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2013 Scores

Status: Partly Free
Freedom Rating: 4.5
Civil Liberties: 4
Political Rights: 5

Trend Arrow ↓

Sri Lanka received a downward trend arrow due to evidence of increasing corruption and a politicized attempt to impeach the chief justice of the Supreme Court.

Overview

President Mahinda Rajapaksa maintained a firm grip on power in 2012, and the judiciary's independence from the executive and legislative branches was seriously compromised by the start of impeachment procedures against the chief justice of the Supreme Court in November following a ruling that was unfavorable to the government. The situation for human rights defenders and journalists remained grim, with numerous attacks and cases of intimidation occurring amid a climate of nationalist rhetoric and impunity. The government continued to reject credible allegations of war crimes committed in the final phase of its military campaign against the Tamil Tiger rebel group in 2009, even as the UN Human Rights Council passed a critical resolution calling for an investigation into these issues.

After Sri Lanka gained independence from Britain in 1948, political power alternated between the conservative United National Party (UNP) and the leftist Sri Lanka Freedom Party (SLFP). While the country made impressive gains in literacy, basic health care, and other social needs, its economic development was later stunted and its social fabric tested by a long-running civil war between the government and ethnic Tamil rebels. The conflict was triggered by anti-Tamil riots in 1983 that claimed hundreds of lives, but it came in the context of broader Tamil claims of discrimination by the Sinhalese majority. By 1986, the Liberation Tigers of Tamil Eelam (LTTE, or Tamil Tigers), which called for an independent Tamil homeland in the northeast, was in control of much of the northern Jaffna Peninsula. At the same time, the government was also fighting an insurgency in the south by the leftist People's Liberation Front (JVP). The JVP insurgency, and the brutal methods used by the army to quell it in 1989, killed an estimated 60,000 people.

Following a 2002 ceasefire accord (CFA), the government and LTTE agreed to explore a political settlement based on a federal system. However, the peace process was weakened by the Tigers' pullout from negotiations in 2003, as well as infighting between the main political parties about how to approach the LTTE.

After parliamentary elections held in 2004, President Chandrika Kumaratunga's United People's Freedom Alliance (UPFA) coalition, led by the SLFP and bolstered by the support of the JVP, formed a minority government. The addition of the JVP to the ruling coalition and the presence of Sinhalese nationalist forces in Parliament further hampered the peace process, as did the emergence of a breakaway faction of the Tigers, the Tamil People's Liberation Tigers (TMVP). By 2006, the splinter faction had become loosely allied with the government. Prime Minister Mahinda Rajapaksa of the SLFP narrowly won the 2005 presidential election, largely due to an LTTE boycott enforced by voter intimidation in the areas under its influence. Rajapaksa cultivated a more authoritarian style of rule, relegating Parliament to a secondary role, and appointed his brothers to key positions.

Fighting with the LTTE escalated in 2007, and the government formally annulled the CFA in January 2008. A sustained government offensive, accompanied by a deepening humanitarian crisis, culminated in a final battle in May 2009, in which the Tigers' leadership was annihilated. At least 100,000 people were killed in the 26-year conflict, including as many as 40,000 in May 2009 alone, according to the United Nations. Approximately 300,000 civilians were displaced during the final phase of the war, and many of those were interned in government-run camps, where they faced severe food shortages and outbreaks of disease. The government initially limited aid groups' access to the camps and did not allow inmates to leave, with the primary aim of screening all residents for any rebels hiding among them. At the end of 2012, more than 9,800 internally displaced persons (IDPs) remained in the camps, while tens of thousands more had left but were unable to return to their homes due to war damage and mines.

Rajapaksa called a presidential election for January 2010, almost two years early, and went on to win nearly 58 percent of the vote. His main opponent, former head of the armed forces Sarath Fonseka, received around 40 percent. Voting was divided along ethnic lines, with most Tamils and Muslims supporting Fonseka and most Sinhalese supporting the president. In February, Fonseka was arrested on charges of plotting a coup, and in September he was sentenced to a 30-month prison term for engaging in politics while still an active service member and for not adhering to procurement rules. Most analysts viewed the charges as politically motivated. He was released in May 2012, but on terms that forbade him from holding office for seven years.

