

## SRI LANKA

### EXECUTIVE SUMMARY

Sri Lanka is a constitutional, multiparty republic. President Mahinda Rajapaksa, who was reelected to a second six-year term in January 2010, and the parliament, which was elected in April 2010, share constitutional power. The government is dominated by the president's family; two of the president's brothers hold key executive branch posts as defense secretary and minister of economic development, while a third brother is the speaker of parliament. A large number of other relatives, including the president's son, also serve in important political or diplomatic positions. Independent observers generally characterized the presidential and parliamentary elections as problematic. Both elections were fraught with violations of the election law by all major parties and were influenced by the governing coalition's massive use of state resources. There were instances in which elements of the security forces acted independently of civilian control.

The major human rights problems were unlawful killings by security forces and government-allied paramilitary groups, often in predominantly Tamil areas, which led many to regard them as politically motivated, and attacks on and harassment of civil society activists, persons viewed as Liberation Tigers of Tamil Eelam (LTTE) sympathizers, and journalists by persons allegedly tied to the government, which created an environment of fear and self-censorship.

Other serious human rights problems included disappearances, as well as a lack of accountability for thousands who disappeared in previous years. Security forces tortured and abused detainees, poor prison conditions remained a problem, and authorities arbitrarily arrested and detained citizens. A number of suspects detained by police or other security forces died under questionable circumstances. Lengthy pretrial detention was a problem. Denial of fair public trial remained a problem, and the judiciary was subject to executive influence. The government infringed on citizens' privacy rights. There were some restrictions on freedom of speech, press, assembly, association, and movement. Infringement on freedom of movement was less frequent than in 2010. While citizens were generally able to travel almost anywhere in the island, police and military checkpoints were still widespread in the north and east, and numerous high security zones and other areas remained off-limits to citizens. Authorities harassed journalists critical of the government and self-censorship was widespread. The president used his authority under the September 2010 18th Amendment to take greater control of appointments to previously independent public institutions that oversee the judiciary, the police, and

human rights. The president now holds the authority to name all members to the Constitutional Council and its subsidiary councils, with only the requirement to “seek advice,” but not approval, of parliament. Doubts remained about the fairness of both the 2010 presidential and parliamentary elections due to election law violations and government influence. Lack of government transparency was a serious problem. Violence and discrimination against women were problems, as were abuse of children and trafficking in persons. Discrimination against persons with disabilities and against the ethnic Tamil minority continued, and a disproportionate number of victims of human rights violations were Tamils. Discrimination against persons based on their sexual orientation and against persons with HIV/AIDS were problems. Limits on workers’ rights and child labor remained problems.

The government prosecuted a very small number of officials implicated in human rights abuses but had yet to hold anyone accountable for alleged violations of international humanitarian law and international human rights law that occurred during the conflict. Official impunity for a wide range of human rights abuses, particularly in cases of police torture, corruption, and attacks on media institutions, was a problem.

During the year unknown actors suspected of association with progovernment paramilitary groups committed killings, assaults, and intimidation of civilians. There were persistent reports of close, ground-level ties between paramilitary groups and government security forces.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary or Unlawful Deprivation of Life**

There were a number of reports that the government, its agents, or its paramilitary allies committed arbitrary or unlawful killings, but reliable statistics on such killings were difficult to obtain because past complainants were killed and some families feared reprisals if they filed complaints.

Among these arbitrary or unlawful killings, there were increased reports of suspects detained by police or other security forces who died under questionable circumstances. For example, on July 3, Neluwa Priyantha died in the custody of members of the Special Task Force (STF) while he was showing them a house where he hid weapons.

There were several instances in which police were held accountable for unlawful killings. On September 29, trishaw driver G.A. Gayan Rasanga was arrested in Dompe on theft charges and reportedly tortured to death by the police. A Criminal Investigations Department (CID) investigation into the incident resulted in the arrest of five police officers. The police were prosecuted, and the case continued in a magistrate's court at year's end.

According to official accounts, security forces took some suspects to the scenes of their alleged crimes and then shot and killed them while they allegedly were trying to escape. On October 3, Lalith Susantha, a suspect in the killing of a police officer, allegedly drowned in the Bolgoda Lake while showing the police where the murder weapon was hidden.

The overall number of extrajudicial killings decreased from the previous year. Nevertheless, during the year, and particularly in the beginning of the year, unknown actors suspected of association with progovernment paramilitary groups committed killings and assaulted civilians. These included the Tamil Makkal Viduthalai Pulikal, associated with former LTTE eastern commander and now Deputy Minister of Resettlement Vinayagamurthi Muralitharan, alias "Karuna," as well as Sivanesathurai Chandrakanthan, alias "Pillaiyan," in the east, and the Eelam People's Democratic Party (EPDP), led by Minister of Social Services and Social Welfare Douglas Devananda, in Jaffna. These and other progovernment paramilitary gangs and parties also were active in Mannar and Vavuniya. All of these groups endeavored to operate political organizations, some with more success than others, and there were persistent reports of close, ground-level ties between paramilitary groups and government security forces. Whereas these groups served more of a military function during the war, often working in coordination with security forces, during the year they increasingly took on the characteristics of criminal gangs as they sought to solidify their territory and revenue sources in the postwar environment.

While some killings were criminal acts, others appeared to be politically motivated, targeting persons believed to be LTTE sympathizers. For example, on June 26, Jaffna residents found former LTTE combatant Balachchandran Satkunarasa hanged from a soccer goal post.

On December 29, an army soldier manning a checkpoint post in Poonakari reportedly shot and killed a traveler after he refused to hand over his motorbike to the soldier. The soldier was killed in a confrontation with fellow soldiers following the incident.

Britain's Channel 4 broadcast a report in 2009 on events at the end of the war, followed by a more extensive documentary made available worldwide on the Internet June 14 entitled "Sri Lanka's Killing Fields," which purported to show graphic evidence of army forces committing human rights violations, including footage of extrajudicial executions. The government claimed that its investigations showed that the video was a fake, and that those filmed were actually LTTE members wearing uniforms to impersonate army soldiers while carrying out the executions. The UN special investigator into extrajudicial killings in Sri Lanka, Christof Heyns, told the UN Human Rights Council on May 30 that forensic and technical experts concluded that the video was authentic and that the events reflected in the video occurred as depicted. The report of the domestic Lessons Learned and Reconciliation Commission (LLRC), publicly released December 16, questioned the findings of the UN-commissioned experts and recommended that the government "institute an independent investigation into this issue [the video]... and take action in accordance with the laws of the land."

On May 12, former army intelligence officer Kandegedara Priyawansa told a magistrate that a Terrorist Investigation Division (TID) officer in charge instructed Priyawansa to claim that a top army official was involved in the 2009 killing of the former chief editor of the *Sunday Leader* newspaper, Lasantha Wickrematunga, by four assailants. The main suspect in Wickrematunga's killing, Pitchai Jesudasan, reportedly died of a heart attack in Colombo on October 15. The suspect was in jail for more than two years and was apprehended for allegedly possessing Wickrematunga's subscriber identity module (SIM) card. Human rights observers expressed skepticism about the significance of any role Jesudasan had in Wickrematunga's death.

## **b. Disappearance**

Enforced and involuntary disappearances continued to be a problem, although the number of such disappearances appeared to decline from previous years. Many disappearances appeared to be politically motivated, but during the year there also were increasing reports of disappearances connected with extortion and other criminal activity, sometimes involving government actors.

Local residents blamed abductions in the Jaffna Peninsula on security forces or members of the EPDP. Some disappearances appeared to be politically motivated, targeting civil society activists and persons believed to be LTTE sympathizers. On December 9, Lalith Kumar Weeraraj and Kugan Muruganandan, two activists from

the dissident section of the Janatha Vimukthi Peramuna (JVP) opposition party, disappeared in Jaffna after leaving their residence. Muruganandan's motorbike was later found by the police. Weeraraj had been active in raising human rights concerns faced by the Tamil people, such as disappearance and detention issues. He had been threatened, assaulted, and detained by security forces on previous occasions. On December 15, cabinet spokesperson Minister Keheliya Rambukwella told the media that the two activists had not disappeared but that "they are here" without specifying a location. The activists remained missing at year's end.

There were reports of abductions and beatings of released former combatants. For example, Jaffna University student and ex-LTTE combatant Vetharaniyam Lathees was abducted on November 27 following a candlelight vigil in commemoration of LTTE "Martyrs' Day" and released the following day. As of year's end, he had not disclosed who abducted or released him.

In July a police official told the media that a report compiled by the police department found that 1,700 persons were abducted in 2009-10, including 926 abducted in 2009 and 774 abducted in 2010. According to police, most of the abductions appeared motivated by extortion. Police took legal action in 275 cases, while 202 suspects were yet to be identified. In its annual report released January 26, the UN Working Group on Enforced and Involuntary Disappearances noted 5,653 outstanding cases from Sri Lanka as of the end of 2010.

The LLRC stated in its December report to the president that it was "alarmed by a large number of representations made alleging abductions, enforced or involuntary disappearances, and arbitrary detention" and stated that the government is therefore "duty bound to direct the law enforcement authorities to take immediate steps to ensure that these allegations are properly investigated into and perpetrators brought to justice."

There was no significant progress made with regard to the thousands of disappearances from past years. There was an instance where an investigation into a disappearance clarified the fate of the missing person: on July 28, police found the body of the managing trustee of the nongovernmental organization (NGO) Community Trust Fund (CTF), Pattani Razeek, who had disappeared in February 2010. Police arrested a former CTF employee Shahabdeen Nowshaadh on July 8 and another suspect, Ismail Mohamed Musdeen, on July 13. Nowshaadh was released on bail, and Musdeen remained in Mahara Remand Prison at year's end. The case was scheduled to be heard in court in February 2012.

