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Freedom in the World 2011 - Sri Lanka

Capital: Colombo
Population: 20,700,000

Political Rights Score: 5 *
Civil Liberties Score: 4 *
Status: Partly Free

Ratings Change

Sri Lanka's political rights rating declined from 4 to 5 due to the misuse of state resources before and during the 2010 presidential and parliamentary elections, the arrest and prosecution of opposition presidential candidate Sarath Fonseka, and an increasing concentration of power in the executive branch and the president's family.

Overview

President Mahinda Rajapaksa tightened his grip on power in 2010, securing a new term in an early presidential election in January and leading his coalition to a sweeping victory in parliamentary elections in April. Both polls were characterized by the misuse of state resources to favor the ruling party, as well as a degree of violence and intimidation aimed at the opposition, including the imprisonment of presidential challenger Sarath Fonseka. Despite the defeat of the Tamil Tiger rebel group's long-running insurgency in May 2009 and an improvement in security throughout the country, emergency laws remained in place. In addition, 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 majority of the civilians displaced by the final stages of the war were able to return to their home districts in 2010, but the rehabilitation of the war-torn north and east remained slow, as the army consolidated their control over these areas and long-standing ethnic grievances remained largely unaddressed.

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 in education and employment 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, had eliminated most rival Tamil guerrilla groups and 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.

In 1994, Chandrika Kumaratunga ended nearly two decades of UNP rule by leading the SLFP-dominated People's Alliance (PA) coalition to victory in parliamentary elections and then winning the presidential election. Kumaratunga won another term as president in 1999, but the UNP and its allies gained a majority in 2001 parliamentary elections. 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, Kumaratunga's United People's Freedom Alliance (UPFA) coalition, bolstered by the support of the JVP, formed a minority government. Apart from the JVP, other extremist and ethnic-based parties also made inroads, including a new party formed by Buddhist clergy, the National Heritage Party (JHU). The addition of the JVP to the ruling coalition and the presence of pro-Sinhalese forces like the JHU in Parliament further hampered the peace process, as did the emergence in 2004 of a breakaway faction of the Tigers, the Tamil People's Liberation Tigers (TMVP). The splinter group was led by Colonel Karuna Amman (the nom de guerre of Vinayagamoorthi Muralitharan), an LTTE commander who alleged discrimination in the

treatment of eastern Tamils by the LTTE leadership. By 2006, the Karuna faction had become loosely allied with the government. Prime Minister Mahinda Rajapaksa of the PA 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 lead key ministries.

In 2007, consensus-building among the southern parties stalled, government fighting with the LTTE escalated, and both sides engaged in targeted killings of key leaders. The government formally annulled the CFA in January 2008, and the army stepped up its offensive, deepening the humanitarian crisis. The military continued to make gains against the rebels in early 2009, and won a decisive final battle in May in which the Tigers' leadership was annihilated. An official end to the war was declared on May 9. At least 100,000 people had been killed in the 26-year conflict, including over 15,500 in 2009 alone, according to the South Asia Terrorism Portal.

Approximately 300,000 civilians were displaced during the final phases of the war, and many of those were interned in government-run camps, where they faced severe food shortages and outbreaks of disease. While the government promised that internally displaced persons (IDPs) would be released and resettled, it 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. The safe return of IDPs to their homes was also impeded by the large number of mines laid across the conflict zone by both sides. At the end of 2009, more than 100,000 IDPs remained in the camps, while thousands more had left but were unable to return to their homes due to war damage and mines. In August 2009, local elections were held in the northern cities of Jaffna and Vavuniya for the first time in more than a decade. In another sign of normalization, officials reopened the A9 Jaffna-Kandy highway, the only land route connecting the capital with the northernmost part of the country.

The SLFP strengthened its political position ahead of the 2010 parliamentary elections by winning a number of local and provincial elections throughout 2009. The victories were seen as a public endorsement of the government's military successes. The ruling party also drew senior TMVP defectors, including Karuna himself, into its ranks.

Rajapaksa called for the presidential election to be held nearly two years early, in January 2010. However, in a surprise move, General Sarath Fonseka resigned as head of the armed forces and declared his candidacy on behalf of an opposition coalition in late 2009. The poll was held on January 26, with a turnout of just under 75 percent. Rajapaksa won a convincing victory, securing nearly 58 percent of the vote, while

Fonseka received around 40 percent. Voting was divided along ethnic lines, with most Sinhalese supporting the president and most Tamils and Muslims supporting Fonseka. Following the vote, Fonseka made a formal complaint, alleging irregularities and asking that the vote be annulled. On February 8, he was arrested on charges of plotting a coup. The ensuing protests by thousands of opposition supporters encountered violence from progovernment groups and the police. Fonseka's trial in a military court, on charges of engaging in politics while an active service member and of not adhering to procurement rules, commenced in March. Most analysts viewed the charges as politically motivated.

