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## Freedom in the World 2009 - Sri Lanka

**Capital:** Colombo

**Population:** 20,300,000

Political Rights Score: 4

Civil Liberties Score: 4

Status: Partly Free

### Overview

As government forces made steady gains against the rebel Liberation Tigers of Tamil Eelam in 2008, the Tigers stepped up bombings and assassinations. The violence contributed to a spiraling humanitarian crisis, with more than 11,000 people killed and tens of thousands newly displaced during the year. In a prevailing climate of nationalist rhetoric and impunity, numerous human rights abuses occurred throughout the country, and rights to free expression and association were increasingly restricted.

Since independence from Britain in 1948, political power in Sri Lanka has 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 that has killed more than 80,000 people. The conflict initially pitted several ethnic Tamil guerrilla groups against the government, which is dominated by the Sinhalese majority. Although triggered by anti-Tamil riots in 1983 that claimed hundreds of lives, the war came in the context of long-standing Tamil claims of discrimination in education and employment. By 1986, the Liberation Tigers of Tamil Eelam (LTTE, or Tamil Tigers), which called for an independent Tamil homeland in the merged North Eastern Province, 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. Early in her term, she tried to negotiate a peace agreement with the LTTE, but following a renewal of hostilities by the rebels, she reverted to focusing on a military solution. Kumaratunga won early presidential elections in 1999, but the UNP and its allies gained a majority in 2001 parliamentary elections, and UNP leader Ranil Wickremasinghe became prime minister.

An LTTE ceasefire offer led to a February 2002 permanent ceasefire accord (CFA), which prohibited political assassinations and recruitment of child soldiers but left large chunks of territory under LTTE control. By December, the two sides had agreed to explore a political settlement based on a federal system. The LTTE suspended its participation in peace talks in April 2003, though it stated that it remained committed to a political solution and did offer some proposals regarding a self-governing mechanism for the areas under its control. The peace process was also constrained by infighting between the main political parties about how to approach the Tigers.

Kumaratunga called parliamentary elections in early 2004, and bolstered by the direct support of the Marxist 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 by the presence of pro-Sinhalese forces such as the JHU in Parliament.

The ceasefire with the LTTE continued to hold, despite an increasing number of violations. A complicating element emerged in March 2004, when Colonel Karuna (the nom de guerre of Vinayagamoorthi Muralitharan), an LTTE commander in the east who controlled an estimated 6,000 out of the total 15,000 LTTE troops, formed a breakaway faction called the Tamil Makkal Viduthalai Pulikal (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, which provided it with logistical support in exchange for valuable intelligence. As with the other parties in the conflict, the faction also engaged in killings, abductions, forced conscription, and other abuses against civilians.

Meanwhile, the Supreme Court had ruled in August 2005 that the presidential election, which Kumaratunga had tried to postpone, had to be held later that year. Largely as the result of an LTTE boycott and intimidation of voters, PA nominee Mahinda Rajapaksa, the prime minister, narrowly won the November presidential election with 50.3 percent of the vote, as opposed to 48.4 percent for Wickremasinghe. Calls for the vote to be rerun in certain areas were rejected by the election commission.

Rajapaksa's immediate political objectives were to consolidate his position within the party and his coalition's position within Parliament. A groundbreaking October 2006 memorandum of understanding between the SLFP and the UNP, under which the latter agreed to support the government in six key areas for two years, had collapsed by early 2007 after the ruling party urged UNP members to defect and join the government outright. Rajapaksa also cultivated a more authoritarian style of rule, relegating Parliament to a secondary role. According to a report by the Centre for Policy Alternatives (CPA), the president and his three brothers – who were appointed to head the ministries of Finance, Defense, Ports and Aviation, and Nation-Building – made all the crucial decisions and controlled most public spending, with the cabinet and other party stalwarts serving as implementers and advisers. Furthermore, the process by which a constitutional council nominates members of key independent commissions was sidestepped; the council itself was not reconstituted after the terms of its members expired, and in its absence, the president unilaterally appointed loyalists to official posts.

