Human Rights Watch

Discrimination, Detention, and Deportation: Immigration & Refugees

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Annual reports

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SRI LANKA

Political violence continued to plague Sri Lanka, both in the lead-up to local elections in late March and in the ongoing war with the separatist Liberation Tigers of Tamil Eelam (LTTE). Politicians from mainstream political parties and members of LTTE both stood accused of political assassinations in 1997. Efforts to account for past abuses made some progress as the government vowed to make public the reports of three presidential commissions that concluded investigations into nearly 17,000 reported "disappearances" dating back as far as 1988, but attempts to prosecute abuses proceeded haltingly, and new violations continued. Arbitrary arrests, torture, rape, extrajudicial executions and some new "disappearances" of Tamil civilians by members of the security forces and armed groups working alongside the military were reported in 1997. The LTTE was also accused of arbitrary killings of civilians and of taking hostages. The government made little progress toward resolving its war with the LTTE or gaining wider acceptance for a new proposed constitution aimed at devolving more power to minorities through regional councils defined in part along ethnic lines.

Human Rights Developments

On February 11, one day before the deadline for filing nominations in the March 21 local elections, People's Alliance (PA) Member of Parliament (MP) Nalanda Ellawalla was assassinated by prominent members of the United National Party (UNP). The murder sparked a rampage in southern Sri Lanka, as PA supporters burned scores of UNP homes and buildings. A special police unit set up to monitor campaign and election violence recorded 369 complaints in February alone, including many incidents of threats and assaults on UNP and other opposition party members by PA supporters. In an effort to contain the violence, President Kumaratunga ordered the confiscation of arms owned by political party members and declared an amnesty until March 15 for those who voluntarily turned in their weapons. Some took advantage of the amnesty, but many did not. Two citizens' groups monitoring the vote, the Movement for Free and Fair Elections and the Movement against Political Violence, reported 1,836 incidents of political violence during the elections, including murder, assault, voter intimidation and impersonation, theft of polling cards, and abduction and intimidation of opposition polling agents. The government was accused of using state-owned media to influence the election, and international observers were denied visas.

In July, the LTTE was implicated in the assassinations of two popular politicians, both in Trincomalee district. On July 5, Arunasalam Thangathurai, Tamil United Liberation Front (TULF) MP for Trincomalee District, and five others were killed in a grenade attack as Thangathurai left the premises of a school where he had addressed a public meeting. Thangathurai was known to be critical of both government and LTTE abuses in his constituency. On July 20, Mohammed Mashroof of the UNP together with five others, including Mashroof's driver and the driver's four-year-old son, was killed when gunmen thought to be LTTE forces opened fire on his jeep. The UNP group had been on its way to meet the families of forty-one villagers from Irakakkandy who had been abducted by the LTTE on July 2.

Fighting between the LTTE and government forces was fierce in 1997. On May 13, Sri Lankan armed forces launched the largest military operation of the year in northern Sri Lanka. In a massive offensive which continued through October, some 20,000 troops backed up by artillery, armored vehicles, and air support were deployed to recover rebel-held territory and reopen a supply route to the Jaffna peninsula across the LTTE-controlled Vanni region. At the outset, an estimated 20,000 to 30,000 civilians fled the offensive, adding to the hundreds of thousands already displaced in the area. There were reports of civilian casualties, and many suffered from periodic shortages as restrictions were placed on the movement of food and supplies. In August, Tamil politicians charged that indiscriminate attacks on civilian areas not under government control had resulted in civilian deaths and injuries and had damaged homes, schools and places of worship.

Conflict-related violence was not limited to the country's north and east. Some eighteen people died on October 15 in a bombing of Colombo's World Trade Center and gun battles in the city's business district. At least 110 people were wounded. The government blamed the LTTE for the violence; a London-based spokesman for the group denied involvement.

Journalists continued to have great difficulty filing independent stories on the war, as they have had since 1995 when the Defense Ministry introduced regulations barring the press from visiting the north except during infrequent visits organized under military escort. The result has been a massive propaganda battle of claims and counterclaims regarding combatant and noncombatant casualties, attacks on civilians, and delivery of humanitarian assistance to persons displaced by the conflict, and journalists have been censured for inaccurate war reporting. In July, well-knownwar correspondent Iqbal Atthas made several complaints to the police about harassment by persons thought to be connected to the security forces who had placed him under surveillance.

In reporting unrelated to the war, Sunday Times editor Sinha Ratnatunga was convicted in July, and three other editors faced criminal defamation charges for publishing articles critical of President Kumaratunga.

Constraints on freedom of movement remained a serious problem for Tamil civilians fleeing the violence in the north. Tens of thousands of displaced persons seeking to travel south during the year were involuntarily detained for months in crowded "welfare centers" in Vavuniya pending rigorous government security clearance. Civilians wishing to travel to Jaffna were stranded in July when passenger service to the northern peninsula was suspended after the LTTE attacked ships transporting civilians. In Colombo and other towns under government control, police enforced often contradictory registration requirements for Tamil newcomers and their hosts, contributing to harassment of Tamil civilians, arbitrary arrests and increased likelihood of mistreatment in custody. Police in Colombo looking for LTTE suspects conducted frequent cordon and search operations and mass round-ups, sometimes picking up hundreds of suspects at a time.

