

# **SRI LANKA 2017 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Sri Lanka is a constitutional, multiparty republic with a freely elected government. In January 2015 voters elected President Maithripala Sirisena to a five-year term. The parliament shares power with the president. August 2015 parliamentary elections resulted in a coalition government between the two major political parties. Both elections were free and fair.

Civilian authorities generally maintained control over the security forces.

The most significant human rights issues included unlawful killings; torture; sexual abuse; arbitrary arrest; lengthy detention; lack of property restitution by the military; and surveillance and harassment of civil society activists and journalists. Government discrimination toward and security forces harassment of Tamils and nondenominational Christian groups persisted. Same-sex sexual conduct was prohibited by law, though rarely prosecuted.

The military and police harassed civilians with impunity, and impunity for crimes committed during and since the armed conflict continued. The government, however, took steps to investigate, prosecute, and punish some officials who committed human rights abuses. The president signed a gazette legally establishing the Office of Missing Persons. The government made limited progress toward establishing additional transitional justice mechanisms.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were some reports that the government or its agents committed arbitrary or unlawful killings.

On October 22, two plainclothes members of the Police Special Task Force shot and killed a 24-year-old man on a motorcycle in Ariyalai in the Jaffna District. On November 3, the Criminal Investigation Division arrested the two officers, who remained incarcerated pending trial at year's end.

Police continued to investigate the October 2016 case in which police shot and killed two Jaffna University students after they failed to obey orders to stop their motorbike at a checkpoint. The following day, authorities arrested five police officers in connection with the shooting. On September 14, the Jaffna High Court released the five police officers on bail after 11 months of incarceration.

The investigation moved ahead for the 2009 killing of prominent journalist and politician Lasantha Wickrematunge, chief editor of the *Sunday Leader*. On February 19, the police arrested five military intelligence officers in connection with the incident and for orchestrating attacks on journalists and dissidents during the Rajapaksa government. The suspects were released on bail pending the outcome of the investigation.

The attorney general appealed the acquittal of five suspects accused of assassinating former Tamil National Alliance parliamentarian Nadarajah Raviraj. A new hearing was set for December 12.

## **b. Disappearance**

There were allegations of disappearances by or on behalf of government authorities during the year (see section 1.c.), and disappearances during the war and its aftermath remained unresolved.

The July 2017 report of the UN Working Group on Enforced or Involuntary Disappearances noted the number of outstanding cases of enforced or involuntary disappearances at 5,859. On September 12, President Maithripala Sirisena signed a gazette legally establishing the Office of Missing Persons, tasked with “searching and tracing” missing persons, setting up a database, and assisting relatives of missing persons.

In the case of Prageeth Eknaligoda, a journalist and cartoonist for *Lanka eNews* who disappeared in 2010 just before the presidential election, in 2016 the Criminal Investigation Department cleared Eknaligoda of any links to the LTTE or criminal gangs, a claim popularly used by Sinhala nationalists to justify his disappearance. In 2015 and early 2016, police arrested 13 persons, including nine military intelligence officers, in connection with Eknaligoda’s disappearance. A court granted bail to all 13 suspects in November, after holding them for almost one year without indictment. At year’s end authorities had not charged any suspects in Eknaligoda’s disappearance.

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

The constitution and law prohibit such practices, but government officials reportedly employed them. The law makes torture a punishable offense and mandates a sentence of not less than seven years' and not more than 10 years' imprisonment. The government maintained a Committee on the Prevention of Torture to visit, examine, and take preventive measures on allegations of torture. Police and military forces reportedly tortured and sexually abused citizens, often in the extraction of confessions for alleged crimes. The Prevention of Terrorism Act (PTA) allows courts to admit as evidence any statements made by the accused at any time and provides no exception for confessions extracted by torture. In February then justice minister Wijedayasa Rajapakshe announced the government had suspended making arrests under the PTA due to widespread concerns about several of its provisions. An estimated 70 to 130 individuals remained in detention from prior PTA arrests.

The Human Rights Commission of Sri Lanka (HRCSL) reported torture is routine and continued throughout the country, and that it received 271 allegations of torture by state actors as of September. It stated that many reports of torture refer to police officers allegedly "roughing up" suspects to extract a confession or otherwise elicit evidence to use against the accused.

During a visit in July, the UN special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism stated, "Torture is very deeply ingrained in the security sector in Sri Lanka and evidently the use of torture has been and remains presently, endemic and routine for those arrested and detained on national security grounds. Since the authorities use this legislation disproportionately against members of the Tamil community, it is this community that has borne the brunt of the State's well oiled torture apparatus."

Interviews by human rights organizations found that torture remained endemic throughout the country, including for those charged with offenses under the PTA. Suspects arrested under the PTA, including since the war ended in 2009, gave accounts of torture and mistreatment, forced confessions, and denial of basic rights such as access to lawyers or family members. Several released former combatants reported torture or mistreatment, including sexual abuse by government officials while in rehabilitation centers and after their release. Excessive use of force against civilians by police and security officials also remained a problem.

