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## Sri Lanka

### Country Reports on Human Rights Practices - [2005](#)

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Sri Lanka is a constitutional, multiparty republic with a population of approximately 20 million. President Mahinda Rajapaksa, elected on November 17 to a 6-year term, and the 225-member parliament, elected in April 2004 also for a 6-year term, share constitutional power. According to the preliminary report of the European Union Election Observation Mission (EUEOM), the November 17 presidential election was generally conducted in a professional and impartial manner, with the exception of the boycott enforced by the Liberation Tigers of Tamil Eelam (LTTE) in the north and east, and was deemed an improvement over the 2004 election. From 1983 until 2001, the government fought the Liberation Tigers of Tamil Eelam (LTTE), a terrorist organization that advocated a separate ethnic Tamil state in the north and east of the country. In 2001, the government and the LTTE announced unilateral cease-fires and signed a formal cease-fire accord in 2002. In 2003 after participating in six rounds of talks facilitated by the Norwegian government, the LTTE suspended the negotiations. The civilian authorities generally maintained effective control of the security forces, although some members of the security forces committed serious human right abuses.

The government generally respected the human rights of its citizens, although serious problems remained. During the year both the government and the LTTE frequently violated the 2002 peace accord. According to Sri Lanka Monitoring Mission (SLMM) statistics, the LTTE committed 14 cease-fire violations for every 1 committed by the government. Civilian deaths due to land mines were drastically reduced through a nationally coordinated humanitarian demining effort. The government enacted emergency regulations three times during the year: twice following the December 2004 tsunami, and once following the August 12 killing of Foreign Minister Lakshman Kadirgamar. The emergency regulations, which remained in effect at year's end, permit arrests without warrant and nonaccountable detentions for up to 12 months. The following human rights problems were reported:

- unlawful killings by government agents
- high-profile killings by unknown actors
- politically motivated killings by paramilitary forces and the LTTE
- disappearances
- arbitrary arrest and detention
- torture
- poor prison conditions
- denial of fair public trial
- government corruption and lack of transparency
- infringement of religious freedom
- infringement of freedom of movement
- discrimination against minorities

There were numerous reports that armed paramilitary groups, suspected of being linked to the government or security forces, participated in armed attacks during the year. These groups included the Karuna faction of the LTTE, the Eelam People's Democratic Party (EPDP), and the People's Liberation Organization of Tamil Eelam (PLOTE). The LTTE continued to control large sections of the north and east and engaged in politically motivated killings, disappearances, torture, arbitrary arrest and detention, denial of fair public trial, arbitrary interference with privacy, denial of freedom of speech, press, of assembly and association, and the recruitment of child soldiers.

#### **RESPECT FOR HUMAN RIGHTS**

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

a. Arbitrary or Unlawful Deprivation of Life

There were no confirmed reports of politically motivated killings by the government; however, it was often alleged that paramilitary groups, sometimes with the aid of the government, engaged in targeted killings of political opponents. The government and the army denied the allegations. Human rights organizations and other sources reported an increase in encounter killings by police. At year's end the Human Rights Commission (HRC) reported that police killed 25 individuals in police custody. The HRC determined that 20 of those individuals died as a result of torture in police custody during the year (see section 1.c.).

On February 5, police arrested Polwatta Ratubaduge Ajiith Wishantra for his role in the November 2004 shooting death of Gerald Perera. Authorities had tortured Perera while he was in custody in 2002 and killed him in November 2004 after he had complained to police and human rights monitors about his treatment at the hands of the police. Three of the seven police officers accused of torturing Perera in 2002 admitted that they had Perera killed because they feared his testimony would lead to their imprisonment. At year's end six officers implicated in the conspiracy remained in custody.

On March 25, in Kalutara District, two police officers from the Panadura police station beat Nallawarige Sandasirilal Fernando unconscious while trying to arrest his brother. On March 28, Fernando died in a local hospital. Authorities indicted two police officers, but at year's end the officers remained on duty.

On April 10, in Colombo District, Maharagama police allegedly pulled Don Wijerathna Munasinghe from his three-wheel taxi for failing to stop. The officers beat him in front of his wife and son, and then again in custody. On April 11, Munasinghe was released, but he subsequently died on April 16 from injuries sustained during the police beating. At year's end the case was referred to the attorney general's department for further action, and the three police constables accused of the beating remained on duty.

On April 18, in Ratnapura District, five police officers from the Rakwana police station arrested Helwala Langachcharige Susantha Kulatunga and reportedly beat him while he was in custody. On April 20, a day after two policemen told Kulatunga's daughters that they would never see their father again, Kulatunga was found dead, hanging from the prison-cell door, with his knees on the ground and his hands tied behind his back (see section 1. c.). A postmortem found 107 injuries across his body but no neck trauma. An investigation was ongoing, but at year's end no arrests were made.

On July 4, five suspects were found guilty and sentenced to death for the November 2004 killing of high court judge Sarath Ambepitiya and his bodyguard.

There were no developments in the February 2004 shooting death of Bellanavithanage Sanath Yasarathne.

There were no developments in the April 2004 custodial killing of Muthuthanthrige Chamal Ranjith Cooray or in the October 2004 killing, allegedly by police, of Herman Quintus Perera.

There were several reports of high profile killings by unknown actors during the year. For example, on February 7, unknown gunmen killed E. Kausalyan, political head of the Batticaloa-Amparai division of the LTTE, and former Tamil National Alliance (TNA) parliamentarian A.C. Nehru. Unknown persons sprayed the vehicle with automatic weapons, killing the two men and their LTTE bodyguards after their van passed a military checkpoint on a government-controlled road in Polonnaruwa District. The LTTE blamed military intelligence for colluding with the breakaway Karuna faction and other paramilitaries in the killing.

On April 28, four men abducted prominent Tamil journalist and editor of *Tamilnet*, Sivaram Dharmaratnam, in front of a Colombo police station. Dharmaratnam's bound and gagged corpse was found with a bullet wound in the head the following morning inside the high security zone surrounding parliament. The LTTE claimed military intelligence and paramilitary forces were responsible for the killing. On June 13, police arrested ex-PLOTE commander Arumugam Sriskandarajan for the killing, and at year's end he was awaiting trial.

On December 24, unidentified gunmen shot and killed TNA parliamentarian Joseph Pararajasingham while he was attending midnight mass at St. Mary's cathedral in Batticaloa. The LTTE accused government security forces of conspiring with paramilitaries in the killing. At year's end police had made no arrests.

