

# **SRI LANKA 2012 HUMAN RIGHTS REPORT**

## **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, parliamentary, and local elections as problematic. Elections were fraught with violations of the election law by all major parties and were influenced by the governing coalition's use of state resources. Civilian authorities maintained effective control over the security forces.

The major human rights problems were 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, creating an environment of fear and self-censorship; involuntary disappearances as well as a lack of accountability for thousands who disappeared in previous years; and widespread impunity for a broad range of human rights abuses, particularly involving police torture, and attacks on media institutions and the judiciary.

Other serious human rights problems included unlawful killings by security forces and government-allied paramilitary groups, often in predominantly Tamil areas; torture and abuse of detainees by police and security forces; poor prison conditions; and arbitrary arrest and detention by authorities. Lengthy pretrial detention was a problem. Denial of fair public trial remained a problem, and during the year there were coordinated moves by the government to undermine the independence of the judiciary. The government infringed on citizens' privacy rights. There were restrictions on freedom of speech, press, assembly, association, and movement. While citizens generally were able to travel almost anywhere in the island, there continued to be police and military checkpoints in the north, and de facto 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 exercised authority under the 18th amendment to maintain control of appointments to previously independent public institutions that oversee the judiciary, police, and human rights. 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 that ended in 2009.

During the year unknown actors suspected of association with progovernment paramilitary groups committed killings, kidnappings, 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 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 reports of suspects detained by police or other security forces who died under questionable circumstances. For example, on April 15, police arrested Chandraisiri Dassanayake, a main witness in a human rights violation case against the Wadduwa Police, for possession of marijuana. He later died in a cell in the Wadduwa police station. In response, the inspector general of police transferred several officers from the Wadduwa station, including the officer in charge, to other police stations.

While the overall number of extrajudicial killings appeared to decrease from previous years, killings and assaults on civilians by government officials was a problem. For example, on February 29, Waligapola ruling party local councilor Sabha Wasantha fatally beat Amila Pradeep Kumar. On March 12, Wasantha surrendered to the Rathnapura police. The case continued at year's end.

In December 2011 chairman of Tangalle village council Sampath Chandra Pushpa Vidanapathirana and several in his group killed UK citizen and International Committee of the Red Cross (ICRC) worker Khuram Shaikh Zaman while he was on holiday at a resort in Tangalle. Zaman's companion, a Russian national, was beaten, stabbed, and raped. She was transported to a local hospital in critical condition. Chandra Pushpa Vidanapathirana killed an elderly woman in Thalunna in the period preceding the 2010 presidential elections and was released on grounds that police found him mentally ill. He was released on bail and on July 29 was reinstated into the governing party.

While some killings were criminal acts, others appeared to be politically motivated, targeting persons believed to be critical of the government. For example, on June 15, a group of men killed two supporters of the opposition party Janatha Vimukthi Peramuna (JVP) at a campaign meeting in Katuwana. The group of men opened fire on the meeting, killing Edirimannage Malani and Nimantha Heshan and injuring more than a dozen others. Eyewitnesses identified some of the gunmen, including Geeganage Amarasiri, an alleged underworld figure with ties to the local government. On June 19, Amarasiri surrendered to the Tangalla High Court, which released Amarasiri on bail. Amarasiri remained in remand, and his case continued at the end of the year.

Although the number of killings associated with progovernment paramilitary groups declined from previous years, there were persistent reports that the Eelam People's Democratic Party (EPDP), led by Minister of Social Services and Social Welfare Douglas Devananda, engaged in intimidation, extortion, corruption, and violence against civilians in Jaffna. For example, on March 4, EPDP member Kanthasuwamy Jagadeswaran sexually abused and killed 13-year-old Jesudasan Lakshini. On March 16, the Kayts Magistrate Court remanded Jagadeswaran to Jaffna Prison.

On March 14, police arrested ruling Sri Lanka Freedom Party (SLFP) local government member L. H. Dharmasiri for the rape and murder in February of Nayana Nilimini and her daughter Kavindya. Authorities removed Dharmasiri from his position as secretary to the minister of state administration and home affairs for his involvement. Dharmasiri remained in remand at year's end.

Unknown actors suspected of association with progovernment paramilitary groups committed killings and assaulted civilians. There were persistent reports of close ties between progovernment paramilitary groups such as the Eelam People's

Democratic Party (EPDP) and government security forces. Whereas these groups served more of a military function during the war, often working in coordination with security forces, they increasingly took on the characteristics of criminal gangs as they sought to solidify their territory and revenue sources in the postwar environment.

Britain's Channel 4 broadcast a report in 2009 on events at the end of the civil war, followed by a more extensive documentary made available on the Internet June 2011 entitled "Sri Lanka's Killing Fields," which purported to show graphic evidence of army forces committing human rights violations, including footage of extrajudicial executions. Controversy subsequently arose over the authenticity of the video. On January 2, Army Commander Jayasuriya appointed a five-member "initial fact-finding inquiry" named the Court of Inquiry (COI) to inquire into observations made by the Lessons Learned and Reconciliation Commission (LLRC) on civilian casualties in the final stages of the war. The COI also would probe the Channel 4 video footage. The government's National Action Plan to Implement the Recommendations of the Lessons Learnt and Reconciliation Commission, released July 26, assigned the Ministry of Defense and Presidential Secretariat a time frame of six months to examine the authenticity of the allegations in the Channel 4 video and take follow-up action as appropriate. On November 1, the former attorney general and legal advisor to the Cabinet of Ministers, Mohan Peiris, told the UNHRC in Geneva during Sri Lanka's Universal Periodic Review (UPR) that the army COI held 50 sittings to probe allegations of human rights abuses, to include those raised in the Channel 4 video, and recorded statements from 30 witnesses. There were no conclusions published by the COI at year's end.

On November 9, prisoners rioted at Welikada prison during a search by the police Special Task Force (STF) for illegal arms and drugs in the prison. The prisoners reportedly broke into the prison armory, and a gunfight broke out between prisoners and the STF. Twenty-seven prisoners were killed and more than 40 people were injured, including prisoners, STF personnel, prison guards, and others. Human rights groups and opposition politicians alleged that some of the dead prisoners had been executed. Separate investigations by Minister of Rehabilitation and Prison Reforms Chandrasiri Gajadeera and by Prisons Commissioner General P.W.Kodippili found that overcrowding of prisons, easy access to narcotics, and resistance by prisoners to the STF search operations were the main reasons for the riot. A three-member committee commissioned by Gajadeera was due to hand over a final report on the incident on December 10, but it was granted a two-month

extension by the government to conduct further investigations into available evidence.

