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Freedom in the World 2010 - Sri Lanka

Capital: Colombo

Population: 20,502,000

Political Rights Score: 4 *

Civil Liberties Score: 4 *

Status: Partly Free

Overview

The government ended its long-running civil war with the rebel Liberation Tigers of Tamil Eelam in May, destroying the Tigers' leadership in a final battle on the coast. Several hundred thousand civilians displaced by the last months of fighting remained forcibly interned in camps for much of the year before the majority were allowed to leave or exercise somewhat greater freedom of movement in late November. Despite the war's completion and an improvement in security throughout the country, 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.

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 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. After her initial attempt to negotiate with the LTTE failed, she reverted to focusing on a military solution. Kumaratunga won an early presidential election in 1999, but the UNP and its allies gained a majority in 2001 parliamentary elections, and UNP leader Ranil Wickremasinghe became prime minister.

Following a 2002 permanent ceasefire accord (CFA), the government and LTTE agreed to explore a political settlement based on a federal system, and while the Tigers suspended their participation in peace talks in 2003, they stated that they remained committed to a political solution. The peace process was also constrained by infighting between the main political parties about how to approach the LTTE.

Kumaratunga called parliamentary elections in early 2004, and bolstered by the support of the JVP, her new PA-led United People's Freedom Alliance (UPFA) coalition won 105 out of 225 seats and 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 peace process was subsequently hampered by the addition of the JVP to the ruling coalition and the presence of pro-Sinhalese forces like the JHU in Parliament.

The gradually eroding ceasefire was shaken in 2004 when Colonel Karuna Amman (the nom de guerre of Vinayagamoorthi Muralitharan), an LTTE commander in the east, formed a breakaway faction called the Tamil People's Liberation Tigers (TMVP) and 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, the PA nominee, narrowly won the 2005 presidential election with 50.3 percent of the vote, as opposed to 48.4 percent for Wickremasinghe, largely due to a boycott and voter intimidation by the LTTE. Rajapaksa cultivated a more authoritarian style of rule, relegating Parliament to a secondary role, and appointed his brothers to lead key ministries. Furthermore, the process by which a constitutional council nominated members of independent commissions, as required by the 17th amendment, was sidestepped; the council was not reconstituted after the terms of its members expired in 2006, and in its absence, the president unilaterally appointed loyalists to the commission posts.

Prospects for the peace process dimmed further in 2006 and 2007 as consensus-building among the southern parties stalled, fighting with the LTTE escalated, and both sides engaged in targeted killings of key leaders. A pattern of daily attacks in the north and east resumed, punctuated by LTTE land-mine and suicide attacks in other parts of the country. Ground operations and largely indiscriminate aerial shelling by the military killed hundreds of people and displaced tens of thousands. Civilians' mobility and commercial and social activities were increasingly curtailed by curfews, road closures, and security checkpoints. All parties to the conflict engaged in human rights abuses. Even outside the conflict areas, emergency and antiterrorism legislation facilitated the detention of perceived security threats and critics of government policy.

The government formally annulled the CFA in January 2008, and the military stepped up its offensive, deepening the humanitarian crisis. In March 2008, the government began detaining civilians who fled rebel-held areas at special "welfare centers," which ostensibly protected them from LTTE reprisals but also allowed the army to screen them for LTTE infiltrators.

In May 2008 elections for a new provincial council in Eastern Province, the ruling UPFA, boosted by its alliance with the TMVP, secured 20 of the 37 seats. TMVP deputy leader Pillayan, who had assumed control of the group, was sworn in as the province's chief minister, prompting criticism in light of the TMVP's rebel past and its continued use of violence to intimidate political rivals.

The military continued its advance in early 2009, and had gained control of Mullaitivu, the last big town held by the LTTE, by late January. With thousands of civilians trapped in the remaining patch of rebel territory, fighting proceeded slowly, but in a decisive final battle over a small strip of coastal land in May, government forces killed the Tigers' leadership, including founder Velupillai Prabhakaran. An official end to the war was declared on May 9. At least 100,000 people had been killed in the 26-year conflict. According to the South Asia Terrorism Portal, a total of 15,565 people (including 11,111 civilians, 1,315 security force personnel, and 3,139 LTTE militants) were killed in 2009.

alone.