Reported rapes by security personnel escalated in early 1997, particularly in Jaffna and in eastern Sri Lanka, but it remained unclear whether the numbers reflected an actual increase in incidents, since rapes have been notoriously underreported. Several of these cases received extensive publicity, including the alleged rape and murder

by police officers of Murugesupillai Koneswary, a mother of four children, who was killed by a grenade explosion on May 17. As of October, the case was under investigation, but any evidence of rape was destroyed by the explosion. Joseph Pararajasingham, an MP for Batticaloa district who has documented human rights abuses, provided details in July of six other rapes by police and army personnel, but he estimated that there had been many more in his constituency since 1995. Pararajasingham also claimed that extrajudicial killings and "disappearances" had occurred at a combined rate of about seven per month in Batticaloa district since January 1997.

The government continued to make efforts to investigate "disappearances," that occurred under previous administrations as well as abuses reported under its own watch, but it was less vigorous in its pursuit of prosecutions. By August 1997, the Sri Lankan government had initiated investigations into some 760 complaints of "disappearances" that had occurred in the Jaffina peninsula during the previous year-the highest reported figure since 1992. In August, hearings into "disappearances" in Jaffina were conducted by the Defense Ministry within the perimeter of an army camp, a move that drew criticism from observers who reported that the venue was causing difficulties for witnesses.

Progress was slow in the prosecution of important cases of extrajudicial killings by state forces. As of October, there had been no movement towards reopening the notorious Bolgoda Lake case, which the chief magistrate ordered off the court's docket in March after members of the prosecuting team failed to appear for two consecutive court dates. The case dates from mid-1995, when some twenty-one bodies, many of them young Tamil men abducted from local guest lodges, were found in and around Bolgoda Lake near Colombo. Some showed signs of starvation, strangulation or torture. Twenty-two officers of the Special Task Force (STF), a police counterinsurgency agency, were arrested and charged in the case. They were later released on bail. Calling the prosecution's absence "an obstruction of justice," the judge refused to continue the trial. Sri Lankan Ambassador to the United Nations Bernard Gunatilleke vowed that the case would continue, telling the U.N. Human Rights Commission in Geneva on April 9 that the government had "decided to file indictments directly against the STF personnel in the High Court without going through a non-summary inquiry to avoid delay." The attorney general claimed to be awaiting further forensic evidence before filing the case against the accused.

In April, Sri Lankan courts dismissed two important "disappearance" cases dating back to 1989, allegedly for lack of evidence. On April 4, a Colombo magistrate ordered the releases of Assistant Superintendent of Police Sumith Edirisinghe and Chief Inspector Anton Sisira Kumara. They were accused of abducting and murdering a number of people in the Hokandara area in 1989 and having them buried along a roadside. The site was later excavated and skeletal remains found, some of which were sent for forensic examination. On April 5, charges were also dropped against suspects in the Wawulkeley murder case in which six persons including four police officers were accused of abducting and murdering six youths in 1989.

Hearings proceeded intermittently in the trial of eight soldiers charged with the murder of twenty-five Tamil civilians including women and children in a massacre in the village of Kumarapuram in Trincomalee district on February 11, 1996. At a hearing in April, a surviving witness, Arunasalam Paramarani, identified two of soldiers accused of the killings.

In June human rights organizations in Sri Lanka and elsewhere voiced concern over the government's decision to dismantle the Human Rights Task Force (HRTF), a government body established in 1991 to monitor the welfare of detainees held under emergency regulations. All HRTF assets, including their extensive data files on detainees, were to be transferred to the newly established National Human Rights Commission, which finally received its government appointees on March 17. Bowing to pressure from human rights organizations, the government agreed to allow the HRTF's regional offices to operate for another month. No arrangements were made regarding the HRTF staff, some of whom had built up significant expertise in human rights investigation and also risked possible retaliation from army and police personnel they had encountered while investigating abuses. At the time of the decision, the National Human Rights Commission was not yet operational and lacked staff to do systematic monitoring and intervention. Human Rights Watch joined Sri Lankan and international human rights organizations urging the government to ensure that the functions of the HRTF were not allowed to lapse even temporarily and that its expertise did not go to waste.

On August 8, the government announced a long-awaited plan to establish citizens' committees to monitor arrests and detentions at police stations.

In September the government announced that both the final and interim reports of the three presidential commissions of inquiry into past "disappearances," which were delivered to the president on September 3, would be made public. The president also announced that the government would pursue prosecution of those against whom the commissions found prima facie evidence of wrongdoing. The commissions were established in late 1994 to investigate "disappearances" and abductions by non-state agents reported in the country since January 1988. They heard evidence in some 16,750 cases out of 19,079 complaints and were to identify those responsible, recommend legal action, and suggest relief and preventive measures. In September President Kumaratunga also announced plans for a new commission to examine complaints that had not been addressed by the three commissions before their terms ended.