There was no significant progress in the case of Prageeth Ekneligoda, a journalist and cartoonist for *Lanka-e-news*, who disappeared in January 2010, just before the presidential election. On August 22, a court of appeal directed the Homagama Magistrate to inquire into Ekneligoda's disappearance and present its findings in January 2012. On November 11, Mohan Pieris, the senior legal advisor to the cabinet and former attorney general, claimed in a question-and-answer session following a presentation to the UN Committee against Torture (CAT) that Ekneligoda was alive, had secretly left Sri Lanka, and was living abroad. A November 15 news Web site report alleged, however, that United Peoples Freedom Alliance (UPFA) member of parliament (MP) Duminda Silva's assistant, Dematagoda Chaminda, told CID officers that he and his associates dumped Ekneligoda's body in the sea at the direction of Silva, under orders from Defense Secretary Gotabhaya Rajapaksa. Chaminda had been arrested in connection with the October 8 killing of a former MP, Bharata Lakshman Premachandra (see section 3).

On July 11, the Ministry of Defense published the results of a UNICEF report on the work of the Family Tracing Unit. The unit received nearly 2,500 tracing requests since its establishment in 2009, of which 676 concerned children. Approximately 10 percent of these children later were matched with children's names found in hospital and other records. According to UNICEF data, 64 percent of the children had been recruited by the LTTE prior to their disappearance. In July the government authorized UNICEF to establish additional family tracing units in the north of the country. UNICEF still had a caseload of 1,373 missing children recruited by the LTTE during the cease-fire period.

Aside from the Razeek case, the government did not publish the results of any investigations into past disappearances, nor did it publish information on any indictments or convictions of anyone involved in cases related to disappearances.

There was no progress in solving the 2009 disappearance of Stephen Sunthararaj, project manager at the Center for Human Rights and Development. Sunthararaj was held by police without charges beginning in February of that year and was abducted by four persons in a white van wearing army uniforms shortly after he was released on a court order.

### **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, there were credible reports that security forces tortured and abused citizens.

The CAT considered the combined third and fourth periodic reports of Sri Lanka on November 8 and 9 and adopted its concluding observations on November 22 and 23. The committee expressed serious concern "about the continued and consistent allegations of widespread use of torture and other cruel, inhuman or degrading treatment of suspects in police custody." Other concerns included the lack of information on the implementation of the Convention against Torture; failure to uphold judicial and procedural safeguards of detainees; reports of secret detention centers; enforced disappearances; the replacement of the Emergency Regulations with problematic Prevention of Terrorism Act (PTA) regulations; intimidation and harassment of human rights defenders, lawyers, journalists, and others; overcrowding and poor conditions in prisons; impunity for acts of torture; and a lack of witness protection.

The Freedom from Torture (FFT) submission to the CAT for its examination of Sri Lanka concluded based on evidence in medico-legal reports that "torture perpetrated by state actors within both the military and police has continued in Sri Lanka after the conflict ended in May 2009 and is still occurring in 2011." It also found that those at particular risk of torture include Tamils who had an actual or perceived association with the LTTE.

No accurate publicly released statistics on reported torture cases were available. The Asian Human Rights Commission (AHRC) compiled 1,500 cases of police torture between 1998 and 2011 and issued a report in June summarizing 323 of the most serious cases. As of October the AHRC had received 102 reports of police torture.

Former TID detainees at Boosa Prison in Galle confirmed reports of torture methods used there. These included beatings, often with cricket bats, iron bars, or rubber hoses filled with sand; electric shock; suspending individuals by the wrists or feet in contorted positions; abrading knees across rough cement; burning with metal objects and cigarettes; genital abuse; blows to the ears; asphyxiation with plastic bags containing chili pepper mixed with gasoline; and near-drowning. Detainees reported broken bones and other serious injuries as a result of mistreatment.

In the east and the north, military intelligence and other security personnel, sometimes working with armed paramilitaries, were responsible for the documented and undocumented detention of civilians suspected of LTTE connections. Detention reportedly was followed by interrogation that frequently included torture. There were reports that detainees were released with a warning not to reveal information about their arrest or detention, under the threat of rearrest or death.

Human rights groups alleged that some security forces believed torture to be allowed under specific circumstances. Several former LTTE combatants released from rehabilitation centers reported torture or mistreatment, including sexual harassment, by government officials while in rehabilitation centers. Responding to questions on reports of torture and abuse, a police spokesman told the media in June that police training suffered during the war. The police endorsed incorporating a full human rights curriculum and lesson plan developed by UN Office of the High Commissioner for Human Rights into the police training curriculum during the year.

Members of the security forces beat and otherwise abused criminal suspects and others. For example, Devarathnam Yogendra alleged that police officers abducted, beat, and threatened him January 15, following a complaint he made in a bribery case against a Hatton Police Station inspector.

While the government has categorically denied the existence of unacknowledged detention facilities, there were credible allegations from national and international NGOs of undisclosed government facilities where suspected LTTE sympathizers were taken, tortured, and sometimes killed. The CAT examined such allegations and noted in its findings that it was “seriously concerned about reports received from nongovernmental sources regarding secret detention centers run by the Sri Lankan military intelligence and paramilitary groups where enforced disappearances, torture and extrajudicial killings have allegedly been perpetrated.”

In recent years human rights organizations reported that, while not actively arresting and prosecuting lesbian, gay, bisexual, or transgender (LGBT) persons, police harassed and extorted money or sexual favors from those persons and assaulted gays and lesbians in Colombo and other areas. This led to underreporting of crimes against members of the LGBT community.

There were reports that individual cases of gender-based violence perpetrated by members of the security forces occurred in areas with heavy security force presence, but others stated that military officials were responsive to reports of such



incidents and showed a willingness to prosecute the offenders. The government did not release any details about prosecutions or punishments for such offenses, and some observers suggested that there was reluctance by victims to report such incidents in northern and eastern areas where security forces were prevalent. Statistics on numbers of such cases also were unavailable because few victims reported such incidents.

There have been a number of credible reports of sexual violence against women where the alleged perpetrators were armed forces personnel, police officers, army deserters, or members of militant groups. A number of women did not lodge official complaints out of fear of retaliation. In its November 7 “Out of the Silence: New Evidence of Ongoing Torture in Sri Lanka” report, the FFT reviewed 35 medico-legal reports of detainees and found evidence of rape, sexual assault, and violence to sexual organs. The reports states: “Of the 27 male cases in the sample overall, 15 experienced sexual violence (55 percent) and of the eight female cases in the sample, six experienced sexual violence (75 percent). All but one of the episodes of physical violence to sexual organs (all male) and sexual assault (both male and female) are reported to have taken place during torture and interrogation sessions for both men and women. While all instances of rape (both male and female) are reported to have been perpetrated in cells by guards or by officers usually at night, sometimes repeatedly and sometimes by more than one individual.”

### **Prison and Detention Center Conditions**

Prison conditions were poor and did not meet international standards due to overcrowding and the lack of sanitary facilities. In many cases prisoners reportedly slept on concrete floors and often lacked natural light or sufficient ventilation. According to prison officials and civil society sources, prisons designed for approximately 11,000 inmates held an estimated 32,000 prisoners. More than 13,000 of these prisoners either were awaiting or undergoing trial. There were approximately 1,400 female prisoners. In some cases juveniles were not held separately from adults. Pretrial detainees often were not held separately from those convicted. Petty criminals and sexual offenders often were incarcerated with perpetrators of more serious crimes. Female prisoners were held separately from male prisoners and in generally poor conditions. For example, in Welikada Prison 650 female prisoners occupied a ward built for 150, with 75 female inmates sharing two bathrooms. Authorities acknowledged poor prison conditions but noted a lack of space and resources as determining factors. The government planned to relocate

and expand several prison facilities and was working with the International Committee of the Red Cross (ICRC) to modernize its prison system.

Aside from those held in informal detention facilities, prisoners and detainees were allowed access to family members. Prisoners and detainees were permitted religious observance. There were no ombudsmen to handle prisoner complaints. There were alternatives to incarceration for nonviolent offenders, including community service and community-based corrections alternatives. Community-based corrections included elements of rehabilitation and counseling in addition to community service work.

Magistrates were mandated to visit prisons once a month to monitor conditions and hold private interviews with prisoners. In practice this regularly did not happen as the backlog of cases in courts made it difficult for magistrates to make prison visits. The government permitted independent human rights observers and the ICRC to visit regular and remand prisons. The government did not provide access to any detention facilities operated by military intelligence, stating that none existed. The ICRC was not allowed to visit suspected illegal detention facilities operated by paramilitary groups.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention; however, in practice such incidents frequently occurred. There were frequent reports throughout the year of victims randomly selected by police to be arrested and detained on unsubstantiated charges. For example, on October 17, Chulani Thilakaratne was allegedly assaulted and arbitrarily arrested by two drunken plainclothes officers. His wife and several relatives came to the police station that evening and complained to the officer-in-charge, who released Thilakaratne to them.

