

U.S. Department of State

2008 Human Rights Report: Sri Lanka

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

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Sri Lanka is a constitutional, multiparty republic with a population of approximately 21 million. President Mahinda Rajapaksa, elected in 2005, and the parliament, elected in 2004, both for six-year terms, share constitutional power. International observers generally characterized these elections as free and fair. The government has been engaged in a twenty-five year armed conflict with the Liberation Tigers of Tamil Eelam (LTTE). Effective January 16, the government formally abrogated the 2002 Cease-Fire Accord (CFA) with the LTTE, and the conflict intensified during the year. While civilian authorities generally maintained effective control of the security forces, observers linked the government closely to paramilitary groups believed responsible for serious human rights violations.

The government's respect for human rights declined as armed conflict escalated. The overwhelming majority of victims of human rights violations, such as killings and disappearances, were young male Tamils, while Tamils were only 16 percent of the overall population. Credible reports cited unlawful killings by paramilitaries and others believed to be working with the awareness of the government, assassinations by unknown perpetrators, politically motivated killings, the continuing use of child soldiers by a paramilitary force associated with the government, disappearances, arbitrary arrests and detention, poor prison conditions, denial of fair public trial, government corruption and lack of transparency, infringement of freedom of movement, and discrimination against minorities. Progovernment paramilitary groups were credibly alleged to have participated in armed attacks against civilians and practiced torture, kidnapping, hostage-taking, and extortion with impunity. During the year, no military, police or paramilitary members were convicted of any domestic human rights abuse. The executive failed to appoint the Constitutional Council, which is required under the Constitution, thus obstructing the appointment of independent representatives to important institutions such as the Human Rights Commission, Bribery Commission, Police Commission, and Judicial Service Commission.

The LTTE, a terrorist organization banned in the United States, India, the European Union, and Canada, maintained control of a shrinking area in the north of the country. The LTTE attacked and killed a large number of civilians; engaged in torture, arbitrary arrest, and detention; denied fair, public trials; arbitrarily interfered with privacy; denied freedoms of speech, press, and assembly and association; and practiced extensive forced recruitment, including of children. The LTTE was active in areas, particularly in the south, that it did not control, attacking military and civilian targets, including public buses and trains, and conducting political assassinations.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were numerous reports that the government or its agents committed arbitrary or unlawful killings. Monitoring organizations reported that during the year, approximately eight hundred of the several thousand deaths associated with the hostilities between government security forces and the LTTE were civilian casualties as a result of artillery fire into populated areas, aerial bombings, land mines, and other military action. International organizations noted that a significant proportion of the civilian casualties occurred in individual incidents, such as extrajudicial killings; however, reliable statistics on such killings by both sides were difficult

to obtain because families feared reprisals if they filed complaints. The numbers reported by different organizations vary widely. Nongovernmental organizations (NGOs) believed that the majority of those reported as disappeared were actually killed.

NGO employees and other humanitarian assistance workers were killed by unknown assailants. As of September, of the 11 NGO and humanitarian workers killed, four were classified as missing or disappeared and 10 had been arrested or detained.

On February 17, two men on a motorcycle killed Neil Sampson Edirisinghe, pastor of the House Church Foundation in Ampara District. The police arrested three Home Guards and one businessman, and the trial was ongoing at year's end. In April a claymore mine explosion killed the founder and director of the Northeast Secretariat on Human Rights, Reverend M X Karunaratnam, in an LTTE-controlled area in the north. LTTE sources blamed army long-range reconnaissance patrols. The death remained unsolved.

The government used paramilitary groups to assist its military forces in fighting the LTTE. The Tamil Makkal Viduthalai Pulikal (TMVP), led by breakaway-LTTE eastern commanders Vinayagamurthi Muralitharan, alias "Karuna," and Sivaneshathurai Chandrakanthan, alias "Pillaiyan," operated mostly in the east. Pillaiyan was sworn in as chief minister of the Eastern Provincial Council in May following elections; Karuna was appointed a member of parliament on October 7. The Eelam People's Democratic Party (EPDP), led by the Minister of Social Services and Social Welfare Douglas Devananda, operated in Jaffna. During the year, there were numerous killings and assaults of civilians by unknown actors suspected of association with the TMVP or the EPDP. Other progovernment paramilitaries were increasingly active in Mannar and Vavuniya.

On November 14, Pillaiyan's private secretary Kumaraswamy Nandagopan, alias "Ragu," was assassinated near Colombo. While some observers attributed the killing to supporters of rival TMVP leader Karuna, opposition politicians linked the incident to groups associated with the military.

There was little progress in several high-profile killings under investigation by the Commission of Inquiry (CoI). In 2007 President Rajapaksa invited an International Independent Group of Eminent Persons (IIGEP) to assist the CoI and monitor its progress. The CoI interviewed witnesses in three cases and held public formal hearings, including testimony by video link from protected witnesses who had fled abroad. However, according to the IIGEP, the investigations were hampered by the lack of effective witness protection and the inappropriate role of the Attorney General's Office in steering the inquiry. The IIGEP terminated its mission in March, citing an "absence of political and institutional will" to identify the perpetrators and "uncovering the systematic failure and obstructions to justice that rendered the original investigations ineffective."

Credible evidence placed before the CoI alleged that security forces were responsible for the 2006 execution-style killing of 17 members of the French NGO ACF (Action Against Hunger). By year's end, no arrests were made. There was also no outcome of the CoI investigation into the case of five Tamil students killed in Trincomalee in 2006 despite testimony that implicated individual members of the security forces by name. While the commission indicated on several occasions that it was nearly ready to present its findings, by year's end, none of the commission's findings had become public.

There was no progress on the 2006 abduction and killings of Reverend Thiruchelvan Nihal Jim Brown and Wenceslaus Vences Vimalathas of St. Mary's Church at Allaipiddy on Kayts Island. There was no effective investigation into the 2006 abduction of Eastern University Vice-Chancellor Raveendranath, who was presumed dead.

In September the UN Human Rights Committee, which monitors compliance with the Optional Protocol to the International Covenant on Civil and Political Rights, found the government responsible for the 1998 death of Sathasivam Sanjeevan. The committee concluded he had been tortured and killed by security forces. The government did not respond.

During the year, media reports implicated the LTTE in attacks on political opponents and civilians. On January 16, the LTTE targeted a passenger bus in Monaragala District, killing 27 civilians including three children. On April 8, a suspected LTTE suicide bomber killed Minister of Highways and Road Development Jeyaraj Fernandopulle in Weliweriya. The LTTE also conducted a number of attacks on military and police targets, including the September 9 attack on the air base in Vavuniya that reportedly killed up to 20 members of the armed forces.

b. Disappearance

Allegedly because of government pressure, the Sri Lanka Human Rights Commission (SLHRC) ceased providing statistics on forced disappearances by state security forces, progovernment paramilitary groups, or the LTTE. According to internationally respected monitoring organizations, after declining in mid-2007, the number of disappearances increased over the year to more than 500. On November 8, the chairman of the Presidential Commission on Disappearances, retired High Court Judge Mahanama Tilakaratne, stated that 1,100 persons missing or abducted in the past two years were still unaccounted for. In March Human Rights Watch (HRW) provided documentation on several hundred cases compiled by local human rights groups since mid-2006. The greatest concentration of disappearances during the year occurred in Vavuniya and the Eastern Province. The HRW report concluded that a crucial factor was "the systemic impunity enjoyed by members of the security forces and progovernment armed groups for abuses they commit."