The International Truth and Justice Project and the Associated Press reported allegations of abductions and torture carried out by the security sector during the year. They reported most victims were Tamil men accused by security forces of having links to the LTTE and that security forces tortured and sexually abused them after the initial abduction.

There were also reports of sexual abuse committed by government and security sector officials against wives who came forward seeking information about their missing husbands or against war widows who attempted to claim government benefits based on their deceased husbands' military service.

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

Prison conditions were poor due to old infrastructure, overcrowding, and a shortage of sanitary facilities.

Physical Conditions: Overcrowding was a problem. The commissioner of prisons estimated that on average the prison population exceeded the system's capacity by 50 percent. Authorities sometimes held juveniles and adults together. Authorities often held pretrial detainees and convicted prisoners together. In many prisons, inmates reportedly slept on concrete floors, and prisons often lacked natural light or ventilation.

The commissioner of prisons reported 74 total deaths of prisoners in custody as of November. The majority of deaths were due to natural causes. There were also three suicides.

A few of the larger prisons had their own hospitals, but only a medical unit staffed the majority. Authorities transferred prisoners requiring medical care in smaller prisons to the closest local hospital for treatment.

Administration: The HRCSL investigates complaints received and refers them to the relevant authorities when warranted. The HRCSL reported it received some credible allegations of mistreatment reported by prisoners, but the Ministry of Prison Reforms reported it did not receive any complaints.

Independent Monitoring: The Prison Welfare Society was the primary domestic organization conducting visits to prisoners and, in addition to accepting complaints, has a legal mandate to examine the conditions of detention for prisoners and negotiate their complaints with the individual prison superintendents

and the commissioners of prison. The Prison Welfare Society functions as an internal governmental watchdog and was established under the Prisons Ordinance. The members volunteered their time and included a Deputy Inspector General of Police and the Prison Commissioner of Welfare. The International Committee of the Red Cross (ICRC) and the HRCSL also have a mandate to monitor prison conditions, and representatives of the HRCSL visited prisons in Kandy, Mahara, Kalutara, and Jaffna during the year.

Improvements: The Prison Department sought to address overcrowding by moving several prisons out of urban areas into more spacious, rural locations. In October the Ministry of Prison Reforms opened a new prison complex in Agunakolapelessa, which replaced the overcrowded Tangalle Prison. A Prisons Department spokesperson stated the new complex would also minimize congestion at the main Welikada Prison in Colombo.

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

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, but there were reports arbitrary arrest and detention occurred, although at a decreased rate compared with 2016, according to civil society and the HRCSL; under the PTA the ability to challenge detentions was particularly limited.

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

The Police Service is responsible for maintaining internal security and falls under the Ministry of Law and Order. The military falls under the Ministry of Defense and is responsible for external security. According to the criminal procedure code, the military may be called upon to handle specifically delineated domestic security responsibilities. The president serves as the minister of defense, but the civilian secretary of defense had daily operational responsibility over the military. The nearly 6,000-member paramilitary Special Task Force falls under the Ministry of Law and Order but occasionally coordinates internal security operations with the military.

Civilian authorities generally maintained control over the security forces, but the military and police continued to harass civilians with impunity. The Ministry of Law and Order is responsible for determining whether security force killings were justifiable. According to civil society, military intelligence operatives conducted domestic surveillance operations and harassed or intimidated members of civil

society in conjunction with, or independent of, police. In May police reportedly harassed a Catholic priest in Mullaitivu following his efforts to memorialize local family members who died during the armed conflict.

Impunity for conflict-era abuses also persisted, including military, paramilitary, police, and other security-sector officials implicated in cases involving the alleged targeted killing of parliamentarians, abductions, and suspected killings of journalists and private citizens. Civil society organizations asserted the government and the courts are largely reluctant to take action against security forces, although this situation improved compared with 2016. Prosecutions for abuses committed by the security forces and police are rare but increasing, as are prosecutions for government corruption and malfeasance. On April 4, police spokesperson Priyantha Jayakody stated that police and military officials could not be exempted from police investigations. The police said authorities prosecuted 26 officers for criminal offenses during the year.

Security forces had limited internal mechanisms to investigate abuses, but victims may bring cases directly to the Supreme Court. The HRCSL and criminal courts may also investigate such abuses, and the government has pursued prosecutions and secured convictions in multiple high profile cases against members of the security services. On May 3, the Jaffna High Court convicted and sentenced six police officers to 10 years of “rigorous” imprisonment for the torture of Sriskantharaja Sumanan in 2011. The court ordered them to pay compensation to Sumanan’s relatives.

The government implemented human rights training in the defense academy to increase respect for human rights and sponsored in-house training by the ICRC.

On September 26, Buddhist monks reportedly led a mob in attacking 31 Rohingya asylum seekers outside a refugee safe house near Colombo. Local police at the scene did not take immediate action against the mob but arrested the leaders of the demonstration in the days following it after the government made several statements condemning the apparent lack of police intervention (see section 2.d., Abuse of Migrants, Refugees, and Stateless Persons).