On May 27, the Supreme Court acquitted 4 defendants, including 1 police officer, involved in the 2000 killing of 27 Tamil inmates at the Bindunuwewa rehabilitation camp. The court acquitted the men because the defendants' guilt had not been proved beyond a reasonable doubt. In June 2004 the Supreme Court acquitted another defendant in the case, police officer Tyrone Ratnayake, citing insufficient evidence. In a public statement issued on June 2, Human Rights Watch called on the government to reopen the investigation to identify those responsible for the killings and pointed out that although the presidential commission investigating the killings at Bindunuwewa cited the local police commanders for dereliction of duty, these officers were not indicted or punished.

#### b. Disappearance

The HRC reported 25 instances of politically motivated disappearances at the hands of the security forces during the year, and 10 instances by paramilitary forces allegedly tied to the government (see section 1.a.).

There were no developments in any of the unclassified disappearance cases cited by the 2000 UN Working Group on Enforced or Involuntary Disappearances; neither was there any effort put forward by the government to gather information on these cases. During the year the cabinet refused a 2004 request to compensate the next of kin of 960 missing persons and denied the request to compensate the next of kin of another 594 missing persons due to a lack of death certificates. Since 2000, 12 disappearances from previous years were reported by the UN Working Group, 7 of which were still pending. There have been no developments in these cases.

In 2004 a government commission investigating disappearances that occurred in Jaffna in 1996-97 issued letters to next of kin confirming that after being arrested by security forces, the victims disappeared. Next of kin have used these letters to support habeas corpus cases, and at year's end there were 55 cases pending.

At year's end the HRC continued to investigate 16,305 past cases of disappearance by security forces, some of which have been pending for 10 years. There were no indictments, investigations, or prosecutions of security force personnel for past disappearances. Regional commissions, 3 established in 1994 and a fourth established in 1998, reported 21,215 disappearances between 1988 and 1994, most of which occurred during the 1988-89 period of the Janatha Vimukthi Peramuna (People's Liberation Front-JVP) uprising. The commissions found that many persons disappeared after having been removed involuntarily from their homes, in most cases by security forces. There were no developments in any of these cases during the year, and little activity to bring any of them to prosecution.

During the year the LTTE continued to detain civilians, often holding them for ransom (see section 1.g.). For example, at year's end, there were more than 97 reports that the LTTE had abducted adults according to the SLMM.

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

The law makes torture a punishable offense but does not implement several provisions of the UN Convention Against Torture. Human rights groups maintained that while torture is prohibited under specific circumstances, it was allowed under others. According to the HRC and other credible sources, the use of police torture to extract admissions and confessions was endemic and conducted with impunity. In addition the Emergency Regulations make confessions obtained under any circumstance, including by torture, sufficient to hold a person until the individual is brought to court; 1,798 arrests were made under the Emergency Regulations during the year, although 1,236 of those arrested were released within 12 hours. The majority of those arrested were Tamil, although detainees included Sinhalese and Muslims as well. In addition to suspicion of terrorism, people were detained for lack of identification, narcotics, and outstanding warrants (see section 1.d.).

Methods of torture included beatings--often with sticks, iron bars or hose--electric shock, suspending individuals by the wrists or feet in contorted positions, burning, genital abuse, and near-drowning. Detainees reported broken bones and other serious injuries as a result of their mistreatment, and during the year deaths occurred in police custody (see section 1.a.).

On October 10, the trial began of three police officers indicted by the Kurunegala High Court for allegedly torturing and sexually abusing Nandini Herat in 2002, and at year's end the trial was in progress. The government continued to investigate seven past cases of rape committed by security forces.

Of the 634 allegations of police torture, the majority of complaints came from police stations outside the north and east. The government continued to investigate 183 past cases of torture.

There were credible nongovernmental organization (NGO) reports that police tortured individuals in custody. For example, the Asian Human Rights Commission (AHRC) reported that on May 19, Hevana Hennadige Priyadarshana Fernando was kicked and beaten at the Panadura police station in Kalutara District. Fernando was later released on bail, and the magistrate was informed of the torture incident. At year's end no charges were filed against the officers responsible for torturing Fernando, although the original charges against Fernando remained.

On June 11, Jayasekara Vithanage Saman Priyankara reported harassment and intimidation regarding his January 2004 complaint of police torture at the Matale police station. At year's end there were no developments in his case.

On July 11, according to the AHRC, tuberculosis patient Thummiya Hakura Sarath testified that in February 2004 subinspector Silva of the Welipenna police station forced Sarath to spit into the mouth of Palitha Tissa Kumara Koralaliyanage, who was in custody and whom subinspector Silva was torturing. The Supreme Court had not heard Koralaliyanage's case, which was pending at year's end.

Special sections of the attorney general's office and the criminal investigation unit focused on torture complaints. During the year the units forwarded 63 cases for indictments, in which 1 resulted in an indictment, 2 were dismissed, and the other 59 were pending. The interparliamentary permanent standing committee and its interministerial working

group on human rights issues also continued to track criminal investigations of torture.

In June 2004 the HRC established a torture prevention monitoring unit to implement its "zero tolerance" torture policy (see section 4). The HRC provided extra training for officers assigned to this unit and established a policy of quick investigation for torture complaints. The HRC also assigned special teams to investigate deaths in police custody. By year's end the HRC had opened cases on 634 torture complaints.

#### Prison and Detention Center Conditions

Prison conditions did not meet international standards due to acute overcrowding and lack of sanitary facilities. In some cases juveniles were not held separately from adults. Pretrial detainees were not held separately from those convicted.

The government permitted visits by independent human rights observers, and the International Committee of the Red Cross (ICRC) conducted 192 visits to 24 permanent places of detention, including prisons and some police stations. The national office of the HRC did not provide information on visits to detention centers.

The ICRC conducted 22 visits to 3 LTTE-controlled prison facilities and 53 visits to 17 LTTE-operated police stations. Credible observers reported that conditions in these prisons were on par with local standards (see section 1.d.).

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, such incidents occurred. There were 1,798 arrests while the emergency regulations were active. The government stated that most of those arrested were released within a few days.

#### Role of the Police and Security Apparatus

Following the November 17 presidential election, the government eliminated the Ministry of Internal Security and placed control of the 66-thousand-member police force, which includes the 6-thousand member paramilitary Special Task Force, under the Ministry of Defense. Senior officials in the police force handle complaints against the police, as does the civilian-staffed National Police Commission (NPC). Few police officers serving in Tamil majority areas were Tamil. These officers generally did not speak Tamil or English, which increased the level of misunderstanding and distrust.

Impunity, particularly for cases of police torture, was a severe problem. For example, on October 3, Inspector General of Police Chandra Fernando refused the NPC's recommendation to suspend or indict 96 police officers for acts of torture. By year's end 61 of those officers had been reprimanded and transferred to other stations, and the 35 others were removed or had left the police. Several NGOs claimed that corruption was also a problem in the police force.