Witnesses and potential victims identified the perpetrators of many abductions as Tamil-speaking armed men using white vans without license plates. The government generally failed to investigate these incidents.

On May 14, during the country's presentation for the Universal Periodic Review at the UN Human Rights Council, the then attorney general C.R. De Silva stated that of 355 alleged disappearances submitted to the government, initial investigations revealed 12 persons had left the country, 17 persons were back living with their families, and 11 young persons had "eloped." De Silva was unable to account for the remaining 89 percent of cases on the list. During the year, the government did not indict or convict anyone, including security force or paramilitary members, of involvement in disappearance-related cases.

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

The law makes torture a punishable offense and mandates a sentence of not less than seven years' imprisonment. However, in the few publicized torture convictions since 2004, the courts have generally acquitted the defendants or released them on bail pending appeal. Human rights groups alleged that some security forces believed torture to be allowed under specific circumstances. Following an October 2007 visit, UN Special Rapporteur (UNSR) on Torture Manfred Nowak concluded that "torture is widely practiced in Sri Lanka."

Methods of torture and abuse reportedly included beatings, often with sticks, iron bars, or rubber hose; electric shock; suspending individuals by the wrists or feet in contorted positions; burning with metal objects and cigarettes; genital abuse; blows to the ears; asphyxiation with plastic bags containing chili pepper or gasoline; and near-drowning. Detainees reported broken bones and other serious injuries as a result of their mistreatment. UNSR Nowak singled out the Terrorist Investigative Department facility in Boossa for including the "fullest manifestation" of torture methods.

In the east and conflict-affected north, military intelligence and other security personnel, sometimes working with armed paramilitaries, carried out documented and undocumented detentions of civilians suspected of LTTE connections. The detentions reportedly were followed by interrogations that frequently included torture. When the interrogations failed to produce evidence, detainees were often released with a warning not to reveal information about their arrests and threatened with rearrest or death if they divulged information about their detention. Human rights groups estimated that more than 2,000 LTTE suspects were in regular detention centers, such as prisons, with approximately 1,200 more in police stations, the Criminal Investigation Division, the Terrorism Investigation Division, army or paramilitary camps, or other informal detention facilities. The military denied holding detainees at its facilities and did not grant access to national or international monitors to investigate claims of torture by military forces.

No accurate, publicly available statistics on reported torture cases were available. However, civil society reported on several cases. In February police arrested and tortured Dodampe Gamage Asantha Aravinda and K. J. Thusara Chaminda in the Pittabaddara police station in Matara District. Police beat both severely and threw acid on Aravinda's face. On November 12, policemen entered the home of Surangi Sandamali Padmini Peiris, the wife of Sugath Nishanta Fernando, and severely beat her and her family. Fernando was killed after filing bribery and torture charges against police officers in Negombo earlier in the year. Following Fernando's funeral, Peiris had given a statement in court naming police officers she suspected were behind her husband's murder.

On April 2, the Negombo High Court acquitted six police officers charged with torturing Gerald Perera. A victim of custodial torture, Perera was killed on a public bus in 2004 a week before he was scheduled to give evidence in his case in court. The judge ruled that because there were no longer any direct eyewitnesses to prove the charges against individual officers, the case could not go forward.

In May the Supreme Court found that Tony Fernando was tortured in 2003 by prison officials and awarded him compensation of 150,000 rupees (\$1,330).

The Asian Human Rights Commission (AHRC) documented the case of Sanjaya Sumedha, who was arrested along with his father by the police in Kurunegala on July 11. The 14-year-old Sanjaya reported being beaten during his nine days of detention and had to spend five days in the hospital recovering after his release.

Prison and Detention Center Conditions

Prison conditions did not meet international standards due to acute overcrowding and lack of sanitary facilities. Prisons designed for 8,200 inmates held as many as 28,000 prisoners, according to the 2007 assessment by UNSR Nowak. In some cases juveniles were not held separately from adults. Pretrial detainees were not held separately from those convicted. Nowak observed prisoners sleeping on the concrete floor and often without natural light and sufficient ventilation. Female prisoners were held separately from male prisoners and in generally better conditions. However, some rights groups alleged that isolated incidents of degrading treatment, including overcrowding, maltreatment, or abuse of female prisoners occurred. According to Nowak's assessment, "the combination of severe overcrowding and antiquated infrastructure of certain prison facilities places unbearable strains on services and resources, which for detainees in certain prisons, such as the Colombo Remand Prison, amounts to degrading treatment." Nowak noted the absence of an independent institution responsible for monitoring conditions in detention facilities, holding private interviews, and conducting medical evaluations of detainees.

The government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC). The ICRC reported receiving unrestricted access to government and LTTE-controlled prison facilities and detention centers. In 2007 the government granted Nowak unrestricted access only to

government prisons and police detention facilities. However, the government did not provide access to any detention facilities operated by military intelligence, stating that none existed. There were credible reports of secret government facilities where suspected LTTE sympathizers were taken, tortured, and often killed. The ICRC also was not allowed to visit suspected illegal detention facilities operated by paramilitaries.

In Jaffna the Council of NGOs recorded that at least 69 individuals sought "humanitarian protection" in the Jaffna prison. Most of the individuals held with their consent claimed that they feared for their lives because of threats from security forces or paramilitaries.

d. Arbitrary Arrest or Detention

The law prohibited arbitrary arrest and detention; in practice such incidents occurred. Under the arrest and detention standards imposed by the emergency regulations, the law did not clearly define what constitutes an arbitrary arrest. Data concerning arrests made during the year under the emergency regulations were fragmentary and unreliable. Overall, several thousand individuals were detained at least temporarily, the majority of whom were released within 24 hours of their arrest.

Role of the Police and Security Apparatus

The Inspector General of Police (IGP) was responsible for the 65,000 member Sri Lanka Police Service (SLPS). The SLPS conducts civilian police functions such as enforcing criminal and traffic laws, enhancing public safety, and maintaining order. The IGP reports to the Minister of Defense, Public Security and Law and Order (in a separate chain of command from that of the armed forces and other military units). The 5,850 member paramilitary Special Task Force also falls under the Ministry of Defense. There was no independent authority to investigate complaints. Senior officials in the police force handled complaints against the police. Of the police officers serving in Tamil majority areas, few were Tamil and most did not speak Tamil or English. Through October, after a public recruitment drive, the police hired 175 Tamil-speaking policemen to serve in the east. Impunity, particularly for cases of police torture and disappearances of civilians within High Security Zones (HSZs), was a serious problem, as was corruption. A 2007 AHRC assessment cited the government's tolerance of pervasive corruption as a major reason for the police force's incapacity to investigate and prosecute cases effectively.