### **Arrest Procedures and Treatment of Detainees**

The Criminal Procedure Code allows police to make an arrest without a warrant for offenses such as homicide, theft, robbery, and rape. Alternatively, police can make arrests pursuant to arrest warrants that judges and magistrates issued based on

evidence. The law requires authorities to inform an arrested person of the reason for the arrest and arraign that person before a magistrate within 24 hours for minor crimes, 48 hours for some grave crimes, and 72 hours for crimes covered by the PTA. More time reportedly elapsed before some detainees appeared before a magistrate, particularly in PTA cases. For bailable offenses as characterized under the Bail Act, instead of arraignment in court, the police can release suspects within 24 hours of detention on a written undertaking and require them to report to court on a specified date for pretrial hearings. Suspects accused of committing bailable offenses are entitled to bail, administered by the police before seeing a magistrate, but for suspects accused of nonbailable offenses, bail is only awarded at a magistrate's discretion, i.e., after appearing before a magistrate.

The Bail Act states no person should be held in custody for more than 12 months prior to conviction and sentencing without a special exemption. Under the PTA, detainees may be held for up to 18 months without charge, but in practice authorities often held PTA detainees for longer periods. After his July visit to the country, the UN special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism reported that of 81 prisoners in pretrial detention awaiting the police investigation to be completed and the Attorney General's Department filing of charges for offenses under the PTA, 70 had been in detention without trial for more than five years, and 12 had been in detention without trial for more than 10 years. Judges require approval from the Attorney General's Office to authorize bail for persons detained under the PTA, which the office normally did not grant. In homicide cases, regulations require the magistrate to remand the suspect, and only the High Court may grant bail. In all cases, suspects have the right to legal representation, although no provision specifically provides the right of a suspect to legal representation during interrogations in police stations and detention centers. The government provided counsel for indigent defendants in criminal cases before the High Court and courts of appeal but not in other cases; the law only requires the provision of counsel for cases heard at the High Court and courts of appeal.

In June 2016 President Sirisena issued a circular setting procedures for arrests made under the PTA. The circular, with suggestions from the HRCSL, called, among other matters, for detainees to have access to legal counsel and required authorities to inform detainees' families of their arrests. The February suspension of the PTA largely mooted the circular, as all future cases will be governed by existing criminal procedures pending the approval of an expected replacement of the PTA (see section 1.d., Arbitrary Arrest or Detention).

Arbitrary Arrest: The HRCSL received 118 complaints of arbitrary arrest and detention during the year. According to human rights groups, the police and its Criminal Investigation and Terrorism Investigation Departments unlawfully detained individuals in police stations, army camps, and informal detention facilities on allegations of involvement in terrorism-related activities without bringing charges or arraigning detainees within the timeframe required by law. Police sometimes held detainees incommunicado, and lawyers had to apply for permission to meet clients, with police frequently present at such meetings. In some cases, unlawful detentions reportedly included interrogations involving mistreatment or torture. Authorities reportedly released detainees with a warning not to reveal information about their arrests or detentions under the threats of rearrest or death.

Dozens of Tamil prisoners across the country, including former LTTE fighters, undertook three hunger strikes in October. They demanded an immediate resolution to their protracted detention. As a majority of these prisoners were held under the PTA without charge, they asked the government either to indict them or to provide a pathway for their eventual release.

Pretrial Detention: Pretrial detainees composed one-half of the detainee population. The average length of time in pretrial detention was 24 hours, but inability to post bail, lengthy legal procedures, judicial inefficiency, and corruption often caused trial delays. Legal advocacy groups asserted that for those cases in which pretrial detention exceeded 24 hours, it was common for the length of pretrial detention to equal or exceed the sentence for the alleged crime.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Under the law a person can challenge an arrest or detention and obtain prompt release through the courts. The legal process takes years, and the Center for Human Rights Development (CHRD) indicated the perceived lack of judicial independence and minimal compensation discouraged individuals from seeking legal remedies. Under the PTA the ability to challenge detentions is particularly limited.

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

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

#### **Trial Procedures**

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced this right. The law presumes defendants are innocent until proven guilty. All criminal trials are public. Authorities inform defendants of the charges against them, and they have the right to counsel and the right to appeal. The government provided counsel for indigent persons tried on criminal charges in the High Court and the courts of appeal but not in cases before lower courts. Defendants have the right to confront witnesses against them and to present witnesses and evidence.

The law requires court proceedings and other legislation to be available in English, Sinhala, and Tamil. Most courts outside of Jaffna and the northern and eastern parts of the country conducted business in English or Sinhala. Trials and hearings in the north and east were in Tamil and English. A shortage of court-appointed interpreters limited the right of Tamil-speaking defendants to free interpretation as necessary. In several instances courts tried criminal cases originating in the Tamil-speaking north and east in Sinhala-speaking areas, which exacerbated the language difference and increased the difficulty in presenting witnesses who needed to travel. Few legal textbooks were available in Tamil. Defendants have the right to be present in court during trial and have the right to adequate time and facilities to prepare a defense. Defendants also have the right not to testify or admit guilt.