For example, on October 25, following the arrests of 25 prostitutes and the 2 men who operated the brothel that housed them, the deputy inspector general (DIG) of police responsible for Nugegoda ordered the Assistant Superintendent of Police (ASP), who led the raid, to release all of those arrested. The ASP refused, processed the arrested persons, and complained to higher authorities. In the ensuing investigation, authorities learned that the DIG received \$6 thousand (approximately SLR 613 thousand) per month to allow the brothel to operate. At year's end authorities had not charged the DIG, and no action was taken against him.

The NPC, composed entirely of civilians, was authorized to appoint, promote, transfer, discipline, and dismiss all police officers, except for the inspector general of police. The NPC also has the power to establish procedures to investigate public complaints against the police. In practice, however, the NPC devolved responsibility for discipline of less senior police officers to the inspector. During the year the NPC handled 187 cases of police torture. Criminal proceedings were initiated in 42 cases, while 86 others were closed due to insufficient evidence. On November 22, the three-year term of the NPC lapsed. By year's end the government had not appointed new commissioners to the NPC.

#### Arrest and Detention

Under the law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours, but in practice, detained persons generally appeared within a few days before a magistrate. A magistrate may authorize bail for bailable and many nonbailable offences or may order continued pretrial detention for up to three months or longer. Police do not need an arrest warrant for certain offenses, such as murder, theft, robbery, and rape. In the case of murder, the magistrate must remand the suspect, and only the high court may grant bail. In all cases, suspects have the right to legal representation. Counsel is provided for indigent defendants in criminal cases before the high court and the courts of appeal, but not in other cases.

On August 18, following the assassination of the foreign minister, parliament approved Emergency Regulations, giving

power of arrest to members of the armed forces, who were required to turn suspects over to the police within 24 hours. Individuals arrested under the Emergency Regulations may be detained for up to a year without trial.

In the majority of cases in which security force personnel may have committed human rights abuses, the government had not identified those responsible or brought them to justice. Human rights organizations noted that some judges were hesitant to convict on cases of torture because of a seven-year mandatory sentence for committing torture. There was no witness protection program. According to human rights organizations, obtaining medical evidence was difficult, as there were only 25 forensic specialists, and medical practitioners untrained in the field of torture assessment examined most torture victims. In some cases doctors were intimidated by police, making accurate medical reporting on torture victims difficult.

The HRC investigated the legality of detention in cases referred to it by the Supreme Court and by private citizens. There were no reports of political detainees.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice. The president appoints judges to the Supreme Court, the high court, and the courts of appeal. A judicial service commission, composed of the chief justice and two supreme court judges, appoints and transfers lower court judges. Judges may be removed for misbehavior or incapacity but only after an investigation followed by joint action of the president and the parliament.

#### Trial Procedures

In criminal cases, juries try defendants in public. Defendants are informed of the charges and evidence against them, and they have the right to counsel and the right to appeal. The government provides counsel for indigent persons tried on criminal charges in the high court and the courts of appeal, but it does not provide counsel in other cases. Private legal aid organizations assisted some defendants. In addition the legal aid commission offered legal aid to assist those who could not afford representation; however, some sources reported that its representatives extorted money from beneficiaries. There are no jury trials in cases brought under the Prevention of Terrorism Act (PTA). Defendants are presumed innocent, and confessions obtained by various coercive means, including torture, are inadmissible in all criminal proceedings except PTA cases. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Subject to judicial review in certain cases, defendants may spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases came to trial, decisions were made relatively quickly.

Despite the law calling for court proceedings and other legislation to be available in English, Sinhala, and Tamil, most court proceedings outside of Jaffna and the northern parts of the country were conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north were in Tamil and English. While Tamil-speaking judges existed at the magistrate level, only four high court judges, one appeals court judge, and one supreme court justice spoke fluent Tamil. Few legal textbooks existed in Tamil, and the government had not complied with legislation requiring that all laws be gazetted and published in English, Sinhala, and Tamil.

In August 2004 the UN Human Rights Committee (UNHRC) found that Nallarattnam Singarasa's right to a fair trial had been violated when in 1993 he was tortured and forced to put his thumb print on a confession that he could not read. The UNHRC called for his release or retrial and gave the government 90 days to respond. On February 2, the government replied that the law does not provide for release or retrial after the conviction is affirmed by the high court. At year's end Singarasa remained in prison, and his legal team was preparing a fundamental rights case for the Supreme Court.

In 2003 the Supreme Court convicted Tony Fernando on a contempt of court charge for both filing numerous motions before the court and for raising his voice. Fernando was sent to jail the same day only to be released more than eight months later. Fernando was never given the opportunity to consult a lawyer, prepare a defense, or file an appeal. On March 31, the UNHRC found that the government was in breach of its obligations under the International Covenant on Civil and Political Rights and ordered the government to enact legislative changes to ensure that similar violations did not occur again, as well as compensation for Fernando (see section 2.a.). At year's end the government had taken no action, and Fernando had yet to receive any compensation.

The government permits the continued existence of certain aspects of personal laws discriminating against women in regard to age of marriage, divorce, and devolution of property (see section 5).

During the year the LTTE continued to operate its own court system. The LTTE demanded that all Tamil civilians stop using the government's judicial system and rely only on the LTTE's legal system. Credible reports indicated that the LTTE used the threat of force to back this demand.

The LTTE's legal system is composed of judges with little or no legal training. LTTE courts operated without codified or defined legal authority and essentially as agents of the LTTE rather than as an independent judiciary. On September 7, the LTTE arrested three police officers from the National Child Protection Agency (NCPA) when they entered LTTE-controlled territory while pursuing a suspect. A LTTE judge in Kilinochchi remanded the men for trial on unspecified charges. At year's end the officers remained in LTTE custody, and no trial date was given.

#### Political Prisoners

There were no reports of government-held political prisoners. The LTTE reportedly held a number of political prisoners; however, the number was impossible to determine because of the secretive nature of the organization, and the LTTE refused to allow the ICRC access to these prisoners (see section 1.c.).

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

The law provides for the right to privacy, and the government generally respected this provision in practice; however, it infringed on citizens' privacy rights in some areas. Police generally obtained proper warrants for arrests and searches conducted under ordinary law. Following grenade attacks on security forces in the north and east during the summer, cordon and search operations were regularly conducted on nearby houses for 10 days after each attack.

The LTTE routinely interfered with the privacy of citizens by maintaining an effective network of informants.