On October 3, Kandasamy Kugathas and A. Gunaseelan were killed after being part of a group of 14 Tamils detained by the police in Batticaloa on suspicion of having links to the LTTE. The following morning, nine of the remaining 12 were released. Relatives of the detained refuted police claims that Kugathas and Gunaseelan were released the morning of October 4, reporting that they had seen both at the prison that evening. According to eyewitness accounts, the two were taken from their cells late at night on October 4 by men in civilian clothing, who asked for the victims by name. Six days later Kugathas' and Gunaseelan's mutilated bodies were found. The remaining three detainees were subsequently released.

Arrest and Detention

Under the law authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours, but in practice it often took a few days until the detained persons appeared before a magistrate. A magistrate may authorize bail or continued pretrial detention for up to three months or longer. Police do not need an arrest warrant for certain offenses, such as murder, theft, robbery, and rape. In the case of murder, the magistrate must remand the suspect, and only the High Court may grant bail. In all cases suspects had the right to legal representation. Counsel was provided for indigent defendants in criminal cases before the High Court and the Courts of Appeal, but not in other cases.

Under the emergency regulations, the armed forces had the legal authority to arrest persons, but they were required to turn suspects over to the police within 24 hours. Police could detain a person for a period of not more than one year under detention orders issued by a deputy inspector general of police or by the secretary of defense. After the abrogation of the CFA, the defense secretary extended some detentions beyond one year under the Prevention of Terrorism Act. Numerous NGOs and individuals complained that the armed forces and their paramilitary allies arrested suspected LTTE sympathizers and did not turn them over to the police, blurring the line between arrests and abductions. Credible reports alleged that security forces and paramilitaries often tortured and killed those arrested rather than follow legal safeguards.

In cases when security force personnel were alleged to have committed human rights abuses, the government generally did not seek to identify those responsible or bring them to justice. Case law generally failed to uphold the doctrine of command responsibility for human rights abuses. Human rights organizations noted that some judges appeared hesitant to convict on cases of torture because of a seven-year minimum mandatory sentence with no room for issues of severity or duress.

At year's end, there was no functioning witness protection program. According to human rights organizations, obtaining medical evidence of torture was difficult, since there were fewer than 25 forensic specialists, equipment was lacking, and medical practitioners untrained in the field of torture assessment examined most torture victims. In some cases police intimidated doctors responsible for collecting the evidence.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, but in practice the judiciary at lower levels remained reliant on the executive. The president appoints judges to the Supreme Court, the High Court, and the Courts of Appeal. A judicial service commission, composed of the chief justice and two Supreme Court judges, appoints and transfers lower court judges. During the year, the Supreme Court demonstrated significant independence from the government in several decisions with regard to detentions and various actions of the executive that it found to be arbitrary. However, for several years the government has failed to appoint the Constitutional Council, whose function was to ensure the independence of constitutional bodies such as the judicial service commission. As a result a series of important checks on executive power was absent. Judges may be removed for misbehavior or incapacity but only after an investigation followed by joint action of the president and the parliament.

Trial Procedures

In criminal cases juries try defendants in public. Defendants were informed of the charges and evidence against them, and they had the right to counsel and the right to appeal. The government provides counsel for indigent persons tried on criminal charges in the High Court and the Courts of Appeal but not in cases before lower courts. Allegations were made that the Legal Aid Commission, which provides such assistance, extorted money from beneficiaries. Private legal aid organizations assisted some defendants. Juries were not used, however, in cases brought under the Prevention of Terrorism Act (PTA). Defendants in PTA cases had the right to appeal.

Defendants were presumed innocent. Confessions obtained by coercive means, including torture, were inadmissible in criminal courts. Defendants bear the burden of proof, however, to show that their confessions were obtained by coercion. Subject to judicial review, in certain cases defendants may spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases came to trial, decisions were made relatively quickly.

The law required court proceedings and other legislation to be available in English, Sinhala, and Tamil. In practice most court proceedings outside of Jaffna and the northern parts of the country were conducted in English or Sinhala. A shortage of court-appointed interpreters restricted the ability of Tamil-speaking defendants to receive a fair hearing. Trials and hearings in the north were in Tamil and English. While Tamil-speaking judges were present at the magistrate level, only four High Court judges, one Appeals Court judge, and one Supreme Court justice spoke fluent Tamil. Few legal textbooks existed in Tamil.

The LTTE continued to operate its own "court system" composed of judges with little or no legal training. LTTE courts operated without codified or defined legal authority and essentially as agents of the LTTE rather than as an independent judiciary.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees. However, some cases, such as one brought against journalist J.S. Tissainayagam under the Prevention of Terrorism Act, appeared to be politically motivated.

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

The law provides for the right to privacy; however, the government infringed on these rights, particularly when conducting cordon and search operations in Tamil neighborhoods. On July 2, army, police, and Special Task Force units cordoned off and searched Kimbula Ela, a predominantly Tamil neighborhood of Colombo. Authorities told local residents to vacate their apartments and gather in a nearby outdoor playground, where they were called forward and videotaped individually. On July 18, as part of preparations for a major South Asian summit, the government ordered 800 families to move from their homes in Slave Island, a neighborhood in central Colombo, claiming that the land belonged to the Defense Ministry. Before the Supreme Court issued a stay, the government demolished 45 houses. The government moved the affected residents, Muslim, Tamil and Sinhalese, to wooden huts approximately three miles away.

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

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

Government security forces, progovernment paramilitary groups, and the LTTE used excessive force and committed abuses against civilians. The government used army commandos known as Deep Penetration Units to conduct operations against the LTTE in the LTTE-controlled Vanni. However, because of targeting errors, some of these attacks claimed civilian victims.

The LTTE also used special operatives to conduct infiltration operations against government security forces. LTTE suicide cadres, also known as "Black Tigers," killed civilians in attacks targeted at the opposing military force. The LTTE reportedly used chemical agents, such as tear gas or CS riot control gas, in combat situations.

Killings

In Jaffna the progovernment paramilitary EPDP used a network of informants and worked with military intelligence and other government security forces to identify, abduct, and kill alleged LTTE sympathizers or operatives. The TMVP used a similar network of informants in the east to discover and eliminate possible LTTE operatives or sympathizers.

The TMVP, the EPDP, and other paramilitary organization ran extortion rings. These groups allegedly killed civilians, in many cases following abductions. According to credible reports, the government provided protection, intelligence, and military training to TMVP and EPDP cadres who committed extrajudicial killings, abductions, extortion, and torture.

On October 6, a suicide bomber killed the leader of the opposition in the North Central Provincial Council; retired Major General Janaka Perera; an opposition organizer, Raja Johnpulle; and 26 others in Anuradhapura. The government and most observers held the LTTE responsible for the attack, although others accused the TMVP. However, senior opposition politicians also blamed the government for not providing Perera, a known LTTE target, with adequate personal security.

On October 9, an LTTE suicide bomber attacked Minister of Agricultural Development and Agrarian Services Development Mathripala Sirisena's convoy in Boralegamuwa outside of Colombo. The minister escaped unharmed, but one civilian was killed and five injured in the blast.

Abductions

In the east the TMVP often operated without hindrance in internally displaced persons (IDP) camps under government control and restricted humanitarian access. Abductions and forced recruitment by the TMVP took place in IDP camps in Batticaloa and Trincomalee districts.