### **Political Prisoners and Detainees**

The CHRDL reports that authorities detained more than 130 political prisoners in the country, with an additional 24 released on bail. The government did not acknowledge any political prisoners and insisted these prisoners were detained for criminal acts. The government permitted access to prisoners on a regular basis by the HRCSL, magistrates, and the Prison Welfare Society, and allowed the ICRC access to monitor prison conditions. Authorities granted only irregular access to those providing local legal counsel.

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

Citizens may seek civil remedies for alleged human rights violations through domestic courts.

### **Property Restitution**

Land ownership disputes continued between private individuals in former war zones and between citizens and the government. In April 2016 the parliament unanimously passed the Prescription (Special Provisions) Act, which outlines special legal provisions for persons who were unable to pursue their rights in court for the recovery of land due to the activities of a militant terrorist group during the period from May 1, 1983, to May 18, 2009. The act will remain in force for two years to resolve outstanding claims. Under previous legislation, landowners who had abandoned their land for more than 10 years forfeited their property rights, which happened to a large number of property owners displaced by the 27-year war.

The military seized significant amounts of land during the war to create security buffer zones around military bases and other high-value targets, known as high security zones (HSZs). According to the 1950 Land Acquisition Act, the government may acquire private property for a “public purpose,” but the law requires posting acquisition notices publicly and providing proper compensation to owners. The former government frequently posted acquisition notices for HSZ land that were inaccessible to property owners, many of whom initiated court cases, including fundamental rights cases before the Supreme Court, to challenge these acquisitions. According to the acquisition notices, most of the land acquired was for use as army camps and bases, but among the purposes listed on certain notices were the establishment of a hotel, a factory, and a farm. Throughout the year, lawsuits, including a 2016 Supreme Court fundamental rights case and numerous writ applications filed with High Courts, remained stalled. Although HSZs had no legal framework following the lapse of emergency regulations in 2011, they still existed and remained off limits to civilians. During the year the government returned approximately 686 acres of land.

With the amount of remaining land in dispute, many of those affected by the HSZs complained that the pace at which the government demilitarized land was too slow and that the military held lands it viewed as economically valuable. Some religious minority groups reported they had difficulty officially claiming land they had long inhabited after Buddhist monks placed a statue of Buddha or a bodhi tree on their property.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The PTA permits government authorities to enter homes and monitor communications without judicial or other authorization. Government authorities reportedly monitored private movements without appropriate authorization.

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

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Freedom of Expression: Authorities restricted “hate speech,” including insult to religion or religious beliefs through the Police Ordinance and Penal Code.

Press and Media Freedom: Independent media were active and expressed a wide variety of views. Journalists in the Tamil-majority north, however, reported harassment, intimidation, and interference from the security sector when reporting on sensitive issues related to the civil war or its aftermath. They reported the military contacted them to request copies of photos, lists of attendees at events, and names of sources from articles. They also reported the military directly requested journalists refrain from reporting on sensitive events, such as Tamil war memorials or land occupation protests, and that they feared repercussions if they did not cooperate.

Censorship or Content Restrictions: On several occasions print and electronic media journalists noted they self-censored stories that criticized the president or his family. These journalists said they had received direct calls from private individuals or supporters of the government asking them to refrain from reporting anything that tainted the first family. In April then Media Ministry secretary Nimal Bopage noted privately owned television channel Derana TV would face a special investigation for “manipulating [the] President’s remarks at an event” and thereby misleading the public. Bopage was later transferred from the Media Ministry to an advisor role to the president on media. On November 8, the government’s Telecommunications Regulatory Commission of Sri Lanka blocked access to the *Lanka eNews* website across all fixed line and mobile broadband networks. *Lanka eNews* had published several articles critical of the current government and the president. Multiple media organizations expressed concern

over the extrajudicial blocking and called on internet service providers to unblock the website, which remained blocked at year's end.

### **Internet Freedom**

There were no credible reports that the government monitored private online communications without appropriate legal authority. The government placed limited restrictions on websites it deemed pornographic. Approximately 30 percent of the country's population used the internet regularly, and 21 percent had access to the internet at home. Media reports estimated a far larger percentage of the population accessed the internet via smartphones.

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

State university officials allegedly prevented professors and university students from criticizing government officials. There were no other reported government restrictions on academic freedom or cultural events.

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

The law provides for the freedoms of peaceful assembly and association, but the government restricted these rights in a limited number of cases.

#### **Freedom of Peaceful Assembly**

The law provides for freedom of peaceful assembly, and the government generally respected this right. The constitution stipulates that the freedom of assembly can be restricted in the interest of religious harmony, national security, public order, or the protection of public health or morality. It also can be restricted in the interest of securing due recognition and respect for the rights and freedoms of others, or in the interest of meeting the just requirements of the general welfare of a democratic society. Under Police Ordinance article 77(1) protesters need to seek permission from the local police before holding a protest.