Approximately 300,000 civilians were displaced during the final phases of the war, and many of those were interned in government-run camps. They faced severe food shortages and outbreaks of disease. While the government promised that internally displaced persons (IDPs) would be released and resettled by the end of the year, it initially limited aid groups' access to the camps, with the primary aim of screening all residents for any rebels hiding among them. The safe return of IDPs to their homes was also hampered by the large number of mines laid across the conflict zone by both sides. In late November, under considerable pressure, officials announced that the IDPs remaining in the camps would be allowed to come and go somewhat more freely. Nevertheless, more than 100,000 IDPs remained in the camps at year's end. Thousands more had left the camps, but were unable to return to their homes due to damage caused by the fighting as well as danger from mines.

In August, local elections were held in the northern cities of Jaffna and Vavuniya for the first time in more than a decade, though the Jaffna campaign was marred by accusations of intimidation. The UPFA won a majority of the 23 seats in the Jaffna municipal council, while the Tamil National Alliance (TNA) secured the largest share of seats in the Vavuniya council. Further normalization occurred with the reopening of the A9 Jaffna-Kandy highway, the only land route connecting the capital with the northernmost part of the country.

The All-Party Representatives Committee (APRC), which had been convened years earlier to build political consensus on measures aimed at resolving ethnic grievances, remained deadlocked throughout 2009 on the issue of devolving powers to the provinces as envisaged in the 13th amendment to the constitution. Rajapaksa's SLFP and its allies opposed giving increased authority to the provinces. Separately, Karu Jayasuriya, the public administration and home affairs minister, resigned and rejoined the opposition UNP in December, citing the government's continued failure to reestablish the independent appointments process laid out in the 17th amendment.

The SLFP strengthened its political position ahead of the 2010 parliamentary elections by drawing a number of senior TMVP defectors, including Karuna himself, into its ranks, despite the fact that the TMVP was a fellow member of the ruling UPFA coalition. Karuna received a noncabinet post in the government as national integration and reconciliation minister, and tensions continued to grow between him and Pillayan, leading to the risk of violence between their respective factions. Meanwhile, in addition to its municipal election win in Jaffna, the UPFA recorded landslide victories in local elections held in Central and North-Western Provinces in February, as well as provincial elections held in April and August, respectively, in the traditional UNP strongholds of Western Province and Uva Province. The victories were seen as a public endorsement of the government's military successes.

Buoyed by this voter support, the government continued to crack down on dissent after the end of the war, harassing prominent journalists and human rights advocates as well as international critics. Rajapaksa also 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 December. At year's end, both main candidates were engaged in a heated campaign, trading charges of fraud, nepotism, and misconduct.

Political Rights and Civil Liberties

Sri Lanka is 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.

While elections are generally free and fair, they continue to be marred by some

irregularities, violence, and intimidation, and the LTTE long refused to allow free elections in areas under its control. The independent Center for Monitoring Election Violence (CMEV) reported that the 2004 parliamentary elections were considerably less beleaguered by violence and malpractice than previous polls. The European Union's Election Observation Mission noted that the 2005 presidential vote proceeded fairly smoothly in the south, despite some inappropriate use of state resources and biased reporting by both state-run and private media outlets. However, voting in the north was suppressed by the LTTE, which enforced a boycott through acts of violence. After the election, intimidation by armed groups dramatically reduced the space for nonviolent Tamil politics in the north and east, while the escalating war led to more muted opposition from southern political parties. Provincial council elections held in Eastern Province in May 2008 were accompanied by widespread reports of irregularities and intimidation by the TMVP, while those held in other provinces in 2009 were acknowledged to be generally free and fair despite isolated instances of violence and the abuse of state resources by the ruling alliance, according to the CMEV.

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. Several of the president's brothers hold important posts – Gotabaya serves as Defense Secretary – and therefore control a significant proportion of the national budget and take a lead role in policy formulation. Other trusted party stalwarts serve as implementers and advisers.

The 17th amendment to the constitution was designed to depoliticize key institutions by creating a constitutional council responsible for appointing independent commissions to oversee the police, the judiciary, human rights, and civil servants. Owing to a parliamentary impasse, Rajapaksa failed to reconstitute the council in 2006 after the terms of its previous members expired, and instead made unilateral appointments to several commissions in 2007. Some local groups allege that these actions have threatened the independence of the institutions and created a class of appointees who owe their positions to the president. Rajapaksa has expressed his opposition to the 17th amendment, and the constitutional council remained dormant in 2009.