Under the arrest and detention standards imposed by the Emergency Regulations and the PTA, the law does not clearly define what constitutes an arbitrary arrest. Although parliament allowed the Emergency Regulations to lapse August 31, many of the Emergency Regulations' powers could be found in the PTA. The PTA has similar sweeping powers of search, arrest, and detention. It allows for detainees to be held for up to 18 months and indefinitely pending trial. Many detainees thus continued to be held arbitrarily for prolonged periods without charge, including in irregular places of detention. On August 30, the day before the Emergency Regulations lapsed, the president issued new regulations under the PTA incorporating into it aspects of the Emergency Regulations that the PTA did not

already include. Among the regulations were measures proscribing the LTTE as a terrorist organization and keeping surrendered persons under rehabilitation.

Human rights groups estimated that approximately 5,000 to 6,000 LTTE suspects were in regular detention centers. An unknown additional number of unidentified detainees, estimated by some organizations to be as high as 3,000, were thought to be held in police stations, the CID, the TID, army or paramilitary camps, or other informal detention facilities on suspicion of involvement in terrorism-related activities. Many of these detainees were detained incommunicado without charge or trial.

Of the approximately 11,600 LTTE combatants who surrendered at the end of the war, reports indicated that 10,200 had been rehabilitated and released and approximately 700 remained in rehabilitation centers. Authorities considered 700 “hardcore” former combatants to be potentially criminally liable and transferred them to the criminal justice system. Reintegration of former combatants released from rehabilitation remained challenging due to intensive surveillance by the military, social stigma (some people were afraid to associate themselves with ex-combatants who regularly had to report to the army), employment difficulties, and psychological trauma. Several released ex-combatants reported torture or mistreatment, including sexual harassment, by government officials while in rehabilitation centers.

### **Role of the Police and Security Apparatus**

The inspector general of police (IGP) is responsible for the nearly 90,000-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 secretary of the Ministry of Defense (in a separate chain of command from that of the armed forces and other military units). The nearly 6,000-member paramilitary STF is within the structure of the SLPS, although joint operations with military units in the past led to questions among observers about who actually was directing the STF. Throughout the year the president repeatedly used the Public Security Ordinance to call out the armed forces, maintaining the military’s prominent role in police functions. There was no independent authority to investigate complaints.

Few police officers serving in Tamil-majority areas were Tamil, and most did not speak Tamil or English, although the government began hiring and training ethnic Tamils in an effort to improve this situation. In January 320 Tamil men and 16

Tamil women were inducted into the police. In December government officials stated that there were more than 600 Tamils in the police force. The LLRC report acknowledged the recruiting of Tamil-speaking police officers, but noted with regret that its 2010 interim recommendation – that public offices have interpreters to facilitate communication until long term programs are put in place – had not been implemented. In its final report, the LLRC stated that government officers should possess language skills to serve in any part of the country and recommended that police stations have bi-lingual officers on duty on a 24-hour basis.

Widespread impunity persisted, particularly for cases of police torture, corruption, human rights abuses, and attacks on media institutions. For example, the government consistently failed to solve attacks on journalists, such as the 2009 killing of *Sunday Leader* editor Lasantha Wickrematunge, the January 2010 abduction of Prageeth Ekneligoda (see section 1.b.), and the July 29 attack on *Uthayan* news editor Gnanasundaram Kuhanathan (see section 2.a.). The failure of police to apprehend the assailants in such cases highlighted the high level of impunity in an environment in which law enforcement possessed widespread powers of detention and surveillance but failed to solve cases of attacks on those critical of the government. Evidence of serious violations of international humanitarian law and international human rights law in the final stages of the war continued to mount, but the government refused to acknowledge credible allegations that members of the armed forces were involved in such incidents.

The government did not conduct any further inquiries into the high-profile cases investigated by the 2006 Presidential Commission of Inquiry (COI), including the 2006 killing of 17 local staff of the French NGO Action Against Hunger (ACF) in Mutur. The COI was disbanded in 2009 without issuing a public report, and with reports that the commission had blamed ACF for allowing its workers to be in an unsafe location, at the same time exonerating all government security forces from any possible involvement in the killing of the aid workers.

A separate commission set up under retired Supreme Court justice Mahanama Tillekeratne to investigate abductions, disappearances, killings, and unidentified bodies was to submit a final report to the president early in 2010. Although the commission gave an interim report to President Rajapaksa in February 2010, and the commission's mandate ended in March 2010, there was no indication that a final report was given to the president.

The government prosecuted a small number of security force personnel who allegedly committed human rights abuses, but it generally did not seek to identify

the great majority of those responsible for such abuses or bring them to justice. Case law generally failed to uphold the doctrine of command responsibility for human rights abuses.

### **Arrest Procedures and Treatment While in Detention**

Under the law authorities are required to inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours, but in practice several days and sometimes weeks or months elapsed before detained persons appeared before a magistrate. A magistrate could authorize bail or continued pretrial detention for up to three months or longer. There were restrictions on bail for security detainees, as judges needed approval from the Attorney General's Office to authorize bail for persons detained under the PTA. In practice judges normally did not grant bail in PTA-related cases. Police do not need an arrest warrant for certain offenses, such as murder, theft, robbery, and rape. In the case of murder, the magistrate is required to remand the suspect, and only the High Court can grant bail. In all cases suspects have the right to legal representation; however, there is no legal provision specifically protecting the right of a suspect to demand legal representation during interrogations in police stations and detention centers. There were credible reports that detainees often did not have a lawyer present at the time of interrogation. Counsel is provided for indigent defendants in criminal cases before the High Court and courts of appeal, but not in other cases.

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 defense secretary. The defense secretary extended some detentions beyond one year under the PTA.

An unidentified inmate at Anuradhapura Prison told the media that he witnessed prison guards shooting at prisoners protesting prison conditions January 24. The guards killed one person and injured 24 others, according to hospital authorities.

Arbitrary Arrest: NGOs and individuals complained that the armed forces and their paramilitary allies detained suspected LTTE sympathizers and did not surrender them to the police, blurring the line between arrests and abductions.

Credible reports alleged that security forces and paramilitaries sometimes tortured and killed those arrested rather than follow legal safeguards, although this appeared to diminish after the end of the war.

Pretrial Detention: The judicial process moved slowly, and more than half of those in prison either were awaiting or undergoing trial. More than 1,000 prisoners awaiting trial had spent over two years in remand. Trial delays often were caused by lengthy legal procedures, large numbers of detainees, judicial inefficiency, and corruption. Legal advocacy groups asserted that it was common for the length of detention to equal or exceed the sentence for the alleged crime. On July 9, a group of prisoners detained for years without trial in Vavuniya Prison began a hunger strike, demanding that their cases be brought before a court.

Those under administrative detention did not enjoy the same rights as those awaiting trials. For example, lawyers were required to apply for permission from the TID to meet clients detained at the Boosa Detention Centre and were not able to meet detainees without police presence. Pretrial detainees did not have the right to legal counsel during questioning by the police.

Persons convicted and undergoing appeal did not receive credit towards their original sentence for time served in prison while the appeal continued. Appeals often took several years to resolve.

Amnesty: The president granted amnesty to a number of prisoners throughout the year, sometimes for national holidays or other occasions. For example, on February 4, the president granted amnesty to 1,669 inmates convicted of minor offenses.

#### **e. Denial of Fair Public Trial**

Following the September 2010 passage of the 18th amendment, executive influence over the judiciary significantly increased. The 18th Amendment repealed the 17th Amendment and eliminated the Constitutional Council, a multiparty body created to name members of independent judicial, police, human rights, and other commissions. In place of the Constitutional Council, the 18th Amendment established the Parliamentary Council, which submits nonbinding advice on appointments to the president, who has sole authority to make direct appointments to the commissions. The president also directly appoints judges to the Supreme Court, High Court, and courts of appeal.

There were trials during the year where the outcomes appeared predetermined. For example, on November 18, a Colombo High Court found former army commander and opposition presidential candidate Sarath Fonseka guilty of spreading the “white flag” rumor, which “could arouse communal feelings,” under the now lapsed Emergency Regulations and sentenced him to three years’ imprisonment. There

was widespread recognition that the trial was politically motivated (see Political Prisoners and Detainees section below for more information on the Fonseka case).

There was no procedure in place to address the legal status of former LTTE combatants held in rehabilitation centers. Lawyers who defended human rights cases sometimes were under physical and verbal threats.

### **Trial Procedures**

Defendants are presumed innocent. In criminal cases juries try defendants in public. Defendants are informed of the charges and evidence against them, and they have the right to counsel and the right to appeal. There are no formal procedures for ensuring how quickly arrested persons may contact family or a lawyer; in practice they are allowed to make calls on their mobile phones to such persons. 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. Private legal aid organizations assisted some defendants. Juries were not used in cases brought under the PTA, but defendants in such cases had the right to appeal. Defendants had the right to confront witnesses against them, present witnesses and evidence, and access government-held evidence, such as police evidence.

Confessions obtained by coercive means, including torture, are inadmissible in criminal courts, except in PTA cases. Defendants bear the burden of proof, however, to show that their confessions were obtained by coercion.

The law requires court proceedings and other legislation to be available in English, Sinhala, and Tamil. In practice most courts outside of Jaffna and the northern parts of the country conducted business in English or Sinhala. A shortage of court-appointed interpreters restricted the ability of Tamil-speaking defendants to receive a fair hearing in many locations, but trials and hearings in the north were in Tamil and English. Few legal textbooks existed in Tamil.

### **Political Prisoners and Detainees**

During the year the government detained and imprisoned a number of persons for political reasons. The government permitted access to such persons on a regular basis by international humanitarian organizations.

