

# **SRI LANKA 2021 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Sri Lanka is a constitutional, multiparty democratic republic with a freely elected government. Presidential elections were held in 2019, and Gotabaya Rajapaksa won the presidency. He appointed former president Mahinda Rajapaksa, his brother, as prime minister. In 2020 Prime Minister Mahinda Rajapaksa led the Sri Lankan People's Freedom Alliance and small allied parties to secure a two-thirds supermajority, winning 150 of 225 seats in parliamentary elections. COVID-19 travel restrictions prevented international observers and limited domestic election observation. Domestic observers described the election as peaceful, technically well managed, and safe considering the COVID-19 pandemic but noted that unregulated campaign spending, abuse of state resources, and media bias affected the level playing field.

The Sri Lanka Police are responsible for maintaining internal security and are under the Ministry of Public Security, formed in November 2020. The military, under the Ministry of Defense (the president holds the defense portfolio), may be called upon to handle specifically delineated domestic security responsibilities, but generally without arrest authority. The 11,000-member paramilitary Special Task Force, a police entity that reports to the inspector general of police (IGP), coordinates internal security operations with the military. Civilian officials maintained control over the security forces. There were credible reports that members of the security forces, primarily the police, committed numerous abuses.

Parliament passed the 20th Amendment to the constitution in October 2020. Opposition political leaders and civil society groups widely criticized the amendment for its broad expansion of executive authority that activists said would undermine the independence of the judiciary and independent state institutions, such as the Human Rights Commission and the Election Commission, by granting the president sole authority to make appointments to these bodies with parliament afforded only a consultative role.

Significant human rights issues included credible reports of: unlawful and

arbitrary killings, including extrajudicial killings; torture and cruel, inhuman, or degrading treatment or punishment by the government; harsh and life-threatening prison conditions; arbitrary arrest and detention; politically motivated reprisals against individuals in other countries; serious problems with the independence of the judiciary; arbitrary and unlawful interference with privacy; restrictions on free expression and media, including violence and threats of violence against journalists, unjustified arrests and prosecutions of journalists, and censorship; restrictions on internet freedom; interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of nongovernmental organizations and civil society organizations; restrictions on freedom of movement; serious government corruption; serious government restrictions on or harassment of domestic and international human rights organizations; lack of investigation of and accountability for gender-based violence, including but not limited to domestic and intimate partner violence and sexual violence; trafficking in persons; crimes involving violence targeting members of national, racial, and ethnic minority groups; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, and intersex persons; existence or use of laws criminalizing consensual same-sex sexual conduct between adults, even if the laws were not enforced; and restrictions on workers' freedom of association.

The government took minimal steps to identify, investigate, prosecute, and punish officials who committed human rights abuses or corruption, and there was impunity for both.

## **Section 1. Respect for the Integrity of the Person**

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

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

According to a report from the nongovernmental organization (NGO) Harm Reduction International, deaths in police custody increased during the year, with many incidents following a similar pattern. Press reported that while they were in

custody for their reported involvement in organized crime, Melon Mabula (alias “Uru Jawa”) and Dharmakeethilage Tharaka Wijesekara (alias “Kosgoda Tharaka”), were shot and killed by police in May. The Bar Association of Sri Lanka issued a statement condemning the alleged killings, stating the state and police had a duty to ensure the safety and security of persons in their custody.

Journalists reported seven incidents of police killing. For example, on June 3, Tamil Chandran Vithusan, age 22, died in custody in Batticaloa one night after being arrested by the Intelligence Division. Vithusan’s family alleged he was beaten by officers at the time of his arrest. A local police team was formed to investigate his death. On the order of the Batticaloa Magistrate court, the body of the victim was exhumed for a second autopsy on June 21. The second autopsy report revealed signs of torture, the lawyer for the victim’s family told press in November. S.M. Ramzan, a 29-year-old Muslim arrested for drug possession on October 1, died the following day after police took him to Mannar General Hospital. The victim’s family alleged police assault led to his death, while police claimed he swallowed drugs at the time of the arrest and became unconscious during an interrogation. Another suspect arrested with the victim refuted claims of police abuse. The hospital and the Human Rights Commission of Sri Lanka’s (HRCSL’s) Jaffna division began investigations after the death, with the former working on a postmortem report; investigations continued at the end of the year.