During the year, the LTTE continued to detain civilians, often requiring individuals, including children, to fight government security forces against their will. The Tigers enforced a "one family, one fighter" policy, forcing each family to provide at least one recruit to the LTTE. As the year progressed and the LTTE's military position deteriorated, monitoring groups reported more aggressive recruitment by the LTTE, including of older teenagers. The LTTE required individuals to purchase the right to leave LTTE-controlled territory. The LTTE also allegedly used civilians as human shields.

Physical Abuse, Punishment, and Torture

On January 28, a claymore mine attack killed 17 civilians, including nine school children, near Madhu, an area controlled by the LTTE at the time. A military spokesperson denied the army was behind the attack.

International demining efforts sought to address the barriers posed by landmines, booby traps, and unexploded ordnance to resettlement of IDPs and rebuilding in the east after the government's expulsion of the LTTE.

The LTTE and the TMVP continued to interfere with the work of international NGOs. The LTTE prevented refugees from leaving areas under its control in the north and sought to influence aid organizations in areas under its control. In the east credible sources linked the TMVP to the October 29 abduction of Sankarapillai Shantha Kumar, a member of the NGO Consortium in Akkaraipattu, Ampara District. Although a complaint was filed, at year's end he remained missing and there was no progress on the investigation.

Child Soldiers

Both the LTTE and the TMVP recruited and used minors in their armed wings. However, UN Children's Fund (UNICEF) figures noted significant reductions in the scale of recruitment compared to prior years.

The LTTE had not complied with the promise to end the use of all minors by the end of 2007. As the conflict worsened, credible sources alleged that the LTTE's "one family, one fighter" policy included forced recruitment

of all age groups, including older teenagers. Through the end of November UNICEF reported that the LTTE forcibly recruited (or rerecruited) 26 children during the year with an average age of 17 years. As of November 30, 99 children remained in LTTE custody, as well as 1,325 who were recruited as children but were over 18 at year's end.

The TMVP released a total of 39 child soldiers on April 7 and April 24. Some children were immediately returned to their parents, while others went to a government rehabilitation center in Ambepussa. UNICEF reported that as of November 30, 56 children were still serving in the TMVP while an additional 71 who had been recruited as children were now over the age of 18. However, the TMVP continued to recruit and rerecruit children, albeit at much lower levels than in previous years.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press. Although the government owned the country's largest newspaper chain, two major television stations, and a radio station, private owners operated a variety of independent newspapers, journals, and radio and television stations. The government imposed no political restrictions on the establishment of new media enterprises. Several foreign media outlets operated in the country.

Media freedom deteriorated in the Colombo area, as well as in the conflict-affected north and east. Many journalists practiced self-censorship. In April Freedom House released its 2007 Global Freedom Report, which categorized the country's press as "not free." Other national and international media freedom organizations and journalists' associations expressed concern over media freedom and were sharply critical of the Defense Ministry's role in harassing and intimidating journalists.

The government made several attempts to prevent independent media houses from criticizing the government and its policies. Senior government officials repeatedly accused critical journalists of treason and often pressured editors and publishers to run stories that portrayed the government in a positive light.

Media personnel were subject to threats and harassment during the year. Statements by government and military officials, including Defense Secretary Gothabaya Rajapaksa, Army Commander Sarath Fonseka, and Minister of Labor Mervyn Silva, contributed to an environment in which journalists who published articles critical of the government felt under threat. On August 4, Minister of Labor Mervyn Silva and his entourage physically assaulted two television journalists. On November 14, Silva and three others were indicted by the attorney general in the High Court of Colombo on nine counts of unlawful assembly, mischief, robbery, and assault for this incident. On December 17, the case was settled when Silva agreed to pay the equivalent of 750,000 rupees (\$6,640) in damages and to refrain from attacking journalists in the future.

On March 7, the Terrorism Investigation Division arrested Sunday Times columnist J.S. Tissainayagam under the emergency regulations, along with V. Jasiharan and Valamorthy Vadivel, the owners of a printing press and Tissainayagam's partners in an internet Web site. The government formally indicted Tissainayagam and his colleagues under the PTA on August 25, the first time media personal had been charged under the PTA in the 30-year history of the act. The state accused Tissainayagam, as the editor and publisher of the North Eastern Monthly magazine, of conspiracy to discredit the government, intent to aid and abet a terrorist organization, and the receipt of money from NGOs to support terrorism through the publishing of his magazine. The government found comments against security forces to be aiding and abetting the LTTE by causing communal

disharmony and bringing the state into disrepute. The case was ongoing at the end of the year. All three remain in detention. The families of the detained journalists reported receiving threats from unidentified persons.

On May 22, unidentified men kidnapped and severely beat deputy editor and defense columnist of the Nation newspaper Keith Noyahr. After several hours Noyahr was released near his home. General Secretary of the Sri Lanka Working Journalists' Association Poddala Jayantha believed that Noyahr's writing and analysis of the civil war were the reasons for the attack. No individuals were charged with the assault.

On May 28, television correspondents P. Devakumaran and Mahendran Varadan were killed while returning home on a motorbike in Navanthurai in Jaffna.

On July 1, journalist and Project Coordinator at the Sri Lankan Press Institute Namal Perera and a British High Commission local staff member were attacked by six persons as they travelled from the Press Institute's offices. Both were injured, and there were no arrests.

The LTTE tightly restricted the print and broadcast media in areas under its control. Reporters Without Borders named LTTE leader Velupillai Prabhakaran as a "predator of press freedom." The LTTE reportedly intimidated Colombo-based Tamil journalists, and self-censorship was common for journalists covering LTTE-controlled areas.

Internet Freedom

In June 2007, the government ordered the country's two largest Internet service providers to restrict access to TamilNet, a pro-LTTE news Web site. At the end of the year, access had not been restored.

Individuals and groups could generally engage in the expression of views via the Internet, including via e-mail. A number of Web sites, some sponsored by opposition parties, were critical of the government. The government took no measures against several Web sites calling for the killing of "traitors to the Sinhala nation."

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice; however, some restrictions existed. For example, the 2005 emergency regulations give the president the power to restrict meetings, assemblies, and processions. The law states that rallies and demonstrations of a political nature cannot be held when a referendum is scheduled, but the government generally granted permits for demonstrations, including those by opposition parties and minority groups.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice; however, some restrictions existed, such as those under the emergency regulations. The government often used informants to target individuals for arrests and interrogation based on their association.

The LTTE did not allow freedom of association in the areas it controlled. Both the LTTE and TMVP reportedly forced persons to attend political rallies.

c. Freedom of Religion

The law accords Buddhism a foremost position, but it also provides for the right of members of other faiths to practice their religions freely, and the government generally respected this right in practice. There was no state religion, although the majority of citizens were followers of Buddhism.

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

While the courts generally upheld the right of Christian groups to worship and to construct facilities to house their congregations, local authorities manipulated rules to prevent registration of new Christian denominations or construction or expansion of worship facilities. The Supreme Court ruled in 2003 that although the constitution supports the right of individuals to practice any religion, it does not support the right to proselytize.