Most prominent among political prisoners was the main opposition candidate in the 2010 presidential election, former army commander Sarath Fonseka. The military detained Fonseka in February 2010, and he remained in detention. The accusations made against Fonseka after he initially was detained were vague, with suggestions by government officials that he had been plotting a coup. After more than a month, formal charges were brought under two courts-martial on corruption in military procurement and violating military regulations by engaging in politics as a serving military officer. Fonseka later was charged in civil court under the PTA for allegedly fomenting civil unrest by making statements in 2009 to the press about Defense Secretary Gotabhaya Rajapaksa's alleged order that surrendering LTTE cadres be shot (the "white flag" incident). Fonseka denied making these claims.

In August 2010 the two courts-martial found Fonseka guilty of the corruption charges and of engaging in politics while in the military and sentenced him to 30 months in prison. He also was stripped of his rank and pension and his parliamentary seat; in addition, all references to Fonseka on military plaques, etc., were ordered expunged. On November 18, the Colombo High Court found Fonseka guilty of spreading the "white flag" rumor and sentenced him to three years' imprisonment, to be served after the completion of the courts martial sentence. Fonseka's appeal against the courts martial sentence was dismissed by the Court of Appeal December 16. The court found that Fonseka failed to prove his charges that the members of the second court martial were biased.

A number of human rights organizations accused Fonseka of being involved in a wide range of human rights abuses during the war, including extrajudicial killings, disappearances, and indiscriminate firing on civilians in the war zone. Nevertheless, many independent observers concluded that Fonseka was detained, prosecuted, and sentenced for political reasons, because of the initial lack of clarity in the allegations against him, the fact that no formal charges were brought against him for more than a month after his detention, the selective way in which laws ultimately were applied (some progovernment military officers spoke publicly in favor of the president during the campaign and were not charged or punished similarly), and the disproportionate nature of the sentences in the courts martial, which appeared to be designed to humiliate Fonseka.

Authorities arrested 22 other individuals involved with Fonseka's campaign, most in connection with the allegations of a coup attempt. By November 2010, however, all 22 were released from detention with no charges pending, leaving only Fonseka in prison.



There were other cases in which persons were detained for what appeared to be simply their opposition to the government and its top leaders. For example, on May 26, military police arrested seven JVP members for putting up posters critical of the government.

### **Civil Judicial Procedures and Remedies**

Citizens were allowed to file fundamental rights cases to seek redress of human rights violations. The judiciary exhibited some independence and impartiality in adjudicating these types of cases, and plaintiffs were awarded damages in a number of instances. Observers cited bureaucratic inefficiencies in this system, leading to delays in the resolution of many cases. Where damages were awarded, there were relatively few problems in enforcing the court orders.

### **Property Restitution**

The military seized significant amounts of land during the war to create security buffer zones around military bases and other high-value targets, which the government called high security zones (HSZs). The declaration of HSZs displaced large numbers of persons, particularly in the Jaffna Peninsula, who did not receive restitution for their lands. A degree of progress was made in reducing the size of the HSZs during the year, with some lands being demilitarized. Many of those affected by the HSZs continued to complain, however, that the pace of these returns was too slow and that the government was holding back on the return of lands it might see as economically valuable. The government cited the need to conduct careful demining prior to the handover of these lands, but questions persisted about whether land cleared of mines was always returned immediately to its original owners. Although there was no legal framework for HSZs following the lapse of Emergency Regulations on August 31, they still existed and remained off-limits to civilians.

Residents of an area of Sampur Special Economic Zone, which partly overlapped with an HSZ, were denied access to 2,795 acres of land demarcated for a coal power project. On October 21, Economic Development Minister Basil Rajapaksa declared in parliament that residents would be allowed to resettle into the area once land acquisition for the project was complete. He added that the government would pay compensation for the lands to be acquired, although residents had not received compensation at year's end.

On November 9, parliament passed the “Revival of Underperforming Enterprises and Underutilized Assets” bill, which empowered the government to take over the assets of 37 firms. The bill had been printed and presented to parliament one day earlier, on November 8, providing little time for debate in parliament or in public on the bill. Although most of the companies targeted were defunct, several were operating, including the profitable Sevenagala Sugar Industries owned by Daya Gamage, a prominent member of the opposition United National Party. In presenting the budget to parliament in November, President Rajapaksa identified 91,420 acres of tea plantation land the government was considering taking over under the Underutilized Assets law.

The LLRC report acknowledged that some HSZs had been reduced, but it noted that a large number of persons continued to be displaced. The LLRC recommended that all families who had lost lands and/or houses due to formal HSZs, or to other informal ad hoc security related needs, be given alternate land and/or compensation paid according to applicable laws.

#### **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. Security forces conducted searches of property and engaged in wiretapping and surveillance of private citizens with little judicial oversight. Seizure of private lands by various actors remained a problem across the country.

Land ownership disputes between private individuals in former war zones also escalated during the year, as many former residents began returning to areas they had left many years before. Multiple displacements occurred in the northern and eastern areas over the many years of war, and land often changed hands several times. Documentation of land claims was difficult for a number of reasons. Many persons who had been displaced multiple times were not able to preserve original land deeds as they moved and some official government land records were damaged or destroyed during intense fighting between government and LTTE troops. On July 29, the Ministry of Land and Land Development issued a circular establishing a process to collect and adjudicate land claims in the north and east. NGO observers questioned the effectiveness of the framework proposed due to its lack of substantive criteria for how cases should be adjudicated, its complex claim form, and its reliance on decision-making bodies composed of government and military officials with no training and, at best, a limited background in land adjudication.

The Court of Appeal suspended implementation of the circular November 9 for reconsideration, and it was scheduled to hear the case again in January 2012.

There were reports of government-aided resettlement of Sinhala families from the south into traditionally Tamil areas. For example, the military helped move 165 Sinhala families into the village of Kokkachchaankulam in Vavuniya, and these families were issued land permits. There also were reports that the government had taken measures to resettle Sinhala families on Tamil lands in Batticaloa District, including 170 families in Kevuilyamadu and 230 families in Kachchakkodi Chuvaamimalai. Tamil members of parliament raised concerns about such resettlements in parliament, alleging a process of “Sinhalization” had begun in the north and east.

On December 7, the government withdrew an amendment to the Town and Country Planning Ordinance that would have broadened the power of authorities to acquire private lands, including within municipal and urban areas, for economic, social, historical, environmental, and religious purposes. The amendment’s stated goal was to promote and regulate integrated planning and development for infrastructure. The government withdrew the bill following a Supreme Court determination that the legislation could not be enacted without the approval of provincial councils.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

#### **Status of Freedom of Speech and Press**

The law provides for freedom of speech, including for members of the press, but the government did not respect these rights in practice. Government officials criticized, pressured, harassed, and arrested members of the media, and most journalists practiced self-censorship.

The LLRC report stated that it was “deeply disturbed by persistent reports concerning attacks on journalists and media institutions and killing of journalists and the fact that these incidents remained to be conclusively investigated and perpetrators brought to justice...[a]ny failure to investigate and prosecute offenders would undermine the process of reconciliation and the [r]ule of [l]aw.” The LLRC recommended steps be taken to prevent harassment and attacks on media personnel and institutions and priority be given to investigate and prosecute those responsible for such incidents.

Freedom of Speech: The constitution protects the right to free speech. However, it is subject to a host of restrictions including public morality and national security. The government attempted to impede criticism through the year, including through harassment, intimidation, violence, and imprisonment. The government monitored political meetings, particularly in the north and east. There also were credible reports that civilian and military officials questioned local residents and groups who met with foreign diplomats regarding the content of their meetings.

Freedom of Press: The government owned one of the country's largest newspaper chains, two major television stations, and a radio station. However, 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. However, the government restricted the construction of transmission towers in the north. It built a new tower in the Vanni but blocked private stations from building towers.

Violence and Harassment: National and international media freedom organizations and journalists' associations expressed concern over restrictions on media freedom and were sharply critical of the government's role in harassing and intimidating journalists.

Senior government officials repeatedly accused critical journalists of treason and often pressured editors and publishers to print stories that portrayed the government in a positive light. This pressure reportedly was exerted sometimes directly through threats and intimidation. For example, international media reported that President Rajapaksa personally telephoned the chairman of *The Sunday Leader*, Lal Wickrematunge, on July 19, about an article reporting that China had given money to the president and his son to be used "at their discretion." Approximately 100 posters with the words "Do not lie!" and "The gods will punish you" appeared on the walls of the newspaper's headquarters.

Although no journalist was reported killed or abducted during the year, frequent threats, harassment, and attacks on media personnel continued. Statements by government and military officials contributed to an environment in which journalists who published articles critical of the government felt under threat.

At an event in Katunayake on November 20, Public Relations and Public Affairs Minister Mervyn Silva stated that there were "lowly so-called journalists who insult important persons" and that they should book coffins for themselves.

In a September 1 telephone conversation, UPFA southern provincial council member Aruna Gunaratne threatened to kill *Daily Mirror* Matara correspondent Krishan Jeewaka Jayaruk if he published a story about Gunaratne. Jayaruk recorded the conversation and filed a complaint regarding the death threat with the Matara police.

On July 29, unidentified men attacked news editor Gnanasundaram Kuhanathan of the Jaffna-based *Uthayan* newspaper with iron rods. On August 15, police arrested two suspects, including one described as a “major underworld figure,” although some expressed doubts about the suspects. The case was filed in the Jaffna Magistrate’s Court, and at year’s end the Attorney General’s Office was considering filing charges against the suspects. *Uthayan* came under attack repeatedly in past years, and several of its journalists were killed.