Parliamentary elections held in April were contested by a record number of almost 8,000 candidates, but as expected, the ruling UPFA won a convincing victory, securing 144 seats and over 60 percent of the popular vote. The opposition UNP won around 30 percent of the vote and 60 seats, while the Democratic National Alliance (DNA) coalition, led by the JVP, won 7 (including a seat for Fonseka), and the Tamil National Alliance won 14. Turnout was considerably lower than in the previous election, at just over 50 percent. The UFPA increased its share of seats, though it fell just short of the two-thirds majority it was seeking. The president's brother, Chamal Rajapaksa, was elected as speaker of Parliament. The government's position was further strengthened by the defection of several lawmakers from opposition parties in August.

Parliament passed the government-backed 18th Amendment to the constitution in September. The package of revisions formally extended political control over state institutions by abolishing the constitutional council mandated by the 17th Amendment and replacing it with a government-dominated, five-member 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. The opposition boycotted the parliamentary vote on the changes, which were criticized by a range of civil society and watchdog groups.

Also in September, a court-martial found Fonseka guilty of the charges against him, and after Rajapaksa endorsed the verdict, the former general began a 30-month prison sentence. In addition to harassment of political opponents, the government continued to crack down on dissent from other quarters, applying pressure to prominent journalists, human rights advocates, and international critics.

By the end of 2010, only about 19,000 of the interned IDPs remained in the largest camp, and while most had returned to their home districts, some could not recover their former property. Since the war's end, few efforts had been made to resolve the grievances that fueled the conflict, including calls to devolve certain powers to the

provinces as envisaged in the 13th amendment to the constitution. The army took over many aspects of civil administration in the north and east, and residents of those areas have had little input into political or economic decision-making that affects their daily lives.

The issue of whether war crimes had been committed in the final phases of the war continued to be contentious during 2010. In June, the UN secretary general appointed an advisory panel on implementation of mechanisms to ensure accountability for alleged war crimes. The Sri Lankan government maintained that an international panel was unnecessary, as it had set up an internal investigative body in May, called the Lessons Learnt and Reconciliation Commission (LLRC), whose primary mandate was to assess the reasons behind the collapse of the 2002 ceasefire. The LLRC held a number of hearings to gather testimony from witnesses during the summer and fall. Following protests against the United Nations in June, as well as the European Union's withdrawal of preferential trade benefits in July, Sri Lanka's relations with the United Nations and major democracies soured further. The government increasingly turned to alternate sources of foreign investment and diplomatic support – such as China, Iran, and Russia – that did not raise questions regarding its human rights record or its conduct during the end of the war.

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 a six-year term and can dissolve Parliament. The prime minister heads the leading party in Parliament but otherwise has limited powers. The 225-member unicameral legislature is elected for a six-year term through a mixed proportional-representation system.

Elections have historically been generally free and fair, though marred by some irregularities, violence, and intimidation, and the LTTE refused to allow free elections in areas under its control. However, in the 2010 presidential vote, monitoring groups alleged inappropriate use of state resources – particularly transport, infrastructure, the police services, and 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 addition, in the northern and eastern provinces, inadequate provisions for transport and registration of IDPs, as well as some violence, led 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 (CMEV) noted that the parliamentary elections were considerably less beleaguered by violence, with 84

major and 202 minor incidents reported. Nevertheless, irregularities led to the nullification or suspension of results in several districts.

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's brothers hold important posts – Gotabaya serves as defense secretary, Basil is a member of Parliament and now minister for economic development, Chamal is speaker of Parliament – and a growing number of other relatives, including the president's son Namal, also serve in important political or diplomatic positions. The president and his family consequently control approximately 70 percent of the national budget. Other trusted party stalwarts serve as implementers and advisers. The passage of the 18th Amendment to the constitution in September 2010 effectively reversed efforts to depoliticize key institutions under the 17th Amendment, placing a government-dominated parliamentary council in control of appointments to independent commissions that oversee the police, the judiciary, human rights, and civil servants.

