

## FREEDOM IN THE WORLD

# Sri Lanka

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### OVERVIEW:

President Mahinda Rajapaksa maintained a firm grip on power in 2011, with his coalition winning landslide victories in local elections. The government continued to reject credible allegations of war crimes committed in the final phase of its military campaign against the Tamil Tiger rebel group in 2009, and the United Nations called for an independent international mechanism to investigate these issues. The situation for human rights defenders and journalists remained grim during the year, with numerous attacks and cases of intimidation occurring amid a climate of nationalist rhetoric and impunity. Although the majority of civilians displaced by the war had returned to their home districts, many resettled away from their original homes and faced multiple threats to their physical and economic security. Meanwhile, the Tamil minority's long-standing grievances went largely unaddressed by the government.

After Sri Lanka gained independence from Britain in 1948, political power alternated between the conservative United National Party (UNP) and the leftist Sri Lanka Freedom Party (SLFP). While the country made impressive gains in literacy, basic health care, and other social needs, its economic development was later stunted and its social fabric tested by a long-running civil war between the government and ethnic Tamil rebels. The conflict was triggered by anti-Tamil riots in 1983 that claimed hundreds of lives, but it came in the context of broader Tamil claims of discrimination in education and employment by the Sinhalese majority. By 1986, the Liberation Tigers of Tamil Eelam (LTTE, or Tamil Tigers), which called for an independent Tamil homeland in the northeast, had eliminated most rival Tamil guerrilla groups and was in control of much of the northern Jaffna Peninsula. At the same time, the government was also fighting an insurgency in the south by the leftist People's Liberation Front (JVP). The JVP insurgency, and the brutal methods used by the army to quell it in 1989, killed an estimated 60,000 people.

Following a 2002 ceasefire accord (CFA), the government and LTTE agreed to explore a political settlement based on a federal system. However, the peace process was weakened by the Tigers' pullout from negotiations in 2003, as well as infighting between the main political parties about how to approach the LTTE.

After parliamentary elections held in 2004, President Chandrika Kumaratunga's United People's Freedom Alliance (UPFA) coalition, led by the SLFP and bolstered by the support of the JVP, formed a minority government. The addition of the JVP to the ruling coalition and the presence of Sinhalese nationalist forces in Parliament further hampered the peace process, as did the emergence of a breakaway faction of the Tigers, the Tamil People's Liberation Tigers (TMVP). The splinter group was led by Colonel Karuna Amman (the nom de guerre of Vinayagamoorthi Muralitharan), who accused the LTTE

## 2012 SCORES

STATUS

# Partly Free

FREEDOM RATING

# 4.5

CIVIL LIBERTIES

# 4

POLITICAL RIGHTS

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leadership of discrimination against eastern Tamils. By 2006, the Karuna faction had become loosely allied with the government. Prime Minister Mahinda Rajapaksa of the SLFP narrowly won the 2005 presidential election, largely due to an LTTE boycott enforced by voter intimidation in the areas under its influence. Rajapaksa cultivated a more authoritarian style of rule, relegating Parliament to a secondary role, and appointed his brothers to key positions.

Fighting with the LTTE escalated in 2007, and the government formally annulled the CFA in January 2008. A sustained government offensive, accompanied by a deepening humanitarian crisis, culminated in a final battle in May 2009, in which the Tigers' leadership was annihilated. At least 100,000 people had been killed in the 26-year conflict, including as many as 40,000 in May 2009 alone, according to the United Nations. Approximately 300,000 civilians were displaced during the final phase of the war, and many of those were interned in government-run camps, where they faced severe food shortages and outbreaks of disease. The government initially limited aid groups' access to the camps and did not allow inmates to leave, with the primary aim of screening all residents for any rebels hiding among them. At the end of 2009, more than 100,000 internally displaced persons (IDPs) remained in the camps, while thousands more had left but were unable to return to their homes due to war damage and mines.