In April 2010 parliamentary elections, the ruling UPFA secured 144 of 225 seats, but fell short of a two-thirds majority. The opposition UNP won 60 seats, while the Democratic National Alliance (DNA) coalition, led by the JVP, won seven, and the Tamil National Alliance (TNA) took 14. Parliament passed the government-backed 18th Amendment to the constitution in September. The package of revisions extended political control over state institutions by abolishing the constitutional council mandated by the 17th Amendment and replacing it with a government-dominated parliamentary council tasked with selecting key members of the judiciary and nominally independent commissions. The new amendment also reduced the powers of the electoral and police commissions and removed the two-term limit on presidents.

In July 2011, the ruling coalition swept local council elections in most of the country. But in a sign of continued ethnic polarization, the TNA, long allied with the Tigers, won most council contests in the north and east. Similarly, in elections held in three of the nine provinces in September 2012, the UPFA won clear majorities in the two Sinhalese-majority provinces and prevailed in the predominantly Tamil Eastern Province with the help of its coalition partner, the Sri Lanka Muslim Congress, although the TNA did win a substantial portion of the Tamil vote.

The issue of whether war crimes were committed in the final phases of the civil conflict remained a source of contention. In April 2011, an expert panel formed by the UN secretary general released a report assigning blame to both sides for a range of atrocities, and recommending the establishment of an international mechanism to investigate alleged breaches of international law and to ensure justice. Although the government maintained that a full international investigative mechanism or tribunal was unnecessary, the report was forwarded to the UN Human Rights Council (UNHRC), which in March 2012 adopted a resolution calling on the Sri Lankan government to investigate the civilian deaths that occurred near the end of the war. Sri Lankan human rights advocates and journalists attending the UN session were branded traitors and threatened with bodily harm upon returning home. Largely as a result of disagreement over the UNHRC vote, Sri Lanka's relations with the United Nations and major world democracies soured further during the year, and the government increasingly turned to nondemocratic powers such as China, Iran, and Russia for foreign investment and diplomatic support.

Meanwhile, the Lessons Learnt and Reconciliation Commission (LLRC), a government-backed investigative body whose primary mandate was to assess the reasons behind the collapse of the 2002 ceasefire, released its final report in December 2011. Among other issues, the LLRC called on the government to gradually remove security forces from civilian affairs and activity, establish a more distanced relationship between the police and institutions managing the armed forces, implement a policy of trilingualism, devolve power to local government institutions, and commence investigations into the myriad abductions, disappearances, and harassment of journalists. As part of its resolution, the UNHRC urged Sri Lanka to demonstrate how it planned to carry out the LLRC's proposals, while at the same time criticizing its report for not addressing violations of international law. In July 2012, the government released a National Action Plan with details and timeframes for implementing 120 of the report's 167 recommendations. While some progress was made on the language issue during the year, virtually none occurred in the realm of investigations into violations of human rights and international humanitarian law.

Political Rights and Civil Liberties

Sri Lanka is not an electoral democracy. The 1978 constitution vested strong executive powers in the president, who is directly elected for six-year terms and can dissolve Parliament. The prime minister heads the leading party in Parliament but has limited powers. The 225-member unicameral legislature is elected for six-year terms through a mixed proportional-representation system.

In the January 2010 presidential election, monitoring groups alleged inappropriate use of state resources – particularly transport, infrastructure, police services, and the media – to benefit the incumbent, in violation of orders issued by election officials. More than 1,000 incidents of violence, including at least four deaths, were reported in the preelection period. In the northern and eastern provinces, inadequate provisions for transport and registration of IDPs contributed to a low turnout. Election officials' orders were similarly disregarded prior to the April 2010 parliamentary elections, which also featured extensive misuse of state resources. The independent Center for Monitoring Election Violence noted that the elections were considerably less beleaguered by violence than the presidential vote, with 84 major and 202 minor incidents reported. Nevertheless, irregularities led to the nullification or suspension of results in several districts. Provincial elections held in 2012, though mostly peaceful, were marred by some reports of violence, and civil society groups accused the government and party cadres of engaging in intimidation prior to the voting, misuse of state resources, and other violations of election laws.