Official corruption is a continuing concern. 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. For example, legislators routinely ignore wealth-declaration requirements stipulated in the 1994 Bribery Amendment Act. The Commission to Investigate Allegations of Bribery or Corruption (CIABOC) has taken up hundreds of cases, but they have yielded only five prosecutions (three acquittals and two convictions), and after the term of the commissioners expired in March 2010, replacements were not appointed, rendering the body ineffective for the remainder of the year. Corruption watchdogs have found that government interference and the Treasury's ability to withhold funding compromise the CIABOC's independence. Corruption cases can only be initiated by members of the public, who have been reluctant to do so because of a lack of whistleblower protections. Sri Lanka was ranked 91 out of 178 countries surveyed in Transparency International's 2010 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, emergency regulations extended continuously since 2005, the Prevention of Terrorism Act (PTA), additional antiterrorism regulations issued in 2006, and laws on defamation and contempt of court. Senior journalist J. S. Tissainayagam, who was sentenced to a 20-year prison term under the PTA in 2009, received a presidential pardon in May 2010 and was able to leave the country. State-run media outlets have fallen under government influence, while official

rhetoric toward critical journalists and outlets has grown more hostile, often equating any form of criticism with treason.

Some bans on reporters' physical access to the war zone and internment camps continued in 2010, and British Broadcasting Corporation journalists were denied entry to cover hearings related to the civil war in September. 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 2010, while others were subject to kidnapping and assaults. In the period surrounding the presidential election, the *Lanka* newspaper was shut down, several journalists were detained and questioned, state media employees were harassed, and journalist Prageeth Eknaligoda disappeared; he remained missing at year's end. Gamini Pushpakumara was dismissed from his position at the state-run television station in January, following his attempts to protest imbalanced coverage of the presidential election; after he fled into exile, his wife continued to receive threats against his life. Armed attackers in July firebombed the private Siyatha television and radio station, whose owner had supported opposition presidential candidate Sarath Fonseka, damaging broadcast equipment and injuring staff. Earlier, the same media group's newspaper had been prevented from covering events and lost its official advertising, forcing it to shut down. Past attacks on journalists have not been adequately investigated, leading to a climate of complete impunity. The government has taken steps to censor the internet, blocking access to a number of news websites. While the majority of the blocks in 2010 were temporary, coinciding with the presidential election, some sites, such as Lanka News and TamilNet, have been permanently banned.

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, who are accused of forced conversions – sporadically flare into attacks on churches and individuals by Buddhist extremists. Following the January 2010 presidential election and the arrest of Fonseka, attempts by some Buddhist leaders to convene a *sangha*, an assembly of monks traditionally held to advise the king on good governance, was met with government pressure and threats, and was eventually called off. Work permits for foreign clergy, formerly valid for five years, are now being issued for only one year with the possibility of extension. Conditions for Muslims in the north and east improved with the demise of the LTTE, but relations between Muslims and the predominantly Hindu Tamils remained somewhat tense. 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, and no official restrictions were reported in 2010. However, some commentators have raised concerns regarding increasing politicization on campuses and lack of tolerance for the expression of dissenting or antigovernment views, which in turn have led to a rise in self-censorship by both professors and students.

Although the 2005 emergency regulations give the president the power to restrict rallies and gatherings, permission for demonstrations is usually granted. Police occasionally use excessive force to disperse protesters, as was the case with the February 2010 demonstrations following the arrest of Sarath Fonseka. In another sign of increasing restrictions on freedom of assembly, two members of Parliament from Fonseka's coalition were arrested during a political protest in August. The Supreme Court intervened in September to clarify existing rules on displaying political posters after some activists were detained under the emergency regulations. The army has placed some restrictions on assembly, particularly for planned events in the north and east concerning grieving or memorializing the end of the war, according to the International Crisis Group.

Nongovernmental organizations (NGOs) face some curbs on their activities, as well as official harassment. Even following the end of the war in May 2009, many humanitarian workers' access to the conflict zone and IDP camps remained restricted. In April 2010, the president gave the Defense Ministry control over the registration of NGOs, both local and foreign. Human rights and peace-seeking NGOs, particularly those considered "unpatriotic" or unwilling to support the official line, have faced greater threats and harassment from authorities in recent years, including assaults on their gatherings, proposed parliamentary investigations into their activities, and death threats directed against prominent individuals such as Paikiasothy Saravanamuttu, head of the CPA. In March 2010, the emergence of a list of journalists and activists allegedly targeted for government surveillance raised concerns, as several had previously received threats. Prominent rights defender Pattani Razeek disappeared in February 2010 and was still missing at year's end.

Most of Sri Lanka's 1,500 trade unions are independent and legally allowed to engage in collective bargaining. Except for civil servants, most workers can hold strikes, but the 1989 Essential Services Act allows the president to declare a strike in any industry illegal. Even though more than 70 percent of the mainly Tamil workers on tea plantations are unionized, employers routinely violate their rights. 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 domestic servants, and many face abuse.