In October, Sri Lanka notified the U.N. of its ratification of the Optional Protocol of the International Covenant on Civil and Political Rights. The protocol allows individual complaints about violations to be taken to the U.N.'s Human Rights Committee.

The Right to Monitor

Although Sri Lankan human rights organizations continued to operate without legal restrictions, international relief agencies and nongovernmental organizations faced obstacles when attempting to operate in conflict areas. Both Quaker Peace and Peace Brigades International, organizations which had carried out important relief and monitoring efforts in eastern Sri Lanka, were barred from operating in Batticaloa district in April. The restrictions, which did not appear to be motivated by security concerns, were lifted later in the year. International relief agencies were also permitted to operate in areas outside government control, but pulled out when military operations intensified. Agencies did not receive permission to work with independent local nongovernmental organizations (NGOs) in Jaffna; if allowed to work at all, they were required to do so with state-linked institutions. This policy discouraged some organizations from seeking permission to work in Jaffna and caused others to withdraw.

In the lead-up to local elections in late March, a broad-based network of citizens' groups and NGOs launched a massive campaign against political violence, undertaking voter education, organizing rallies and calling on voters to shun candidates linked to violence. Despite the campaign's success in raising the issue of political violence, international observers who were invited by these groups to attend an NGO workshop on election monitoring were denied visas.

In July, media freedom groups called for the repeal of laws governing criminal defamation as well as the Press Council Law, which appoints a council to regulate newspapers, and to censure journalists for professional misconduct, and makes it an offense to publish a false report about issues under consideration by members of the Cabinet. On September 11, in response to NGO pressure, Sri Lanka repealed the Parliamentary Privileges Special Provision Act, a law that gave parliament the right to fine and imprison journalists for defamation.

The Role of the

International Community

Most governments and international NGOs that raised concerns about Sri Lanka's human rights record focused on abuses linked to the ongoing war. Many governments denounced LTTE violence and called for a political solution to the conflict. They also gave some attention to the need for humanitarian relief, accountability for past violations, and the plight of Sri Lankan refugees.

United Nations

In August, Bacre Waly N'diaye, the U.N.'s special rapporteur on extrajudicial, summary or arbitrary executions, undertook a twelve-day visit to Sri Lanka. N'diaye expressed concern over the high numbers of unresolved "disappearances" and stated that "the gap between those who have disappeared and the number of people whose whereabouts have been finally discovered is too huge, too important." He noted that Sri Lanka had the second-highest number of cases pending with the U.N. Working Group on Enforced or Involuntary Disappearances, some 10,000 since the 1980s, and that reports of "disappearances" in Jaffna had also increased since 1996.

In its 1996 annual report on Overseas Development Assistance (ODA), published in February 1997, Japan noted in connection with the human rights clause of the ODA charter that while the Sri Lankan government was "making efforts to protect and improve human rights," instability and ongoing human rights violations persisted in "strife-torn regions." Japan pledged to "continue to observe the situation in the north and east."

European Union

On April 2, the Sri Lankan government announced that with the assistance of British Undersecretary of Commonwealth and Foreign Affairs Liam Fox, an agreement had been reached between Sri Lanka's ruling People's Alliance and the opposition UNP to work together to end the war with separatist Tamil rebels. Sri Lankan ForeignMinister Lakshman Kadirgamar added, however, that "the government was not contemplating mediation or facilitation by any foreign government or third party at this point of time."

Also in April, Also in April, German State Minister in the Foreign Office, Dr. Werner Hoyer vowed during a state visit that his government would not provide any support to the LTTE, directly or indirectly, and that Germany was "ready to ban" the group or deport its members if there was evidence that they were engaged in terrorism.

United States

In July, following a number of LTTE attacks on noncombatants, including the burning of an Indonesian passenger ferry, the seizure of a North Korean cargo vessel and the killing of one of its sailors, and the assassination of the two MPs in Trincomalee, the U.S. called on the LTTE to "cease all acts of terrorism" and expressed unconditional support for the Sri Lankan government's proposals for a political resolution of the ethnic conflict. During a visit to Colombo that month, Australian Foreign Minister Alexander Downer expressed similar views.

On August 29, 1997, the U.S. promised Sri Lanka U.S. \$1 million for humanitarian assistance for war victims and displaced children. The USAID grant is in addition to \$1 million that the U.S. granted to the Citizens' Participation (CIPART) project in Sri Lanka, a program designed to strengthen democratic institutions. In September, the new U.S. Assistant Secretary of State for South Asian Affairs, Karl R. Inderfurth, visited Colombo on his first trip to the region. Inderfurth told journalists that President Kumaratunga had once again urged the U.S. to designate the LTTE as a terrorist organization but said that the U.S. was still examining the legal ramifications of such a decision. On October 8, the Clinton administration included the LTTE on a list of thirty organizations banned under a 1996 anti-terrorism law. The law bars LTTE members from the United States, prohibits fund-raising for the organization, and permits the freezing of members' bank accounts.

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