On June 28, LTTE detainees took three prison officials at the Vavuniya Prison hostage when the police tried to escort a detainee from the prison under a court order. A combined police and Special Task Force operation rescued the three hostages a day later. Several prison guards and 26 inmates were injured during the siege. Civil rights activists alleged prison authorities assaulted inmates during and after the siege. Prisoner Ganesan Nimalaruban died on July 4 while receiving treatment at the Ragama Hospital. Another detainee, Mariadas Navis Dilrukshan, died on August 8 following several weeks in a coma.

### **b. Disappearance**

Enforced and involuntary disappearances continued to be a problem. Citizen journalism Web site *Groundviews* tallied 57 disappearances reported in the English-language press between January 1 and July 9. In a July 26 statement on its Web site, the Ministry of Defense denied that soldiers were behind any abductions and stated that only 18 disappearances alleged by *Groundviews* were missing, most of them in crime-related incidents.

A notable abduction included a February 11 incident in Colombo in which armed men abducted Tamil businessman Ramasamy Prabhakaran two days before a fundamental rights case that he had filed against police was due to be heard. Prabhakaran had been released from prison in September 2011 after two years in detention without charges. He was challenging his arbitrary detention and abuse while in custody and claimed to have received threats asking him to withdraw the case. There was no further information about the case and his whereabouts at year's end.

Some abductions included government critics, former LTTE cadre, and other targets, leading observers to conclude the involvement of the government or government-allied forces in several cases. For example, on April 7, Premakumar Gunaratnam, a founder of the opposition Frontline Socialist Party (FSP), and a colleague of his were abducted two days before the scheduled launch of the FSP. Premakumar reappeared April 10 and claimed that security forces abducted and abused him. The government publically claimed Gunaratnam voluntarily surrendered to Colombo Crimes Division on April 10 because he had overstayed his visa. The government alleged it did not know Gunaratnam was in the country

because he had entered Sri Lanka from Australia, where he also holds citizenship, under a different name. No case had been filed at year's end.

There was no progress in solving the December 2011 disappearances of Lalith Kumar Weeraraj and Kugan Muruganandan, two activists from the dissident section of the JVP. 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.

In its annual report released February 6, the UN Working Group on Enforced and Involuntary Disappearances noted 5,671 outstanding cases from Sri Lanka at the end of 2011. The ICRC annual report for 2011, released on June 25, noted that ICRC Sri Lanka was handling 15,780 tracing (including missing) cases as of December 2011. This caseload of persons who remain unaccounted for included the cases reported to the ICRC since 1990. The ICRC received 1,382 new cases, including 369 cases involving minors, during 2011. Of the total caseload, the ICRC was able to trace 136 people.

There was no significant progress made with regard to the thousands of disappearances from past years. The government did not publish the results of any investigations into disappearances, nor did it publish information on any investigations, indictments, or convictions of anyone involved in cases related to disappearances.

There was no 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. In November 2011 Mohan Peiris, 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. In his June 5 testimony before the Homagama Magistrate Court, Peiris stated his claim at the CAT was based on hearsay, and he had no knowledge about whether Ekneligoda was alive. The next hearing in Ekneligoda's case was scheduled for January 2013.

UNICEF's Family Tracing Unit recorded 2,431 tracing requests since its establishment in 2009. Of the requests, 748 were related to children and 1,683 concerned adults. Approximately 150 of the children later were matched with children's names found in hospital and other records and referred to the Probation and Child Care Commissioner for tracing, verification, and reunification.

According to UNICEF data, 57 percent of the children were recruited by the LTTE prior to the children's disappearances. During the year UNICEF worked with probation departments in Jaffna, Kilinochchi, Mullaitivu, Mannar, and Batticaloa to integrate family tracing units into their departments.

### **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' and not more than 10 years' imprisonment. However, there were credible reports that police and security forces tortured and abused citizens. The Prevention of Terrorism Act (PTA) allows for confessions from torture to be admitted as evidence.

Members of law enforcement beat and otherwise abused criminal suspects and others. For example, on January 26, the Kurunegala High Court convicted the former Polpithigama Police Officer in Charge W.E. Wijeratne under the Torture Act and sentenced him to two years' rigorous imprisonment. The court also ordered him to pay compensation to Sujith Priyantha for arresting and torturing him in 2003 after the then seven-year-old stole from a shop. In another example, on July 14, police beat Dilshan Suran Janz allegedly because he refused to withdraw an earlier complaint of police brutality.

In the east and the north, military intelligence and other security personnel, sometimes allegedly working with paramilitaries, were responsible for the documented and undocumented detention of civilians suspected of LTTE connections. Detention reportedly was followed by interrogation that sometimes included mistreatment or 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 claimed 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. Police endorsed incorporating a full human rights curriculum and lesson plan developed by UN Office of the High Commissioner for Human Rights into police training curriculum during the year.

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. Some observers suggested that there was reluctance by victims to report such incidents in northern and eastern areas where security forces were prevalent.

There were 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 due to fear of retaliation.

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

Prison conditions were poor and did not meet international standards due to overcrowding and the lack of sanitary facilities.

Physical Conditions: 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. Prisoners and detainees had access to potable water. Authorities acknowledged poor prison conditions but noted a lack of space and resources as determining factors.

Administration: The law mandates that magistrates visit prisons once a month to monitor conditions and hold private interviews with prisoners. In practice this rarely occurred because the backlog of cases in courts made it difficult for magistrates to make prison visits. 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.

Monitoring: International organizations were not allowed access to regular and remand prisons for a significant portion of the year. The government permitted independent human rights observers and the ICRC to visit Terrorist Investigation Division detention facilities. The government stated that detention facilities operated by military intelligence did not exist.

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

The law prohibits arbitrary arrest and detention; however, in practice such incidents frequently occurred. There were numerous reports throughout the year of victims randomly selected by police to be arrested and detained on unsubstantiated charges. For example, on June 16 in Bandaragama, police reportedly assaulted and arbitrarily arrested Abasinghegedara Palamakumbur and coerced him to sign documents incriminating two individuals involving a theft.