In February demonstrators clashed with police while protesting Chinese development of Hambantota port facilities. The protesters threw stones, and, in response, the police used tear gas and water cannons to disperse the crowd.

In October police used tear gas and water cannons to disperse an Inter-University Students Federation protest against the privatization of medical education after the students defied a court order and refused to follow police instructions.

### **Freedom of Association**

The law provides for freedom of association but limits the right, for example, by criminalizing association with or membership in banned organizations.

Christian groups and churches reported some authorities classified worship activities as “unauthorized gatherings” and pressured them to end these activities. According to the groups, the authorities sometimes justified their actions stating the groups were not registered with the government, although no law or regulation specifically requires such registration.

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

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, stateless persons, or other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: On September 26, Buddhist monks led a mob that attacked 31 Rohingya asylum seekers outside a refugee safe house near Colombo. They used anti-Muslim epithets and demanded the immediate deportation of the Rohingya, but the Rohingya suffered no physical injuries. Local police at the scene failed to take action against the mob, which the government condemned in statements following the incident. Police arrested nine individuals, including a Buddhist monk, and released eight on bail, while another was remanded until December 11.

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

The country's civil war that ended in 2009 caused widespread, prolonged displacement, including forced displacement by the government and the LTTE, particularly of Tamils. According to the government's Ministry of Resettlement, Rehabilitation, Hindu Religious Affairs, and Prison Reforms, 40,808 citizens remained IDPs as of June 30. The large majority resided in Jaffna, Kilinochchi, Mannar, and Batticaloa districts in the north and east. While all IDPs had full freedom of movement, most were unable to return home due to land mines; restrictions designating their home areas as part of HSZs; lack of work opportunities; inability to access basic public services, including acquiring documents verifying land ownership; and lack of government resolution of competing land ownership claims and other war-related reasons. The government did not provide protection and assistance to IDPs in welfare camps.

The government promoted the return and resettlement of IDPs by returning approximately 686 acres of military-seized land and making state land available for landless IDPs. In August 2016 the government approved a national policy on displaced populations. It aimed to establish durable solutions for conflict-affected displacement to provide a rights-based set of principles and standards to guide all stakeholders working with IDPs. The military and other government agencies supported the resettlement of IDPs by constructing houses, schools, toilets, and providing other social services on newly released lands.

### **Protection of Refugees**

Access to Asylum: The law does not provide for the granting of asylum or refugee status. The government relied on UNHCR to provide food, housing, and education for refugees in the country and to pursue third-country resettlement for them. The law does not permit refugees and asylum seekers to work or enroll in the government school system, but many worked informally.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: The Commonwealth Observer Group reported that in the January 2015 presidential election, voters exercised their franchise freely and that

vote counting was transparent with the results swiftly revealed to the public. Observers reported widespread abuse of state resources used for campaigning, consistent bias in state media toward the former government, and denial of access to venues for the opposition candidate.

Domestic and international observers concurred that Sri Lankan authorities conducted the August 2015 parliamentary elections in a fair and free manner with few reports of violence. The EU election observation mission's preliminary findings stated the elections were "well administered and offered voters a genuine choice from among a broad range of political alternatives, although campaign rules were restrictive." The mission noted the government respected freedoms of assembly and movement. It added that party activists and candidates campaigned vigorously despite restrictive campaign rules, such as not allowing candidates to engage in door-to-door campaigning, canvass in person, or distribute leaflets.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process, and they did participate. Women have served in the parliament since 1931, and voters elected 13 women to parliament in 2015. According to the National Peace Council, women represented approximately 2 percent of officials in local government and 4 percent in provincial councils.

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

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year.

Corruption: Corruption remained a continuing problem. For example, a parliamentary panel, the Committee on Public Enterprises, investigated former central bank governor Arjuna Mahendran amid allegations that Mahendran had given his son-in-law insider information and that they had both benefited from sovereign bond sales while he was central bank governor. In addition, Mahendran was accused of charging millions of rupees (thousands of dollars) to his government credit card. Mahendran has denied the allegations, and an earlier investigation cleared him. The government has yet to take action against Mahendran.

Financial Disclosure: The law requires all candidates for parliamentary, local government, provincial, and presidential elections to declare their assets and liabilities to the speaker of parliament. Some but not all candidates in parliamentary elections submitted their financial reports to the speaker, but authorities did not enforce compliance. By law members of the public may access records relating to the assets and liabilities of elected officials by paying a fee.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

Government Human Rights Bodies: The HRCSL has jurisdiction to investigate human rights violations. The HRCSL is composed of five commissioners and has divisions for investigations, education, monitoring and review, and administration and finance. There are 10 regional offices across the country. The HRCSL accepts complaints from the public and may also self-initiate investigations. After an allegation is proven to the satisfaction of the commission, the HRCSL may recommend financial compensation for victims, or refer the case for administrative disciplinary action or to the attorney general for prosecution, or both. If the government does not follow an HRCSL request for evidence, the HRCSL may summon witnesses from the government to explain its action. If the HRCSL finds that the government has not complied with its request, the HRCSL may refer the case to the High Court for prosecution for contempt by the Attorney General's Department, an offense punishable by imprisonment or fine. 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. The HRCSL generally operated independent of and with lack of interference from the government.