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

The LTTE routinely used excessive force in the war, including attacks targeting civilians. Since the peace process began in 2001, the LTTE has engaged in targeted killings, kidnapping, hijackings of truck shipments, and forcible recruitment, including of children.

There were regular reports that the LTTE expropriated food, fuel, and other items meant for internally displaced persons (IDPs) from both the conflict with the government and the December 2004 tsunami.

During the year there were credible reports that LTTE killed 68 members of the police and military, more than 106 members of anti-LTTE Tamil paramilitary groups, LTTE cadres loyal to the Karuna faction, alleged Tamil informants for the security forces, and civilians. The LTTE targeted both current and former members of anti-LTTE Tamil political parties. During the year 18 current and past anti-LTTE Eelam People's Democratic Party (EPDP) members were killed. Credible sources indicated that the LTTE killed 45 members of the breakaway military leader Karuna's group. There was also credible evidence that the LTTE killed 15 members of the military intelligence apparatus in a targeted campaign.

On May 31, two gunmen on a motorcycle shot and killed Major Nizam Muthalif, commanding officer of the 1<sup>st</sup> Intelligence Battalion, while his car was stopped at a traffic light in Colombo. The army accused the LTTE of the killing.

On August 12, a suspected LTTE sniper shot and killed Foreign Minister Lakshman Kadirgamar at his residence. The government accused the LTTE of carrying out the killing, a charge the LTTE denied. At year's end the case remained under investigation.

On October 9, 30 armed LTTE cadres abducted 7 civilians (2 Sinhalese, 5 Muslim) while they were collecting firewood. The LTTE demanded a ransom of approximately \$347 (SLR 35 thousand) each. All seven were released after a single payment was made by their families.

On December 4, the LTTE detonated a claymore mine killing 12 army personnel on patrol in Jaffna.

On December 23, the LTTE attacked naval vehicles in Mannar with 2 claymore mines, killing 14 navy personnel.

On December 27, the LTTE attacked a bus full of soldiers with a claymore mine, killing 10. No arrests were made in any of these attacks.

Gunmen from Karuna's paramilitary group allegedly killed 27 LTTE cadres, including E. Kausalyan, the LTTE political leader for Batticaloa, and Sebastiampillai Jeyachandran, the LTTE political leader for Trincomalee. Karuna's group was believed also to have killed 20 civilians, including the April 15 killing of Thirukkivil divisional secretary A.K. Thavaraja and the June 29 killing of newspaper distributor Arasakumar Kannamuthu (see section 2.a.). There were reports that the government provided protection and military aid to Karuna and his cadres to assist them in their fight against LTTE cadre. The government denied any connection to Karuna and his cadres.

Landmines were a serious problem in Jaffna and the Vanni region in the northern part of the country and, to some extent, in the east (see section 5). Landmines, booby traps, and unexploded ordnance posed a problem to resettlement of IDPs and rebuilding. The government reported seven mine-related deaths and four mine-related injuries, all of which occurred when persons crossed into clearly marked hazard areas. Some humanitarian demining operations in the north were suspended due to increasing violence and had not resumed by the end of the year.

The LTTE forcibly recruited 543 children during the year (see section 6.d.). However, the LTTE also released 202 children, at least 96 of whom were again recruited. There were intermittent reports of children as young as eight years escaping from LTTE camps.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or access to the Internet. Individuals could criticize the government without fear of reprisal. The Emergency Regulations, enacted on August 18, allow the government to stop the publication, distribution, showing, performance or broadcast of any book, magazine, newspaper, poster, movie, play, song, radio or television program that it finds likely to cause public disorder; however, it did not enact any of these provisions during the year.

Although the government owned the country's largest newspaper chain, two major television stations, and a radio station, private owners operated a variety of independent, privately owned newspapers, journals, and radio and television stations. Several foreign media outlets operated in the country. Most independent media houses freely criticized the government and its policies. The government imposed no political restrictions on the establishment of new media enterprises.

There were reports that journalists, especially those in the eastern part of the country, practiced self-censorship due to pressure from both the security forces and the LTTE. In its preliminary report on the November 17 presidential election, the EUEOM reported that government-owned media gave biased coverage in favor of the Sri Lankan Freedom Party candidate, Mahinda Rajapaksa. In its final report on the April 2004 election, the EUEOM reported the government-owned media displayed an evident bias towards the president's United People's Freedom Alliance (UPFA) coalition and disregarded its duty to provide equitable and fair coverage of the election contestants.

On March 28, police raided the Colombo premises of the English-language weekly *Sunday Leader*, known for its investigative reporting. Reporters Without Borders quoted the weekly's publisher, Lasantha Wikramatunga, as saying that police did not have a warrant and that the search was part of the government's ongoing harassment of the weekly.

On July 26, a senior defense correspondent for *the Sunday Leader* reported that President Chandrika Kumaratunga threatened to use the Official Secrets Act (OSA) against him for his critical reporting on government plans to purchase defense equipment from a foreign government. The OSA allows the minister of defense to prohibit access to certain locations and facilities, and to bar photography and reporting about secret information. Under the law, those convicted of gathering secret information can be subject to a prison term of up to 14 years.

On June 2 and September 13, members of the LTTE allegedly threw grenades at the TELO-operated television retransmission station in Vavuniya district.

On August 20 and 29, unknown assailants threw grenades at the Colombo printing and advertising offices of the pro-LTTE newspaper *Sudar Oli*, killing a security guard on August 20. Some press coverage of the incident speculated that members of the Janatha Vimukthi Peramuna (JVP) were responsible for the incident.

On November 17, in accordance with the law, the independent election commission took control of government-owned television and radio until the declaration of election results.

There were no developments in the December 2004 attacks on the Tamil daily *Thinakkural* or the MTV/MBC transmitter.

The LTTE tightly restricted the print and broadcast media in areas under its control. There were also reports of LTTE intimidation of Colombo-based Tamil journalists, and self-censorship was common for journalists covering LTTE-controlled areas. On August 12, unknown gunmen shot and killed journalist Relangi Selvarajah and her husband in Colombo. Selvarajah hosted a popular Tamil language program highly critical of the LTTE. Her husband was an ex-member of the PLOTE paramilitary group.

On June 29 and September 30, news agents distributing the *Eelanatham Batticaloa* newspaper were shot and killed, allegedly by members of the Karuna faction of the LTTE. On September 10, security forces blocked distribution of the

newspaper into government controlled areas. *Eelanatham Batticaloa* was the only newspaper published in the LTTE-held area of Batticaloa Amparai.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice; however, some restrictions existed.

The Emergency Regulations enacted on August 18 give the president the power to restrict meetings, assemblies and processions.

The law states that rallies and demonstrations of a political nature cannot be held when a referendum is scheduled; however, the government generally granted permits for demonstrations, including those by opposition parties and minority groups.