Under the arrest and detention standards imposed by the PTA, the law does not clearly define what constitutes an arbitrary arrest. The PTA allows sweeping power of search, arrest, and detention. It allows for detainees to be held for up to 18 months. Many detainees continued to be held arbitrarily for prolonged periods without charge, including in irregular places of detention. According to human rights groups, an unknown number of detainees were believed to be held in police stations, the Criminal Investigation Department, the Terrorist Investigation Division, army camps, or other informal detention facilities on suspicion of involvement in terrorism-related activities. Many of these detainees allegedly 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 11,000 were rehabilitated and released and approximately 600 remained in rehabilitation centers. Of the 700 hardcore former combatants considered by authorities to be potentially criminal liable, many were transferred to the criminal justice system during the year, while a smaller number were transferred from detention facilities to rehabilitation centers during the year for rehabilitation and release. 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 defense secretary (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. The Civil Defense Force (CDF) (formerly known as the Home Guard) is an auxiliary force to police designed to help keep law and order without increasing police or military presence in politically sensitive areas. During the year the Ministry of Defense added 800 CDF personnel, primarily Tamils, from the north and east. The National Police Commission was reinstated February 16 to receive and investigate complaints from the public against the police. It had been inactive since 2009 due to a failure to appoint new commission members. The Police Commission received approximately 500 complaints from February to October.

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. A batch of 245 new Tamil recruits reported to training on October 1, approximately 80 percent of whom were from the north. On October 15, police confirmed that, including the October 1 group, there were 318 Tamil recruits in training and 1,177 Tamil officers sworn in and deployed in communities.

Widespread impunity persisted, particularly for cases of police torture, corruption, human rights abuses, and attacks on media institutions. For example, the courts did not order an arrest warrant for ruling Sri Lanka Freedom Party (SLFP) Member of Parliament Duminda Silva, after a violent incident, stating that police had not asked for such a warrant. In October 2011 Silva, a protege of Defense Secretary Gotabhaya Rajapaksa, and a number of his supporters clashed with Baratha Lakshman Premachandra, a former SLFP MP and presidential adviser on trade union affairs. Four persons including Premachandra were killed in the conflict, a personal and political dispute, while Silva was seriously injured and hospitalized. Police arrested several suspects, including two who fled to India. In November 2011 a Colombo magistrate's court ordered the Criminal Investigative Division (CID) to arrest Silva and produce him in court. The case continued at year's end, and the next hearing was scheduled for January 2013. Silva remained in Singapore

for medical treatment at the end of the year without any hindrance from the law enforcement authorities or a court order authorizing his transfer.

The government also consistently failed to solve attacks on journalists, such as the 2009 killing of *Sunday Leader* editor Lasantha Wickrematunge, the 2010 abduction of Prageeth Ekneligoda, and the July 2011 attack on *Uthayan* news editor Gnanasundaram Kuhanathan. The failure of police to apprehend the perpetrators in such cases further 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 COIs commissioned by the army and navy to look into such allegations continued (see section 1.a.) at year's end, although human rights organizations expressed concern that the COIs were not independent bodies and questioned whether military investigative mechanisms could credibly investigate allegations raised against the military.

The government did not conduct any further inquiries into the high-profile cases investigated by the 2006 Presidential Commission of Inquiry, including the 2006 killing of 17 local staff of the French NGO Action Against Hunger (ACF) in Muttur. International cease-fire monitor the Sri Lanka Monitoring Mission (SLMM) released a statement following the killing of the ACF workers that concluded "there cannot be any other armed groups than the security forces who could actually have been behind the act." The COI was disbanded in 2009 without issuing a public report. There were reports that the commission had blamed the 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.

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

By 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 since 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.

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.

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 in excess of 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.

Between May 17 and May 24, 200 inmates from prisons in Colombo, Kalutara, and Vavuniya undertook a hunger strike demanding that authorities either initiate legal action against them or release them from jail. The prisoners called off the hunger strike after authorities promised to establish three new high courts to accelerate the cases of suspected LTTE prisoners. The Justice Ministry completed initial work to establish the high courts, but their work to process cases was delayed due to the insufficient number of high court judges. As of October the Justice Ministry had taken steps to amend the Judicature Act to increase the number of high court judges to 95 from the present 75.

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 on national holidays or other occasions. For example, on February 4, the president granted amnesty to 1,400 inmates convicted of minor offenses to mark the 64th anniversary of independence.

On May 21, the president granted imprisoned former army commander and opposition presidential candidate Sarath Fonseka remission of sentences for prior convictions.

### **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 coordinated moves during the year by the government to undermine the independence of the judiciary.

On October 7, four unidentified men attacked High Court Judge and Secretary of the Judicial Service Commission Manjula Tilakaratne. Tilakaratne had said publicly in September that he and his family were under threat due to a September 18 statement he issued stating that the executive branch was interfering with the Judiciary Services Commission. On October 8 and 9, judges and lawyers boycotted courts, and hundreds of lawyers demonstrated in Colombo to protest the attack on Tilakaratne and the diminishing independence of the judiciary. At year's end there were no arrests made for the attack.

On November 13, Gabriela Knaul, the UN special rapporteur on the independence of judges and lawyers, expressed serious concerns about reported intimidation and attacks against judges and judicial officers in the country, and she warned that they

might form part of a pattern of attacks, threats reprisals, and interference in the independence of the justice system. Knaul reiterated her concerns in a December 31 press release.

On October 31, the Supreme Court made a decision critical of the Divineguma bill, which sought to concentrate power in the central government at the expense of provincial councils. The government reportedly organized public demonstrations where people were transported at public expenditure to criticize the Supreme Court determination. Several state media outlets also carried programs critical of the judiciary.

The next day, parliament initiated impeachment proceedings against Supreme Court Chief Justice Shirani Bandaranayake. The impeachment motion, filed by the ruling party and lodged in parliament on November 6, contained 14 charges ranging from undeclared assets to violating constitutional provisions. A parliamentary select committee (PSC) was formed to investigate the charges. The impeachment proceeded in disregard of basic principles of due process. The 11-member PSC considering the case was composed of a clear majority of government members who had already expressed their belief in the chief justice's guilt. The committee denied the chief justice sufficient time and information to prepare her defense, even refusing her access to documents and evidence used by the panel members. The chief justice reportedly was verbally abused by government members of the committee. After informing the chief justice that the panel had no plans to call witnesses to give oral evidence, the committee did just that, summoning witnesses to testify immediately after the chief justice and her lawyers quit the hearings in protest at the lack of due process. The committee's report, which found the chief justice guilty on three charges, was completed within 24 hours after concluding its hearings.