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

### **Women**

Rape and Domestic Violence: The law prohibits rape and domestic violence, but enforcement of the law was inconsistent. Section 363 of the penal code does not explicitly criminalize rape of men. Section 365 B (1), which is gender neutral,

criminalizes “grave sexual abuse.” The prescribed penalties for rape are seven to 20 years’ imprisonment and a fine of at least 200,000 rupees (\$1,333). For domestic violence, a victim can obtain a protection order for one year and request a maintenance allowance. The law only prohibits spousal rape if the spouses are legally separated.

Women’s organizations reported the police and judiciary responses were inadequate. The police Bureau for the Prevention of Abuse of Women and Children conducted awareness programs in schools and at the grassroots level to encourage women to file complaints. Police continued to establish women’s units in police stations. Services to assist survivors of rape and domestic violence, such as crisis centers, legal aid, and counseling, were generally scarce nationwide due to a lack of funding.

Female Genital Mutilation/Cutting (FGM/C): Sri Lankan Muslims have historically practiced FGM/C, but it was not a part of public discourse until recent years when media articles drew attention to the practice. There were no statistics on the current prevalence of FGM/C in the country, which does not have laws against FGM/C.

Sexual Harassment: Sexual harassment is a criminal offense carrying a maximum sentence of five years in prison. Sexual harassment was common and was a particularly widespread problem in public transport.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: Women have equal rights to men under civil and criminal law. Adjudication of questions related to family law, including marriage, divorce, child custody, and inheritance, varied according to the customary law of each ethnic or religious group, resulting in discrimination.

## **Children**

Birth Registration: Children obtain citizenship from their parents.

Child Abuse: Most child abuse complaints received by the National Child Protection Authority related to violence inflicted on children, and the rest of the complaints addressed related issues such as cruelty to children, deprivation of a child's right to education, sexual abuse, and child labor. Teachers, school principals, and religious instructors reportedly sexually abused children. In a number of child rape cases, government officials were the suspected perpetrators. Civil society organizations working on children's issues asserted children had insufficient mechanisms to report domestic violence or abuse safely. Although police stations are supposed to have an officer dedicated to handling abuse complaints from women and children, the government did not consistently implement this practice nationwide.

Early and Forced Marriage: Civil law sets the minimum legal age for marriage at 18 for both men and women, although girls may marry at age 16 with parental consent. According to the penal code, sexual intercourse with a girl under 16 years of age, with or without her consent, amounts to statutory rape. The provision, however, does not apply to married Muslim girls above the age of 12. The Muslim Marriage and Divorce Act, which applies only to Muslims, permits the marriage of girls as young as 12 at the consent of the bride's father or other male relative. The bride's consent is not required.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children, the sale of children, offering or procuring a child for child prostitution, and practices related to child pornography, but authorities did not always enforce the law. The minimum age of consensual sex was 16.

Child sex tourism remained a problem.

Displaced Children: IDP welfare centers and relocation sites exposed children to the same difficult conditions as adult IDPs and returnees in these areas.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

## **Anti-Semitism**

The Jewish population remained very small. There were no reports of anti-Semitic acts.

## Trafficking in Persons

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

## Persons with Disabilities

Various laws forbid discrimination against any person with physical, sensory, intellectual, or mental disabilities in employment, education, air travel, other public transportation, and access to health care. In practice, though, discrimination occurred in employment, education, and provision of state services, including public transportation. Children with disabilities attended school at a lower rate than other persons. There were regulations on accessibility, but accommodation for access to buildings and public transportation for persons with disabilities was rare.

## National/Racial/Ethnic Minorities

Both local and Indian-origin Tamils maintained they suffered longstanding, systematic discrimination in university education, government employment, housing, health services, language laws, and procedures for naturalization of noncitizens. Throughout the country, but especially in the north and east, Tamils reported security forces regularly monitored and harassed members of their community, especially activists and former or suspected former LTTE members.

The government had a variety of ministries and presidentially appointed bodies designed to address the social and development needs of the Tamil minority. The government has implemented a number of confidence-building measures to address grievances of the Tamil community. It also replaced military governors of the Northern and Eastern provinces with civilians. The Office of National Unity and Reconciliation, established by the president in 2016, continued to coordinate the government's reconciliation efforts. The office focuses on promoting social integration to build an inclusive society, securing language rights for all citizens, supporting a healing process within war-affected communities via the government's proposed Commission for Truth, Justice, Reconciliation, and nonrecurrence of the violence. On April 17, the Tamil National Alliance and Defense Ministry initiated a formal dialogue on returning military-held lands in the Northern and Eastern provinces. In August army Chief Major General Mahesh Senanayake publicly committed the military to prosecuting personnel who

committed criminal acts during and after the conflict, many of which were committed against the Tamil community.

