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SRI LANKA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

In 2010 and until April 2011, freedoms of association, peaceful assembly and expression remained significantly hindered in Sri Lanka, especially in the northern province. Human rights defenders seeking accountability for human rights violations, in particular for alleged violations of international human rights and humanitarian law committed by the Government and the LTTE during the civil conflict that ended in 2009, fighting against corruption or defending environmental rights, were subjected to various acts of intimidation including threats, slandering campaigns, judicial harassment and even forced disappearance and killing. Human rights defenders were also subjected to reprisals when promoting and using the UN human rights system, while failure to investigate prominent cases of assassination and disappearance of human rights defenders further contributed to an environment of fear and silence.

Political context

In January 2010, incumbent President Mr. Mahinda Rajapaksa won a landslide victory with 57% of the votes cast in the early presidential elections that he called two years before the end of his term, after having declared victory over the Liberation Tigers of Tamil Eelam (LTTE) separatists in May 2009, following a 26-year civil war. The common opposition candidate, General Sarath Fonseka, who led the final military campaign against the Tamil Tigers as the Commander of the army, lost against Mr. Rajapaksa and announced his intention to contest the election results. On February 8, 2010, General Fonseka was arrested in Colombo and was court-martialled for “committing military offences”, relating to alleged acts of corruption he may have committed while serving in the army. In September 2010, General Fonseka was condemned to thirty months of imprisonment and stripped of his military rank by President Rajapaksa. The President further consolidated his power when his ruling coalition won an overwhelming majority in the April 2010 parliamentary elections. Moreover, on September 8, 2010, Parliament adopted the 18th amendment to the Constitution, significantly increasing Government power over the judiciary, the police and the National Human Rights Commission. It also lifted the previous two-term limit for the Presidency, thereby making it possible for President Rajapaksa to remain in power indefinitely. The incumbent Government also won local government elections in March 2011. However, in all three elections, the Government suffered heavy defeats in the Tamil majority northern province, which bore the brunt of the last phase of the war in 2008-2009.

Although no terrorist acts were reported since the end of the conflict with the LTTE, the Emergency Regulations (ER) still remained in place – despite the fact that some of its provisions were repealed in May 2010 – and were renewed every month. The ER and the Prevention of Terrorism Act (PTA) continued to be invoked in order to justify the arrest of political opponents, human rights defenders and journalists who were accused of having links with the LTTE or whose actions were allegedly constituting a threat to national security. Additionally, despite the end of the conflict, the territories inhabited by Tamils remained heavily militarised¹.

Impunity continued to prevail regarding past human rights violations. Although the Lessons Learnt and Reconciliation Commission (LLRC) was set up in May 2010 by the President in response to widespread calls for an independent international investigation into the allegations of war crimes committed by both parties during the last weeks of the conflict, its mandate remained limited as it did not extend to investigating serious allegations of violations of international human rights and humanitarian law committed by both sides in the final phases of the conflict², and the LLRC therefore will fail to address reconciliation in a forceful manner. Moreover, it was of particular concern that witnesses giving testimony to the LLRC faced threats and intimidation³.

Freedom of opinion and expression continued to face significant constraints in 2010-2011, particularly following the January 2010 presidential election, when several journalists were detained and questioned and news websites were blocked. In particular, print and online media outlets that criticised the Government, its policies, the President or the Defence Minister Mr. Gotabhaya Rajapakse, the President's brother, were subject to harassment and reprisals⁴. In addition to the intimidation, threats and

1/ See Sri Lanka Advocacy Group, *Briefing Note on the Human Rights Situation in Sri Lanka*, March 2011.

2/ The main task of the LLRC is to report "on the facts and circumstances which led to the failure of the ceasefire agreement [...] and the sequence of events that followed thereafter up to May 19, 2009". Its mandate and work was explicitly put in question by the report of the UN Secretary General's Panel of Experts, which was appointed on June 22, 2010 and called for an independent international investigation into credible reports of atrocities committed by both sides to the conflict. See Secretary General's Panel of Experts on Accountability in Sri Lanka Report, March 31, 2011. On November 5, 2010, the warrant of the LLRC was extended by the President to May 15, 2011.