The PSC decided to hear evidence on five of the 14 original charges. Bandaranayake was found guilty of three charges: misconduct, financial impropriety based on non declaration of assets, and conflict of interest in a Bribery Commission case involving her husband. Bandaranayake challenged the findings of the PSC on December 21 in the Court of Appeal. On December 21, the Appeal Court notified the parliament speaker and parliamentary select committee members to appear before it on January 3, 2013, and halted impeachment proceedings until the court concludes its hearings.

The impeachment proceedings followed government complaints that Bandaranayake had overstepped her authority in her determination on the

Divineguma bill. The government asserted the impeachment proceeded according to the constitution. Local civil society groups, religious organizations, human rights watchers, and judicial and law organizations such as the Bar Association of Sri Lanka (BASL) criticized the impeachment and characterized it as a politically motivated effort to further curb the independence of the judiciary and consolidate the president's power.

During a December 15 meeting, the BASL passed a resolution that said that it would refrain from officially welcoming any new chief justice appointed on the basis of a vacancy created by "wrongful impeachment." The government subsequently withdrew sponsorship for an annual judges conference scheduled to be held by the Judicial Service Association (JSA) on December 21 and 22.

On July 17, Industry and Commerce Minister Rishad Bathiudeen threatened Mannar District Court Judge and Magistrate Anthony Pillai Judeson after the judge ordered the arrest of a group of supporters of the minister over a July 13 arson attack of fishery houses belonging to local Tamil fishermen. The minister reportedly demanded that the judge change the ruling. The judge did not change the ruling, and on July 18, a group of Bathiudeen's supporters set fire to a section of the courthouse. The case against Bathiudeen and 42 other suspects continued at year's end, and Bathiudeen was scheduled to appear in court in June 2013 in connection with charges of threatening the magistrate.

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 judicial cases. In High Court 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 cell 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 are not used in cases brought under the PTA, but defendants in such cases have the right to appeal. Defendants have 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 generally inadmissible, 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 Sarath Fonseka, former army commander and main opposition candidate in the 2010 presidential election. Fonseka was granted bail on May 18 in a criminal case for harboring army deserters and was released from prison May 21 following President Rajapaksa's remission of sentences for prior convictions. In 2011 the Colombo High Court found Fonseka guilty of 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).

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, and the disproportionate nature of the sentences in the courts martial, which appeared to be designed to humiliate Fonseka.

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

Citizens may 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. Civil society and human rights activists also criticized the government for not being transparent about impending land releases and for not gazetting lands that would not be returned to original owners so that they could file for compensation in accordance with domestic legal provisions on acquisition of land. 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 in 2011, they still existed and remained off limits to civilians.

The largest HSZs remained in Jaffna and Trincomalee districts, and other areas restricted by the military remained in place in Mullaitivu, Killinochchi, and Mannar districts. Jaffna District continued to have the largest internally displaced persons (IDP) population displaced by military occupation of land, with an estimated 18,000 individuals reported to be internally displaced within Jaffna. Sixteen full and eight partial village administrative divisions in Jaffna District remained closed to resettlement at the end of the year due to a HSZ in the Tellippalai divisional secretariat division. The majority of land in the HSZ is private land belonging to displaced families. In Trincomalee District, 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. At

year's end almost 4,000 individuals remained displaced from the Sampur HSZ and were unable to return to their homes. Despite past assurances, the government had not offered these individuals compensation for their lands. The government resettled approximately 300 of the Sampur displaced individuals in nearby villages.

The "Revival of Underperforming Enterprises and Underutilized Assets" law permits the government to take over private assets it deems underperforming. The 2011 law resulted in government takeover of 37 firms. 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.

#### **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. There were reports of government-aided resettlement of Sinhala families from the south into traditionally Tamil areas.

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. In July 2011 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. On January 19, the government withdrew the land circular, and a new circular had not been issued.

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

### **a. 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. During the year the government did not make progress on implementing this recommendation, nor did it take concrete steps to protect media freedom as laid out in the government’s National Action Plan.

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 throughout the year, including through harassment, intimidation, violence, and imprisonment. For example, state-run media vilified activists and journalists supportive of the March 22 UN Human Rights Council (UNHRC) resolution on Sri Lanka. State television programs focused on thinly disguised photographs of activists marked as “traitors” and pledged to expose them. 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 with eight channels. 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 broadcast transmission in the north. The government built a new tower in the Vanni but selectively blocked some private stations from using the tower.

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. State-run media led a widespread campaign against human rights defenders, particularly those engaged with UN processes, including the 19th session of the UNHRC beginning in February in Geneva. Press freedom activists and organizations, human rights defenders, and political activists were accused in the media of being part of a conspiracy against the country by bringing the ongoing violations of human rights in the country to the attention of the international community.

Throughout January the state-run Independent Television Network repeatedly broadcast footage of press freedom activists participating in protest campaigns during the September 2011 UNHRC sessions. The broadcasts alleged that the activists were associated with or had sympathy for the LTTE and claimed some were paid by LTTE remnants.

Senior government officials repeatedly accused of treason journalists who had done critical stories about the country and its policies and often pressured editors and publishers to print stories that portrayed the government in a positive light. Such pressure reportedly was exerted sometimes directly through threats and intimidation. For example, Defense Secretary Gotabhaya Rajapaksa reportedly threatened *Sunday Leader* editor Frederica Jansz during a July 6 telephone conversation. Jansz was probing allegations that the country's national airline had switched a plane and pilot to accommodate another pilot and personal friend of the defense secretary. Jansz was relieved of her position as editor following the subsequent purchase of that paper by progovernment business interests. On November 6, the Court of Appeal issued a warrant for Jansz's arrest following her failure to appear in court for a trial regarding articles she wrote and published critical of a former Cricket Board member.

Although no journalist was reported killed or abducted during the year, frequent threats, harassment, detention, and physical 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. On March 23, for example, while addressing a rally against the UNHRC resolution on Sri Lanka, Public Relations and Public Affairs Minister Mervyn Silva threatened to "break the limbs" of some journalists and called them "traitors." He also claimed responsibility for chasing journalist Poddala Jayantha out of the country in 2009.