The SLFP strengthened its political position ahead of the 2010 parliamentary balloting by winning a number of local and provincial elections—seen as a public endorsement of the government's military successes—and drawing several senior TMVP defectors, including Karuna himself, into its ranks. Rajapaksa called a presidential election for January 2010, almost two years early, and went on to win nearly 58 percent of the vote. His main opponent, former head of the armed forces Sarath Fonseka, received around 40 percent. Voting was divided along ethnic lines, with most Tamils and Muslims supporting Fonseka and most Sinhalese supporting the president. Fonseka alleged irregularities and requested that the vote be annulled. In February, he was arrested on charges of plotting a coup, though most analysts viewed the charges as politically motivated. In September, a court martial found him guilty of engaging in politics while still an active service member and of not adhering to procurement rules. After Rajapaksa endorsed the verdict, the former general began a 30-month prison sentence. In addition to harassment of political opponents, the government continued to crack down on dissent from other quarters, applying pressure to prominent journalists, human rights advocates, and international critics.

In parliamentary elections held in April 2010, the ruling UPFA secured 144 of 225 seats, but fell short of a two-thirds majority. The opposition UNP won 60 seats, while the Democratic National Alliance (DNA) coalition, led by the JVP, won seven (including one for Fonseka), and the Tamil National Alliance (TNA) took 14. Turnout was considerably lower than in the previous elections, at just over 50 percent. The president's brother, Chamal Rajapaksa, was elected as speaker of Parliament. The government was further strengthened by the defection of several lawmakers from opposition parties in August.

Parliament passed the government-backed 18th Amendment to the constitution in September 2010. The package of revisions extended political control over state institutions by abolishing the constitutional council mandated by the 17th Amendment and replacing it with a government-dominated parliamentary council tasked with selecting key members of the judiciary and nominally independent commissions. The new amendment also reduced the powers of the electoral and police commissions and removed the two-term limit on presidents. The opposition boycotted the parliamentary vote on the changes, which were criticized by a range of civil society and watchdog groups.

In July 2011, the ruling coalition swept local council elections in most of the country. But in a sign of continued ethnic polarization, the TNA, long allied with the Tigers, won most council contests in the north and east despite alleged intimidation and attempted electoral manipulation by the army.

The issue of whether war crimes were committed in the final phases of the civil conflict remained a source of contention in 2011. In April, an expert panel formed by the UN secretary general released a report assigning blame to both

sides for a range of atrocities, and recommending the establishment of an international mechanism to ensure justice. The panel also recommended that the government immediately commence investigations into the alleged breaches of international law committed by both sides and urged the government to issue a formal acknowledgment of its involvement in the killings of civilians during the last stages of the civil war. A documentary broadcast in June by Britain's Channel 4 television station showed a range of apparent violations, including the shelling of civilians, attacks on hospital facilities, and summary executions by army units. Although the government maintained that a full international investigative mechanism or tribunal was unnecessary, the dossier of the UN expert panel was forwarded to the UN Human Rights Council in September. Largely as a result of disagreement over this issue, Sri Lanka's relations with the United Nations and major world democracies soured further during the year, and the government increasingly turned to nondemocratic powers such as China, Iran, and Russia for foreign investment and diplomatic support.

Meanwhile, the Lessons Learnt and Reconciliation Commission (LLRC), a government-backed investigative body whose primary mandate was to assess the reasons behind the collapse of the 2002 ceasefire, held a number of hearings to gather testimony from witnesses, but analysts warned that the panel's composition left serious doubts as to its independence. The final report, publicly released in December 2011, called on the government to gradually remove security forces from civilian affairs and activity, establish a more distanced relationship between the police and institutions managing armed forces, and commence investigations into the myriad abductions, disappearances, and harassment of journalists.

## **POLITICAL RIGHTS AND CIVIL LIBERTIES:**

Sri Lanka is not an electoral democracy. The 1978 constitution vested strong executive powers in the president, who is directly elected for six-year terms and can dissolve Parliament. The prime minister heads the leading party in Parliament but has limited powers. The 225-member unicameral legislature is elected for six-year terms through a mixed proportional-representation system.