Several rounds of peace talks with the LTTE in 2006 accomplished little, and prospects for further talks dimmed in 2007 as consensus-building among the southern parties stalled, fighting with the LTTE – which had picked up substantially since Rajapaksa's election – continued to escalate, 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 throughout the country, and the government embarked on an aggressive campaign to recapture rebel-held territory.

Ground operations and largely indiscriminate aerial shelling by the Sri Lankan military killed hundreds of people and displaced tens of thousands; overall, some 300,000

civilians were newly displaced over the past three years. People's 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, including civilian killings, abductions, detentions, political assassinations, child conscription, and extortion. Young Tamil males were most at risk of harassment by all sides. The drastic increase in abuses was accompanied by international observers' dwindling ability to track the situation, as the Sri Lankan Monitoring Mission (SLMM) was forced to reduce the scope of its activities and cut staff to approximately 30 monitors. Even outside the conflict areas, emergency and antiterrorism legislation facilitated the detention of perceived security threats and critics of government policy.

Following the assassination of a UNP politician and a bomb explosion in a Colombo hotel in early January 2008, the government formally annulled the largely defunct ceasefire agreement with the LTTE. Bombings and other fighting then escalated sharply. A Tiger suicide attack killed the minister of highways and road development in April, while a huge blast in Anuradhapura in October targeted leading UNP politician Janaka Perera. Meanwhile, the government continued its military offensive, with the aim of eradicating the Tigers. After intense fighting in August, the armed forces made significant advances in the north, and further gains were made in November. Around 4,000 conflict deaths were reported annually in 2006 and 2007, but according to the South Asia Terrorism Portal, at least 11,144 people (including 404 civilians, 1,314 security force personnel, and 9,426 LTTE militants) were killed nationwide in 2008, making it the bloodiest year in the conflict to date.

The fierce fighting made the humanitarian crisis more acute, with tens of thousands of people, overwhelmingly Tamil civilians, newly displaced. In March 2008, the government began detaining civilians who fled rebel-held areas at special "welfare centers." Although authorities said the measure was intended to protect civilians from LTTE reprisals, it also allowed the army to screen the refugee population for LTTE infiltrators. International aid agencies, which had provided a large measure of support for the displaced, were asked to leave northern Sri Lanka in September.

As the open warfare continued in the north, the president in January 2008 jump-started the stalled work of the All-Party Representatives Committee (APRC), which had been convened early in his term to build political consensus on measures aimed at resolving ethnic grievances. The committee offered proposals for more thorough implementation of the 13th amendment to the constitution, which had set up a system of provincial councils and had also called for the establishment of "interim councils" to administer the North Eastern Province. However, analysts were not convinced that the proposals would adequately address long-standing Tamil grievances. The TMVP, the only Tamil party participating in the committee, pulled out in December, citing the deteriorating security situation in the east. The government also delayed the nominations process for the constitutional council, provided for by the 17th constitutional amendment. In March, the parliamentary group tasked with implementing the amendment announced proposed revisions that would allow the existing independent commissions to continue to function until new members could be appointed by a restored council.

Elections for a provincial council in the Eastern province were held in May under tight security and with some allegations of violence and intimidation, as well as irregularities and rigging. Boosted by its alliance with the TMVP, the ruling UFPA alliance secured 20 of the 37 council seats. TMVP deputy leader Pillayan, who had assumed control of the group after Karuna's 2007 arrest in Britain for using a forged diplomatic passport, was sworn in as the province's first chief minister, prompting criticism in light of the TMVP's rebel past and its continued use of violence to intimidate political rivals. Although the elections marked a step toward resumed normalcy in the east, tensions continued to simmer between the province's political factions and ethnic groups. In late May, for example, several people were killed in Batticaloa in clashes that seemingly pitted Muslims against TMVP members. Internecine fighting between supporters of Pillayan and Karuna erupted in the fall, leading to additional violence.