Societal Abuse and Discrimination

On July 6, five Buddhist monks stopped services at the Calvary Church in Thalahena, Malabe. Police sent the congregation home and failed to stop villagers from ransacking the church and assaulting the pastor and five workers. Police later arrested eight suspects, who were released on bail July 7. No further action had been taken at year's end.

In Trincomalee on September 21, Sivakururaja Kurukkal, chief priest of the Koneswaram Temple, was killed while travelling in a high-security area near several government checkpoints. There were no further developments in the investigation.

Tensions were reported between members of the Muslim and Tamil communities in the east as a result of the intimidation and harassment of Muslims by the TMVP. For example, on May 26, 3,000 Muslims in Eravur closed their shops and demonstrated against recent shootings of Muslims in the area. On June 2, the Muslim communities in Kattankudy and Eravur conducted a general strike following the funeral of a Muslim killed in Kallady a day earlier.

There were no reported cases of anti-Semitism.

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to the country." However, in practice the government severely restricted this right on multiple occasions. The war with the LTTE prompted the government to impose additional checks on travelers from the north and the east and on movement to Colombo. In Colombo police refused to register Tamils from the north and the east, as required by Emergency Regulation 23, sometimes forcing them to return to their homes in areas affected by the conflict. Tamils were subject to onerous restrictions on fishing in Jaffna and Trincomalee.

The government required Tamils, especially those living in Jaffna, to obtain special passes issued by security forces to move around the country. Unlike other citizens, ethnic Tamil's identification cards were printed in both Sinhalese and Tamil, allowing security forces immediately to determine who was an ethnic Tamil. Citizens of Jaffna were required to obtain permission from the army's Civil Affairs unit, or in some cases from the EPDP, to leave Jaffna. According to several sources, the waiting list was more than five months long. Curfews imposed by the army also restricted the movement of Jaffna's citizens.

Security forces at army checkpoints in Colombo frequently harassed Tamils. After the government assumed effective control of the east, both the government and the TMVP operated checkpoints that impeded the free movement of residents, especially Tamils.

The government maintained its closure of a highway crossing near Jaffna and restricted the movement of passengers and supplies into the LTTE-controlled Vanni region through another crossing. The government instituted additional checks on movements in all directions a key junction near Medawachiya. In November 2007 the defense secretary issued a verbal directive prohibiting civilians from traveling from LTTE to government-controlled areas at a crossing near Omanthai without special clearance from the government agents in the LTTE-held Vanni. Commercial flights to the Vanni remained suspended, and the LTTE refused to guarantee the safety of civilian flights and of passenger and supply ships operated by the ICRC or the government.

Limited access continued near military bases and the HSZs where civilians could not enter. The HSZs extended up to an approximately 2.5-mile radius from the fences of most military camps. Some observers claimed the HSZs were excessive and unfairly affected Tamil agricultural lands, particularly in Jaffna. In 2007 the president announced the creation of a large HSZ in Muttur East and Sampur on land previously inhabited by Tamils before fighting between government security forces and the LTTE caused the Tamils to flee. The Supreme Court dismissed lawsuits challenging this HSZ, holding that government security measures could not be the subject of a private lawsuit.

Internally Displaced Persons (IDPs)

In May Walter Kalin, the representative of the Secretary General on the Human Rights of Internally Displaced Persons, issued a report that placed the number of IDPs in the country at the beginning of the year at more than 577,000. This included those displaced by previous phases of the conflict, as well as by the 2004 tsunami. The UN High Commissioner for Refugees (UNHCR) reported in December that there were 261,453 IDPs in the north and east that had been displaced since January 2006. Of these, approximately 230,000 were newly displaced as a result of renewed hostilities in the north.

Of the 170,000 persons reportedly displaced across the Eastern Batticaloa and Trincomalee districts between 2006 and 2007, all but 8,300 IDPs in Batticaloa and 4,200 IDPs in Trincomalee returned under the government- and UNHCR-facilitated returns process began during the year. Among the long-term displaced were tens of thousands of Muslims evicted from Jaffna in 1990 by the LTTE, many of whom remained in camps in Puttalam. The government had not permitted other recent IDPs, primarily Tamils, to return home because their places of origins were declared HSZs.

The UNHCR found sexual abuse to be prevalent in IDP camps and engaged in a number of initiatives with local and international NGOs to address the problem. In addition to sexual abuse, credible accounts noted that the TMVP conducted forced recruitment of children and young adults in IDP camps.

The LTTE continued to impose a pass system restricting the flow of persons exiting the Vanni region through the established checkpoints. The LTTE regularly taxed civilians traveling through areas it controlled.

Fighting between the LTTE and government forces continued to threaten the safety of IDPs and humanitarian agents in the north. In early September military aircraft bombed the town of Kilinochchi in LTTE-controlled territory, for the third time barely missing the offices of the UN World Food Program and the UN Office for the Coordination of Humanitarian Affairs. Shortly thereafter, the government ordered all international humanitarian organizations except the ICRC out of the north, citing security concerns. As a result international humanitarian assistance providers reported difficulty in transporting supplies to areas of great need, including shelter materials and medical supplies.

As government troops advanced towards Kilinochchi, the administrative capital of the LTTE-held territory, tens of thousands of local residents were forced to flee deeper into the Vanni. At year's end, there were an estimated 230,000–300,000 IDPs living in LTTE-held territory that had an estimated overall population of 375,000. Many families had been forced to move multiple times.

When displaced persons reached government-controlled territory, the government generally did not permit them to move on but detained them in internment camps. More than 800 persons, most originating from Jaffna and Kilinochchi, were reportedly confined in two IDP camps in Mannar District. Strictly enforced camp rules required that any person leaving the barbed wire-encircled camp must obtain permission and leave one family member behind. Persons without family members were not permitted to leave the camp until a group of single persons requested permission and can be escorted by security forces. Humanitarian conditions, especially sanitation, reportedly fell short of international standards. This prolonged detention violates international practices on treatment of IDPs and the constitution.

Protection of Refugees

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the government did not establish a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened. The government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs and refugees.

As of October 31, 2,394 Sri Lankan citizens had fled to India. Children and adults were killed as a result of Sri Lankan Navy attacks on boats with refugees in the Palk Strait between the country and India.

Stateless Persons

The 2003 Grant of Citizenship to Persons of Indian Origin Act recognized the Sri Lankan nationality of previously stateless persons, particularly Hill Tamils. The government took steps to naturalize and provide citizenship documentation to most stateless persons. However, at the beginning of the year, documentation efforts had not reached an estimated 70,000 Hill Tamils, who remained vulnerable to arbitrary arrest and detention. Government ministers from political parties representing Hill Tamils stated that efforts were underway to provide national identity cards and other citizenship papers to those without adequate documentation.

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

The law provides citizens with the right to change their government peacefully.

Elections and Political Participation

The president, elected in 2005 for a six-year term, holds executive power, while the 225-member parliament, elected in 2004, exercises legislative power.

The EU Election Observation Mission described the 2005 presidential election as generally satisfactory. The LTTE enforced a boycott of the polls and conducted seven grenade attacks in the north and east. As a result, less than 1 percent of voters in the north were able to exercise their right to vote. At year's end there was no resolution of the parliamentary investigation opened in 2007 into persistent media allegations of a preelection agreement between the Rajapaksa campaign and the LTTE to suppress Tamil votes.

