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Human Rights in Asia-Pacific; Review of 2019 - Sri Lanka

Commitments to pursue truth, justice, reparations and guarantees of non-recurrence for international crimes and other serious human rights violations remained elusive for most victims of Sri Lanka’s decades-long conflict that ended in 2009. There were some key advances in 2019, with the operationalization of the Office on Missing Persons (OMP), the Office for Reparations and the return of some of the military-occupied private land to its owners. There were limited steps taken to hold the perpetrators of serious human rights violations accountable. The April bombings, which claimed the lives of more than 250 people when an Islamist armed group attacked three churches and three hotels, led to the imposition of Emergency Regulations enabling arbitrary detentions and undue restricts of the rights to freedom of expression and religious belief. Sri Lanka’s Muslim minority was subject to reprisal attacks by armed mobs on their homes, vehicles and shops in different parts of the country. Four death row prisoners were granted a temporary stay of execution.

Background

Sri Lanka’s 2015 commitments at the UN Human Rights Council (UNHRC) – through its co-sponsorship of resolution 30/1 – to establish truth, justice and reparation mechanisms and reforms aimed at non-recurrence remained largely unrealized by the end of the year. In March, the Sri Lankan government reaffirmed its commitments with the adoption of resolution 40/1 at the UNHRC. However, the Prevention of Terrorism Act (PTA), a key driver of human rights violations, was not repealed. The proposed truth and reconciliation commission and a special court to ensure accountability through prosecutions were not established.

Following the November presidential election, the new government distanced itself from the UNHRC process, saying that it is reviewing the resolutions and claiming that it is not bound by the commitments made by the previous government.

Enforced disappearances

Families of people forcibly disappeared persisted in their demands for information about their missing relatives for a third straight year. The OMP continued to oversee the carbon dating process for remains excavated from the site of a second mass grave in Mannar, in the Northern Province. It also established regional offices in Matara, Mannar, and Jaffna, and issued a report which made key recommendations for interim relief and justice. By the end of the year, the outgoing cabinet had approved only one of the recommendations on interim relief.

Impunity

The government made limited progress in addressing impunity for crimes under international law committed during Sri Lanka's conflict. Government promises in 2015 to establish a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law, had not been realized at the end of the year. The Attorney General's department filed hurried indictments in several key cases in advance of presidential elections in November, but the cases of many individuals who allegedly bore command responsibility for serious violations were not included. These cases included the enforced disappearance of journalist, Prageeth Eknaligoda, in 2010, and the extrajudicial executions at the Welikada prison, in 2012 which left 27 inmates dead.

In July, a magistrate in the north eastern town of Trincomalee acquitted 12 members of the police Special Task Force (STF) and a police officer due to “lack of evidence”. Witnesses in the case had been reluctant to testify due to inadequate witness protection measures and lack of faith in domestic courts. The defendants were accused of executing five ethnic Tamil students in 2006, known as the “Trinco Five” case. In July, the Attorney General decided to recommence investigations into the executions.

In August, Major General Shavendra Silva was appointed Army Commander after being promoted to Chief of Staff of the Army earlier in the year. In 2014, an investigation conducted by the Office of the UN High Commissioner for Human Rights (OHCHR) found evidence of his command responsibility in connection with serious human rights violations during the conflict. Several navy officers, who had been charged in connection with the enforced disappearance of 11 youth in 2008 and 2009 in Colombo, were promoted after being released on bail. After the new President, Prime Minister and Cabinet of Ministers were sworn in at the end of the year, a number of military officials named in the OHCHR investigation were appointed to positions of power.

Violence against women and girls

Impunity for perpetrators of various forms of violence against women and girls persisted, and insufficient steps were taken to try cases of violence against women. The Court of Appeal in October acquitted four soldiers accused of gang rape in a case from Viswamadu in 2010, one of the few cases where perpetrators of sexual violence had been held to account.

Arbitrary arrests and detention

In April, the authorities passed Emergency Regulations that facilitated arbitrary arrests and detention that particularly targeted the minority Muslim community. The regulations were passed in response to the Easter Bombings in April, claimed by the armed group calling itself “Islamic State”, which targeted churches and hotels in Sri Lanka killing more than 250 people and injuring hundreds more.

Freedoms of religion or belief and of expression

Emergency Regulations remained in place until August following the Easter Bombings. The Regulations were used to severely restrict the rights to freedom of religion or belief and to freedom of expression and banned clothing that conceals the face, in a move which effectively targeted women wearing face veils. A spate of anti-Muslim violence followed the April bombings for weeks across the country, including in the towns of Negombo and Minuwangoda in the Western Province and in the North Western Province. The security forces did little to protect minority communities from attack. Refugees and asylum-seekers from Pakistan and Afghanistan were forced from their homes by angry mobs. The government, together with the UN refugee agency, relocated them to temporary shelters.

The government withdrew its plans to criminalize individuals for issuing “false news”, where five-year jail sentences would be imposed on those accused of spreading fake news and hate speech on social media, following criticism from civil society. In September, however, it announced measures to introduce a section on “Constitution of Hostile Speech” as an amendment to the Penal Code and Code of Criminal Procedure. The bill did not pass parliament by the time the government changed at the end of the year.

Counter-terror and security

The government failed to repeal the PTA despite making pledges in the UNHRC resolution to do so and to replace it with legislation in line with international human rights law and standards. The draft Counter Terrorism Act which was not enacted by the end of the year fell short of adequate human rights guarantees.

Death penalty

In June, the President announced that he had signed execution warrants for four death row prisoners who had been convicted of drug-related crimes. The names of the prisoners were not made public. The President’s decision was legally challenged. In July, the Supreme Court allowed a temporary reprieve ruling that the prisoners should not be executed while the petitions were pending. Sri Lanka has not carried out any executions since 1976.

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