3/ See Sri Lanka Advocacy Group, *Briefing Note on the Human Rights Situation in Sri Lanka*, March 2011.

4/ For instance, the Colombo-based opposition online website *LankaeNews* was the target of constant threats, intimidation and smear campaigns, which increased following their support of General Fonseka in the January 2010 presidential elections. Moreover, the cartoonist of the website, Mr. Prageeth Ekneligoda, remains disappeared since January 2010 shortly after he wrote articles supporting the presidential opposition candidate. See OMCT, Free Media Movement (FMM), Inform Human Rights Documentation Centre (INFORM) and Law and Society Trust (LST).

smear campaigns targeting opposition news media, employees of State-owned media outlets also suffered severe consequences for protesting against Government control of their editorial policies as well as from the misuse of State media resources during the presidential election campaign in January 2010. Dozens of employees were fired, suspended or threatened⁵.

The human rights record of Sri Lanka was examined in 2010 by the United Nations (UN) Committee on the Rights of the Child (CRC) and Committee on Economic, Social and Cultural Rights (CESCR), in September and November respectively, which both expressed concerns about the situation of human rights defenders and organisations⁶.

Restrictions on freedoms of association and peaceful assembly in the north of the country

In 2010-2011, freedom of association continued to face serious restrictions, especially in the northern areas of Sri Lanka. On the one hand, while for years, the Tamil Tigers and the Government restricted access to those areas under Tiger control, the Government relaxed some security checkpoints after the end of the civil war. But restrictions remained in place for independent journalists and NGOs, although some were given limited access to the war-affected population in the north by prior permission from the Ministry of Defence. In particular, on July 15, 2010, the Government's Non-Governmental Organisations (NGO) Secretariat issued a circular numbered NGO/03/16 setting up a new procedure for granting approval for all NGO movements – including their staff and international organisations – implementing projects in the northern province, which required heads of all the NGOs operating projects in the province to register all their officials with the Presidential Task Force (PTF), which is headed by

5/ In particular, State media workers and union leaders who called for State media institutions to abide by the election commissioners media guidelines and the Supreme Court decision in this regard, had their employment terminated and received serious threats and harassment and were attacked as Sinhala terrorists in the State media. See unpublished list produced by LST.

6/ The CRC expressed "serious concern at the reported growing pattern of intimidation of non-governmental organisations, including threats, harassment, physical attacks and arrests and about restrictions placed on their work", while the CESCR expressed "serious concern about widespread threats, attacks, defamation campaigns and various forms of stigmatisation against human rights defenders (...) as well as about serious restrictions of their activities", and urged the Government of Sri Lanka to "take the necessary action to end the ongoing harassment and persecution of human rights defenders and ensure that those responsible for the threats and attacks are duly prosecuted and punished". See CRC, *Concluding Observations: Sri Lanka*, UN Document CRC/C/LKA/CO/3-4, October 19, 2010 and CESCR, *Concluding Observations: Sri Lanka*, UN Document E/C.12/LKA/CO/2-4, December 9, 2010. In addition, the Committee on the Elimination of Discrimination Against Women (CEDAW) reviewed the periodic reports of Sri Lanka on January 26, 2011. See CEDAW, *Concluding Observations: Sri Lanka*, UN Document CEDAW/C/LKA/CO/7, February 4, 2011.

the President's brother Mr. Basil Rajapakse, with immediate effect. The new procedure also requested NGO heads to provide information on all human and material movements carried out by NGOs in the northern province for further approval. In addition, in June 2010, the NGO Secretariat was transferred from the civilian Ministry of Social Services to the Ministry of Defence. As a consequence, several NGOs were denied access to the region, pending approval from the Ministry. In the last week of June 2010, all agencies working in the north were almost overnight denied access to the north, pending approval from the Ministry of Defence⁷. Furthermore, although the PTF granted permission to some NGOs to launch some projects to assist people in need of assistance in resettled villages of Vanni area, permission was granted only to build houses and infrastructure and start income generating activities, while permission was rejected for counselling, capacity building and empowerment activities of communities⁸. In October 2010, various church organisations and NGOs were instructed in writing and verbally by the Government of Vavuniya and by the army in Mannar that no events should be organised without inviting the military. On December 18, 2010, the Mayor of Jaffna, Ms. Yogeswary Patkunam, cancelled permission to use the Jaffna Public Library auditorium by Home for Human Rights (HHR) to conduct a workshop on human rights violations after the war⁹.

