular employment of children occurs mainly in the informal sector and in family enterprises such as family farms, crafts, small trade establishments, eating houses, and repair shops. Children also are involved in the manufacture of coconut fiber products, bricks, fishing, wrapping tobacco, street trading, and farming. Government inspections have been unable to eliminate these forms of child labor (also see Section 5). There are an estimated 250 to 300 prosecutions each year in cases related to the employment of minors. Under legislation dating from 1956, the maximum penalty for employing minors is about \$18, with a maximum jail term of 6 months. Children work as prostitutes, as well. Estimates of the number of child prostitutes range from 15,000 to 20,000 (see Section 5). Although forced or bon-

ded labor by persons of any age are prohibited by law, a few rural children reportedly serve in debt bondage (see Sections 5 and 6.c.).

e. Acceptable Conditions of Work

The Department of Labor effectively enforces the minimum wage law. While there is no universal national minimum wage, about 40 wage boards set minimum wages and working conditions by sector and industry. According to the Statistics Department of the Labor Ministry, current minimum wage rates average \$34 (2,000 rupees) per month in industry, commerce, and the service sector; and \$1.44 (95 rupees) per day in agriculture. The minimum wage in the garment industry is \$38 (2,500 rupees) per month. These minimum wages are insufficient to provide a decent standard of living for a worker and the standard family of five, but the vast majority of families have more than one breadwinner. Most permanent full-time workers are covered by laws that prohibit them from working regularly more than 45 hours per week (a 5-and-one-half day workweek). Such workers also receive 14 days of annual leave, 14 to 21 days of medical leave, and some 20 local holidays each year.

Maternity leave is available for permanent and casual female workers. Employers must contribute 12 percent of a worker's wage to an employee's provident fund and 3 percent to an employee's trust fund. Employers who fail to comply may be fined, although the effectiveness of government enforcement of this provision is unknown.

Several laws protect the safety and health of industrial workers. However, the Department of Labor's small staff of inspectors is inadequate to enforce compliance with the laws. Workers have the statutory right to remove themselves from situations that endanger their health, but many workers are unaware of, or indifferent to, health risks, and fear that they would lose their jobs if they removed themselves.

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