On January 31, unknown perpetrators firebombed the premises of pro-opposition news Web site *Lanka-e-news*. While numerous observers implicated government agents in the attack, state media suggested that the staff of *Lanka-e-news* was responsible. Authorities arrested *Lanka-e-news* editor Bennet Rupasinghe and journalist Shantha Wijesooriya and subsequently released them in the following months, and a magistrate’s court suspended *Lanka-e-news* operations from April 28 to May 12 because of a contempt case pending against Wijesooriya.

There was no progress in the investigation of the July 2010 arson attack on the Siyatha television premises.

Censorship or Content Restrictions: Police, under the authority of the Ministry of Defense, reportedly maintained a special unit to monitor and control all references in the media to members of the Rajapaksa family. Official pressure reportedly was exerted sometimes through orders to government and private firms to cease advertising in critical newspapers. While media could operate freely, independent and opposition media practiced self-censorship. Media freedom suffered from severe government pressure throughout the island, and most journalists practiced self-censorship, particularly on the issues of accountability and criticism of government officials.

A popular Sinhala language political satire, *And Company*, which portrayed the government as a company, received threats early in the year. The producer and main actor were threatened by a group in a white van and subsequently removed the character Chinthana (representing President Rajapaksa) from the program.

Libel Laws/National Security: In 2009 the government officially reactivated the Press Council Act of 1973. This act, which includes power to impose punitive measures including fines and lengthy prison terms, proscribes the publishing of articles that discuss internal communications of the government, decisions of the cabinet, matters relating to the military that could affect national security, and details of economic policy that could lead to artificial shortages or speculative price increases.

Nongovernmental Impact: Progovernment paramilitary groups/gangs inhibited freedom of expression, particularly in the north. Members of the EPDP allegedly were involved in harassment and attacks on journalists, including the July 29 attack on *Uthayan's* Kuhanathan.

### **Internet Freedom**

The government restricted access to the Internet, including Web sites it deemed pornographic as well as Web sites it deemed critical of the government. There were suspicions that the government was behind the blocking of Internet access to several Tamil news Web sites, including the pro-LTTE TamilNet. On October 18, major Sri Lankan telecom companies Sri Lanka Telecoms and Mobitel blocked access to lankaenews.com, a sensationalist news Web site critical of the government. On June 20, the government temporarily blocked citizen journalism site groundviews.org; groundviews' Sinhala partner site, vikalpa.org; Transparency International Sri Lanka's Web site; and news aggregator infolanka.com. Some observers believed the one-day shutdown to be a warning to the sites. On November 5, the Ministry of Mass Media and Information announced that it requires all Web sites carrying Sri Lankan news to register. It based its action on "complaints" about material published by certain Web sites that were "injurious to the image of the country, the head of the state, ministers, senior public officials, and other important persons." The ministry began blocking sites carrying news critical of the government. Of the five sites blocked, four remained blocked at year's end.

### **Academic Freedom and Cultural Events**

There were allegations that university officials, in many cases from the ranks of academia, prevented professors from criticizing government officials. Some academics noted that the environment of intimidation led to self-censorship. There also were concerns of military encroachment into universities. For example, on September 22, a group of academics issued a statement protesting a decision by the

Higher Education Ministry to hand over the security of universities to Rakna Arakshaka Lanka Ltd, a government-owned commercial security venture established under the Ministry of Defense and under the direct supervision of the defense secretary. Observers also expressed concerns regarding a mandatory week-long leadership training program held in army camps around the country for students who qualified to enter universities. The training program began May 23 and was conducted by the military under the supervision of university authorities. On June 3, the Supreme Court rejected without trial five petitions that requested the annulment of the leadership training program.

On October 16, in Jaffna an unidentified group assaulted Jaffna University Students' Association leader Subramaniyam Thavapalasingham with iron rods. The attackers reportedly asked him whether he wanted a separate state. Another student, Rajavarothayan Kavirajan, who had protested against the assault of Thavapalasingham, was allegedly attacked by a military intelligence unit in Kilinochchi October 24. He was seriously injured and admitted to the Intensive Care Unit of the Jaffna Teaching Hospital. At year's end the investigation into the attack had identified no suspects.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The law provides for freedom of assembly, but the government did not respect this right in practice, and some restrictions existed. The government required that army representatives be present at public assemblies in the north. There were a number of cases in which security forces restricted participation in demonstrations. On December 10, police detained a group of 42 human rights defenders and political activists from the south in Jaffna and prevented them from attending a protest to mark International Human Rights Day. Police reportedly responded with excessive force to violent protests in Dambulla and Bandarawela following a December 12 government regulation to make plastic crates compulsory when transporting vegetables and fruits.

On August 22, police arrested 102 protesters demonstrating against a series of attacks on women by "grease devils," elusive figures who reportedly greased themselves to avoid capture and, for several months during the year, assaulted and robbed victims, predominantly in the north and east. Police assaulted many of those arrested following an attack on an army detachment in which two military vehicles were damaged. Army officials dropped the charges against those arrested. On

September 27, the Supreme Court supported a fundamental rights case filed by petitioners who were arrested during these reprisals. The hearing date was scheduled for February 2012.

There were informal barriers to assembly on a number of occasions. For example, on June 23, a large military contingent obstructed a demonstration in Kilinochchi in support of missing persons.

In the weeks leading up to the July 23 local council elections, the Tamil National Alliance (TNA) filed four complaints with the election commissioner against security personnel who threatened candidates and detained persons to prevent them from attending election meetings. On June 16, approximately 50 army personnel assaulted TNA MPs and their supporters at the first local government election campaign meeting held by the TNA near Jaffna. While the military commander in Jaffna initially expressed regret over the incident, an official inquiry claimed that the incident was the result of a clash between the army and the ministerial security division personnel protecting the TNA MPs. The government did not take further action on the case by year's end.

### **Freedom of Association**

The law provides for freedom of association, but the government did not always respect this right in practice. Some restrictions existed, such as those under the Emergency Regulations before their lapse. The government often used informants to target individuals for arrests and interrogation based on their association.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/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." In practice, however, the government restricted this right on multiple occasions.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations;



however, it restricted access to the north by NGOs and some international organizations, requiring them to obtain authorization for projects and access from the Presidential Task Force. While the UN and its organizations were given fairly effective access, other international NGOs had difficulty operating projects they saw as needed. There were reports in November that the military was asking for project reports from humanitarian agencies in Kilinochchi and Batticaloa, despite an earlier agreement that the agencies would interface only with the civilian administration.

In-country Movement: The government restricted in-country movement through widespread police and military checkpoints in the north and east, which made it difficult for many to travel even short distances, particularly at night. The number of such checkpoints in Jaffna, however, appeared to decline during the year. The number of temporary checkpoints, as well as formal, stationary checkpoints, in Colombo also appeared to decline from the previous year.

On July 13, the government lifted the requirement for foreign passport holders to obtain Ministry of Defense clearance for travel to the north. The government continued security checks on movements in all directions north of a key junction near Medawachiya, although there were fewer than during and immediately after the war.

Limited access continued near military bases and the HSZs where civilians could not enter. The HSZs extended in an approximately 2.5-mile radius from the fences of most military camps and restricted access to those trying to earn their livelihood, unfairly affecting Tamil agricultural lands, particularly in the Northern Province.

Exile: The government did not expel citizens from one part of the country to another, nor did it forcibly exile any citizens abroad, but it allowed citizens to leave the country under self-exile unless they were accused of breaking the law. More than a dozen journalists, having received physical threats, were in self-exile due to safety fears.

### **Internally Displaced Persons (IDPs)**

The country had a significant population of IDPs. Almost all IDPs were ethnically Tamil, although approximately 80,000 of the total displaced population were Tamil-speaking Muslims displaced by the LTTE in 1990. The government made steady progress by year's end in resettling all but approximately 7,000 of the 288,000 IDPs who were displaced in the last year of the conflict. Many in this group of IDPs

were from areas in the Mullaitivu District, which remained heavily mined due to intense conflict during the final stages of the war and were unlikely to be opened to returnees for years.

In addition to this group of newer IDPs, there were an estimated 157,000 displaced Tamils displaced prior to the last major offensive by the military in 2008. It was unclear at year's end how or when they might return to their places of origin, or whether some would prefer to settle permanently at their current location after being displaced for many years. Some returns of pre-2008 IDPs occurred throughout the year.

Among the long-term displaced were approximately 73,000 Muslims evicted from Jaffna, Kilinochchi, Mullaitivu, Mannar, and Vavuniya in 1990 by the LTTE, many of whom spent nearly 20 years in IDP camps in and around Puttalam. Many of these IDPs wanted to stay in Puttalam, where they had spent much of their lives and which was more developed and nearer to Colombo than their families' districts of origin. A significant number of Muslim IDPs who had returned to Mannar reportedly had gone back to Puttalam after a short period.

While all IDPs had full freedom of movement, some who were able to return to their home districts were nevertheless unable to move back onto their own property due to uncleared land mines, restrictions that designated their home areas as HSZs, lack of documents to verify land ownership, and other war-related destruction. Living conditions for these persons were often difficult.

On November 24, approximately 230 IDPs were moved from Menik Farm, where the remaining 7,000 persons displaced in the last year of the war were camped, to a newly constructed transit camp in Kompavil, nearer to their original homes. The resettlement was part of a plan announced by the government August 3 to close Menik Farm and relocate IDPs living there to Kompavil. It remained unclear at year's end whether IDPs resettled in Kompavil would be allowed to return to their areas of origin after demining was completed or whether they would permanently be relocated to Kompavil. Observers and international donors expressed concern that the resettlement disregarded protocols regarding internal displacement. Specifically, the plan might force IDPs to move, and the government did not inform IDPs of their options or give them a choice of destination.