Successive governments have respected judicial independence, and judges can generally make decisions without overt political intimidation. However, concerns about politicization of the judiciary have grown in recent years. A 2009 International Crisis Group report on the judiciary highlighted a number of problems, including the executive's power to make high-level judicial appointments; the chief justice's control over the Judicial Service Commission, which makes lower-level appointments; and the lack of a mechanism to sanction biased or corrupt judges. In 2010, the Supreme Court made rulings favorable to the government in a number of politically charged cases, including a decision that allowed Rajapaksa's new term to begin 10 months after the presidential election. Corruption remains fairly common in the lower courts, and those willing to pay bribes have better access to the legal system.

Heightened political and military conflict during the last years of the war led to a sharp rise in human rights abuses by security forces, including arbitrary arrest, extrajudicial execution, forced disappearance, torture, custodial rape, and prolonged detention without trial, all of which predominantly affect Tamils. Torture occurred in the context of the insurgency but also takes place during routine interrogations. Such practices are 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. Roughly 650 Tamils have been detained, some for over a decade, without being charged. Separately, of the roughly 11,000 Tiger cadres who surrendered in the war's final stages, some 8,000 remained in custody and were undergoing "rehabilitation" programs at the end of 2010. The government has estimated that after further releases, 1,000 would be left to stand trial. In September, the International Commission of Jurists criticized the indefinite detention of the former fighters without charge or access to legal counsel, as well as the government's retention of the emergency and antiterrorism regulations despite the end of the civil conflict.

Most past human rights abuses are not aggressively prosecuted, while victims and witnesses are inadequately protected, contributing to a climate of almost complete impunity. The National Human Rights Commission (NHRC) is empowered to investigate abuses, but it 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 to the constitution in September 2010.

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. Following the August 2009 release of a video that appeared to show extrajudicial killings of captured rebels by government forces, the United Nations called for a full investigation, and rights groups urged the government to lift its censorship policy on war coverage. Ongoing allegations of atrocities during the final stages of the war included extrajudicial executions, rape, the use of civilians as human shields by the Tamil Tiger rebels, and the indiscriminate aerial shelling of civilians in supposed ceasefire zones by government forces. In 2010, the government continued to reject calls by the United Nations, foreign governments, and international NGOs for an independent inquiry into abuses committed by both sides during the war. However, the LLRC – appointed by President Rajapakse in May 2010 to investigate allegations of war crimes – has no powers of enforcement or implementation of its recommendations and its key personnel are compromised by serious conflicts of interest.

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 lead to violence, and the government generally does not take adequate measures to prevent or contain it. However, no major incidents were reported in 2010.

For many years, the LTTE effectively controlled 10 to 15 percent of Sri Lankan territory, operating a parallel administration that included schools, hospitals, courts, and law enforcement. It enforced its decrees through summary executions, disappearances, torture, and the forcible conscription of children. The Tigers' leadership and territorial control were essentially eliminated by the end of the war in May 2009. In 2010, the government concentrated on rehabilitating former LTTE territory through economic development programs, but Tamil hopes for greater political autonomy remained unfulfilled, and the army retained a heavy presence in the north and east, controlling most aspects of daily life.

In late 2009, bowing to international pressure, the government granted freedom of movement to the roughly 130,000 civilian IDPs who remained in internment camps under extremely poor conditions. The authorities pledged to resettle all IDPs and close the camps as soon as possible. By the end of 2010, about 19,000 IDPs remained in the Menik Farm camp, with another 1,000 detainees kept at a smaller camp in the Jaffna peninsula. While most had returned to their home districts, in some cases they were

unable to occupy their former property due to land mines or destruction of their homes. Other former residents of the conflict area live as refugees in India.

Muslims forcibly ejected from the north by the LTTE in the early 1990s noted during the course of the 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. In addition, observers have expressed concern that government appropriation of land in the north and east as part of economic development projects or "high security zones" will impinge on the ability of local people to return to their property, and that land will be allotted to southerners or on politically motivated grounds. The military expanded its economic activities in the north and east, running shops and growing agricultural produce for sale in the south, while local businesspeople were crowded out of the market.

Women are underrepresented in politics and the civil service. Female employees in the private sector face some sexual harassment as well as 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, including rapes, 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 increased the risks 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. There were several signs in 2010 that the government was attempting to enforce stricter moral codes regarding dress and public displays of affection. 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.

* *Countries are ranked on a scale of 1-7, with 1 representing the highest level of freedom and 7 representing the lowest level of freedom.*

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