On May 9, police and security forces fired into a crowd of rock-throwing protesters, killing 1 and injuring 15 in Batticaloa District. The estimated crowd of 500 was protesting the establishment of a new checkpoint.

On June 10, police broke up a political protest in Colombo using tear gas, water cannons, and baton charges when protesters blockaded the presidential residence.

##### Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice; however, some restrictions existed, such as those under the Emergency Regulations.

The LTTE did not allow freedom of association in the areas it controlled and reportedly used coercion to make persons attend its rallies.

#### c. Freedom of Religion

The law accords Buddhism a foremost position, but it also provides for the right of members of other faiths to practice their religions freely, and the government generally respected this right in practice. There is no state religion; however, the majority of citizens were followers of Buddhism, and this at times adversely affected the religious freedom of others.

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

During the year there were at least 15 confirmed reports of assault on Protestant and Catholic churches and church members by Buddhist mobs, often led by Buddhist monks. Village police were reluctant to pursue Buddhist monk agitators out of deference for their position. On at least three occasions, police charged Christian clergy with breaching the peace by holding religious services. There were numerous reports during the year of police failing to act when given prior notice of church attacks, and to be slow to respond after they occurred.

On May 1, a mob that reportedly included a Buddhist monk attacked the Zion Prayer Center in Balapitiya, in Galle District. The pastor's wife and two other women were seriously injured in the attack, and furniture and the electric sound system were damaged. The pastor, who was away from the prayer center at the time of the attack, filed a complaint that was referred to the Mediation Board. At year's end no further action had been taken.

On June 5, police did not investigate initially when an Assembly of God pastor in Ambalangoda in Galle District complained of harassment by local villagers. On June 6, 30 villagers attacked the pastor, his brother, and an associate pastor, and of whom required hospitalization. When the pastor returned from the hospital, he found a Buddha statue placed on his vandalized property. While six of the attackers were arrested, all were free on bail at year's end awaiting trial.

On November 18, unknown assailants threw 2 grenades in the Akkaraipattu Jummah Mosque, killing 4 and injuring 18 during morning prayers. The LTTE denied allegations that it had detonated the grenades as punishment against Muslims for defying the LTTE sponsored election boycott.

Most Muslims expelled by the LTTE since 1990 remained displaced. During the year the LTTE continued its

intimidation and extortion of Muslims in the east.

It appeared that attacks by the LTTE against Muslims were not religiously motivated but were instead part of an overall strategy to clear the north and east of persons not sympathetic to the cause of an independent Tamil state. The LTTE made some conciliatory statements to the Muslim community, but most Muslims viewed the statements with skepticism.

#### Societal Abuse and Discrimination

There were instances of societal violence and harassment against members of the Christian community. There were no reported cases of anti-Semitism against the Jewish community, which numbered less than 100.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

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

The law grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to the country," and the government generally respected these rights in practice; however, during the year it restricted the movement of Tamils. 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. Tamils were still required to present special passes for fishing and transiting through high security zones in the north and the east. While Tamils were no longer required to obtain police passes to move around the country, they were frequently harassed at checkpoints.

Following the killing of Foreign Minister Kadirgamar on August 12, security forces closed the crossing between LTTE and government-controlled areas in the northeast for several days.

Limited access continued to certain areas near military bases and high security zones, defined as areas near military emplacements, camps, barracks, or checkpoints where civilians could not enter. High security zones extended up to a four-kilometer radius from the fences of most military camps. Some observers claimed the high security zones were excessive and unfairly affected Tamil agricultural lands, particularly in Jaffna, where the zones have displaced more than 30 thousand families and occupied over 60 square kilometers, almost 20 percent of the usable land in the peninsula. In August 2004 the government lessened restrictions at one site in Chavakachcheri and allowed farmers and their families to return to their land; nevertheless, the general public was still denied access to this area and all other high security zone areas.

#### Internally Displaced Persons

According to the UN High Commissioner for Refugees (UNHCR), as of July 13, 132 conflict IDPs had returned to their places of origin, leaving approximately 339 thousand IDPs displaced by the conflict. There were 268 camps for those displaced by ethnic conflict, and during the year 68,457 persons were in welfare centers, and 270,767 were staying with friends or relatives. According to various sources, approximately 50 thousand IDPs, primarily Tamils, were unable to resettle as a result of the high security zones. The UNHCR found sexual abuse to be endemic in IDP camps and engaged in a number of initiatives with local and international NGOs to address the problem. According to the UNHCR, 2,349 Tamil refugees had returned from India. The government began a program to relocate more than 200 landless IDP families to state lands in Vavuniya and Kilinochchi districts in the north.

Most of the 46 thousand Muslims expelled in 1990 by the LTTE remained displaced and lived in or near welfare centers. Although some Muslim IDP families returned home, the majority did not move and awaited a guarantee from the government for their safety in LTTE-controlled areas.

The LTTE occasionally disrupted the flow of persons exiting the Vanni region through the two established checkpoints. The LTTE regularly taxed civilians traveling through areas it controlled.

#### Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol. The government has not established a system for providing protection to refugees; however, the government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs and refugees. There were no reports of *refoulement*, the forced return of persons to a country where they feared persecution.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, multiparty, free, and fair elections held on the basis of universal suffrage; however, recent elections were marred by violence and some irregularities.

#### Elections and Political Participation

The president, elected in November for a 6-year term, holds executive power, while the 225-member parliament, elected in April 2004, exercises legislative power.

The EUEOM described the November presidential election as generally satisfactory. The LTTE-enforced boycott of the polls and 7 grenade attacks in the north and east marred the election, however, and allowed less than 1 percent of voters in the north to exercise their right to vote. Unlike previous years, there were no deaths or serious injuries on election day, although the inspector general of police refused to release any data on election violence. The EUEOM cited state media bias and misuse of public resources for campaigning as occurring during the campaign.

The EUEOM described the 2004 general election as having been conducted in a democratic matter, with the exception of irregularities in the north and east, where widespread voter impersonation and multiple voting occurred. Several sources cited the LTTE as responsible for the irregularities. The EUEOM reported that more than 2 thousand incidents of election violence occurred, resulting in the deaths of 5 persons and the serious injuring of another 15. Voter turnout was 75 percent. Unlike in previous elections, the government allowed persons living in LTTE controlled areas to vote in cluster polling booths in government-controlled areas.

In October 2004 parliament passed a bill requiring all citizens to present a national identity card to vote. The government provided for a one-year grace period because many Tamils living in the north, east, and the hill country did not have identity cards. The government allowed local poll supervisors to accept other forms of identification during this period.