In other provincial council elections held in September, convincing wins by the UFPA provided a boost to the government's war strategy. Although the polling day itself was

relatively peaceful, the campaign period was reportedly marked by dozens of instances of election-related violence, as well as allegations that hundreds of Tamils were unable to vote because of problems with their identification papers.

### 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. Elections are open to multiple parties, and fair electoral laws and equal campaigning opportunities ensure a competitive political process.

While elections are generally free and fair, they continue to be marred by some irregularities, violence, and intimidation, and the LTTE generally refuses to allow free elections in areas under its control. The independent Center for Monitoring Election Violence 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 including grenade attacks on polling stations and the buses intended to carry voters into government-controlled territory. Since the elections, intimidation by armed groups has dramatically reduced the space for nonviolent Tamil politics in the north and east, while the warlike situation has led to more muted opposition from southern political parties. President Mahinda Rajapaksa has faced persistent allegations – denied by the government but corroborated by former supporters of the president – that his 2005 campaign colluded with and paid off the LTTE in order to suppress Tamil votes. In September 2007, Parliament opened an investigation into these claims, and the probe continued through the end of 2008. Provincial council elections held in Eastern Province in May 2008 were accompanied by widespread reports of irregularities and intimidation by the TMVP, casting doubts on the credibility of the results, while those held in North Central and Sabaragamuwa provinces in August were acknowledged to be free and fair despite serious instances of preelection violence.

Governmental coherence has been improved by the fact that the executive and legislative branches are now controlled by the same party. Some observers charge that Rajapaksa's centralized, authoritarian style of rule has led to a lack of transparent, inclusive policy formulation. The power of the president and his three brothers – who control an estimated 70 percent of Sri Lanka's budget due to their cabinet positions – has led to increasing resentment among other party members during 2008.

The 17th amendment to the constitution was designed to improve governance and depoliticize key institutions by creating a constitutional council responsible for appointing members to independent commissions overseeing the police, the judiciary, and public servants. Owing to a parliamentary impasse, Rajapaksa failed to reconstitute the council in 2006 after the terms of its previous members expired. Instead, he made unilateral appointments to the public service and police commissions in April 2007, and to the human rights commission, judicial services commission, Supreme Court, and other judicial bodies in May of that year. 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.

Official corruption is a continuing concern, and the current legal and administrative framework is inadequate for promoting integrity and punishing corrupt behavior. Sri Lanka was ranked 92 out of 180 countries surveyed in Transparency International's 2008 Corruption Perceptions Index. Although hundreds of cases are under investigation or prosecution by the Commission to Investigate Allegations of Bribery or Corruption, no current or former politician has been sentenced.

Media freedom declined further in 2008, as outlets faced increased restrictions on covering the conflict and journalists encountered heightened attacks and intimidation, particularly in the north. Although freedom of expression is guaranteed in the constitution, a growing number of laws and regulations – including the Official Secrets Act, emergency regulations reintroduced in 2005, the Prevention of Terrorism Act (PTA), additional antiterrorism regulations introduced in December 2006, and defamation and contempt-of-court laws – restrict this right and have led to overt self-censorship by journalists. Senior journalist J. S. Tissainayagam was detained in March 2008, and after being held without charge for five months, he was indicted under the PTA, marking the first time the law was used against a journalist. While state-run media outlets have increasingly fallen under the influence of the government, private media have become more polarized. Official rhetoric toward journalists and outlets perceived to be "unpatriotic" or critical has grown more hostile, with high-level officials regularly making statements that equate any form of criticism with treason.