Press reported members of parliament (MPs) of the political alliance Samagi Jana Balawegaya (SJB) protested in parliament on November 17 against the death of one of their supporters, who they claimed was the victim of police brutality when he attempted to travel from Panamure, Ratanapura, to Colombo to take part in a November 16 SJB protest. The SJB alleged that local police stopped the bus and, following an argument, arrested the victim on an earlier unrelated complaint, after which the police assaulted him in custody, leading to his death. The public security minister denied the allegations in parliament, claiming that the individual was not connected with the SJB protest and that he committed suicide inside the cell.

On June 16, the Court of Appeal granted bail to former director of the Criminal Investigations Department (CID) of the Sri Lanka Police Shani Abeyesekera, who had been in pretrial detention since July 2020 without charge for allegedly

fabricating evidence in a 2013 case. Civil society considered his demotion and arrest in 2020 to be reprisal for Abeysekera's investigations into several high-profile murder, disappearance, and corruption cases involving members of the sitting government, including members of the Rajapaksa family.

Lack of accountability for conflict-era abuses persisted, particularly regarding government officials, military, paramilitary, police, and other security-sector officials implicated and, in some cases, convicted of killing political opponents, journalists, and private citizens. Civil society organizations asserted that the government and the courts were reluctant to act against security forces, citing high-level appointments of military officials credibly accused of abuses and pardons of convicted murderers. During the year there was no significant progress on cases against officials accused of arbitrary, unlawful, or politically motivated killings.

On January 11, the Attorney General's Department (AGD) informed the Batticaloa High Court that it would not continue with murder charges against Tamil Makkal Viduthalai Pulikal party leader Sivanesanathurai Chandrakanthan, aka Pillayan, and five others for the 2005 killing of former Tamil National Alliance (TNA) member of parliament (MP) Joseph Pararajasingham. The court acquitted and released all six suspects in line with the AGD's decision on January 13. Pillayan, a former Liberation of Tamil Tigers Eelam (LTTE) paramilitary leader turned politician with numerous allegations of abductions, child conscription, and other human rights abuses, was appointed by President Gotabaya Rajapaksa as the cochairperson of the Batticaloa District Coordinating Committee in September 2020.

On April 12, the Colombo Magistrate Court released 11 of 15 suspects detained under the Prevention of Terrorism Act (PTA) for an alleged 2017 plot to kill TNA Jaffna District MP M. A. Sumanthiran. The Colombo Crimes Division informed the magistrates that the attorney general determined there was insufficient evidence to proceed with cases against 11 suspects but that prosecutions would continue against the remaining four. Of the 11 released, four were Tamils and seven were Sinhalese, while the four held pending prosecution were Tamil, including one Indian national.

On May 5, the Jaffna Magistrate Court ordered the release of six suspects in the

October 2000 death of Tamil journalist Mayilvaganam Nimalarajan, after the attorney general advised the court that the government would no longer pursue the case. A regular contributor to the BBC's Sinhala and Tamil services and a correspondent for Colombo-based outlets, Nimalarajan was allegedly shot and killed by members of the Tamil Eelam People's Democratic Party in his home in Jaffna.

On June 24, the president issued a special presidential pardon to former Sri Lanka Freedom Party (SLFP) parliamentarian Duminda Silva, sentenced to death in 2016 for the 2011 killing of fellow SLFP MP Bharatha Lakshman Premachandra during local elections. The Silva pardon came in the context of a petition signed by more than 100 government parliamentarians in 2020 requesting his pardon, based on claims that he was wrongfully convicted. On July 16, the president appointed Silva as the chairman of the National Housing Development Authority, which falls under the purview of Prime Minister Mahinda Rajapaksa, who was also the minister of urban development and housing.

Both Pillayan's acquittal and Silva's pardon elicited strong criticism from the legal community, the opposition, and international and domestic activists as arbitrary decisions undermining the independence of the judiciary and obstructing accountability.

## **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities. Disappearances during the war and its aftermath remained unresolved.