There were 11 women in the 225-member parliament, 3 women in the cabinet, and 2 women on the Supreme Court. During the year a woman, Chandrika Kumaratunga, finished serving her second term as president. There were 34 Tamils and 24 Muslims in the 225-member parliament. There was no provision for or allocation of a set number or percentage of political party positions for women or minorities.

The LTTE refused to allow elections in areas under its control, and opposed campaigning by certain Tamil parties in the east during the November presidential elections.

#### Government Corruption and Transparency

There was corruption in the executive and legislative branches. Transparency International (TI) identified nepotism and cronyism in the appointment of officials to government and state-owned institutions. The tendering and procurement process for government contracts was not transparent, leading to frequent allegations of corruption by the losing bidders. TI also noted that corruption was a problem in high value tender processes and establishing business operations

From December 2004 until March 31, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) did not operate because it lacked a chairman. At year's end CIABOC had received 2,118 complaints, of which 981 were under investigation.

Some sources described the procedure for prosecution on corruption charges as difficult. On September 20, the government indicted former Deputy Defense Minister Anuruddha Ratwatte on charges of bribery.

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

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Many domestic human rights NGOs, including the Consortium of Humanitarian Agencies; Home for Human Rights; the University Teachers for Human Rights, Jaffna; the Civil Rights Movement; and the Law and Society Trust monitored civil and political liberties. There were no restrictive regulations governing the activities of local and foreign NGOs, although the government officially required NGOs to include action plans and detailed descriptions of funding sources as part of the initial registration process, and every five years thereafter. Some NGO workers viewed the renewal requirement as an attempt by the government to exert greater control over the NGO sector after previous human rights groups' criticisms. Most NGOs complied with these reporting requirements.

The UN Special Rapporteur on Extrajudicial and Arbitrary Killings Dr. Philip Alston, Amnesty International's Secretary General Irene Khan, and the UN Special Rapporteur on Religious Freedom Asma Jahangir all visited the country during the year. Alston investigated the rise in extrajudicial killings, Khan criticized both parties for their infringements on human rights, and Jahangir expressed concern over attacks on places of worship. All visitors noted that in most cases, perpetrators were not brought to justice.

In August 2004 the government submitted a report to the United Nations Committee Against Torture (UNCAT) as a part of its reporting responsibilities under the Convention Against Torture. On November 10, the UNCAT reviewed the 2004 report and met members of the country's delegation for questions and clarifications on the 2004 report. The UNCAT published its conclusions and seven recommendations on December 17 and called on the country to submit the next periodic report according to schedule.

The government continued to allow the ICRC unrestricted access to detention facilities (see sections 1.c. and 1.d.). The ICRC provided international humanitarian law training materials and training to the security forces. During the year the ICRC also delivered health education programs in LTTE-controlled areas in the north and east (see section 1.g.).

The HRC by statute has wide powers and resources and may not be called as a witness in any court of law or be sued for matters relating to its official duties. However, according to many human rights organizations, the HRC often was not as effective as it should have been. The HRC did not have enough staff or resources to process its caseload of 16,305 pending complaints, and it did not enjoy the full cooperation of the government. The HRC had a tribunal-like approach to investigations and declined to undertake preliminary inquiries in the manner of a criminal investigator.

In June 2004 the HRC established a torture prevention monitoring unit in its headquarters and three of its regional offices to implement its zero-tolerance torture policy. HRC provided extra training for officers assigned to this unit and established a policy of quick investigation for torture complaints. To ensure its sustainability, HRC urged the treasury to cover costs of the Torture Prevention Monitoring Unit.

During the year there were instances of interference with HRC investigations. On October 12, the HRC main office was ransacked by unknown parties. At year's end police continued their investigation. In June 2004 HRC officers attempting to investigate a complaint of torture were harassed and intimidated by police officers at the Paiyagala police station in Kalutara District. In September 2004 a police officer assaulted HRC officer Ruwan Chandrasekera, who was investigating a complaint at the Jaffna police station (see sections 1.c. and 1.d.). The case, scheduled to be heard in November, was delayed indefinitely because Chandrasekera relocated to Canada.

In July 2004 the LTTE set up the Northeast Secretariat of Human Rights (NESOHR). Since its inception, NESOHR received more than 400 complaints ranging from land disputes to child recruitment complaints. Some groups questioned NESOHR's credibility because of its close ties to the LTTE. On November 13, NESOHR arranged the return of 26 child soldiers to coordinate with former Amnesty International president Ian Martin's visit to Kilinochchi.

## Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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

### Women

The law prohibits domestic violence, but it was not strictly enforced. Sexual assault, rape, and spousal abuse continued to be serious and pervasive problems. Amendments to the law introduced in 1995 specifically addressed sexual abuse and exploitation and modified rape laws to create a more equitable burden of proof and to make punishments more stringent. Marital rape is considered an offense only in cases of spouses living under judicial separation. While the law may ease some of the problems faced by victims of sexual assault, many women's organizations believed that greater sensitization of police and the judiciary was necessary. The Bureau for the Protection of Children and Women received 1,314 complaints of violent crimes against women.

At year's end a trial was ongoing in the case of two policemen who in 2003 attempted to rape a Mrs. Selvarajan in Uyilankulam in Mannar district.

According to the Bureau for the Protection of Children and Women, there were 1,081 reported incidents of rape. The bureau indicated that 692 of the victims were below the age of 18. During the year 36 police stations received rape victim assistance training. Services to assist victims of rape and domestic violence such as crisis centers, legal aid, and counseling were generally limited.

Prostitution was illegal but occurred during the year. Some members of the police and security forces reportedly participated in or condoned prostitution. Although laws against procuring and trafficking were strengthened in 1995, trafficking in women for the purpose of forced labor occurred (see section 5, Trafficking).

Sexual harassment is a criminal offense carrying a maximum sentence of five years in prison; however, these laws were not enforced.

The law provides for equal employment opportunities in the public sector; however, women had no legal protection against discrimination in the private sector, where they sometimes were paid less than men for equal work, often experienced difficulty in rising to supervisory positions, and faced sexual harassment. Even though women constituted approximately half of the formal workforce, according to the Asian Development Bank (ADB), the quality of employment available to women was less than that available to men, as the demand for female labor was mainly for casual and low-paid, low-skill jobs in the formal and informal sectors.

In December 2004 UNCHR launched a media campaign to promote awareness of sexual and gender-based violence, including sexual harassment in the workplace, violence against women and children, and domestic abuse.