The sharp increase in violence since 2006 has severely affected journalists' ability to cover the news. The LTTE has terrorized a number of Tamil journalists and other critics, while the Karuna faction and security forces have also been responsible for abuses. At least two journalists were killed and numerous others were attacked or otherwise intimidated during 2008. A number of Tamil newspapers have been banned or seized by various factions, and distributors have been attacked or warned not to sell certain papers; several independent outlets have closed due to threats. Journalists throughout Sri Lanka, particularly those who cover human rights or military issues, face intimidation from security forces and officials. State-controlled media, as well as the Defense Ministry website, are regularly used to smear individual journalists and other activists. As a result, levels of self-censorship have risen; in one case, prominent defense correspondent Iqbal Athas stopped writing his weekly column as a result of the verbal abuse. Journalists' ability to adequately cover the war has been increasingly restricted by bans on physical access to the conflict zones. Previous cases of attacks on journalists have not been adequately investigated or prosecuted. Internet access is generally not restricted, although the government occasionally blocks 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 – and in particular, evangelical Christian groups, who are accused of forced conversions – sporadically flare up into attacks against churches and individuals by Buddhist extremists. A JHU-sponsored Prohibition of Forcible Conversions bill remained under consideration by a parliamentary committee at year's end. The LTTE discriminates against Muslims and has attacked Buddhist sites in the past, and other ethnic Tamil factions such as the TMVP have also been accused of attacking Muslims in Eastern Province. 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, but this threat declined in 2008, according to the U.S. State Department's Report on International Religious Freedom.

The government generally respects academic freedom, and no official restrictions were reported in 2008. However, the LTTE has a record of silencing intellectuals who criticize its actions, sometimes through murder or other violence, 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 does not allow freedom of association in its areas and reportedly forces civilians to attend pro-LTTE rallies. Several dozen nongovernmental organization (NGO) and humanitarian workers have been killed in recent years, including the August 2006 murder in Muttur of 17 local staff of the international group Action Against Hunger, allegedly by government forces. International staff of humanitarian groups were subject to new visa and work-permit regulations in 2006, and are occasionally barred from rebel-held areas; in September 2008 the defense secretary ordered international humanitarian

groups to leave the Vanni area of the north. Over the past few years, human rights and pro-peace NGOs throughout the country, particularly those considered "unpatriotic" or unwilling to support the official line, have faced greater threats and harassment from authorities, including assaults on their gatherings and a proposed parliamentary investigation into their activities.

Sri Lanka has a strong workers' rights tradition, with more than 1,500 trade unions registered. Most unions are independent and are 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 workforce on tea plantations is unionized, employers routinely violate the rights of the mainly Tamil workforce. The government has increased penalties for employing minors, and complaints involving child labor rose significantly in 2008. Nevertheless, thousands of children continue to be employed as domestic servants, and many face abuse.

Successive governments have respected the constitutional provision for an independent judiciary, and judges can generally make decisions without overt intimidation from the political branches. In recent years there has been growing concern about the politicization of the judiciary, particularly with respect to the chief justice of the Supreme Court, Sarath Nanda Silva; during 2006, for example, there were several questionable rulings in favor of the government, and two senior Supreme Court judges resigned. However, in 2008 the Supreme Court exhibited greater independence and ruled against the executive in cases concerning detentions and other actions found to lack a solid legal basis. Corruption is fairly common in the lower courts, and those willing to pay bribes have better access to the legal system.

In November 2005, the new government transferred authority over the police force to the Ministry of Defense. Heightened political and military conflict beginning in 2006 has led to a sharp rise in the number of human rights abuses committed by security forces, including arbitrary arrest, extrajudicial executions, forced disappearances, torture, custodial rape, and prolonged detention without trial. Torture occurs in the context of the insurgency and during routine interrogations. Such practices are facilitated by emergency regulations reintroduced in 2005, under which detainees can be held for up to a year without trial. In December 2006, the government reinstated certain provisions of the Prevention of Terrorism Act, giving security personnel powers to arrest and detain suspects indefinitely without court approval. Additional legislation introduced later that month, the Prevention and Prohibition of Terrorism and Specified Terrorist Activities Regulations, was criticized for providing an overly broad definition of terrorism and granting immunity to those accused of rights abuses. These laws have been used to detain a wide variety of perceived critics, including political opponents, journalists, and members of civil society, as well as Tamil civilians suspected of supporting the LTTE. Most abuses take place in the conflict zones, particularly the Jaffna Peninsula, where extrajudicial killings occur on a nearly daily basis.