In February 2020 the Office on Missing Persons (OMP) received authorization to issue Interim Reports (which can be used to obtain a Certificate of Absence) to the relatives of the missing and disappeared. The Interim Reports and Certificates of Absence can be used by family members to legally manage the assets of missing persons and assume custody of children. The OMP opened an additional branch office in Kilinochchi in August and reported the total number of cases to be processed stood at 14,988 as of August 27, with 6,025 files covering cases from 2000 to 2021 prioritized for review for the remainder of the year. In October the OMP sent letters to families of the disappeared requesting them to submit

additional documents as the material already submitted by the families was insufficient. The list of items needed included documents such as identity cards, birth certificates, photographs, marriage certificates of the missing persons, and copies of complaints regarding the disappearance submitted to police, the UN Working Group, and other commissions.

President Rajapaksa stated the country's internal issue of the disappeared should be resolved through a domestic mechanism and invited Tamil diaspora participation, during a September 19 meeting with UN Secretary-General Antonio Guterres, according to the President's Media Division. During the UN General Assembly, the president also outlined his administration's intention to take immediate action on missing persons and expedite the issuance of death certificates.

Civil society actors and families of the disappeared suggested that issuing death certificates for the missing and disappeared, without investigation and disclosure of what happened to them, promoted impunity for those who were responsible for the disappearances, and they continued to protest in the north and east throughout the year demanding truth and justice. Those awaiting interim reports from the OMP said the government's rhetoric did not match its actions, as the truth regarding many missing persons from the civil war remained unknown. According to civil society groups, the OMP did not issue any interim reports for several months after the new chairperson took office in late 2020. On November 23-26, the OMP conducted interviews for more than 100 applications in Mannar, Jaffna, and Kilinochchi Districts to issue Interim Reports. At year's end the OMP stated it had issued 68 reports.

On August 4, the AGD announced its intent to drop charges against former navy commander Wasantha Karannagoda for alleged involvement in the abduction and disappearance of 11 individuals from Colombo in 2008 and 2009 (otherwise known as the "Navy 11" case), approximately two months after he informed the Colombo High Court Trial-at-Bar that he would no longer pursue charges. In 2019 Karannagoda was named as one of 14 defendants in the case, none of whom had been tried or convicted, for having known regarding the disappearances and failing to prevent them as navy commander at the time. Media reported the attorney general made his final determination on Karannagoda's writ petition, which accused former CID inspector Nishantha Silva of pursuing the case against

Karannagoda, for political reasons and allegedly to embarrass the current government.

Both international and local civil society organizations levelled criticism at the decision and demanded a justification from the attorney general. “This case has already been beset by obstacles in the Sri Lankan courts, and today’s decision pushes justice further out of reach for the families of victims. The attorney general’s department must explain the reasons for its decision, and Sri Lankan authorities must deliver truth, justice and reparations for all victims of enforced disappearance,” Amnesty International said in an August 4 statement. Families of the victims filed a writ petition with the Court of Appeals on October 13 to prevent the withdrawal of the indictment. During the initial hearing on November 11, the appeals court rejected the application. At year’s end the families were working on filing a fundamental rights (FR) petition with the Supreme Court.

On November 2, the High Court ordered the attorney general to inform the court in person or in writing if the AGD was withdrawing the indictment against Karannagoda, after the department informed the court that it would not move forward with the prosecution. When the case was taken up on December 3, the High Court adjourned the hearing for 2022. On December 9, Karannagoda was sworn in as governor of North Western Province, following the death of the previous governor. The president’s appointment of Karannagoda produced accusations from civil society that the government was further entrenching impunity.

As of December 14, there had been no progress on the trial of seven intelligence officers accused of participating in the 2010 disappearance of Prageeth Ekmaligoda, a journalist and cartoonist for the news website *LankaEnews*.

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

The constitution and law prohibit such practices, but authorities 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 sites

of allegations, examine evidence, and take preventive measures on allegations of torture. The 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.

Interviews by human rights organizations found that torture and excessive use of force by police, particularly to extract confessions, remained endemic. The HRCSL, for example, noted that many reports of torture referred to police officers allegedly “roughing up” suspects to extract a confession or otherwise elicit evidence to use against the accused. As in previous years, arrestees reported torture and mistreatment, forced confessions, and denial of basic rights, such as access to lawyers or family members.

During the year the HRCSL documented 236 complaints of torture, assault, or both in addition to 64 complaints from prisoners. As of year’s end, the HRCSL was still processing complaints and stated these numbers could rise. In response to allegations of torture, the HRCSL carried out routine visits to detention centers. On July 15, parliament approved amendments to the Code of Criminal Procedure Act to allow magistrates to visit remand prisons at least once a month, expecting them to check on the welfare of detainees and recommend bail if applicable. Due to the pandemic restrictions, these visits were restricted but resumed on October 15.