Women have equal rights under national, civil, and criminal law; however, questions related to family law, including divorce, child custody, and inheritance were adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for women is 18 years, and there was no provision for marriage at an earlier age with parental consent except in the case of Muslims, who may follow their customary marriage practices and marry at 15. Women were denied equal rights to land in government-assisted settlements, as the law does not institutionalize the rights of female heirs. Different religious and ethnic practices often resulted in uneven treatment of women, including discrimination.

### **Children**

The law requires children between the ages of 5 and 14 to attend school, and the government demonstrated its commitment to children through extensive systems of public education and medical care. Approximately 85 percent of children under the age of 16 attended school. Education was free through the university level. Health care, including immunization, was also free.

Many NGOs attributed the problem of exploitation of children to the lack of law enforcement rather than inadequate legislation. Many law enforcement resources were diverted to the conflict with the LTTE, although the police's Bureau for the Protection of Children and Women conducted investigations into crimes against children and women. Following the December 2004 tsunami, the National Child Protection Agency (NCPA) launched a successful awareness campaign to protect orphaned or displaced children from pedophiles.

Under the law the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. It also broadens the definition of child abuse to include the involvement of children in war. The NCPA included representatives from the education, medical, police, and legal professions and reported directly to the president. During the year the Bureau for the Protection of Children and Women received 2,070 complaints of violent crimes against children.

The government pushed for greater international cooperation to bring those guilty of pedophilia to justice. The penalties for pedophilia range from 5 to 20 years' imprisonment and an unspecified fine. During the year 19 cases of pedophilia were brought to court and were pending at year's end.

Child prostitution was a problem in coastal resort areas. The government estimated that there were more than two thousand child prostitutes in the country, but private groups claimed that the number was as high as six thousand. Citizens committed much of the child sexual abuse in the form of child prostitution; however, some child prostitutes were boys who catered to foreign tourists. Some of these children were forced into prostitution (see section 5, Trafficking). The Department of Probation and Child Care Services provided protection to child victims of abuse and sexual exploitation and worked with local NGOs that provided shelter. The tourist bureau conducted awareness-raising programs for at-risk children in resort regions prone to sex tourism.

The LTTE used child soldiers and recruited children, sometimes forcibly, for use in battlefield support functions and in combat. LTTE recruits, some as young as eight years of age, escaped LTTE camps and surrendered to the military or the SLMM. Credible reports indicated that in July the LTTE increased recruiting efforts, particularly in the east (see section 1.g.). Credible sources reported that there were more than 543 cases of forcible child recruitment by the LTTE. These sources also reported that more than 1,339 children remained in LTTE custody at year's end. Several sources reported that the LTTE continued to obstruct the 2003 action plan between UNICEF and the LTTE on the demobilization and rehabilitation of child soldiers. Several sources reported that the LTTE used intimidation or bribes to facilitate recruitment. Some senior LTTE officials claimed that all child soldiers were volunteers.

### **Trafficking in Persons**

The law prohibits trafficking in persons; however, the country was a point of origin and destination for trafficked persons, primarily women and children trafficked for the purposes of forced labor and sexual exploitation. The country

was a source for trafficked women. Some women were trafficked under the guise of legitimate employment to Lebanon, Saudi Arabia, Kuwait, the United Arab Emirates, Bahrain, and Qatar for the purpose of coerced labor and sexual exploitation. A smaller number of Thai, Chinese, and Ethiopian women were trafficked to the country for commercial sexual exploitation. Women and children were trafficked internally for domestic and sexual servitude. Boys and girls were victims of commercial sexual exploitation by pedophiles in the sex tourism industry.

The legal penalties for trafficking in women include imprisonment for 2 to 20 years and a fine. For trafficking in children, the law allows imprisonment of 5 to 20 years and a fine.

Government programs to monitor immigration with computer programs designed to identify suspected traffickers or sex tourists continued, as did a cyberwatch project to monitor suspicious Internet chat rooms.

During the year authorities arrested six airport employees for providing false travel documents or otherwise assisting in trafficking.

Internal trafficking in male children was also a problem, especially from areas bordering the northern and eastern provinces. Protecting Environment and Children Everywhere, a domestic NGO, estimated that there were 6 thousand male children between the ages of 8 and 15 years engaged as sex workers at beach and mountain resorts. Some of these children were forced into prostitution by their parents or by organized crime.

The NCPA has adopted, with International Labor Organization (ILO) assistance, a comprehensive national plan to combat the trafficking of children for exploitative employment. With the NCPA, police began work on children's issues, including trafficking in children.

The government established rehabilitation camps for trafficking victims and initiated awareness campaigns to educate women about trafficking; however, most of the campaigns, with support from the Bureau of Foreign Employment, were conducted by local and international NGOs.

#### Persons with Disabilities

The law forbids discrimination against any person on the grounds of disability; however, there were instances of discrimination against the disabled in the areas of employment, education, and provision of state services. The law does not mandate access to buildings for persons with disabilities, and such facilities were rare. The Department of Social Services operated eight vocational training schools for persons with physical and mental disabilities and sponsored a program of job training and placement for graduates. The government also provided some financial support to NGOs that assisted persons with disabilities. Such assistance included subsidizing prosthetic devices, making purchases from suppliers with disabilities, and registering 74 NGO-run schools and training institutions for persons with disabilities. The Department of Social Services selected job placement officers to help the estimated 200 hundred thousand work-eligible persons with disabilities find jobs. Despite these efforts, persons with disabilities faced difficulties because of negative attitudes and societal discrimination.

#### National/Racial/Ethnic Minorities

There were approximately one million Tamils of Indian origin, the so-called hill, tea estate, or Indian Tamils, whose ancestors originally were brought to the country in the 19th century to work on plantations. In the past approximately 300 thousand of these persons did not qualify for citizenship in any country and faced discrimination, especially in the allocation of government funds for education. In 2003 parliament passed a bill granting full citizenship to more than 460 thousand tea estate Tamils. In August 2004 UNHCR began awareness campaigns to alert Tamils to the new legislation and by year's end had registered approximately 276 thousand persons, while 192 thousand estate Tamils remain unregistered.

Both local and hill Tamils maintained that they suffered longstanding systematic discrimination in university education, government employment, and in other matters controlled by the government. According to HRC, Tamils also experienced discrimination in housing.

#### Indigenous People

The country's indigenous people, known as Veddhas, numbered fewer than one thousand. Some preferred to maintain their traditional way of life and are protected by the law. There are no legal restrictions on their participation in the political or economic life of the nation. Some Veddhas complained that they were being pushed off their land in protected forest areas.

#### Other Societal Abuses and Discrimination

The law criminalizes homosexual activity between men and between women, but the law was not enforced. NGOs

working on lesbian, gay, bisexual, and transgender issues did not register with the government. During the year human rights organizations reported that police harassed, extorted money or sexual favors from, and assaulted gay men in Colombo and other areas.