The right to freedom of peaceful assembly was also curtailed on several occasions by security forces in 2010-2011. For instance, in May 2010, the military cancelled several events planned in the north to remember those killed during the war and organisers were threatened. For instance, a Catholic priest in Jaffna, whose name is not disclosed for security reasons, received several threatening calls asking him to cancel a religious event he had organised in Jaffna to commemorate civilians killed in the war. Senior army officers also visited his office and asked him to cancel the event. On May 17, 2010, Nallur Temple area in Jaffna, where an inter-religious event was being held to remember those killed in the war, was surrounded by the police and the army. The people who came to participate were threatened and told to go away. Those who insisted on participating in the event were asked to register their names and other details with the police. Later on, the army questioned and threatened a priest who was involved

7/ See Integrated Regional Information Networks (IRIN) Report, *Analysis: NGOs question tighter access to Sri Lanka's north*, August 11, 2010.

8/ See Groundviews Article, May 26, 2010.

9/ See Exile Network for Media and Human Rights in Sri Lanka (NfR Sri Lanka) Press Release, December 23, 2010.

in the organisation of the event¹⁰. On May 27, 2010, internally displaced persons who were protesting during a visit by two Government Ministers, Messrs. Basil Rajapakse and Rishard Bathurdeen, about the takeover of their land by the navy in Silavathuri town, Mannar district, were subjected to harassment as five of them were arrested and detained until their release without charges on May 29¹¹.

Serious reprisals against human rights defenders seeking accountability for human rights violations

Despite the formal end of the civil war in May 2009, the Government continued to maintain a strict blockade on the release of information regarding the human rights situation in Sri Lanka to the international community, especially the human cost during the final phase of the war between December 2008 and May 2009. As a consequence, any attempt by local or foreign human rights defenders, including journalists, to uncover and report on the gross human rights abuses committed against Tamil civilians by governmental forces during this period as well as on continuing rights abuses, particularly on enforced disappearances and killing in the north, was met with intimidations and threats. As a result of these threats, many were forced into hiding or to leave Sri Lanka. Human rights defenders who documented and reported on human rights violations, particularly in the north, were indeed systematically targeted and threatened by government intelligence agents and paramilitary groups, all the more when they submitted information under the UN Human Rights Complaints Mechanisms and used the UN Special Procedures¹². For instance, in December 2010, a prominent human rights defender who worked closely with families of disappeared people in the north and helped document and submit complaints to the UN Working Group on Enforced and Involuntary Disappearances received threatening calls, was subjected to surveillance and questioning by intelligence agents. His office was also subjected to surveillance and he was questioned and asked to explain his work and funding sources to the local military or persons claiming to belong to Government intelligence. As a consequence he was compelled to flee the area. Another human rights defender in the north documenting human rights violations and who was involved in submitting complaints to the UN Working Group on Enforced and Involuntary Disappearances and other UN bodies, including to the UN Country Team, also received threatening phone calls and was questioned at Colombo airport in late 2010.

10 / See Groundviews Article, June 18, 2010.

11 / Confidential source whose name is withheld for fear or reprisals.

12 / Names are withheld for safety reasons.

Human rights defenders observing the proceeding of LLRC also faced threats and intimidation. For instance, one religious leader who presented statistics about those killed, disappeared, and injured at a hearing on the north in January 2010, got a threatening phone call next day. Staff members of an NGO who went to monitor hearings in another district in north in September 2010, were questioned, subjected to surveillance when they were taking notes, were photographed, and were told not to share information with foreign media¹³.