Buddhist nationalist monks reportedly instigated attacks on Muslims and their property. These included more than 20 attacks on Muslim places of worship and shops from April to June. Authorities arrested four alleged perpetrators, including one police officer, all of whom were members of the Buddhist nationalist group Bodu Bala Sena.

### **Indigenous People**

The country's indigenous people, known as Veddas, reportedly numbered fewer than 1,000. Some preferred to maintain their traditional way of life, and the law generally protected them. They freely participated in political and economic life without legal restrictions, but some did not have legal documents.

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

The law criminalized consensual same-sex sexual conduct between adults. Although prosecutions have been rare, human rights organizations reported police used the threat of arrest to assault, harass, and sexually and monetarily extort LGBTI individuals. Those convicted of engaging in same-sex sexual activity in private or in public face 10-years' imprisonment. Antidiscrimination laws did not prohibit discrimination based on sexual orientation and gender identity.

Transgender persons continued to face societal discrimination, including arbitrary detention, mistreatment, and discrimination accessing employment, housing, and health care.

### **HIV and AIDS Social Stigma**

Persons who provided HIV prevention services and groups at high risk of infection reportedly suffered discrimination. In addition hospital officials reportedly publicized the HIV-positive status of their clients and occasionally refused to provide healthcare to HIV-positive persons.

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

Sources stated some Buddhist monks regularly tried to close down Christian and Muslim places of worship on the grounds they lacked the Ministry of Buddha Sasana's approval. The National Christian Evangelical Alliance of Sri Lanka documented 79 cases of attacks on churches, intimidation and violence against pastors and their congregations, and obstruction of worship services as of November.

## **Section 7. Worker Rights**

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

The law provides for the right of workers to form and join unions of their choice. Exceptions include members of the armed forces, police officers, judicial officers, and prison officers. Workers in nonessential services industries, except for workers in public service unions, have the legal right to bargain collectively. The law does not explicitly recognize the right to strike, but courts have recognized an implied right to strike based on the Trade Unions Ordinance and the Industrial Disputes Act. Nonunion worker councils tended to represent labor in export processing zone (EPZ) enterprises although several unions operated in the zones. According to the Board of Investment, which operates the EPZs, if both a recognized trade union with bargaining power and a nonunion worker council exist in an enterprise, the trade union would have the power to represent the employees in collective bargaining.

Under Emergency Regulations of the Public Security Ordinance, the president has broad discretion to declare sectors "essential" to national security, the life of the community, or the preservation of public order, and to revoke those workers' rights to conduct legal strikes. In addition to the Public Security Ordinance, the Essential Public Services Act of 1979 allows the president to declare services provided by government agencies as "essential" public services. In July the government, invoking the Essential Public Services Act, declared petroleum distribution an essential service after petroleum workers went on strike to stop a government move to lease an oil tank farm to a Chinese company.

The law prohibits retribution against striking workers in nonessential sectors. Seven workers may form a union, adopt a charter, elect leaders, and publicize their views, but a union must represent 40 percent of workers at a given enterprise before the law obligates the employer to bargain with the union. The law does not permit public-sector unions to form federations or represent workers from more

than one branch or department of government. The Labor Ministry may cancel a union's registration if it fails to submit an annual report for three years.

The law prohibits antiunion discrimination. Labor laws do not cover domestic workers employed in the homes of others or informal-sector workers.

The law allows unions to conduct their activities without interference, but the government enforced the law unevenly. Violations for antiunion discrimination may result in a fine of 100,000 Rs (\$655). The law requires an employer found guilty of antiunion discrimination to reinstate workers fired for union activities, but it may transfer them to different locations. In general these penalties insufficiently deterred violations. Only the Labor Ministry has legal standing to pursue an unfair labor practice case, including for antiunion discrimination.

Since 1999 the Labor Ministry had filed only 10 cases against companies for unfair labor practices under the Industrial Disputes Act. The Labor Ministry filed one new unfair labor practices case during the year. The courts issued rulings on two cases and continued to try the other eight. Citing routine government inaction on alleged violations of labor rights, some unions pressed for standing to sue while some smaller unions did not want that ability because of the cost of filing cases. Workers brought some labor violations to court under the Termination of Employment and Workmen Act and the Payment of Gratuity Act. Lengthy delays hindered judicial procedures. The Industrial Dispute Act does not apply to the public sector, and public-sector unions had no formal dispute resolution mechanism.

The government generally respected the freedom of association and the right to bargain collectively. Public-sector unions staged numerous work stoppages on issues ranging from government moves to sell a port to a Chinese company to recognition of medical degrees awarded by a privately run medical college.

While some unions in the public sector were politically independent, most large unions affiliated with political parties and played a prominent role in the political process.