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

## Section 6 Worker Rights

### a. The Right of Association

The government respected the legal right of workers to establish unions, and the country has a strong trade union tradition. Any seven workers may form a union, adopt a charter, elect leaders, and publicize their views, but in practice such rights were subject to administrative delays. Nonetheless, approximately 20 percent of the 7-million-person work force nationwide and more than 70 percent of the plantation work force was unionized. In total, there were more than one million union members. Approximately 15 to 20 percent of the nonagricultural work force in the private sector was unionized. Unions represented most workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions. Public sector employees were unionized at very high rates.

Most large unions were affiliated with political parties and played a prominent role in the political process, although major unions in the public sector were politically independent. In 2003 the Ministry of Employment and Labor registered 168 new unions and canceled the registration of 64 others, bringing the total number of functioning unions to 1,604 by the end of 2003. The Ministry of Employment and Labor is authorized by law to cancel the registration of any union that does not submit an annual report, the only grounds for the cancellation of registration.

Employers found guilty of discrimination must reinstate workers fired for union activities but may transfer them to different locations. Antiunion discrimination is a punishable offense liable for a fine of \$200 (20 thousand SLR).

### b. The Right to Organize and Bargain Collectively

The law provides for the right to collective bargaining; however, very few companies practiced it. At year's end, approximately 50 companies belonging to the Employers' Federation of Ceylon (EFC), the leading employers' organization, had collective agreements. All collective agreements must be registered at the Department of Labor. Data on the number of registered collective agreements were not available. More than half of EFC's 435-strong membership was unionized.

All workers, other than police, armed forces, prison service, and those in essential services, have the right to strike. By law workers may lodge complaints with the commissioner of labor, a labor tribunal, or the Supreme Court to protect their rights. The president retains the power to designate any industry as an essential service.

The law prohibits retribution against strikers in nonessential sectors; however, in practice employees were sometimes fired for striking.

Under the law, workers in the Export Processing Zones (EPZs) have the same rights to join unions as other workers. While the unionization rate in the rest of the country was approximately 20 percent, the rate within the EPZs was under 10 percent. Fewer than 10 unions were active in EPZs, partially because of severe restrictions on access by union organizers to the zones. Trade unions were formally recognized in 8 out of approximately 200 factories in the EPZs. In a few other factories, management had begun discussions with the unions. There was only one operating collective agreement in the EPZs during the year. Labor representatives alleged that the government's Board of Investment (BOI), which managed the EPZs, including setting wages and working conditions in the EPZs, discouraged union activity. The short-term nature of employment and the relatively young workforce in the EPZs made it difficult to organize.

On March 23, Special Task Force (STF) personnel allegedly threatened Anura Kirithi Rajah, a union organizer for a garment factory in the EPZ. The union president at the same factory reported also receiving a death threat at the same time. On April 11, the BOI intervened to settle the labor dispute.

Labor representatives alleged that the labor commissioner, under BOI pressure, failed to prosecute employers who refused to recognize or enter into collective bargaining with trade unions.

According to the International Confederation of Free Trade Unions, during the year there were some

violations of trade union rights in the EPZs. The nonrecognition of trade unions became a contentious issue, in part because of obligations under various multilateral and bilateral trade agreements.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or bonded labor; however, there were reports that such practices occurred. The law does not prohibit forced or compulsory labor by children specifically, but government officials interpreted it as applying to persons of all ages (see section 6.d.). There were credible reports that some rural children were employed in debt bondage as domestic servants in urban households, and there were numerous reports that some of these children had been abused.

#### d. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training. An amendment to the Employment of Women and Youth Act prohibits all other forms of family employment of children below 14. A child activity survey, carried out in 1998 and 1999 by the Department of Census and Statistics, found almost 11 thousand children between the ages of 5 and 14 working full time and another 15 thousand engaged in both economic activity and housekeeping. The survey found 450 thousand children employed by their families in seasonal agricultural work throughout the country.

Persons under age 18 may not be employed in any public enterprise in which life or limb is endangered. There were no reports that children were employed in the EPZs, the garment industry, or any other export industry, although children sometimes were employed during harvest periods in the plantation sectors and in nonplantation agriculture. Sources indicated many thousands of children were employed in domestic service, although this situation was not regulated or documented. Many child domestics reportedly were subjected to physical, sexual, and emotional abuse. Regular employment of children also occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. In 2003 International Labor Organization/International Program for Elimination of Child Labor sponsored a rapid assessment survey on domestic child labor in 5 districts found child domestic workers (under 18 years) in roughly 2 percent of households, but the prevalence of child domestics was much larger.

The NCPA is the central agency for coordinating and monitoring action on the protection of children. The Department of Labor, the Department of Probation and Child Care Services, and the police are responsible for the enforcement of child labor laws. The Bureau of Child Protection reported 16 complaints of child employment during the year. Penalties for employing minors were increased from approximately \$10 (SLR 1 thousand) and/or 6 months' imprisonment to \$100 (SLR 10 thousand) and/or 12 months' imprisonment.

Although the law prohibits forced or compulsory labor by persons of any age, some rural children reportedly have served in debt bondage (see sections 5 and 6.c.).

The LTTE used children as young as age 13 years in battle, and children as young as 8 often were recruited forcibly (see section 5).

A UNICEF-supported action plan sought to restore normalcy to former LTTE child soldiers through release and reintegration. Under this program UNICEF supported the establishment of a transit center in Kilinochchi for child recruits released by the LTTE.

As required by ILO Convention 182, the government identified a list of 50 occupations considered to be the worst forms of child labor (for children under 18 years). Laws proscribing these worst forms of child labor have not been formulated.

#### e. Acceptable Conditions of Work

While there is no universal national minimum wage, 38 wage boards established by the Ministry of Labor set minimum wages and working conditions by sector and industry. These minimum wages did not provide a decent standard of living for a worker and family. In late 2003 the Ministry of Labor began increasing the minimum wages of all wage boards by a minimum of 15 percent; however, at year's end this process had not been completed for garment and hotel worker wages.

The law prohibits most full-time workers from regularly working more than 45 hours per week (a 5½-day workweek). New regulations limited the maximum overtime hours to 15 per week. Labor organizers were concerned that the new legislation did not include a provision for overtime with the consent of the worker. Several laws protect the safety and health of industrial workers, but the Ministry of Labor's small staff of inspectors was inadequate to enforce compliance. Health and safety regulations do not meet international standards. Workers have the statutory right to remove themselves from dangerous situations, but many

workers were unaware or indifferent to the rights and feared that they would lose their jobs if they removed themselves from the work situation.



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