In the January 2010 presidential election, monitoring groups alleged inappropriate use of state resources—particularly transport, infrastructure, police services, and media—to benefit the incumbent, in violation of orders issued by election officials. More than 1,000 incidents of violence, including at least four deaths, were reported in the preelection period. In the northern and eastern provinces, inadequate provisions for transport and registration of IDPs contributed to a low turnout. Election officials' orders were similarly disregarded prior to the April 2010 parliamentary elections, which also featured extensive misuse of state resources. The independent Center for Monitoring Election Violence (CMEV) noted that the elections were considerably less beleaguered by violence than the presidential vote, with 84 major and 202 minor incidents reported. Nevertheless, irregularities led to the nullification or suspension of results in several districts. Local council elections held in 2011, though mostly peaceful, were marred by some violence and killings, and civil society groups accused the government and party cadres of engaging in intimidation prior to the voting, particularly in the northern and eastern provinces. They also cited continuing problems with voter documentation, misuse of state resources by the ruling party, and other violations of election laws.

Some observers charge that President Mahinda Rajapaksa's centralized, authoritarian style of rule has led to a lack of transparent, inclusive policy formulation. The Centre for Policy Alternatives (CPA) and others have noted the concentration of power in the hands of the Rajapaksa family. The president himself holds multiple ministerial portfolios, and his brothers serve in other key posts: Gotabaya serves as defense secretary, Basil is minister for economic development, and Chamal is speaker of Parliament. A growing number of other relatives, including the president's son Namal, also hold important political or diplomatic positions. The president and his family consequently control approximately 70 percent of the national budget. During 2011, the president

took steps to enhance Namal's profile in international and domestic forums, fueling speculation that he was being groomed as a potential successor.

The 18th Amendment to the constitution in 2010 effectively reversed efforts to depoliticize certain institutions under the 17th Amendment, giving a government-dominated parliamentary council powers to advise the president regarding appointments to independent commissions that oversee the police, the judiciary, human rights, and civil servants.

Official corruption is a continuing concern. The current legal and administrative framework is inadequate for promoting integrity and punishing corrupt behavior, and weak enforcement of existing safeguards has been a problem. For example, legislators routinely ignore wealth-declaration requirements stipulated in the 1994 Bribery Amendment Act. In June 2011, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) was reinstated after more than a year of inaction, with a new chairman and two commissioners appointed by the president. The commissioners immediately started work on clearing a backlog of more than 3,000 pending cases, as well as proposing amendments to existing laws; by year's end 5 prosecutions had been secured in different cases. Corruption cases can only be initiated by members of the public, who have been reluctant to do so because of a lack of whistleblower protections, although in 2011 the government proposed amending the law to allow officials to initiate investigations, this had not taken place by year's end. Sri Lanka was ranked 86 out of 183 countries surveyed in Transparency International's 2011 Corruption Perceptions Index.

Although freedom of expression is guaranteed in the constitution, a number of laws and regulations restrict this right, including the Official Secrets Act, the Prevention of Terrorism Act (PTA), additional antiterrorism regulations issued in 2006, and laws on defamation and contempt of court. State-run media outlets have fallen under government influence, while official rhetoric toward critical journalists and outlets has grown more hostile, often equating any form of criticism with treason.

Journalists throughout Sri Lanka, particularly those who cover human rights or military issues, encounter considerable levels of intimidation, which has led over the past several years to increased self-censorship. A number of journalists received death threats in 2011, while others were assaulted. Staff at the independent *Uthayan* newspaper, based in Jaffna, faced threats and attacks in response to critical coverage of the government and paramilitary groups operating in the north, including a brutal attack on editor Gnanasundaram Kuhanathan in July. Past attacks on journalists and media outlets, such as the murder of Lasantha Wickrematunga in 2009, have not been adequately investigated, leading to a climate of complete impunity. In July 2011, Wickrematunga's brother, who heads the *Sunday Leader* newspaper, received a threatening telephone call from President Rajapaksa in response to an article. The paper's editor, Frederica Jansz, also received threats in October.