On May 10, the government held elections for a newly created Eastern Provincial Council (EPC). On June 4, TMVP leader Pillaiyan took office as chief minister of the EPC. Opposition parties and observer groups criticized the vote for alleged irregularities, accusing the TMVP of violence and intimidation.

On August 23, the government won majorities in provincial council elections in the North Central and Sabaragamuwa provinces. Observers indicated that the votes in both provinces were generally free and fair, despite serious election-related violence in the weeks leading up to the vote.

There were 14 women in the 225-member parliament, five female ministers, and two women out of 11 justices on the Supreme Court. There were 34 Tamils and 24 Muslims in the parliament. There was no provision for or allocation of a set number or percentage of political party positions for women or minorities.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

The tendering and procurement process for government contracts was not transparent, leading to allegations of corruption by the losing bidders. Senior officials served as corporate officers of several quasi-public corporations, including Lanka Logistics and Technologies, which the government established in 2007 and designated as the sole procurement agency for all military equipment. Critics alleged that large kickbacks were paid during the awarding of certain defense contracts. The government used state pension funds to set up a new loss-making budget airline, Mihin Air, in 2007 with many of the same officials serving as corporate officers. On May 1, Mihin Air went bankrupt, but the 2009 budget allocated several million dollars to restart operations.

The Commission to Investigate Allegations of Bribery or Corruption received 2,668 complaints, of which 965 were under investigation at year's end.

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

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

A number of domestic and international human rights groups continued to investigate and publish their findings on human rights cases despite increasing government restrictions.

The government continued to allow the ICRC unrestricted access to declared detention facilities. The ICRC provided international humanitarian law training materials and training to the security forces. During the year,

the ICRC also delivered health education programs in LTTE-controlled areas in the north and east and provided materials, such as hygiene products, clothes, and recreational items, to prison detainees.

By statute the SLHRC has wide powers and resources and may not be called as a witness in any court of law or be sued for matters relating to its official duties. However, in practice the SLHRC rarely used its powers. No actions were taken to investigate the more than 200 cases reported to the Jaffna Branch of the SLHRC since 2006. The SLHRC did not have enough staff or resources to process its caseload of pending complaints, and it did not enjoy the full cooperation of the government. The SLHRC had a tribunal-like approach to investigations and declined to undertake preliminary inquiries in the manner of a criminal investigator. In December 2007 the International Coordinating Committee of National Human Rights Institutions downgraded the SLHRC to observer status, citing government interference in the work of the SLHRC.

The SLHRC's torture prevention monitoring unit, established in 2004, ceased effective functioning in 2006 because of inadequate funding.

In 2004 the LTTE set up the Northeast Secretariat of Human Rights (NESOHR). Since its inception, NESOHR received hundreds of complaints ranging from land disputes to child recruitment complaints. Some groups questioned NESOHR's credibility because of its close ties to the LTTE.

The government continued to refuse the request by the UN High Commissioner for Human Rights for an expanded mission and an independent presence in the country. The Ministry of Defense, government officials, and diplomatic missions abroad regularly accused human rights NGOs and UN bodies of bias.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

The law prohibiting domestic violence was not effectively enforced. Sexual assault, rape, and spousal abuse were pervasive problems. The law specifically addresses sexual abuse and exploitation, and it contains provisions in rape cases for an equitable burden of proof and stringent punishments. Marital rape is considered an offense only in cases of spouses living under judicial separation. While the law may ease some of the problems faced by victims of sexual assault, many women's organizations believed that greater sensitization of police and the judiciary was necessary. The Bureau for the Protection of Children and Women (BPCW) within the police conducted awareness programs in schools and at the grassroots level, causing women to come forward and lodge complaints. However, the government did not increase recruitment of female police officers to alleviate the problem. The BPCW received 723 complaints of grave violent crimes and 1,908 minor crimes against women through October, representing a decrease from 2007 levels.

Civil society activists reported that the resumption of the conflict had led to an increase in gender-based violence perpetrated by the security forces. Statistics were unavailable because few, if any, charges were filed in such incidents. For example, human rights groups in northern districts alleged that the wives of men who had disappeared and who suffered economic deprivation as a result often fell prey to sexual exploitation by paramilitaries and members of the security forces.

According to the BPCW, 253 reported incidents of rape occurred through October. Services to assist victims of rape and domestic violence, such as crisis centers, legal aid, and counseling, were generally limited.

Prostitution, although illegal, was prevalent. Some members of the police and security forces reportedly participated in or condoned prostitution. Trafficking in women for forced labor also occurred.

Sexual harassment was a criminal offense carrying a maximum sentence of five years in prison; however, the government did not enforce the law. Women often experienced sexual harassment.

The law provides for equal employment opportunity in the public sector. In practice women had no legal protection against discrimination in the private sector, where they sometimes were paid less than men for equal work and experienced difficulty in rising to supervisory positions. Although women constituted approximately half of the formal workforce, according to the Asian Development Bank, the quality of employment available to women was less than that available to men. The demand for female labor was mainly for casual and low-paid, low-skill jobs. Women's participation in politics was approximately 5 percent in the parliament and the provincial councils.

Women had equal rights under national, civil, and criminal law. However, adjudication according to the customary law of each ethnic or religious group of questions related to family law, including divorce, child custody, and inheritance, resulted in de facto discrimination. The minimum age of marriage for women was 18 years, except in the case of Muslims, who may follow their customary marriage practices and marry at the age of 15. Women were denied equal rights to land in government-assisted settlements, as the law does not institutionalize the rights of female heirs.

CHILDREN

The law required children between the ages of five and 14 to attend school. The government provided extensive systems of public education and medical care. Education was free through the university level. Health care, including immunization, was also free.

Under the law the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. It also defines child abuse to include the involvement of children in war.

NGOs attributed the problem of exploitation of children to the lack of enforcement, rather than to inadequate legislation. The conflict with the LTTE had priority in the allocation of law enforcement resources. However, the police's BPCW conducted investigations into crimes against children and women. The National Child Protection Authority (NCPA) included representatives from the education, medical, police, and legal professions and reported directly to the president. From January to October, the BCPW received 888 complaints of grave violent crimes and 1,787 of minor crimes against children.

The government advocated greater international cooperation to bring those guilty of sexual exploitation of children to justice. Although the government did not keep records of particular types of violations, the law prohibits sexual violations against children, defined as persons less than 18 years, particularly in regard to child pornography, child prostitution, and the trafficking of children. Penalties for violations related to pornography and prostitution range from two to five years of imprisonment. The penalties for sexual assault of children range from five to 20 years' imprisonment and an unspecified fine. Through September the government opened 1,650 files, of which 746 resulted in indictments for sexual assault and exploitation of children, including statutory rape; 174 were dismissed. The remaining cases were pending at year's end.