Some observers charge that President Mahinda Rajapaksa's centralized, authoritarian style of rule has led to a lack of transparent, inclusive policy formulation. The Centre for Policy Alternatives (CPA) and others have noted the concentration of power in the hands of the Rajapaksa family. The president himself holds multiple ministerial portfolios, and his brothers serve in other key posts: Gotabaya serves as defense secretary, Basil is minister for economic development, and Chamal

was elected as speaker of Parliament in 2010. A growing number of other relatives, including the president's son Namal, also hold important political or diplomatic positions. The president and his family consequently control approximately 70 percent of the national budget. The controversial Divi Neguma Bill, which proposed combining all provincial development agencies under the minister of economic development, would transfer an additional fund of 80 billion rupees (about \$630 million) to Basil Rajapaksa without oversight provisions; the bill had not passed at year's end. During 2012, the president took further steps to enhance Namal's profile in international and domestic forums, fueling speculation that he was being groomed as a potential successor.

The 18th Amendment to the constitution in 2010 effectively reversed efforts to depoliticize certain institutions under the 17th Amendment, giving a government-dominated parliamentary council powers to advise the president regarding appointments to independent commissions that oversee the police, the judiciary, human rights, and civil servants.

Official corruption worsened in 2012, notably in the education sector and within several government ministries. The current legal and administrative framework is inadequate for promoting integrity and punishing corrupt behavior, and weak enforcement of existing safeguards has been a problem. The Commission to Investigate Allegations of Bribery or Corruption was reinstated in 2011 after more than a year of inaction, with a new chairman and two commissioners appointed by the president, although it still has insufficient resources and personnel to deal with the heightened level of complaints. In 2012, the commission received 3,163 complaints, of which 440 involved the education sector and 318 the police department. For example, rampant corruption in the education sector forced parents to pay bribes of up to 60,000 rupees (about \$475) for admission, materials, and unofficial projects. Graft investigations were launched in 2012 against dozens of federal, provincial, and local officials, including Public Relations Minister Mervyn Silva, who faced charges including extortion. A March parliamentary report also alleged widespread corruption in 229 public enterprises, leading to the removal of a number of chairmen. Sri Lanka was ranked 79 out of 176 countries surveyed in Transparency International's 2012 Corruption Perceptions Index.

Although freedom of expression is guaranteed in the constitution, a number of laws and regulations restrict this right, including the Official Secrets Act, the Prevention of Terrorism Act (PTA), additional antiterrorism regulations issued in 2006, and laws on defamation and contempt of court. State-run media outlets have fallen under government influence, while official rhetoric toward critical journalists and outlets grew increasingly hostile in 2012, often equating any form of criticism with treason and threatening physical violence. In particular, the government used state media to engage in a smear campaign against journalists and activists who participated in or otherwise supported the UNHRC sessions and resolution, airing their pictures alongside denunciations for "betraying the motherland."

Journalists throughout Sri Lanka, particularly those who cover human rights or military issues, encounter considerable levels of intimidation, which has led over the past several years to increased self-censorship. A number of journalists received death threats in 2012, while others were assaulted. In June, police raided the joint office of two opposition news websites, the *Sri Lanka Mirror* and *Sri Lanka X News*, for publishing antigovernment material. Eight journalists and an office assistant were arrested and their equipment confiscated. In July, the editor of the *Sunday Leader*, Federica Jansz, received death threats directly from Defense Secretary Gotabaya Rajapaksa following a story alleging he misused his authority to divert a passenger jet to pick up a puppy. Two months later, Jansz was fired after the paper was sold to an associate of the Rajapaksa family. Past attacks on journalists and media outlets, such as the murder of Lasantha Wickrematunga in 2009 and the disappearance of Prageeth Eknaligoda in 2010, have not been adequately investigated, leading to a climate of complete impunity.

The government continued efforts to censor the internet in 2012, temporarily blocking access to the independent news site *Colombo Telegraph*, as well as the websites of Tamil language news

sites. In May, the Free Media Movement, a press advocacy group, brought a case to the Supreme Court on behalf of five websites that had been shut down in 2011, but the case was quickly dismissed.