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. Although hundreds of cases are being investigated or prosecuted by the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), no current or former politician has been sentenced. Corruption watchdogs have found that government interference and the Treasury's ability to withhold funding compromise the CIABOC's independence and render it ineffective. 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 97 out of 180 countries surveyed in Transparency International's 2009 Corruption Perceptions Index.

Media freedom declined further in 2009 amid escalating intimidation of journalists, particularly those covering the war or other political issues. Although freedom of expression is guaranteed in the constitution, a growing number of laws and regulations restrict this right, including the Official Secrets Act, emergency regulations reintroduced in 2005, the Prevention of Terrorism Act (PTA), additional antiterrorism regulations issued in December 2006, and defamation and contempt-of-court laws. Senior journalist J. S. Tissainayagam was detained without charge in March 2008 and indicted five months later under the PTA, marking the first time the law was used against a journalist. He was sentenced to a 20-year prison term in September 2009. While state-run media outlets have increasingly fallen under the influence of the government, private media have become more polarized. Official rhetoric toward critical journalists and outlets has grown more hostile, often equating any form of criticism with treason.

War coverage during the first half of 2009 was restricted by bans on journalists' physical access to conflict zones. Some of these bans continued after the war's end, and

reporters were denied entry to cover local elections in Vavuniya and Jaffna in August. Over the past several years, Tamil-language newspapers have faced bans, seizures, harassment, intimidation of distributors, and threat-induced closures at the hands of various factions. Journalists throughout Sri Lanka, particularly those who cover human rights or military issues, encountered considerable levels of intimidation in 2009, leading to increased self-censorship. State-controlled media, as well as the Defense Ministry website, are regularly used to smear individual journalists and other activists. A number of journalists received death threats in 2009, while others were subject to attempted or actual kidnapping and assaults. In the most serious incident, prominent editor Lasantha Wickrematunga of the *Sunday Leader* was shot dead in January by unknown assailants in Colombo; he had previously received threats and predicted his own murder in an article that was published posthumously. Previous cases of attacks on journalists have not been adequately investigated or prosecuted, leading to a climate of complete impunity. Internet access is generally not restricted, although the government occasionally blocked access to pro-LTTE websites.

Religious freedom is respected, and members of all faiths are generally allowed to worship freely, but 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. The U.S. State Department's 2009 International Religious Freedom Report describes several cases of harassment and violence aimed at Christian churches. 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, which had discriminated against them in the past, 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 members of the Sunni Muslim community, who accuse Ahmadis of being apostates.

The government generally respects academic freedom, and no official restrictions were reported in 2009. However, the LTTE had a record of silencing intellectuals who criticized its actions, and progovernment Tamil groups have also allegedly made threats.

Freedom of assembly is typically upheld. 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. The LTTE did not allow freedom of association in the areas under its control. International staff of humanitarian groups were subject to new government visa and work-permit regulations starting in 2006, and were occasionally barred from rebel-held areas. Following the end of the war in May 2009, many humanitarian workers' access to the conflict zone and the IDP camps remained restricted. Over the past few years, human rights and pro-peace nongovernmental organizations (NGOs), particularly those considered "unpatriotic" or unwilling to support the official line, have faced greater threats and harassment from authorities across the country, including assaults on their gatherings and proposed parliamentary investigations into their activities. In August 2009, Paikiasothy Saravanamuttu, head of the CPA, received death threats and was then detained for questioning upon his return from a trip to the United States. Several dozen NGO and humanitarian workers have been killed in recent years, while others have been subject to forced disappearance, as was the case with Stephen Sunthararaj in May 2009. Several foreign staffers of UN agencies and NGOs were deported during the year after making critical remarks about official policies.