Still worse, Mr. **Pattani Razeek**, Managing Trustee of the Community Trust Fund (CTF)¹⁴ in Puttalam city and a member of the Executive Committee of the Asian Forum for Human Rights and Development (FORUM-ASIA), disappeared on February 11, 2010, when he was last seen in Polonnaruwa, in the north central province. Mr. Razeek was then travelling together with other staff members from CTF on their way home from a mission, when their van was intercepted by a white van¹⁵. His family lodged a complaint with the local police authorities in Puttalam as well as with the Human Rights Commission of Sri Lanka. Yet, for over a year, the police made no attempt to apprehend and question the main suspect in Mr. Razeek's disappearance, Mr. Shahabdeen Nowshaadh, a former CTF employee, despite evidence linking Mr. Nowshaadh to several ransom calls made to Mr. Razeek's family on Mr. Razeek's mobile number, following his disappearance. Mr. Razeek's family believes that the failure to take action against Mr. Nowshaadh is connected to his close acquaintance of the Minister of Industry and Commerce, Mr. Rishad Bathiudeen. As of April 2011, Mr. Pattani Razeek remained disappeared and the criminal investigation into the case was ongoing¹⁶. Furthermore, an inquiry into allegations of corruption against CTF started shortly after Mr. Razeek's disappearance, based on a petition by Minister Bathiudeen. As of April 2011, the inquiry remained pending¹⁷. Moreover, the murder of Mr. **Lasantha**

13/ Name of NGO and staff members withheld for fear of reprisals.

14/ The CTF is a NGO based in Puttalam that provides emergency relief and rehabilitation, in particular in conflict and disaster affected areas. It has also been involved in human rights documentation and protection.

15/ In Sri Lanka, "white vans" have been known to be the preferred vehicles of groups responsible for abductions and disappearances.

16/ In July 2011, two suspects were arrested by the Colombo Crimes Division, for alleged involvement in Mr. Razeek's disappearance. On the morning of July 28, 2011, police exhumed a body in Kavathamunai, Uddamaveli, Valaichenai province, based on the information provided by one of the arrested suspects in the case of the disappearance of Mr. Razeek. The son of Mr. Razeek tentatively identified the body of his father.

17/ On June 9, 2011, CTF received a copy of a fax by the Defence Ministry appointing an interim board of management from June 16, comprised of one senior military officer and two government officials, until the inquiry into allegations of corruption was completed.

Wikrematunge, Editor of the *Sunday Leader*, in January 2009, also remained unsolved¹⁸. As a consequence, failure to investigate those cases of assassination and disappearance led to a loss of faith in institutional mechanisms and further generated an environment of fear and silence.

International NGOs were similarly subjected to reprisals. For instance, senior staff members of Nonviolent Peaceforce Sri Lanka (NPSL)¹⁹, including its country Director, Ms. **Tiffany Eastham**, and Human Rights Defenders Project Coordinator Mr. **Ali Palh**, had their visas cancelled by the authorities and were compelled to leave Sri Lanka at short notice on July 8. No reasons were given for the sudden decision to terminate their visas, which were valid until September 2010. In August 2010, the Sri Lanka's Chief of Immigration also terminated the visa of Ms. **Elizabeth Ogaya**, who is the Project Coordinator of the Human Rights Defenders Protection Programme (HRDPP) and affiliated with NPSL. Ms. Ogaya was given until August 30, 2010 to leave the country. In September 2010, the application for a visa extension filed by Mr. **Daniel Hogan**, an American national who is the Security Coordinating Officer in Vavuniya and Batticaloa of NPSL, was in turn rejected by the Sri Lankan Secretariat dealing with NGOs. Mr. Daniel Hogan was ordered to leave the country before the end of September²⁰. On May 8, 2010, Ms. **Fiona Partol**, Resident Advisor of "Internews", an international NGO that fosters independent media and access to information worldwide, was blocked by Sri Lanka Defence Ministry from entering Jaffna to participate in a five-day training course for local media persons.