The government has stepped up efforts to censor the internet, temporarily blocking access to independent news sites such as Lanka eNews and Groundviews, as well as the website of Transparency International. In January 2011, the offices of Lanka eNews were destroyed in an arson attack by unknown assailants. Its staff have faced a range of threats and harassment over the past two years, including arrests and the unexplained 2010 disappearance of journalist and cartoonist Prageeth Eknaligoda, who remained missing at the end of 2011.

Religious freedom is respected, and members of all faiths are generally allowed to worship freely. However, the constitution gives special status to Buddhism, and there is some discrimination and occasional violence against religious minorities. Tensions between the Buddhist majority and the Christian minority—particularly evangelical Christian groups, who are accused of forced conversions—sporadically flare into attacks on churches and individuals by Buddhist extremists. In September 2011, a Muslim shrine was destroyed by Buddhist monks in the town of Anuradhapura, prompting condemnations by Muslim leaders but only a lukewarm response from government officials. Work permits for foreign clergy, formerly valid for five years, are now being issued for only one year with the possibility of extension. Conditions for Muslims in the

north and east improved with the demise of the LTTE, but relations between Muslims and the predominantly Hindu Tamils remain somewhat tense. In recent years, the minority Ahmadiyya Muslim sect has faced increased threats and attacks from Sunni Muslims who accuse Ahmadis of being apostates.

Academic freedom is generally respected. However, some commentators have warned of increasing politicization on university campuses, lack of tolerance for antigovernment views, and a rise in self-censorship by professors and students. In May 2011, the authorities introduced mandatory "leadership training" for all university undergraduates, conducted by the army at military camps, despite protests from student unions and a Supreme Court order recommending that the plan be suspended. Concerns have been raised that the curriculum promotes Sinhalese nationalist viewpoints and discourages respect for ethnic diversity and political dissent.

Emergency regulations that empowered the president to restrict rallies and gatherings lapsed in August 2011, and permission for demonstrations is usually granted. However, police occasionally use excessive force to disperse protesters, as was the case when trade unions staged a massive protest against pension reform in May 2011. In June, a journalist and two others were arrested and interrogated by police after they attempted to display posters advertising a public discussion forum and were accused of conspiring against the government. The army has placed some restrictions on assembly, particularly for planned memorial events in the north and east concerning the end of the war, according to the International Crisis Group.

Nongovernmental organizations (NGOs) face some official harassment and curbs on their activities. In April 2010, the president gave the Defense Ministry control over the registration of NGOs, both local and foreign. Human rights and peace-seeking NGOs—particularly those willing to document abuses of human rights or accountability, such as the CPA, National Peace Council, or the local branch of Transparency International—faced surveillance, smear campaigns, threats, and criminal investigations into their funding and activities in 2011. Many of these NGOs had difficulty acquiring work permits in the northern and eastern areas of the country. However, the UN and other humanitarian organizations were generally given adequate access to conflict zones. The body of human rights defender Pattani Razeek, who disappeared in February 2010, was found in July 2011. In August, activist Perumal Sivakumara died after being assaulted by police.

Most of Sri Lanka's 1,500 trade unions are independent and legally allowed to engage in collective bargaining, but this right is poorly upheld in practice. Except for civil servants, most workers can hold strikes, though the 1989 Essential Services Act allows the president to declare a strike in any industry illegal. While more than 70 percent of the mainly Tamil workers on tea plantations are unionized, employers routinely violate their rights. Harassment of labor activists and official intolerance of union activities, particularly in export processing zones, are regularly reported. The government has increased penalties for employing minors, and complaints involving child labor have risen significantly. Nevertheless, thousands of children continue to be employed as household servants, and many face abuse.

Successive governments have respected judicial independence, and judges can generally make decisions without overt political intimidation. However, concerns about politicization of the judiciary have grown in recent years. A 2009 International Crisis Group report highlighted a number of problems, including the executive's power to make high-level judicial appointments; the chief justice's control over the Judicial Service Commission, which makes lower-level appointments; and the lack of a mechanism to sanction biased or corrupt judges. Judicial independence was further eroded by the 18th amendment, which granted a parliamentary council advisory powers and the president greater responsibility to make judicial appointments. Corruption remains fairly common in the lower courts, and those willing to pay bribes have better access to the legal system.