Religious freedom is respected, and members of all faiths are generally allowed to worship freely. However, the constitution gives special status to Buddhism, and there is some discrimination and occasional violence against religious minorities. Tensions between the Buddhist majority and the Christian minority – particularly evangelical Christian groups, which are accused of forced conversions – sporadically flare into attacks on churches and individuals by Buddhist extremists. Muslims have also faced harassment: in April 2012, hard-line Buddhist monks stormed a mosque in Dambulla and demanded its destruction. The government complied, ordering that the mosque would be demolished and relocated, leading to a strike in Muslim areas; the issue was pending at year's end. Work permits for foreign clergy, formerly valid for five years, were shortened to one year, leading many to opt to enter as tourists. However, in January, 161 foreign Muslim clerics were expelled for preaching on tourist visas. In recent years, the minority Ahmadiyya Muslim sect has faced increased threats and attacks from Sunni Muslims who accuse Ahmadis of being apostates.

Academic freedom is generally respected. However, some commentators report increasing politicization on university campuses, lack of tolerance for antigovernment views, and a rise in self-censorship by professors and students. In 2011, the authorities introduced mandatory "leadership training" for all university undergraduates, conducted by the army at military camps. Concerns have been raised that the curriculum promotes Sinhalese nationalist viewpoints and discourages respect for ethnic diversity and political dissent. In August 2012, the government temporarily closed down 13 of 15 state-funded universities following a strike by academics denouncing government meddling in campus life and plans to partially privatize universities; however, they were reopened the following month.

Emergency regulations that empowered the president to restrict rallies and gatherings lapsed in 2011, and permission for demonstrations is usually granted. However, police occasionally use excessive force to disperse protesters. In January 2012, authorities disrupted a protest commemorating a series of attacks on journalists by limiting demonstrators to a small area and bringing in government supporters who denounced the demonstrators as traitors. The army has placed some restrictions on assembly, particularly for planned memorial events in the north and east concerning the end of the war, according to the International Crisis Group.

Nongovernmental organizations (NGOs) experience some official harassment and curbs on their activities, and since 2010 the Defense Ministry has controlled the registration of both local and foreign NGOs. Human rights and peace-seeking groups – particularly those willing to document abuses of human rights or accountability, such as the CPA, National Peace Council, or the local branch of Transparency International – face surveillance, smear campaigns, threats to their staff, and criminal investigations into their funding and activities. In 2012, human rights advocates attending the UNHRC sessions were labeled LTTE sympathizers and their photographs broadcast on state television. Many NGOs had difficulty acquiring work permits in the northern and eastern areas of the country. However, the United Nations and other humanitarian organizations were generally given adequate access to conflict zones. No progress was made in the investigation of the disappearance and murder of human rights defender Pattani Razeek, whose body was recovered in 2011.

Most of Sri Lanka's 1,500 trade unions are independent and legally allowed to engage in collective bargaining, but this right is poorly upheld in practice. Except for civil servants, most workers can hold strikes, though the 1989 Essential Services Act allows the president to declare a strike in any industry illegal. While more than 70 percent of the mainly Tamil workers on tea plantations are unionized, employers routinely violate their rights. Harassment of labor activists and official intolerance of union activities, particularly in export processing zones, are regularly reported. The

government has increased penalties for employing minors, and complaints involving child labor have risen significantly. Nevertheless, thousands of children continue to be employed as household servants, and many face abuse.

Judicial independence was significantly threatened in 2012. A growing culture of physical threats, intimidation, and political interference toward the judiciary culminated in November with Parliament commencing formal impeachment proceedings against the chief justice of the Supreme Court, Shirani Bandaranayake, immediately following a ruling unfavorable to the UPFA on the Divi Neguma Bill. State media launched a simultaneous smear campaign to vilify Bandaranayake. The International Commission of Jurists condemned the proceedings as violating due process and the fundamentals of a fair trial. The case was ongoing at year's end. Concerns about politicization of the judiciary have grown in recent years, and judicial independence had been further eroded by the 18th amendment, which granted a parliamentary council advisory powers and the president greater responsibility to make judicial appointments. Corruption remains common in the lower courts, and those willing to pay bribes have better access to the legal system.