On November 27, editor of Tamil daily newspaper *Uthayan*, T. Mano Premanath, was assaulted while trying to record a military incursion into Jaffna University. The assailants were allegedly plainclothes army soldiers. He was admitted to the hospital and released the next day with a bruised eye. On November 28, *Uthayan* Managing Director and Tamil National Alliance MP E. Saravanapavan's vehicle windows were smashed with cinder block while he was meeting with Jaffna University students. There were reports that plainclothes military officers damaged his car in full view of the military and police. Military Spokesman Brigadier Ruwan Wanigassoriya denied security forces were involved and suggested students throwing stones may have caused the damage. Jaffna-based *Uthayan* offices came under attack repeatedly in past years, and several of its journalists were killed.

On November 27, the CID detained Sanjeewa Samarasinghe, journalist and media secretary for Democratic National Alliance leader and former army commander Sarath Fonseka. The CID also searched Samarasinghe's residence. The CID questioned him for more than 12 hours and released him the following day. There were no charges filed against Samarasinghe.

There was no legal progress regarding the July 2011 attack on *Uthayan* news editor Gnanasundaram Kuhanathan.

There was no progress in the January 2011 firebombing of 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.

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 regularly exerted through orders to government and private firms to cease advertising in critical newspapers and television stations and advertise in progovernment outlets. Newspapers critical of the government faced difficulty obtaining credit from major banks, all of which the state owns or has interest through pension schemes and other investments. While the 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 matters of accountability,

human rights, and criticism of government officials, particularly in regards to the president and his family.

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. Libel suits were frequently used against politicians and journalists.

On November 22, the Mount Lavinia District Court ordered the Leader Publications and *Sunday Leader* editor to pay Defense Secretary Gotabhaya Rajapaksa Rs. 250 million (almost \$2 million) for defamation. The court determined the *Sunday Leader* published false and malicious articles defaming the defense secretary and issued a permanent injunction preventing further defamation.

Nongovernmental Impact: Progovernment paramilitary groups and gangs affiliated with political parties inhibited freedom of expression, particularly in the north. Members of the EPDP reportedly were involved in harassment and intimidation of journalists in Jaffna.

### **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.

On June 29, the CID raided the offices of independent news Web site *Srilankamirror* and official opposition UNP news Web site *Srilankaxnews*. During the raid CID officers arrested eight journalists for writing negatively about the government and president and for allegedly publishing false information. The CID entered with a warrant under existing laws, including penal code 120, which permits imprisonment for “attempts to excite feelings of disaffection to the President or to the Government...or attempts to raise discontent or disaffection amongst the People of Sri Lanka.” The cases against the journalists were suspended pending further evidence. The CID continued to hold the Web sites’ computers that were seized in November. The Supreme Court was scheduled to hear a fundamental rights case filed by journalists from the *Sri Lanka Mirror* in February 2013.

The government blocked Internet access to several Tamil news Web sites, including the pro-LTTE *TamilNet*. Since 2011 the Ministry of Mass Media and Information has required all Web sites carrying local news to register with the government. The ministry blocked access based on complaints about material published by certain Web sites that was “injurious to the image of the country, the head of the state, ministers, senior public officials, and other important persons.” Thereafter, the ministry blocked five Web sites; four of these remained blocked at the end of the year, with five additional sites also blocked. In addition the government blocked various other news Web sites throughout the year. On May 16, a three-member bench, including the chief justice, dismissed a fundamental rights case filed against the blocking of Web sites.

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

There were allegations that university officials prevented professors from criticizing government officials. Some academics noted that the environment of intimidation led to self-censorship.

There were continued concerns of military encroachment into universities. For example, in September 2011 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 leadership training program held in army camps on December 27 for students who qualified to enter universities.

On November 28, Jaffna University students clashed with security forces during student demonstrations on campus. The students were demonstrating in response to the military’s entry into Jaffna University dormitories a day earlier to discourage commemoration of “Heroes Day,” the unofficial day of remembrance for the LTTE. During the demonstration security forces, including both the police and army, charged at the students with batons and beat some of them. Twenty students were reportedly injured in the clashes, with seven needing hospital treatment.

### **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.

There were informal barriers to assembly on a number of occasions. For example, on January 25, a protest rally by media groups to mark deaths and disappearances of journalists was obstructed by protesters reportedly transported with government support to block the media demonstration. On February 15, police killed fisherman Anthony Fernando and injured several others when police officers tried to disperse a protest staged by the fishermen against a hike in fuel prices. On February 19, the CID arrested a police officer for the killing as well as an assistant superintendent of police who ordered the shots be fired.

On May 10, the Supreme Court granted leave to proceed with petitions filed by 51 Tamils arrested in an August 2011, when police arrested 102 protesters demonstrating against a series of attacks on women. Police assaulted many of those arrested following an attack on an army detachment in which two military vehicles were damaged. The Supreme Court was scheduled to hear the case in March 2013.

### **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 PTA. 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. The UNHCR and NGOs had difficulty operating some projects they saw as needed.

In-country Movement: The government restricted internal movement through police and military checkpoints in the north, 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.

The government continued security checks on movements in all directions north of a key junction in Vavuniya District, although there were fewer checkpoints than during and immediately after the war.

Limited access continued near military bases and the HSZs where civilians could not enter. The defacto 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, 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, remained in self-exile due to safety fears.

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

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 designating their home areas as part of sensitive areas or the HSZs, lack of documents to verify land ownership, and other war-related destruction. Living conditions for these persons were often difficult and substandard.

Coordination among the army, local government agents, and humanitarian agencies on resettling IDPs continued to improve, largely due to decreased numbers coming out of IDP camps and improved cooperation on the ground among the army, the UNHCR, and Government Agent Office officials charged with registration of IDPs returning to their areas of origin.

Between July and September, the final tranche of almost 11,000 Menik Farm IDPs returned to their lands of origin in areas where the war ended in 2009. On September 24, the government relocated remaining IDPs from Menik Farm IDP camp and closed the camp's operations. Of the final group of IDPs relocated from Menik Farm, 110 families were coerced to move to an unprepared relocation site because their lands of origin were occupied by the army. Authorities did not provide the families with a written statement of what would happen to their land, what compensation the government would provide for land seized by the military, and what entitlements they had to land in the relocation site.

Many IDPs resettled in the Mullaitivu District reported the government provided land that had been hastily cleared of land mines and unexploded ordnance, did not have adequate shelter, water and sanitation, health and education services, or provisions to continue their livelihoods. The resettlement process was in some cases dangerously rushed by government authorities. For example, in August more than 60 families were mistakenly allowed to resettle in confirmed hazardous areas laden with mines. Many returnees reported finding unexploded ordnance or land mines on their lands. In one area the UNHCR reported that IDPs returned home to find human remains near their lands. Humanitarian assistance to IDP returnees throughout the Northern Province often was partial or insufficient.