Following the 2004 tsunami, the NCPA launched a successful awareness campaign to protect orphaned or displaced children from sexual abuse. Commercial sexual exploitation of children remained a problem in coastal

resort areas. Private groups estimated that there were approximately 6,000 children exploited for commercial sex in the country. Sri Lankan citizens were responsible for much of the commercial sexual exploitation of children. However, the International Labor Organization (ILO) and UNICEF found that foreign tourists exploited thousands of children, especially boys, for commercial sex, most of whom were forced into prostitution by traffickers. The Department of Probation and Child Care Services provided protection to child victims of abuse and sexual exploitation and worked with local NGOs that provided shelter. The tourist bureau conducted awareness-raising programs for at-risk children in resort regions prone to sex tourism.

Trafficking in Persons

The law prohibited trafficking in persons. Legal penalties for trafficking include imprisonment for two to 20 years and a fine. For trafficking in children, the law allowed imprisonment of three to 20 years and a fine.

The country was both a point of origin and destination for trafficked persons. Sri Lankan men and women migrated legally to the Middle East, Singapore, Hong Kong, Malaysia, and South Korea primarily to work in construction, factories, and as domestics. A small percentage of those who went abroad found themselves in situations of involuntary servitude, facing restrictions on movement, threats, and physical or sexual abuse. Illegal recruitment agencies charged large predeparture fees that forced some migrants into debt bondage.

The Bureau of Foreign Employment (BFE) has responsibility to protect and assist workers who go abroad for work. The BFE estimated that approximately 1.6 million Sri Lankans were working abroad at the end of 2007. The BFE licensed recruitment agencies and had three offices to protect migrant workers abroad: a police detachment that raided and arrested bogus recruitment agencies, an office that mediated with foreign employers and recruiting agencies to resolve workers' complaints, and a prosecutorial department that tried cases against unlicensed recruiting agencies. The BFE conducted a publicity campaign to warn of the dangers of going abroad illegally and of using illegitimate recruitment agencies. Lack of effective enforcement against violators and the infrequency of punishment for abuses provided little incentive for operators to refrain from illegal but lucrative practices. In 2007 the BFE received 8,445 complaints. The largest category of these (38 percent) was for nonpayment of wages.

Women and children were reportedly trafficked internally for domestic and sexual servitude. No statistics were available on the extent of this problem. A smaller number of Thai, Chinese, and Russian women and women from the former Soviet Union were also trafficked into the country for commercial sexual exploitation.

The NCPA had primary responsibility for prevention of trafficking in children. It had a Special Police Investigations Unit, with arrest authority, that focuses on combating the trafficking of children for commercial and sexual exploitation. The NCPA had several cases pending against child traffickers, but no trials were completed. As in the case of other criminal proceedings in the country, it may take up to a decade to secure a conviction. The NCPA also operated rehabilitation centers for abused children, including child trafficking victims, in Negombo and Kalutara. The centers provided shelter, counseling, legal assistance, and career guidance for victims. A Probation Department worked to reintegrate children with their families. The government also conducted awareness campaigns to educate persons about trafficking.

The government continued its programs to monitor immigration by suspected traffickers or sex tourists, including a cyber watch project to monitor suspicious Internet chatrooms.

The military's Judge Advocate General's Court of Inquiry found 15 soldiers, including two officers, guilty in the 2007 case of the country's peacekeepers in Haiti sexually exploiting children while they were stationed there under UN auspices. Some were sentenced to receive dishonorable discharges; others were to be punished

summarily with penalties including a combination of loss of seniority or rank, confinement to barracks, loss of pay, and General Officer Letters of Reprimand.

The State Department's annual Trafficking in Persons Report can be found at www.state.gov/g/tip

Persons with Disabilities

The law forbids discrimination against any person on the grounds of disability; however, in practice discrimination occurred in employment, education, and provision of state services. The Department of Social Services operated eight vocational training schools for persons with physical and mental disabilities and sponsored a program of job training and placement for graduates. The government provided financial support to NGOs that assisted persons with disabilities including subsidizing prosthetic devices, making purchases from suppliers with disabilities, and registering 74 NGO-run schools and training institutions for persons with disabilities. The Department of Social Services selected job placement officers to help the estimated 200,000 work-eligible persons with disabilities find jobs. Despite these efforts, persons with disabilities faced difficulties due to negative attitudes and societal discrimination.

There were regulations on accessibility; however, in practice accommodation for access to buildings for persons with disabilities was rare. The Department of Social Services provided housing grants, self-employment grants, and medical assistance to persons with disabilities. In 2007 the department began offering a monthly allowance of approximately 3,000 rupees (\$27) to families of the disabled. At year's end, 2,125 families had received this grant.

National/Racial/Ethnic Minorities

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

Tamils throughout the country, but especially in the conflict-affected north and east, reported frequent harassment of young and middle-aged Tamil men by security forces and paramilitary groups.

Indigenous People

The country's indigenous people, known as Veddhas, numbered fewer than 1,000. Some preferred to maintain their traditional way of life and are nominally protected by the law. There were no legal restrictions on their participation in political or economic life. However, lack of legal documents was a problem for many. Vedda communities complained that they were pushed off their lands by the creation of protected forest areas, which deprived them of traditional livelihoods.

Other Societal Abuses and Discrimination

The law criminalizes homosexual activity, but this was not enforced. Some NGOs working on lesbian, gay, bisexual, and transgender issues did not register with the government. In recent years human rights organizations reported that police harassed, extorted money or sexual favors from, and assaulted gay men in Colombo and other areas.

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

Section 6 Worker Rights

a. The Right of Association

The law allowed workers to form and join unions of their choice without previous authorization with the exception of members of the armed forces and police officers, who are not entitled to unionize. Seven workers may form a union, adopt a charter, elect leaders, and publicize their views. Forty percent of an establishment must belong to the same union to compel the employer to recognize the union. In practice such rights were resisted by the management of individual factories and administrative delays by the government in registering unions. Approximately 20 percent of the seven million-person work force nationwide and more than 70 percent of the plantation work force was unionized. In total there were more than one million union members. Approximately 15 to 20 percent of the nonagricultural work force in the private sector was unionized. Unions represented most workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions. Public sector employees were unionized at very high rates.

Under the law workers in the Export Processing Zones (EPZs) have the same rights to join unions as other workers. Although some unions were able to organize EPZ workers, forming trade unions was more difficult in the zones, as some employers tried to undermine the formation of unions there. As a consequence the unionization rate within the EPZs was under 10 percent of the workforce. As of September 2007 fewer than 10 trade unions were active in EPZs, partially because of access restrictions on outsiders to enter the zones. According to the Board of Investment (BOI), in September 2007, unions were attempting to operate in 33 out of 264 factories in the EPZs; however, they were formally recognized in only 12 of these factories.

Most large unions were affiliated with political parties and played a prominent role in the political process, although some major unions in the public sector were politically independent. The Ministry of Labor Relations and Manpower was authorized by law to cancel the registration of any union that does not submit an annual report, the only grounds for the cancellation of registration.

By law all workers, other than police, armed forces, prison service, and those in essential services, have the right to strike, but the government did not enforce this law uniformly. Workers may lodge complaints with the commissioner of labor, a labor tribunal, or the Supreme Court to protect their rights. Strikes are forbidden in areas that are determined by the president to be "any service which is of public utility or is essential for national security or for the preservation of public order or to the life of the community and includes any Department of the Government or branch thereof." No services have been declared essential to date.