Coordination between the army, local government agents, and humanitarian agencies on resettling IDPs improved compared to the prior two years. Improvements largely stemmed from decreased numbers coming out of IDP camps

and improved cooperation on the ground between the army, UNHCR, and Government Agent Office functionaries charged with registration of IDPs returning to their areas of origin.

### **Protection of Refugees**

Access to Asylum: The country's laws do not provide for the granting of asylum or refugee status, and the government does not have 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 on account of their race, religion, nationality, membership in a particular social group, or political opinion.

### **Stateless Persons**

According to the UNHCR, the country does not have habitual residents who are legally or de facto stateless. Citizenship is obtained by birth within the territory of the country and from a child's parents if born to citizen parents overseas.

The 2003 Grant of Citizenship to Persons of Indian Origin Act recognized the nationality of previously stateless persons, particularly hill-country Tamils. The government passed laws in 2009 to grant citizenship to hill-country Tamils living among other Sri Lankan ethnic Tamils in refugee camps in India's Tamil Nadu, but progress on finding and registering these persons and granting them citizenship was slow. By December 2010 approximately 20,000 hill-country Tamils in the country lacked identity cards and citizenship documents, compared with 30,000 at the beginning of 2009 and 70,000 in 2008. Those lacking identity cards were at higher risk of arbitrary arrest and detention, but there were no reports of such incidents during the year.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

### **Elections and Political Participation**

Recent Elections: The president, who was reelected in January 2010 for a second six-year term, holds executive power, while the 225-member parliament, elected in April 2010, exercises legislative power. The government is dominated by the president's family; two of the president's brothers hold key executive branch posts, as defense secretary and minister of economic development, while a third brother is the speaker of parliament. A large number of other relatives, including the president's son, also serve in important political or diplomatic positions. Independent observers generally characterized the 2010 presidential and parliamentary elections as problematic. Both elections were fraught with violations of the election law by all major parties and were influenced by the governing coalition's massive use of state resources. Elections had not been held for the Northern Provincial Council since the Northern Province was separated from the Eastern Province in January 2007, and the Northern Province remained centrally governed at the end of the year. The president stated that the elections would be held in 2012.

The government held staggered local council elections during the year, which independent observers characterized as fraught with election law violations by all major parties and during which the governing coalition used state resources to sway the voters.

Political Parties: Political parties largely were free to operate, organize, stand for elections, seek votes, and name candidates as they wished. Trusted ruling party stalwarts allegedly received favoritism for high-ranking government and business positions (see section 4).

On October 8, during local council elections, a convoy of ruling Sri Lanka Freedom Party (SLFP) MP Duminda Silva clashed with a convoy of Baratha Lakshman Premachandra, a former SLFP MP and presidential adviser on trade union affairs. Four persons, including Premachandra, were killed by gunfire, while Silva was seriously injured and hospitalized. Several suspects were arrested in relation to the incident, including two who fled to India. The CID, which investigated the case, refused to list Silva, a protege of Defense Secretary Gotabhaya Rajapaksa, as a suspect in the murder case. On November 1, Silva left for Singapore for medical treatment without any hindrance from the law enforcement authorities or a court order authorizing his transfer. On November 16, a Colombo magistrate's court ordered the CID to arrest Silva and produce him in court. He remained abroad at the end of the year.

Participation of Women and Minorities: There were no laws that prevented women or minorities from participating in political life on the same basis as men or nonminority citizens. Some cultural and social barriers to women participation included the gun culture in politics and financial constraints. There was no provision for, or allocation of, a set number or percentage of political party positions for women or minorities.

#### **Section 4. Official Corruption and Government Transparency**

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

The Commission to Investigate Allegations of Bribery or Corruption was recommissioned in May following the expiration of the terms of the commissioners in March 2010. The commission does not have powers to initiate corruption investigations and must await a formal complaint before investigating reports of corruption, which members of the public were reluctant to put forward because of a lack of whistleblower protections. The commission has yielded only five prosecutions (three acquittals and two convictions). No high-ranking official or politician has ever been prosecuted for corruption or abuse of power while serving in office.

Corruption and general mismanagement were common in many state institutions and state-owned companies. Nepotism and cronyism continued to be a concern, and trusted ruling-party stalwarts allegedly received favoritism for high-ranking government and business positions. Corruption watchdogs claimed that corruption reached the highest levels of government. For example, a July 17 news article alleged that China gave the president \$9 million as a grant in March to use “at his discretion.” According to the article, China also made a substantial payment in June 2010 to the president’s son, Namal Rajapaksa.

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.

Although MPs are asked to complete financial disclosure reports upon their election, there was no follow-up to ensure compliance, and little or no reporting ultimately was done.

There is no law providing for public access to government information. An opposition-proposed Right to Information bill was defeated June 21 by the government majority in parliament. The government and its supporters explained defeat of the bill as defense of national security, but many opposition politicians and commentators argued the government did not want to expose corruption.

### **Section 5. 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 government restrictions and physical threats to their work. The government often criticized local NGOs critical of government actions, failed to respond to requests for assistance, and put pressure on those that sought such assistance. The NGO Secretariat was moved from the Social Services Ministry to the Ministry of Defense in June 2010 and remained under the Ministry of Defense at the end of the year. Several NGOs noted a lack of clarity in Ministry of Defense procedures and enforcement of regulations.

The government remained apprehensive of NGO activities in certain areas of advocacy. It particularly scrutinized organizations critical of the government on issues such as governance, transparency, and human rights.

NGOs that proposed undertaking projects in northern and eastern areas to address such matters as psychosocial counseling, good governance training for local citizens, and legal aid often had difficulty obtaining government work permits. Government officials sometimes made generic criticisms of local NGOs that accepted funding from international sources.

International personnel of NGOs often had trouble getting visa renewals to continue working in the country. For example, the Non-Violent Peace Force, an NGO with international and domestic staff, which provided protection to civil society activists and others under threat, was forced to close down operations December 31 after the government systematically refused visas to the international staff.

UN and Other International Bodies: The government continued to refuse the request by the UN's Office of the High Commissioner for Human Rights for an expanded mission and an independent presence in the country.

In June 2010 UN Secretary General (SYG) Ban Ki-moon appointed a three-member panel of experts to advise him on "the implementation of the commitment on human rights accountability" made in the joint statement issued by President Rajapaksa and the SYG during the latter's visit in May 2009. According to the UN, the panel was to look into the "modalities, applicable international standards, and comparative experience with regard to accountability processes," taking into account the nature and scope of any alleged violations. The panel was to complete its work in four months, but the SYG extended the mandate until March 3. Although the panel of experts intended to visit the country and meet with the LLRC and other officials with accountability roles, the UN and the government were unable to come to agreement on the modalities of the visit.

The report, which the panel of experts provided to the SYG on April 12, and through him to the government, stated that there were credible allegations of serious human rights violations by the government, including large-scale shelling of "No Fire Zones," systematic shelling of hospitals and other civilian targets, and summary execution, rape, and torture of those in the conflict zone. The report also highlighted a number of credible allegations against the LTTE, including using civilians as a strategic buffer, forced labor (including children), and summary executions of civilians attempting to flee the conflict zone. Including victims on both sides, the report estimated that there could have been as many as 40,000 civilian deaths. The report also describes the government's LLRC as "a potentially useful opportunity to begin a national dialogue on Sri Lanka's conflict" but as "deeply flawed" and not meeting international standards for an effective accountability mechanism. The LLRC Report had not been published during the course of the panel's work.

The panel of experts' report recommended, among other steps, that the government immediately begin genuine investigations into alleged violations of international law committed by both sides in the conflict, and that the government issue a public, formal acknowledgment of its role in and responsibility for extensive civilian casualties during the final stages of the war. The report also recommended that the SYG immediately establish an independent mechanism to monitor and assess the extent to which the government was carrying out an effective domestic accountability process, as well as independently to investigate credible allegations,

and to collect and safeguard information relevant to accountability for the final stages of the war.

On April 25, the UN made public the panel of experts' report and urged the government to respond constructively to its recommendations, which included the establishment of an international investigation mechanism. The government had opposed strongly an international investigatory commission and did not respond formally to the report; officials strongly criticized the report's findings.

The ICRC closed its Jaffna offices in February and its Vavuniya offices in March at the request of the government. The government denied the ICRC access to former LTTE combatants held in rehabilitation centers (see section 1.d.), and the ICRC was unable to fulfill its protection mandate. It was nonetheless able to conduct a number of its functions, including prison visits and other monitoring from Colombo.

Government Human Rights Bodies: The Human Rights Commission of Sri Lanka (HRCSL) held its first session as constituted under the 18th Amendment on February 22. It has jurisdiction to inquire into human rights violations. If an allegation were established, the HRCSL could make a recommendation for financial compensation to the victim and/or refer the case for disciplinary action or to the attorney general for prosecution. If an HRCSL order were not followed, a summons could be sent to both parties for explanation. If the parties continued in noncompliance, the HRCSL could report the case to the Supreme Court as a matter of contempt, a punishable offense. The Investigation and Inquiry division of the HRCSL recorded 3,116 complaints by the end of September, 664 of which did not fall within the mandate of the commission.