Nearly 100,000 individuals displaced prior to the last major offensive by the military in 2008 remain unable to return to their lands of origin. Among these long-term displaced were approximately 73,000 Muslims that the LTTE evicted from Jaffna, Kilinochchi, Mullaitivu, Mannar, and Vavuniya in 1990. Many of these individuals had spent nearly 20 years in IDP camps in and around Puttalam and 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 minority of the Muslims evicted by the LTTE expressed interest in returning to their homes, but this proved to be logistically challenging. They were evicted within a 48-hour period, and most had no proof of ownership of their long-abandoned homes. Often when they attempted to return to their original homes, they were met with resistance by the current residents.

Also among the long-term displaced were 10,000 individuals displaced by high-security or exclusive economic zones, persons living in welfare centers in the Jaffna area, and others in transit camps in Trincomalee.

### **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.

Asylum space and protection for refugees deteriorated significantly during the year. On June 8, authorities ordered 193 asylum applicants to leave the country within 14 days. Government officials later agreed to withdraw the deportation orders but stated that all remaining refugees and asylum seekers would need to depart by December. The government also objected to each UNHCR registration of new asylum seekers after June. These actions contravened long-established written understandings between the government and the UNHCR.

Refugee Abuse: In May immigration authorities arbitrarily detained 19 refugees and asylum seekers for 10 days and confiscated their travel documents and UNHCR identity cards. Documented refugees and asylum seekers reported increasing harassment and surveillance by law enforcement and security forces, and many were concerned about their families' protection status.

### **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.

## **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, respectively, 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.

On September 8, the government held Provincial Council elections in three of the country's nine provinces: the North Central, Sabaragamuwa, and Eastern provinces. Independent election observers characterized the elections as fraught with election law violations by all major parties, including allegations that the governing coalition used state resources to influence voters.

Elections have not been held for the Northern Provincial Council since the area was separated from the Eastern Province in 2007, leaving the Northern Province centrally governed. The president stated in 2011 that the Northern Province elections would be held in 2012, but the government further delayed elections, announcing they would be held in September 2013. Government explanations for delay included incomplete demining, an inadequate census of eligible voters, and the absence in the province of persons displaced by the war.

Political Parties: Political parties largely were free to operate, organize, contest 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).

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's participation

included financial constraints and the violent nature of local politics, which often is linked through patronage to the drug trade, local thugs, and other nefarious elements. There was no provision for, or allocation of, a set number or percentage of political party positions for women or minorities. There were 13 women in the 225-member parliament, two female ministers, and three women out of 11 justices on the Supreme Court, including Chief Justice Shirani Bandaranayake. There were 27 Tamils and 18 Muslims in the parliament.

#### **Section 4. Corruption and Lack of Transparency in Government**

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.

There was an increase during the year in bribery and corruption complaints against public officials, particularly divisional secretariats, police personnel, and school principals. The Commission to Investigate Allegations of Bribery or Corruption appeared to be more active than previous years in investigating complaints and taking legal action against the accused. For example, in October the commission investigated and produced before the court an officer in charge at the Pulasthigama police station accused of demanding a sexual favor as a bribe. The Colombo Magistrate's Court remanded the suspect on October 16, and the case against him continued at the end of the year.

The bribery commission received 3,163 complaints against government officers during the year, a significant increase in complaints over previous years. Of the 147 investigations into the complaints, there were 95 arrests, and 77 cases remained before the courts at the end of the year. The bribery 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.

Corruption and general mismanagement were common in many state institutions and state-owned companies. On October 24, the bribery commission filed action in the Colombo Magistrate's Court against Pradeepa Kariyawasam, the former chairman of the state-owned National Savings Bank. Kariyawasam allegedly misused his position as a public official to purchase nearly Rs. 394 million (approximately \$3 million) in shares from The Finance Company to manipulate general investment in the fund with the knowledge the bank's investment would lead to a loss of government funds.

Until the controversial 2012 impeachment of Chief Justice Shirani Bandaranayake, no high-ranking official or politician had been prosecuted for corruption or abuse of power while serving in office. Nepotism and cronyism continued to be a concern, and trusted ruling-party stalwarts allegedly received favored consideration for high-ranking government and business positions. Corruption watchdogs claimed that corruption reached the highest levels of government.

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. Parliament defeated a June 2011 opposition-proposed Right to Information bill. 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 2010 and remained under the Ministry of Defense at the end of the year. Several NGOs noted a lack of clarity in defense ministry procedures and enforcement of regulations.

The government and its supporters remained apprehensive of NGO activities in certain areas of advocacy. Government officials criticized in general terms local NGOs that accepted funding from international sources. There was particular scrutiny of organizations critical of the government on issues such as governance, transparency, and human rights. For example, on October 15, posters appeared around Colombo vilifying civil society think tank Centre for Policy Alternatives Director Paikiasothy Saravanamutthu. The think tank had filed fundamental rights petitions against the Divineguma Act in the Supreme Court, which sought to give

the Ministry of Economic Development responsibilities that constitutionally belonged to the provincial councils.

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.

On October 18, Director General of the Media Center for National Security (MCNS) Lakshman Hulugalla announced that new legislation on NGOs was being drafted to strengthen the government's ability to monitor NGO activities and take appropriate action against any irregularities.

NGO international personnel often had trouble renewing their work visas, and the government made it difficult for international staff to get visas to Sri Lanka.

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

From September 14-20, a technical delegation from the OHCHR visited the country. The government had extended an invitation for the high commissioner for human rights to visit in April 2011, and the high commissioner requested the technical delegation visit first to do the groundwork for her visit in 2013. In light of the March 22 UNHCR resolution adopted on Sri Lanka, during its visit the OHCHR delegation also evaluated government progress to implement the LLRC recommendations.

There were eight outstanding requests from Special Procedures Mandate Holders to the government, including: the special rapporteur on independence of judges and lawyers; the independent expert on minority issues; the working group on enforced or involuntary disappearances; the special rapporteur on human rights defenders; the special rapporteur on freedom of expression; the special rapporteur on enforced, summary, or arbitrary executions; the special rapporteur on freedom of association and assembly; and the working group on discrimination against women in law and practice. During the year the government did not facilitate any visits by special procedures mandate holders to Sri Lanka.