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, particularly with respect to Sarath Nanda Silva, who served as chief justice of the Supreme Court from 1999 until his retirement in June 2009. An International Crisis Group report released in June 2009 on the judiciary highlighted a number of problems, including the president's refusal to implement the 17th amendment; 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. On a positive note, newly appointed chief justice Ashoka de Silva has expressed a commitment to reform, and in September it was announced that some 50 new courts would be established to expand services and reduce processing times for cases. 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 beginning in 2006 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 2005 emergency regulations, which allow detention for up to a year without trial. In December 2006, the government reinstated certain provisions of the PTA, permitting arrests and indefinite detention of suspects without court approval. The Prevention and Prohibition of Terrorism and Specified Terrorist Activities Regulations, also introduced in 2006, were criticized for providing an overly broad definition of terrorism and granting immunity to those security personnel accused of rights abuses. These laws have been used to detain a variety of perceived enemies of the government, including political opponents, critical journalists, and members of civil society, as well as Tamil civilians suspected of supporting the LTTE.

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. Moreover, a result of the impasse over the 17th amendment, appointments to the NHRC and the National Police Commission, among other bodies, have been made unilaterally by the executive branch, raising questions about the suitability and independence of the appointees and further weakening these institutions.

A Presidential Commission of Inquiry established to examine egregious human rights violations committed since 2006 was disbanded in June 2009 after its mandate was not extended. It had investigated only seven of the sixteen cases referred to it and produced initial reports on five; its reports were not made public. The commission's chairman, Mahanama Tillekeratne, stated in November 2008 that at least 1,100 missing or abducted persons remained unaccounted for. Human rights groups have claimed that insufficient registration policies in the IDP camps contributed to widespread disappearances and removals from the camps without accountability. 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 for war coverage. The government rejected calls by the United Nations and international NGOs for an inquiry into abuses committed by both sides during the war.

For many years, the LTTE effectively controlled 10 to 15 percent of Sri Lankan territory and operated a parallel administration that included schools, hospitals, courts, and law enforcement. It raised money through extortion, kidnapping, theft, and the seizure of property. The LTTE also imposed mandatory military and civil-defense training on civilians, and regularly engaged in summary executions, assassinations, disappearances, arbitrary detentions, 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, though the possibility of terrorist attacks by any surviving fighters remained a concern.

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. Thousands of Tamils whose ancestors were brought from India to work as indentured laborers during the 19th century did not qualify for Sri Lankan citizenship and faced discrimination and exploitation. However, in 2003 Parliament granted citizenship to about 170,000 of these stateless "Indian" Tamils, and the majority of these have received papers since then, leaving approximately 30,000 in limbo at the end of 2009. Tensions between the three major ethnic groups (Sinhalese, Tamils, and Muslims) occasionally lead to violence, as occurred in Eastern Province in 2008, and the government generally does not take adequate measures to prevent or contain it.

The war left Sri Lanka with hundreds of thousands of IDPs, while a smaller number live as refugees in the southern Indian state of Tamil Nadu. While many of those displaced in the east returned to their homes following the end of fighting there, new rounds of displacement occurred as the battlefield shifted across Northern Province in early 2009. Several hundred thousand civilians were caught in the final phases of the war in May; after being used as human shields by the LTTE and subjected to shelling by government forces, many were kept in the internment camps under extremely poor conditions for much of the year, with small numbers being gradually released starting in August. At the end of November, bowing to international pressure, the government granted freedom of movement to the roughly 130,000 who remained in the camps as of December 1, and pledged to resettle them and close the camps as soon as possible. In the wake of the war, earlier groups of IDPs who have been displaced for many years, including a large group of 70,000 Muslims forcibly ejected from the north by the LTTE in the early 1990s, also contemplated returning to their original homes, but many faced difficulty doing so.

The general militarization of the conflict area led to serious restrictions on freedom of movement – citizens from the north and east are required to obtain a pass to travel and live in other parts of the country – as well as military control over many aspects of civilian administration. In August 2009, the governor of Northern Province confirmed the continuation, pending Supreme Court review, of a requirement that residents of the Jaffna Peninsula obtain army passes to travel beyond it. However, in November the government eased restrictions on the ability of Tamils based in the south to travel to and from Jaffna using public transportation.

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 conflict areas and has also affected female prisoners and IDP internees. Although women have equal rights under civil and criminal law, matters related to the family – including marriage, divorce, child custody, and inheritance – are adjudicated under the customary law of each ethnic or religious group, and the application of these laws sometimes results in discrimination against women. The government remains committed to ensuring that children have good access to free education and health care, and it has also taken steps to prosecute those suspected of sex crimes against children. At least 500 former child soldiers conscripted by the LTTE were being rehabilitated in government-run centers at year's end.

**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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