The last years of the war featured a sharp rise in human rights abuses by security forces, including arbitrary arrest, extrajudicial execution, forced disappearance, custodial rape, and prolonged detention without trial, all of which predominantly affected Tamils. Torture occurred in the context of the insurgency but also takes place during routine interrogations. Abusive practices have been facilitated by the emergency regulations, the PTA, and the 2006 antiterrorism regulations. Under the PTA, suspects can be detained for up to 18 months without trial. These laws have been used to detain a variety of perceived enemies of the government, including political opponents, critical journalists, members of civil society, and Tamil civilians suspected of supporting the LTTE. The government allowed the emergency regulations to lapse in August 2011, but shortly thereafter authorized the expansion of law enforcement powers under the PTA. Several thousand remained in detention without charge at the end of 2012, according to Human Rights Watch. Separately, of the roughly 11,000 Tiger cadres who surrendered in the war's final stages, fewer than 1,000 remained in military-run "rehabilitation" programs during 2012.

Most past human rights abuses are not aggressively prosecuted, and victims and witnesses are inadequately protected. The National Human Rights Commission (NHRC) is empowered to investigate abuses, but has traditionally suffered from insufficient authority and resources. The independence of the NHRC and other commissions was weakened by the adoption of the 18th Amendment in 2010.

Tamils maintain that they face systematic discrimination in areas including government employment, university education, and access to justice. Legislation that replaced English with Sinhala as the official language in 1956 continues to disadvantage Tamils and other non-Sinhala speakers. Tensions between the three major ethnic groups (Sinhalese, Tamils, and Muslims) occasionally led to violence, and the government generally does not take adequate measures to prevent or contain it. In 2012, the police announced that former Tamil Tigers were welcome to join the force and began training of new Tamil-speaking recruits.

Since the end of the war, the government has ostensibly concentrated on rehabilitating former LTTE-controlled territory in the north and east (about 10-15 percent of the country) through economic development programs, but Tamil hopes for greater political autonomy remained unfulfilled. LTTE rule has been replaced by that of the army, which controls most aspects of daily life, including local government in some districts.

Human rights groups have claimed that insufficient registration policies in the postwar IDP camps contributed to widespread disappearances and removals without accountability, and the status of hundreds of Tamils who disappeared during the war's final phase remains unclear. In September 2012, the Menik Farm displacement camp, which had once housed 300,000 people displaced by the civil war, was officially closed. While more than 480,000 IDPs have returned to their home

districts, in many cases they were unable to occupy their former property due to land mines, destruction of their homes, or appropriation of their land by the military or government. According to the Internal Displacement Monitoring Centre, as of December 31, 2012, over 93,000 people remained displaced, the vast majority of whom were residing with host families. Muslims forcibly ejected from the north by the LTTE in the early 1990s noted during the course of LLRC hearings in 2010 that many were unable to return to their homes, as their land was still being occupied by Tamils. In general, there are few official attempts to help this group of returnees. Other former residents of the conflict area live as refugees in India.

Observers have expressed concern that government appropriation of land in the north and east as part of economic development projects or "high security zones" has impinged on freedom of movement and the ability of local people to return to their property, and that the land will be allotted to southerners or on politically motivated grounds. The military has expanded its economic activities in the north and east, running shops and growing agricultural produce for sale in the south, while local businesspeople are pushed out of the market. Throughout the country, the military's role in a variety of economic activities – from tourism to agriculture and infrastructure projects – has expanded significantly, providing jobs and revenue for a force that has tripled in size under the current president.

Women are underrepresented in politics and the civil service. Female employees in the private sector face some sexual harassment and discrimination in salary and promotion opportunities. Rape and domestic violence remain serious problems, with hundreds of complaints reported annually; existing laws are weakly enforced. Violence against women increased along with the general fighting in the civil conflict, and has also affected female prisoners and interned IDPs. The entrenchment of the army in the north and east has increased the risk of harassment and sexual abuse for female civilians (many of whom are widows) in those areas. Although women have equal rights under civil and criminal law, matters related to the family – including marriage, divorce, child custody, and inheritance – are adjudicated under the customary law of each ethnic or religious group, and the application of these laws sometimes results in discrimination against women. The government remains committed to ensuring that children have access to free education and health care, and it has also taken steps to prosecute those suspected of sex crimes against children. However, child rape is a serious problem. Members of the LGBT (lesbian, gay, bisexual, and transgender) community face social discrimination and some instances of official harassment, and same-sex sexual activity is criminalized, though rarely prosecuted.

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