Slandering campaigns against human rights defenders and NGOs

In 2010–2011, members of the Government and government-controlled media continued to defame civil society organisations and accuse human rights defenders of acting against the country. The latter were also often labelled as "terrorists". For instance, in late 2010 and early 2011, local newspapers ran a series of articles on human rights defenders in the north who had participated in a training on submitting complaints to UN human rights mechanisms. On October 3, 2010 and January 15, 2011,

18 / Mr. Wickrematunge had been several times the target of intimidation attempts and lawsuits due to his investigative reporting on corruption and nepotism in the Government and in society in general, and the impunity that accompanies them. Mr. Wickrematunge was also a critic of the war and advocated a negotiated political solution to the conflict.

19 / NPSL is an international NGO that provided protection and assistance to victims of abuses and those facing threats, including human rights defenders. NPSL also helped civilians liaison with local authorities and also organised trainings on the UN system in the north and east.

20 / See Media Freedom in Sri Lanka (MFSL) Note, July 8, 2010 and Sri Lanka Advocacy Group, *Briefing Note on the Human Rights Situation in Sri Lanka*, March 2011.

the *Divayina* newspaper published articles about this training and accused the organising NGOs, Law and Society Trust (LST) and the NPSL, of acting against the Government. On October 22, 2010, the newspaper *Sunday Island* reported that the military intelligence services were looking into the cases of thirteen human rights defenders who were accused of being foreign spies and submitting false allegations to international human rights organisations. In an article published on January 2, 2011, the *Irida Divayina* disclosed the names of the participating human rights defenders²¹. Following the above-mentioned articles in the newspapers, several participants suffered threats and intimidation by security forces and intelligence agents. Moreover, on January 15, 2011, the government-controlled *Dinamina* newspaper accused the NPSL of secretly acting against the Government and disclosed details about the relocation of NPSL offices.

While those cooperating and sharing information with the UN and international community were regularly labelled as “terrorist sympathisers” and “anti-patriotic”, inflammatory statements by Government Ministers and politicians also made human rights defenders fearful of cooperating with UN mechanisms. For example, on June 20, 2010, the State-controlled Sinhalese paper *Silumina* accused a group of exiled journalists of collaborating with international NGOs to provoke the UN regarding allegations of war crimes in Sri Lanka. On July 15, 2010, the President was reported as saying “some of these NGO representatives go to foreign countries and carry out publicity campaigns against the country”. On December 11, 2010, Deputy Minister Sarath Kumara Gunaratne was quoted as saying to *LakbimaNews*: “I am happy that even ordinary people of this country are taking their patriotic duty seriously and acting against traitors. I can tell you that in the future, [...] people will take to task anyone who betrays this country and its leader”.

Judicial harassment and assassination of defenders of environmental rights

Defenders of environmental rights were also subjected to pressure through threats and harassment, including extrajudicial killing. On November 27, 2010, Messrs. **Aruna Roshantha**, a leader of the Sri Lanka All Island Fishermen’s Trade Union, and **Marcus Anthony Fernando**, Chairperson of the Negombo Lagoon Fisher People’s Union, and both leaders of the Alliance to Protect the Negombo Lagoon, an organisation that has actively been involved in protecting and conserving the rich marine resources of

21/ Names are not mentioned for safety reasons.

the Negombo lagoon in Gampaha district²², distributed pamphlets in Negombo town, along with a group of around sixty persons, explaining the adverse environmental consequences of a sea plane project. Police officers were present and observed the distribution of the leaflets. The police themselves handed out several leaflets, although the leaders realised this was a ploy by the police to take away some of the leaflets in the guise of distributing them. The following day, Mr. Roshanta and Mr. Fernando were summoned to the Negombo police headquarters and arrested after being told that they had committed an offense under Section 150 of the Criminal Code, that they had conspired against the Government of Sri Lanka and were trying for inciting people to overthrow the Government. They were subsequently released in the evening without charges. Mr. Aruna Roshantha had already been arrested on November 21, 2009 by officers of the Negombo police for his activities against illegal fishing in the Negombo lagoon. He was released on bail on November 26, 2009 and as of April 2011, his case was still pending before the Negombo Magistrate Court. On December 31, 2010, Mr. **Ketheeswaran Thevarajah**, an activist who had campaigned against environmental damage due to sand excavation in Jaffna, was killed by armed men who entered the house where he was staying that night. The men reportedly asked him to open his profile page on *Facebook* before shooting him at point blank range. Mr. Thevarajah had posted photographs on his *Facebook* account on the environmental damage caused by illegal sand excavation in his village by politically powerful persons. He had also provided reports to Jaffna media on the same issue. As of April 2011, no investigation had been carried out²³.