By statute the HRCSL 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 HRCSL rarely used its powers, and there were reports of a large backlog of cases with virtually no action by the commission during the year. In its concluding recommendations, the CAT noted its concerns "about the difficulties the HRCSL has had in carrying out its function owing in part to the lack of cooperation from other State party institutions, limited human and financial resources, which has reduced its ability to investigate specific incidents and make recommendations for redress, and failure to publish the reports of its investigations." Rather than taking an investigative approach to determining the facts and details of human rights cases, the HRCSL took a more tribunal-like approach, weighing only the evidence brought to it in deciding whether to pursue a



case. Observers expressed concerns with the HRCSL's lack of independence and transparency, particularly with the passage of the 18th Amendment, which granted greater power to the president to oversee HRCSL appointments. In 2007 the International Coordinating Committee of National Human Rights Institutions downgraded the HRCSL to observer status, citing government interference in its work. The committee upheld its decision in a 2009 review, asserting that the HRCSL was not in compliance with the Paris Principles relating to National Human Rights Institutions.

In May 2010 the government established the LLRC, a presidential commission mandated to inquire into the breakdown of the cease-fire with the LTTE and report on lessons learned. An eight-member panel of commissioners, including one Tamil and one Muslim, was appointed to collect information and take testimony and present a report to the president. International observers criticized the country's lack of witness protection, the limited scope of the LLRC--which did not have an explicit mandate to investigate alleged war crimes--and the alleged bias of its chairman, C.R. de Silva, who they believed was responsible in part for the failure of a previous commission of inquiry. The UN panel of experts' report described the LLRC as "a potentially useful opportunity" to begin a national dialogue on the country's conflict but added that it was "deeply flawed" and did not meet international standards for an effective accountability mechanism. Following two six-month mandate extensions, the LLRC handed its report to the president November 20.

On December 16, the LLRC report was tabled in parliament and posted on a government Web site. The government did not make the report available in Sinhala or Tamil in its entirety. The report made observations and recommendations for government action on issues related to the breakdown of the ceasefire agreement, security forces operations during the final stages of the war, international humanitarian law, human rights, land, restitution, and reconciliation. It acknowledged important grievances that contributed to the war, and many international and civil society groups found the report made important recommendations for government action to address serious political, cultural, social, and human rights concerns in the country. Some such recommendations included calling on the government to: phase out security forces from civilian affairs and activities; delink the police department from institution dealing with the armed forces; investigate and hold accountable those responsible for abductions, disappearances, and attacks on journalists; implement recommendations of past domestic commissions of inquiry; disarm and prosecute illegally armed groups; provide better access to detainees; ensure the right of information; implement the

official trilingual policy; depoliticize the process to collect and adjudicate land claims; devolve power to local government institutions; and enact legislation to criminalize enforced or involuntary disappearances.

Many international and national observers stated that the LLRC did not adequately address accountability for alleged war crimes committed by the government and the LTTE during the final months of the conflict. The LLRC report acknowledged that hospitals were shelled and that there were considerable civilian casualties during the final stage of the conflict and recommended investigations into “possible implications of the security forces” in specific instances of civilian death or injury. Prominent international NGOs, however, stated that the LLRC report exonerated the government of any wrongdoing. They noted that the report found no systematic government wrongdoing on issues such as the “white flag” incident of the alleged killing of surrendering LTTE fighters, extensive shelling of No Fire Zones, systematic shelling of hospitals, and the withholding of humanitarian supplies from civilians entrapped by the LTTE. The report also limited its analysis of the Channel 4’s “Sri Lanka’s Killing Fields,” which contains video footage of purported Sri Lankan soldiers executing bound prisoners and making lewd comments while mishandling partially clothed female bodies, to a technical discussion of the video’s authenticity (see section 1.a.).

The cabinet approved the National Action Plan for the Protection and Promotion of Human Rights (NAPHR) on December 14. The five-year plan was developed per the government’s May 2008 pledge under the Universal Periodic Review to draft a human rights action plan. The NAPHR presents recommendations in eight areas: civil and political rights; economic, social, and cultural rights; prevention of torture; rights of women; labor rights; rights of migrant workers; rights of children; and rights of IDPs. It also provides timelines and assigns stakeholder ministries to implement the recommendations. The plan presents a number of specific and practical recommendations, including legislation ensuring the right to information, punitive measures against officers found by the HRCSL to be guilty of torture, and a substantive criminal offense on disappearances. Civil society activists criticized its recommendations and timelines as unrealistic for not taking into account financial or resource constraints and said many of their contributions were excluded from the final version of the plan.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally respected these rights in practice;

however, there were instances where gender and ethnic-based discrimination occurred.

## **Women**

Rape and Domestic Violence: The law prohibits rape and domestic violence, but it was not enforced effectively. Sexual assault, rape, and spousal abuse were pervasive societal 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 legally separated. Domestic violence was thought to be widespread, although discussion of the problem was not common.

While in theory the law could address some of the problems of sexual assault, many women's organizations believed that greater sensitization of police and the judiciary was necessary to see progress in combating these crimes. The Bureau for the Prevention of Abuse of Women & Children (BPWC) within the police conducted awareness programs in schools and at the grassroots level, prompting women to file complaints. The police also established women's bureaus in police stations throughout the year. The BPWC held awareness programs for males in state and private organizations and awareness programs targeted at passenger transport personnel.

According to the police, 1,636 incidents of rape were reported during the first 11 months of the year, but reported incidences were unreliable indicators of the degree of this problem, as most victims were unwilling to file reports. Police officials reported an increase in statutory rape cases compared with previous years, and girls between the ages of 13-16 were particularly vulnerable. There were rape cases where victims dropped charges due to pressures on them or their families. For example, the Colombo High Court discharged UPFA MP Duminda Silva from rape charges March 24 after the victim's attorney told the court that the victim was suffering from depression because of the incident and did not want to take part in further legal proceedings.

Services to assist victims of rape and domestic violence, such as crisis centers, legal aid, and counseling, were generally scarce due to a lack of funding.

Sexual Harassment: Sexual harassment is a criminal offense carrying a maximum sentence of five years in prison. Some observers acknowledged sexual harassment

to be widespread. As with domestic violence, discussion of the problem was not common.

Human rights groups in northern districts alleged that widows of men who were killed as a result of the conflict often became victims of prostitution because of their economic vulnerability.

Sex Tourism: During the year the National Child Protection Authority (NCPA) issued a warning of an increase in child sexual exploitation due to the rapid growth of tourist arrivals. The government's tourist police and NCPA conducted island-wide awareness programs focusing on children, travel guides, and the coastal community close to tourist destinations. There were limited reports of child sex tourism in isolated areas during the year.

Reproductive Rights: Couples and individuals were free to decide the number, spacing, and timing of their children. An estimated 40 percent of the population used modern contraceptives, and skilled attendance during childbirth was estimated at approximately 97 percent of births. According to 2008 UN estimates, the maternal mortality rate in the country was 39 deaths per 100,000 live births. Women appeared to be equally diagnosed and treated for sexually transmitted infections.

Discrimination: 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 had equal rights under 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 government drafted a National Action Plan for Women designed to address women's rights that was under review at the end of the year and was expected to be approved in 2012.

## **Children**

Birth Registration: Citizenship is obtained by birth within the territory of the country and from a child's parents if born to citizen parents overseas. Births were registered immediately, and failure to register resulted in denial of some public services, such as education.

Child Abuse: 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 way contrary to compulsory education regulations. It also defines child abuse to include the involvement of children in war. The BPWC conducted investigations into crimes against children and women. The penalties for sexual assault of children range from five to 20 years' imprisonment and an unspecified fine.

NGOs attributed the problem of exploitation of children to the lack of enforcement, rather than inadequate legislation. The NCPA received more than 7,000 reports of child abuse in the first 10 months of the year. Most of the complaints were reported on the NCPA's national telephone hotline to report child abuse and included children being sexually abused or molested by their parents, guardians, or people known to the victims.

Sexual Exploitation of 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 age 18, 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' imprisonment.

The NCPA estimated in 2009 that approximately 1,000 children were subjected to commercial sexual exploitation, although some NGOs believed the actual number was higher. There was little solid data to elucidate these reports, and the problem of child sexual tourism was much less prevalent than approximately 10 years ago, although there were regular reports of underage girls involved in prostitution. 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 NCPA ran an undercover operation in the southern coastal region to identify sexual tourism perpetrators and victims. As a preventive measure, the NCPA also implemented an awareness program conducted at all schools.

Displaced Children: Children in the IDP camps and resettled areas were exposed to the same difficult conditions as adult IDPs and returnees in these areas. Many school facilities were in poor condition and lacked basic supplies. Medical care in these areas was limited, but improvements continued throughout the year.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

The Jewish population remained very small, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The law forbids discrimination against any person with physical, sensory, intellectual, or mental disabilities; however, in practice discrimination occurred in employment, education, and provision of state services. On April 27, the Supreme Court reinforced a 2009 directive that steps be taken to provide easy access for persons with disabilities to public buildings, but there was little progress by year's end. There were regulations on accessibility, but in practice accommodation for access to buildings for persons with disabilities was rare. On May 11, the government appointed a consultant on accessibility in health sector buildings to implement these regulations more effectively.

The government took steps to support participation by persons with disabilities in civic affairs. For example, on July 10, the Election Department announced a provision for a disabled person to be accompanied by another when voting in elections.

Persons with disabilities faced difficulties due to negative attitudes and societal discrimination. In some rural areas the belief of many residents that physical and mental disabilities were contagious led to long-term isolation of such persons, who in some cases rarely or never left their homes.