The National Human Rights Commission (NHRC) is empowered to investigate abuses but has traditionally suffered from insufficient authority and resources, and further encroachments on its independence by the executive have occurred in the past two years. A lack of aggressive prosecution of the majority of past abuses, coupled with inadequate protection for victims and witnesses, contributes to a climate of almost complete impunity. Since 2006, as a result of the continuing impasse over reconvening the constitutional council, appointments to key bodies such as the NHRC and the National Police Commission have been made unilaterally by the executive branch, raising questions about the suitability and independence of the appointees and further weakening these institutions. In 2008, the NHRC's status was demoted by an international coordination body of human rights commissions as a result of its perceived lack of independence.

Largely in response to international censure, in 2006 the president re-established a Commission on Abductions, Disappearances, and Killings to investigate 16 high-profile cases of abuse, and in February 2007 he invited the previously formed International Independent Group of Eminent Persons (IIGEP) to assist and monitor the commission.

After attempting to fulfill this mandate, in April 2008 the IIGEP decided to terminate its operations, alleging that the government had placed onerous restrictions on its activities. In November 2008, former justice Mahanama Tillekeratne – chairman of the Presidential Commission, which produces reports that are not made public – stated that at least 1,100 missing or abducted persons remained unaccounted for.

For years, the LTTE effectively controlled about 10 percent of Sri Lankan territory and operated a parallel administration that included schools, hospitals, courts, and law enforcement. It raised money through extortion of both local and overseas Tamils, kidnapping, theft, and the seizure of property. The LTTE imposed mandatory military and civil-defense training on civilians, and regularly carried out summary executions, assassinations, disappearances, arbitrary detentions, torture, and the conscription of children. During 2008, the Tigers' administrative control over territory in the north was all but destroyed; at year's end the rebels were fighting largely from jungle bases. Their recruitment efforts grew increasingly desperate as they lost both manpower and territory. According to anecdotal evidence, the LTTE resorted to paying families for recruits, and targeted even younger children. In addition, the TMVP has been accused of abducting hundreds of boys and young men, often with the complicity of security forces. A number of armed Tamil groups and criminal gangs also engage in kidnapping for ransom.

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 previously stateless "Indian" Tamils. Tensions between the three major ethnic groups (Sinhalese, Tamils, and Muslims) occasionally lead to violence, as occurred in Eastern Province in 2008. The government generally does not take adequate measures to prevent or contain such violence.

According to the Office of the UN High Commissioner for Refugees, there are more than 450,000 internally displaced persons (IDPs) in Sri Lanka, with tens of thousands newly displaced in 2008. While many of those displaced in the east returned to their homes following the end of fighting in that province, new rounds of displacement occurred as the battlefield shifted. The vast majority of IDPs are unwilling or unable to return to their homes, and live either with relatives or in government-run camps. A smaller number live as refugees in the southern Indian state of Tamil Nadu. The government has reportedly engaged in the forced resettlement of Tamil IDPs to insecure areas. The general militarization of the conflict areas has led to serious restrictions on freedom of movement, as well as military control over many aspects of civilian administration. According to Human Rights Watch, following the collapse of the ceasefire accord, citizens from the north and east are once again required to obtain a pass to travel and live in other parts of the country. In June 2007, the government attempted to expel several hundred Tamil civilians from Colombo on the grounds that they had no "valid reason" for being in the capital; however, following a petition brought by CPA, the prominent think tank, the Supreme Court issued an interim order halting the process.

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 against women remain serious problems, with hundreds of complaints reported annually; authorities weakly enforce existing laws. Violence against women, including rapes, increased along with the general fighting in conflict areas during 2008. 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.



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