Harassment of human rights defenders fighting corruption

Human rights defenders denouncing acts of corruption continued to suffer serious consequences for their work. For example, Mr. **J. C. Weliamuna**, Executive Director of Transparency International – Sri Lanka (TISL), an organisation involved in revealing the misuse of public resources in the context of the Sri Lankan presidential elections of January 26, 2010²⁴, was the target of a string of defamation articles published in local Sinhalese and English printed media containing false information about the misuse of TISL's funds. The articles also portrayed TISL in the framework of a wider campaign carried out by the Government against

22/ The two individuals were involved in a campaign against the sea plane project initiated by the Government, as this project is seen as harmful to the biodiversity of the Negombo lagoon and would adversely affect the livelihoods of fishermen dependent on the lagoon.

23/ See NfR Sri Lanka Press Release, January 3, 2011.

24/ As part of his work with TISL, Mr. Weliamuna is involved in a public campaign against corruption as well as in advocacy efforts related to the implementation of the 17th amendment to the Constitution,

378 which is aimed at establishing independent institutions on human rights, police, bribery and corruption.

national and international NGOs, accusing them of trying to destabilise the country and announcing that the Act dealing with these organisations will be amended to take proper action against them whenever it is necessary. On March 3, 2010, an article published in *Lanka News Web* stated that Mr. Weliamuna was heading a list of 35 human rights defenders and journalists supportive of the opposition. The list was allegedly produced by the Sri Lankan intelligence services. Dr. **Paikiasothy Saravanamuttu**, Executive Director of the NGO the Centre for Policy Alternatives (CPA), was also on the list. Reportedly, there was also a move to arrest and detain Mr. Weliamuna on fabricated charges, in connection with reports TISL issued during the presidential election campaign in December and January, alleging violations of election laws and misuse of public resources by the ruling party. Moreover, while Mr. Weliamuna sustained an attack in September 2008, when two grenades were thrown at his residence, the Government argued in 2010 that Mr. Weliamuna was responsible for this attack in order to get publicity for himself. Despite Mr. Weliamuna's letter to the President of Sri Lanka expressing concerns of the *Lanka News Web* list, no action was taken to provide protection to him or to investigate the allegations made by the article published in *Lanka News Web*. On the evening of August 18, 2010, Mr. **Mahasen Rupasinghe**, a journalist working for *Neth FM*, was attacked in his hometown, Embaraluwa south, Weliweriya area, after exposing – on his radio programme “Belumgala” – an illegal coconut husk charcoal manufacturing operation that was being carried out in the Weliriya and posing potential health risks to residents in the area. The police failed to arrest the assailants. On February 8, 2011, Mr. **M.I Rahumathulla**, Editor of the newspaper *Vaara Ureikal*, the only provincial newspaper in the eastern region, had chilly powder thrown at his face and was assaulted with iron rods. As of April 2011, no investigation had been carried out. The newspaper, which has been reporting on corruption in the Muslim dominated Kathankudi and Batticaloa areas, was subjected to many threats over the years. On April 1, 2009, unidentified men, armed with swords and clubs, broke into the newspaper's office, which is located at Mr. Rahumathulla's residence, and assaulted him severely. Though a complaint was lodged with the Kathankudi police, no arrests ensued²⁵.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Pattani Razeek	Enforced disappearance	Urgent Appeal LKA 001/0210/OBS 021	February 18, 2010
		Urgent Appeal LKA 001/0210/OBS 021.1	February 10, 2011
Messrs. J. C. Weliamuna and Paikiasothy Saravanamuttu / Transparency International Sri Lanka	Defamation campaign / Fear of arrest	Urgent Appeal LKA 002/0310/OBS 035	March 11, 2010
Messrs. Aruna Roshantha and Marcus Anthony Fernando	Arrest / Release	Urgent Appeal LKA 003/1210/OBS 145	December 9, 2010