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. The Ministry of Labor requires labor commissioners to hold union certification elections within 30 working days of an application for registration if there was no objection or within

45 working days if there was an objection. The commissioner general of labor held three union certification elections as of June.

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

The law prohibits all forms of forced and compulsory labor, but penalties insufficiently deterred violations. The government generally enforced the laws, but resources, inspections, and remediation efforts were not always adequate. Labor Ministry inspections did not extend to domestic workers. The government sporadically prosecuted labor agents who fraudulently recruited migrant workers yet appeared to sustain its monthly meetings to improve interministerial coordination.

Children between the ages of 14 and 18 and women working as live-in domestic workers in some homes were vulnerable to forced labor (see section 7.c.)

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

### **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 agricultural work or technical training. The government increased the compulsory age of education from 14 years to 16 years in 2016. The law prohibits hazardous work for persons under age 18. The law limits the working hours of children ages 14 and 15 to nine hours per day and of ages 16 and 17 to 10 hours per day. The government did not effectively enforce all laws, and penalties insufficiently deterred violations.

The Labor Ministry made some progress in implementing its plan to eliminate the worst forms of child labor. The government appointed district coordinators with responsibility of reducing child labor in 24 districts, and the government continued to develop new guidelines for district officials. The Department of Labor continued its efforts to monitor workplaces on the list of hazardous work for children.

According to the Child Activity Survey of 2016 published in February, industries and services were the largest sectors employing child labor. Within these sectors, children worked in the construction, manufacturing, mining and fishing industries,

and as cleaners and helpers, domestic workers, and street vendors. Children also worked in agriculture during harvest periods. Children displaced by the war were especially vulnerable to employment in hazardous labor.

No laws regulate employment in third-party households, including the employment of children over 14. This leaves children employed as child domestic workers vulnerable to physical, sexual, and emotional abuse. Family enterprises, such as family farms, crafts, small trade establishments, restaurants, and repair shops, commonly employed children. Criminals reportedly exploited children, especially boys, for prostitution in coastal areas catering to sex tourists (see section 6, Children).

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The constitution prohibits discrimination, including with respect to employment and occupation, on the basis of race, religion, language, caste, sex, political opinion, or place of birth. The law did not prohibit employment or occupational discrimination on the basis of color, sexual orientation and/or gender identity, age, HIV-positive status, or status with regard to other communicable diseases.

The government did not always effectively enforce these laws, and discrimination based on the above categories occurred with respect to employment and occupation. For example, some employers specified particular positions as requiring male or female applicants, and women sometimes earned less than men for equal work.

#### **e. Acceptable Conditions of Work**

The parliament passed its first-ever national minimum wage law in March 2016; it mandated a wage of 10,000 Rs (\$65) per month and 400 Rs (\$2.61) per day. In addition the Department of Labor's 44 wage boards continued to set minimum wages and working conditions by sector and industry in consultation with unions and employers. During the year the minimum wage in the public sector increased to 34,246 Rs (\$223) from 32,040 Rs (\$214) in 2016. The official estimate of the threshold poverty level was 4,352 Rs (\$28) per person per month.

The law prohibits most full-time workers from regularly working more than 45 hours per week (a five and one-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 basic wage and is paid for work beyond 45 hours per week and work on Sundays or holidays. The provision limiting basic work hours is not applicable to managers and executives in public institutions. The law provides for paid annual holidays.

The government sets occupational health and safety standards. Workers have the right to remove themselves from dangerous situations, but many workers had no knowledge of such rights or feared that they would lose their jobs if they did so.

Authorities did not effectively enforce minimum wage, hours of work, and occupational safety and health standards in all sectors. The Labor Ministry's resources, inspections, and remediation efforts were sometimes inadequate. Occupational health and safety standards in the rapidly growing construction sector, including on infrastructure development projects, such as port, airport, and road construction, as well as high-rise buildings, were insufficient. Employers, particularly those in the construction industry, increasingly used contract employment for work of a regular nature, and contract workers had fewer safeguards.

Labor Ministry inspectors checked whether employers fully paid employees and contributed to pension funds as required by law. Unions questioned, however, whether the ministry's inspections were effective. The Labor Department used a computerized Labor Information System Application designed to improve the efficiency and effectiveness of inspections. The financial punishment for nonpayment of wages and pension contributions is negligible with fines ranging from 100 Rs (\$0.65) to 250 Rs (\$1.63) for the first offense, 250 Rs (\$1.63) to 500 Rs (\$3.27) for the second offense, to 1,000 Rs (\$6.54) or incarceration for a term not exceeding six months, or both, for the third offense. Under the Shop and Office Act, the penalties for violating hours of work laws are a fine of 500 Rs (\$3.27), six months imprisonment, or both. The law charges a fine of 50 Rs (\$0.33) per day if the offense continues after conviction. These penalties insufficiently deterred violations. Labor inspectors did not monitor wages or working conditions or provide programs or social protections for informal sector workers.

No reliable sources of data covered the informal sector, and no government agency tracked the industrial sector.