### **National/Racial/Ethnic Minorities**

Both local and Indian-origin Tamils maintained that they suffered long-standing, systematic discrimination in university education, government employment, and other matters controlled by the government. On February 22, TNA parliamentarians filed a fundamental rights violation petition complaining of purported forced registration of residents in the predominantly Tamil Jaffna and Kilinochchi districts. On March 3, the Supreme Court terminated the proceedings after the attorney general informed the court that the army would stop the registrations. Nevertheless, reports continued throughout the year of army registrations in the north. Tamils throughout the country, but especially in the north and east, reported frequent harassment of young and middle-age Tamil men by security forces and paramilitary groups.

### **Indigenous People**

The country's indigenous people, known as Veddas, by some estimates numbered fewer than 1,000. Some preferred to maintain their traditional way of life and were nominally protected by the law. There were no legal restrictions on their participation in political or economic life. However, the 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. Government officials announced plans in August to build approximately 500 houses for Veddas according to the specifications of their community to protect their identity and culture, and construction was in progress at year's end.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

The law criminalizes homosexual activity, but it was not enforced. Some NGOs working on LGBT problems did not register with the government. The CID visited a gay-rights organization called Companions of a Journey October 10 and 12 and reportedly searched its offices, questioned the staff present, and took some information of clients. Police reportedly assaulted, harassed, and extorted money or sexual favors from LGBT persons (see section 1.c.).

There were LGBT organizations, and several events were held throughout the year, including an LGBT pride festival week in July. In addition to pressure, harassment, and assaults by police, there remained significant societal pressure against members and organizations of the LGBT community. There were no legal safeguards to

prevent discrimination based on sexual orientation or gender identity. There were reports that persons undergoing gender reassignment procedures had difficulty in amending government documents to reflect those changes.

### **Other Societal Violence or Discrimination**

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

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law allows workers to form and join unions of their choice without previous authorization, with the exception of members of the armed forces, police officers, judicial officers, and prison officers, who may not unionize. The law provides for the right to conduct legal strikes for workers in nonessential services and for the right to collective bargaining, except for workers in public service unions. Seven workers may form a union, adopt a charter, elect leaders, and publicize their views; however, a union must represent 40 percent of workers at a given enterprise before the employer legally is obligated to bargain with it. By law public sector unions are not allowed to form federations or represent workers from more than one branch or department of government, although the law generally was not enforced.

The law provides all workers, other than police, armed forces, prison service, and those in essential services, with the right to strike. The president has broad discretion to declare sectors “essential,” which may include “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.” The International Trade Union Confederation (ITUC) stated that in the past the government misused its power to declare an industry “of public utility” to make strikes illegal. No sectors or services were declared essential services during the year. The law prohibits retribution against strikers in nonessential sectors.

All collective bargaining agreements must be registered with the Ministry of Labor. Collective agreements generally lasted for three years.



Antiunion discrimination was prohibited by law and violations could result in a fine of 20,000 rupees (\$176). On September 6, parliament passed a regulation to increase the fine to 100,000 rupees (\$878). Employers found guilty of antiunion discrimination are required by law to reinstate workers fired for union activities but could transfer them to different locations. Domestic workers in third-party homes and informal sector workers were not covered by the country's labor laws. While the law allows unions to conduct their activities without interference, in practice the government enforced the law unevenly. The Labor Ministry worked to improve the process for union registration during the year, although administrative delays continued.

Freedom of association and the right to collective bargaining were often, but not always, respected in practice. Numerous unions were active in the country, although it was difficult for some to organize in private factories. Unions represented workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions. The Employers' Federation of Ceylon, the apex employers association in Sri Lanka, assisted its member companies in negotiating with unions and signing collective bargaining agreements. Approximately one quarter of the more than 525 members of the Employers' Federation of Ceylon were unionized. Some of them (including a number of foreign-owned firms) were bound by collective agreements or had signed memorandums of understanding with trade unions. Most public sector employees belonged to unions. In practice the right of association was impeded by the management of individual factories.

Union activists and officials remained subject to harassment, intimidation, and other retaliatory practices. There were reports that employers arbitrarily transferred union members, and there were numerous reports of unfair dismissals of union members.

While some unions in the public sector were politically independent, most large unions were affiliated with political parties and played a prominent role in the political process. The Labor Ministry was authorized to cancel a union's registration if the union failed to submit an annual report for three years.

Only the Labor Ministry has standing to pursue an unfair labor practice case, including for antiunion discrimination. Since 1999 the ministry has filed three cases against companies for unfair labor practices under the Industrial Disputes Act. The courts dismissed one case due to insufficient evidence, one case was unsuccessful, and the last continued at year's end. Citing routine government inaction on alleged violations of labor rights, some unions continued to press for

standing to sue, while others did not want that ability, citing the cost of filing cases. Workers brought some labor violations to court under various other labor laws, such as the Wages Board or Employees Provident Fund Acts. Several employers were under investigation under these statutes.

Unions alleged that employers often indefinitely delayed recognition of unions for collective bargaining. The ITUC and the International Labor Organization (ILO) reported that employers used these delays to postpone or prevent the formation of a union, decrease support for unionization, and identify, terminate, and sometimes assault or threaten union activists. To address these concerns, the ministry issued a circular March 1 that requires labor commissioners to hold union certification elections within 30 working days if there is no objection and within 45 working days if there is an objection. No union elections were held under the new labor circular by year's end.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibited all forms of forced or compulsory labor and the government effectively enforced such laws. There were reports that in practice children were subjected to debt bondage in dry-zone farming areas, on plantations, and to a lesser extent in the fireworks and fish-drying industries. Debt bondage reportedly occurred in the agriculture, mining, and rope-making sectors. In many of those cases, parents incurred a debt and then sent their children to work in order to repay the loan (see section 7.c.). Situations similar to forced labor occurred in the employment of children ages 14 to 18 and women working as domestic workers in some third-party homes as they worked as live-in workers, and there are no specific regulations governing their employment, wages, or work hours. Labor ministry inspections do not extend to domestic workers.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. 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 technical training. In March the government issued regulations prohibiting the employment of persons under the age of 18 in 51 types of work considered to be hazardous. The law limits the work hours of 14- and 15-year-olds to nine hours per day, and those of 16- and 17-year-olds to 10 hours per day. The government

published a plan in June 2010 for the elimination of the worst forms of child labor by 2016. This plan was developed with assistance from workers' representatives, the ILO, and UNICEF. The Labor Ministry made some progress on the plan during the year. For example, it held a training program for labor officials and three programs for law enforcement officers. The ministry also held an awareness raising program for social partners in five districts.

The NCPA was the central agency for coordinating and monitoring the protection of children, with the specific mandate to enforce laws on all forms of child abuse. The Ministry of Labor has the specific mandate to enforce laws on child labor and hazardous child labor. The Department of Probation and Child Care Services, and the police, which operated a specially designated Children's and Women's Bureau to enforce child labor laws, are also responsible for the enforcement of child labor laws. From January to December, the Labor Ministry carried out 237 inspections of child labor situations and found 13 cases of child labor violations. Agencies charged with child labor law enforcement, including the Labor Ministry, noted lack of adequate resources.

The largest sector for child labor, both legal and illegal, was agriculture, where children under 18 were employed both in plantations and in nonplantation agriculture during harvest periods. In addition to agriculture, the majority of working children worked as street vendors; domestic helpers; and in mining, construction, manufacturing, and transport. Children engaged in dangerous work in the tile, fishing, construction, and mining industries. Children displaced by the war were more vulnerable to being employed in hazardous labor.

Sources indicated that many thousands of children between 14 and 18 were employed in domestic service in urban households. Child domestic workers reportedly were subjected to physical, sexual, and emotional abuse, and there were also reports of rural children in debt bondage in urban households. Child employment was also common in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

While there was no national minimum wage, 43 wage boards established by the Ministry of Labor's Relations and Manpower Office set minimum wages and

working conditions by sector and industry in consultation with unions and employers. The minimum monthly wage in the areas of the private sector covered by wage boards was 6,900 rupees (\$61) plus an extra allowance of 1,000 rupees (\$9), for a total of 7,900 rupees (\$70). The minimum wage in the public sector is 18,166 rupees (\$160). Workers in sectors not covered by wage boards, including informal sector workers, were not covered by any minimum wage laws. The official estimate of the poverty income level was 3,028 (\$26.60) per person per month, although the validity of this was questioned by some analysts.

The law prohibits most full-time workers from regularly working more than 45 hours per week (a five-and-a-half-day workweek). In addition the law stipulates a rest period of one hour per day. Regulations limit the maximum overtime hours to 15 per week. Overtime pay is 1.5 times the wage and is paid for work done on either Sundays or holidays. The law provides for paid annual holidays and limits overtime work.

The government set occupational health and safety standards. However, health and safety regulations did not fully meet international standards. Workers have the right to remove themselves from dangerous situations, but many were unaware of such rights or feared that they would lose their jobs if they did so. The Labor Ministry's efforts to enforce occupational safety and health standards were inadequate. There was a need to improve occupation health and safety in the rapidly growing construction sector, including on infrastructure development projects such as port, airport, and road construction projects.

Labor Ministry inspectors checked whether employers were providing complete pay to employees and were contributing to pension funds as required by law, but unions questioned whether the inspections were effective. The ministry's Labor Inspectorate consisted of 618 officers. The punishment for nonpayment of wages and pension contributions is negligible, ranging from 100 rupees (88 cents) to 250 rupees (\$2.20) for the first offense and 500 rupees (\$4.40) to 1,000 rupees (\$8.80) and/or a jail term of 6 months for the third offense. A fine of 50 rupees (44 cents) per day is charged if the offense continues after conviction. The labor inspectors did not monitor wages or working conditions for informal sector workers.