The last years of the war featured a sharp rise in human rights abuses by security forces, including arbitrary arrest, extrajudicial execution, forced disappearance, custodial rape, and prolonged detention without trial, all of

which predominantly affected Tamils. Torture occurred in the context of the insurgency but also takes place during routine interrogations. Abusive practices have been facilitated by the emergency regulations, the PTA, and the 2006 antiterrorism regulations. Under the PTA, suspects can be detained for up to 18 months without trial. These laws have been used to detain a variety of perceived enemies of the government, including political opponents, critical journalists, members of civil society, and Tamil civilians suspected of supporting the LTTE. The government allowed the emergency regulations to lapse in August 2011, but shortly thereafter authorized the expansion of law enforcement powers under the PTA. An estimated 6,000 people were in detention under the emergency regulations at the time of their expiration, according to Human Rights Watch, and remained in detention without charge at year's end. Separately, of the roughly 11,000 Tiger cadres who surrendered in the war's final stages, some 3,000 remained in military-run "rehabilitation" programs in 2011.

Most past human rights abuses are not aggressively prosecuted, while victims and witnesses are inadequately protected. The National Human Rights Commission (NHRC) is empowered to investigate abuses, but it has traditionally suffered from insufficient authority and resources. The independence of the NHRC and other commissions was weakened by the adoption of the 18th Amendment in 2010.

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. Tensions between the three major ethnic groups (Sinhalese, Tamils, and Muslims) occasionally lead to violence, and the government generally does not take adequate measures to prevent or contain it. However, no major incidents were reported in 2011.

Since the end of the war, the government has ostensibly concentrated on rehabilitating former LTTE-controlled territory in the north and east (about 10–15 percent of the country) through economic development programs, but Tamil hopes for greater political autonomy remained unfulfilled. LTTE rule has been replaced by that of the army, which controls most aspects of daily life, including local government in some districts.

Human rights groups have claimed that insufficient registration policies in the postwar IDP camps contributed to widespread disappearances and removals without accountability, and the status of hundreds of Tamils who disappeared during the war's final phase remains unclear. While most IDPs had returned to their home districts by the end of 2011, in many cases they were unable to occupy their former property due to land mines, destruction of their homes, or appropriation of their land by the military or government. According to the Internal Displacement Monitoring Centre, as of December 31, 2011, 95,534 people remained displaced, the vast majority of whom were residing with host families. In September, authorities announced the closure of Menik Farm, the largest internment camp, and the relocation of its 7,400 remaining inmates to a newly created transit camp in Kompavil. According to the State Department Human Rights Report, it remained uncertain as to whether these IDPs that resettled in Kompavil would be allowed to go back to their home areas when demining was finished or whether they would be forced to permanently settle in Kompavil. Other former residents of the conflict area live as refugees in India. Muslims forcibly ejected from the north by the LTTE in the early 1990s noted during the course of LLRC hearings in 2010 that many were unable to return to their homes, as their land was still being occupied by Tamils. In general, there are few official attempts to help this group of returnees.

Observers have expressed concern that government appropriation of land in the north and east as part of economic development projects or "high security zones" has impinged on freedom of movement and the ability of local people to return to their property, and that the land will be allotted to southerners or on politically motivated grounds. The military has expanded its economic activities in the north and east, running shops and growing agricultural produce for sale in the south, while local businesspeople are pushed out of the market. Throughout the country, the military's role in a variety of economic

activities—from tourism to agriculture and infrastructure projects—has expanded significantly, providing jobs and revenue for a force that has tripled in size under the current president.

Women are underrepresented in politics and the civil service. Female employees in the private sector face some sexual harassment and discrimination in salary and promotion opportunities. Rape and domestic violence remain serious problems, with hundreds of complaints reported annually; existing laws are weakly enforced. Violence against women increased along with the general fighting in the civil conflict, and has also affected female prisoners and interned IDPs. The entrenchment of the army in the north and east has increased the risk of harassment and sexual abuse for female civilians (many of whom are widows) in those areas. 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 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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