In 2011 a panel of experts (POE) appointed by the UN Secretary-General Ban Ki-moon published a report stating 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 recommended that the government immediately investigate 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 a UN secretary-general-established mechanism to assess the efficacy of the government's domestic accountability process. Government officials strongly criticized the report's findings, opposed the report's recommendations, and did not respond formally. At year's end there was no progress on the government's acceptance of the POE's recommendations.

In response to the POE's recommendation for the UN to conduct an internal review evaluating its actions in Sri Lanka in the final months of the war, the UN secretary-general established an internal review panel headed by senior UN official Charles Petrie. The review panel reviewed more than 7,000 documents, interviewed civil society, diplomats, and UN staff, and released its findings on November 15. The review panel's report concluded that the UN system failed to meet its responsibilities at the end of the war to the detriment of hundreds of thousands of civilians. It cited several shortfalls in the UN response, including a lack of expertise at senior levels, a failure to prepare for the humanitarian crisis, poor communication and confused direction, lack of engagement by member states, and a reluctance to anger the government as the UN coordinated assistance. The government dismissed the report and criticized it as biased for drawing on allegations raised in the POE report in arriving at its findings.

The ICRC closed its Jaffna offices in February 2011 and its Vavuniya offices in March 2011 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.

Government Human Rights Bodies: The Human Rights Commission of Sri Lanka (HRCSL) has jurisdiction to inquire into human rights violations. After an allegation is established, the HRCSL may make a recommendation for financial compensation to the victim, refer the case for disciplinary action or to the attorney general for prosecution, or both. If an HRCSL order is not followed, a summons

may be sent to both parties for explanation. If the parties continue in noncompliance, the HRCSL can report the case to the High Court as a matter of contempt, an offense punishable by imprisonment or fine. The Investigation and Inquiry Division of the HRCSL recorded 4,075 complaints by the end of 2011, 1,122 of which did not fall within the mandate of the commission. Statistics for 2012 were not published at the end of the year.

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, 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, 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 grants greater power to the president to oversee HRCSL appointments.

In 2010 the government established the aforementioned Lessons Learned and Reconciliation Commission (LLRC), a presidential commission mandated to inquire into the breakdown of the cease-fire with the LTTE and report on lessons learned. The LLRC handed its report to the president in November 2011, and the report was tabled in parliament in December 2011. On November 14, translations of the report into Sinhala and Tamil were posted on the government’s official Web site.

The LLRC 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. Many international and civil society groups found that the report made important recommendations for government action to address serious political, cultural, social, and human rights concerns. The report called on the government to phase out security forces from civilian affairs and activities; delink the police department from institutions 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 and 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.

On July 26, the government released a national action plan to implement 120 of the 167 recommendations contained in the LLRC report. The plan identifies activities, actors, and time frames for implementation, with time periods up to 36 months. Civil society organizations criticized the plan for its reliance on internal mechanisms for investigations rather than independent bodies and deferral of fundamental issues to a parliamentary select committee that had yet to be established. The government appeared to make the most significant progress during the year on recommendations relating to language issues. There was little if any progress on recommendations relating to issues of international humanitarian law, human rights, and press freedom concerns.

The government has not initiated any independent mechanisms to investigate allegations of human rights and humanitarian law violations during the war’s final stages, and the LLRC action plan rejects establishing independent investigations. Army Commander Jayasuriya on January 2 appointed a five-member “initial fact-finding inquiry” to investigate observations made by the LLRC on civilian casualties in the final stages of the war. A similar court also was convened by the Navy to inquire into relevant allegations. On November 1, former attorney general and legal advisor to the Cabinet of Ministers Mohan Peiris told the UNHRC in Geneva during Sri Lanka’s Universal Periodic Review (UPR) that the army court of inquiry held 50 sittings to probe allegations of human rights abuses and recorded statements from 30 witnesses.

The cabinet approved the National Action Plan for the Protection and Promotion of Human Rights (NAPHR) in December 2011 and appointed a subcommittee to oversee its implementation in February. The five-year plan was developed per the government's May 2008 pledge under the UPR to draft a human rights action plan. There was little progress on implementation.

On November 1, Sri Lanka's UPR occurred in an interactive dialogue at the UNHRC in Geneva. On November 5, the UNHRC adopted the draft outcome report of the working group of Sri Lanka's UPR. Sri Lanka rejected 98 recommendations submitted by countries at its UPR and accepted 111. This constituted one of the largest absolute number of UPR recommendations rejected outright and one of the highest proportion of recommendations rejected. The government deemed unacceptable recommendations regarding right to information legislation, reducing the military's role in civilian affairs in the north, decriminalizing same-sex relationships, criminalizing and punishing enforced disappearances, accepting jurisdiction of the International Criminal Court with respect to crimes against humanity, and an independent investigation into the 2006 killing of 17 humanitarian workers in Mutur, among others. A large number of recommendations were raised a second time in light of the government's nonimplementation over the last four years of its 2008 UPR commitments. The adoption of Sri Lanka's draft UPR outcome report also was characterized by irregularities initiated by the government, including changing the wording of eight recommendations related to implementation of the LLRC recommendations.

## **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 believed 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) established by police conducted awareness programs in schools and at the grassroots level, prompting women to file complaints. 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.

Police recorded 900 incidents of rape during the first six months of the year, but reported incidences were unreliable indicators of the degree of this problem because many victims were unwilling to file reports. 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 killed in the conflict often became victims of prostitution because of their economic vulnerability.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children free from discrimination, coercion, and violence. An estimated 68 percent of the population ages 15 to 49 used modern contraceptives, and skilled attendance during childbirth was estimated at approximately 99 percent of 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 have equal rights under civil and criminal law. However, adjudication of questions related to family law, including divorce, child custody, and inheritance according to the customary law of each ethnic or religious group, resulted in de facto discrimination. The government's National Action Plan for Women was not available by year's end.

## **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: By 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 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 exploitation of children to the lack of enforcement, rather than inadequate legislation. In May a government statement noted that of the 1,450 female rape cases reported in 2011, child rape accounted for 1,169 cases. In July police reported that more than 700 complaints of rape or abuse of children were filed in the first half of the year, and on average at least four cases were reported daily. According to the National Child Protection Authority (NCPA), the situation was worse than what was reported to the police. The NCPA estimated that more than 20,000 cases of child abuse may have occurred in the first half of the year.