The law prohibits retribution against strikers in nonessential sectors; in practice, however, employees were sometimes fired for striking. Credible sources reported that in 2007 a company in an Export Processing Zone terminated two union officers for engaging in union activity and organizing a strike.

The Supreme Court occasionally intervened to stop public sector trade union actions when they threatened business or government operations. In 2006 the Supreme Court issued a restraining order preventing unions at the Colombo Port from striking at the request of the industry group Joint Apparel Associations Forum (which later withdrew its request in December 2007) after the unions ignored a lower court directive to return to work. The trade unions filed a complaint with the ILO Committee of Freedom of Association. In November 2007 the ILO observed that ports do not constitute an essential service and considered the restriction on the port workers as contrary to ILO principles. The ILO requested the government to expedite the judicial process and take necessary steps to ensure that the committees' observations regarding the right to strike were conveyed to the Supreme Court. The Supreme Court held that while proceedings were pending in the highest court of the country, the unions should not seek redress from an external body. The court ruled that the ILO complaint

defied the Supreme Court and the law of the country. In June the ILO responded that its competence to examine allegations were not subject to national procedures and that due to its mandate, the matters dealt with by the ILO no longer fall within the exclusive sphere of States. As such the action taken by the ILO cannot be considered interference in internal affairs. Despite the ILO's recommendations with regard to the right to strike in 2007, the Supreme Court acted on one occasion during the year to end a strike. In September when teachers struck over compensation issues, the Supreme Court asked the government to address teacher grievances and ordered teachers to return to work.

The law allows unions to conduct their activities without interference, and the government enforced the law unevenly. Public sector unions are not allowed legally to form federations, but the law was not generally enforced. The law prohibits workers between 16 and 21 years old from leadership positions in a union. The International Trade Union Confederation (ITUC) reported that union officials and organizers were harassed and intimidated with impunity in response to legitimate union activities, including arrests, libel, and death threats.

b. The Right to Organize and Bargain Collectively

The law provides for the right to collective bargaining; however, the government did not enforce it. All collective agreements must be registered at the Department of Labor. In 2007 66 collective agreements were registered.

The Employer's Federation of Ceylon (EFC) employs an estimated 15 percent of the country's three million private sector workforce, primarily in the tourism, finance, plantations, manufacturing, and services sectors. The EFC did not have members from the large informal sector or foreign or government employees. About half of EFC's 520-company membership had a unionized workforce, and approximately 44 companies in the EFC had collective agreements with workers.

Employers found guilty of antiunion discrimination must reinstate workers fired for union activities but may transfer them to different locations. Antiunion discrimination was a punishable offense liable for a fine of 20,000 rupees (\$177). Since 1999 the government has not prosecuted any company or union for unfair labor practices under section 32A of the Industrial Disputes Act; however, some were prosecuted under various other labor laws, such as the Wages Board Act, Employees Provident Fund Act, Termination Act, or other sections of the Industrial Disputes Act, and several employers were under investigation. In practice employers often delayed recognition of unions for collective bargaining indefinitely. The ITUC reported that employers used these delays to identify, victimize, terminate, and sometimes assault or threaten union activists.

In most EPZ enterprises, worker councils, composed of elected representatives of employees, engaged in labor and management negotiations. In accordance with BOI guidelines, they participated in labor-management negotiations. As of September 2007 worker councils were active in 110 factories. The ILO approved the right of worker councils to engage in collective bargaining, provided worker councils were not used to undermine the position of unions. NGOs and unions reported that undermining did occur.

There were three operating collective agreements with unions in the EPZs during 2007, out of 264 enterprises. Labor representatives alleged that the BOI and the Department of Labor discouraged union activity within EPZ factories and favored worker councils. Restricted access to the EPZs for union and NGO organizers made it difficult to organize. Labor representatives alleged that the labor commissioner, under BOI pressure, failed to prosecute employers who refused to recognize or enter into collective bargaining with trade unions. The government countered that employees preferred to work within a company to resolve disputes rather than via large unions spanning many companies. BOI representatives stated that workers appeared to be reluctant to pursue collective bargaining agreements due to concerns that negotiated fixed wages may be cut into by high inflation.

c. Prohibition of Forced or Compulsory Labor

The law prohibited forced or bonded labor; however, there were reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training. Persons under age 18 may not be employed in any public enterprise in which life or limb is in danger.

There were no reports that children were employed in the EPZs, the garment industry, or any other export industry. Children sometimes were employed during harvest periods in the plantation sectors and in nonplantation agriculture. Sources indicated that many thousands of children (between 14 years and 18 years of age) were employed in domestic service in urban households, although this situation was not regulated or documented. Some child domestics reportedly were subjected to physical, sexual, and emotional abuse. Employment of children commonly occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. There were cases of under-age children recruited to serve as domestics abroad, primarily in the Middle East.

The National Child Protection Authority was the central agency for coordinating and monitoring action on the protection of children. The Department of Labor, the Department of Probation and Child Care Services, and the police were responsible for the enforcement of child labor laws. There were 232 complaints of child employment through November, a significant increase over 2007 levels. Information on litigation was not available. Penalties for employing minors were 10,000 rupees (\$89) or 12 months' imprisonment.

The government identified a list of 49 occupations considered to be hazardous. Of these occupations, 40 were to be unconditionally prohibited for children under 18 years, with limited exceptions for the remaining nine occupations. However, the government did not pass any implementing legislation by year's end.

e. Acceptable Conditions of Work

While there was no national minimum wage, 43 wage boards established by the Ministry of Labor Relations and Manpower set minimum wages and working conditions by sector and industry in consultation with unions and employers. The minimum wage in sectors covered by wages' boards was increased to 5,750 rupees (\$51) in July. In addition to the minimum wage, employees covered by the wages' boards received an allowance of 1,000 rupees per month (\$9) in 2005 that effectively brought the total minimum wage to 6,750 rupees per month (\$60). The minimum wages set by some wages' boards was higher than the government stipulated minimum wage for covered. These minimum wages, however, did not always provide a decent standard of living for a worker and family. The minimum wage in the public sector was higher than that governed by the wage boards. Workers in sectors not covered by wage boards, including informal sector workers, were not covered by any minimum wage.

The law prohibited most full-time workers from regularly working more than 45 hours per week (a five-and-a-half-day work week). In addition the law stipulates a rest period of one hour per day. Regulations limit the maximum overtime hours to 15 per week. The overtime pay is 1.5 times the wage. Several laws protect the safety and health of industrial workers, but the Ministry of Labor's efforts were inadequate to enforce compliance. Health and safety regulations do not meet international standards. Workers have the statutory right to remove themselves from dangerous situations, but many workers were unaware or indifferent to such rights and feared they would lose their jobs if they removed themselves from the work situation. The

government had 682 labor inspectors. The ITUC reported that labor inspection was inadequate in the EPZs, as labor inspectors cannot make unannounced visits.

Migrant labor also faced abuse. There were cases when recruitment agencies promised one type of job to a migrant but changed the job, employer, or salary after the employee arrived.