There were regular reports of sexual abuse against children by teachers, principals, and religious teachers. There also was a growing number of child rape cases reported in which government officials were suspects. For example, a 13-year-old girl identified four men, including ruling party local council member Anjana Liyanage, as having gang-raped her in June. On August 17, the Tangalle Magistrate released Liyanage and other men connected with the rape on bail. In response to the rising number of sexual abuse cases against children involving

politicians and other government officials, the ruling SLFP announced on July 18 that it had suspended four party members accused of sexual offenses against women and children.

Child Marriage: The minimum legal age for marriage is 18 for both males and females, although females can marry as early as age 16 with parental consent.

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 younger 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 issued a warning in 2011 of an increase in child sexual exploitation, related to the rapid growth of tourism. The government's tourist police and NCPA conducted island-wide awareness programs focusing on children, travel guides, and the coastal communities close to tourist destinations. There were limited reports of child sex tourism in isolated areas during the year. 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 IDP welfare centers and relocation sites 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. During September protests in Colombo by Muslim groups over the *Innocence of Muslims* film trailer, there were a large number of professionally printed signs slandering Jews.

## **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 in employment, education, air travel and other public transportation, and access to health care; however, in practice discrimination occurred in employment, education, and provision of state services, including in public transportation. There were regulations on accessibility, but accommodation for access to buildings for persons with disabilities was rare. The government supported participation by persons with disabilities in civic affairs. Those with disabilities also had full voting rights.

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.

According to independent aid organizations, persons with disabilities were affected by government restrictions on implementing aid projects, particularly in the north. They also reported a lack of inclusion of persons with disabilities in mainstream development initiatives and a lack of coordination between disability rights and general human rights.

## **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. Tamils throughout the country, but especially in the north and east, reported that security forces and paramilitary groups frequently harassed young and middle-age Tamil men.

## **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.

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

Same-sex sexual activity is punishable by a prison sentence up to 10 years and there were no legal safeguards to prevent discrimination based on sexual orientation or gender identity. In practice the criminal provisions were very rarely enforced. In recent years human rights organizations reported that, while not actively arresting and prosecuting members of the lesbian, gay, bisexual and transgender (LGBT) community, police harassed and extorted money or sexual favors from LGBT individuals with impunity and assaulted gays and lesbians in Colombo and other areas. Crimes and harassment against LGBT individuals were a problem, although such incidents often went unreported. Social stigma against LGBT persons remained a problem. There were reports that persons undergoing gender-reassignment procedures had difficulty 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. Domestic workers in third-party homes and informal sector workers were not covered by labor laws. 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. The president has broad discretion to declare sectors “essential” to national security or the life of the community, or for the preservation of public order. No sectors or services were declared essential services during the year. The

law prohibits retribution against strikers in nonessential sectors. 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.

All collective bargaining agreements must be registered with the Labor Ministry.

The law prohibits antiunion discrimination, and violations could result in a fine of 100,000 Rs. (\$769). Employers found guilty of antiunion discrimination are required by law to reinstate workers fired for union activities but could transfer them to different locations. The law allows unions to conduct their activities without interference, but 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. Unions represented workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions, and workers in private factories found it difficult to organize. Employers, including the government and citizens, occasionally sought court intervention to break strikes. During the year courts issued injunctions against strikers on at least three occasions. In at least one instance, the court refused to grant an injunction against the strikers.

Union activists and officials remained subject to harassment, intimidation, and other retaliatory practices. Employers arbitrarily transferred or unfairly dismissed union members.

Most public sector employees belonged to unions. On several occasions throughout the year, public sector workers attached to various government departments, including the Ceylon Electricity Board (CEB), hospitals, and universities, staged strikes. In August CEB workers staged a week-long strike demanding higher wages. University academics struck for more than three months (from July 4) demanding a rise in basic salary, increased government spending on education, and greater autonomy.

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 could 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 only six 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 four 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, bringing several employers under investigation.

Unions alleged that employers often indefinitely delayed recognition of unions to avoid collective bargaining, decrease support for unionization, or identify, terminate, and sometimes assault or threaten union activists. To address these concerns, the ministry issued a circular in March 2011 requiring labor commissioners to hold union certification elections within 30 working days if there is no objection or 45 working days if there is an objection. The commissioners held one such election in January that involved a union contesting the conduct of an election.

To improve freedom of association, the government established trade union facilitation centers in three of the largest export processing zones.

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

The law prohibits all forms of forced or compulsory labor, and the government effectively enforced such laws. The government convicted two labor recruitment agents who committed fraudulent recruitment offenses against migrant workers, and it also enhanced interministerial coordination through monthly meetings. 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. In many of those cases, parents incurred a debt and then sent their children to work 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. There were 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 2011 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 2010 for the elimination of the worst forms of child labor by 2016. The 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 awareness-raising programs for social partners in four provinces. The ministry also took steps to broadcast a teledrama on the worst forms of child labor. The ministry cited lack of funds for the full implementation of the plan. The government initiated a National Anti-Trafficking Task Force (NTF) in 2010, which developed a National Plan of Action on Trafficking in Persons in 2011, which covers child forced labor.

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, along with 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 2011, the Labor Ministry carried out 237 inspections of child labor situations and found 13 violations.

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 these children worked as street vendors; domestic helpers; and in the mining, construction, manufacturing, and transport sectors. 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.

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. Children were exploited in prostitution in coastal areas as part of sex tourism.

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 Rs (\$53) plus an extra allowance of 1,000 Rs (\$8), for a total of 7,900 Rs (\$61). The minimum wage in the public sector was 18,166 Rs (\$140). 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 Rs 3,545 (\$27.26) per person per month, although the validity of this was questioned by some analysts. The law does not require equal pay for equal work.

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. According to the Shop and Office Employees Act, the period of work is eight hours for one day and 45 hours for one week. Any additional hours of work are considered overtime. However, this provision is not applicable to managers and executives in a public institution. The law provides for paid annual holidays and limits overtime work.

The government sets 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 number of inspections of factories decreased slightly, while the number of inspectors increased. The punishment for nonpayment of wages and pension contributions is negligible, ranging from 100 Rs (\$0.76) to 250 Rs (\$1.92) for the first offense and 500 Rs (\$3.84) to 1,000 Rs (\$7.69), a jail term of six months for the third offense, or both. A fine of 50 Rs (\$0.38) per day is charged if the offense continues after conviction. The labor inspectors did not monitor wages or working conditions or provide programs or social protections for informal sector workers. There are no reliable sources of data for the informal sector, nor is there an agency that tracks industrial or workplace accidents.