Impunity remained a significant problem characterized by a lack of accountability for conflict-era abuses, particularly by military, paramilitary, police, and other security-sector officials implicated and, in some cases, convicted of killing political opponents, journalists, and private citizens. Civil society organizations asserted the government, including the courts, were reluctant to act against security forces alleged to be responsible for past abuses, citing high-level appointments of military officials also alleged to have been involved in such abuses. During the year there was no progress on cases against officials accused of arbitrary, unlawful, or politically motivated killings.

On February 25, media reported that four police officers from the Peliyagoda police station allegedly beat Migara Gunaratne, a law college student and son of former Central Province governor Maithri Gunaratne, after mistaking him for his brother, a lawyer representing a prisoner in the station. The public security

minister told the press he had instructed the IGP to investigate the incident, which lawyers and rights groups condemned, saying it demonstrated impunity for police “torture” and abuses.

On October 21, the Supreme Court ordered the IGP to launch a criminal investigation into allegations that former state minister of prison management Lohan Ratwatte threatened to kill PTA Tamil prisoners during a visit to Anuradhapura prison on September 12. The Supreme Court also ordered the commissioner general of prisons to transfer those affected out of the prison for their safety, in line with requests in the FR petitions filed by eight of the prisoners on September 30, which the Supreme Court agreed to take up in its October 21 decision. According to press reports, Ratwatte provided statements in investigations underway by the HRCSL and a retired high court judge on October 5 and October 19, respectively, but as of October 25, he had yet to cooperate with a separate investigation by the CID. On December 8, press reported that after an opposition parliamentarian claimed the report of the retired high court judge found him guilty, Ratwatte denied the report had been made public or submitted to the cabinet, although he did not confirm or deny whether the parliamentarian’s claim was true.

MP Shankkiyan Rasamanickam tweeted a video of a traffic police officer reportedly assaulting two Tamil youths on October 22. Rasamanickam tagged the public security minister in a social media post stating, “Police brutality continues in Batticaloa and will fall on the deaf ears of [the public security minister].” The minister responded to Rasamanickam, stating the officer involved had been suspended, and on October 24, the police spokesperson said the officer had been arrested, produced before a magistrate, and released on bail. Within 24 hours of the posting of the video, press reported a separate video emerged on social media showing an injured youth lying in an ambulance after a different police officer in Batticaloa reportedly assaulted him.

### **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. According to officials, more than 32,000 persons were imprisoned in 2020 within a system with a capacity for 11,768. The government pardoned prisoners throughout the year and by September reduced the number of inmates to 22,000. According to civil society groups, as of December 3, there were more than 11,500 convicted prisoners in custody and more than 7,200 detainees in remand custody.

Inmates lacked adequate space to sleep and basic hygiene facilities. 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 HRCSL recommended in 2020 that the Department of Prisons address overcrowding during the COVID-19 pandemic by releasing detainees in pretrial detention due to their inability to pay bail, prisoners who were seriously ill, older than age of 70, and those convicted of minor offenses.

Civil society organizations and prison monitoring groups reported that “high-profile prisoners,” kept separate from the general prison population, included many Muslim detainees who were arrested after the 2019 Easter Sunday attacks. Juvenile detainees ages 16 to 22 were processed at different centers (called “training schools”), and their cases were handled separately under the Youthful Offenders’ Act. As of August 26, a total of 30 children younger than age five were in the prison system staying with their imprisoned mothers.

**Administration:** The HRCSL, on its own initiative or after a complaint is reported, investigates complaints and refers them to the relevant authorities when warranted. The HRCSL reported it received some credible allegations of mistreatment from prisoners.

**Independent Monitoring:** The Board of Prison Visitors is the primary domestic organization conducting visits to prisoners and accepting complaints; it also has the legal mandate to examine overall conditions of detention. The Board of Prison Visitors functioned as an internal governmental watchdog and was established under the Prisons Ordinance. Its members are representatives of civil society who are otherwise unaffiliated with the government or other state institutions. The

HRCSL also had a mandate to monitor prison conditions, and police largely respected their recommendations. Due to pandemic travel restrictions, the International Committee of the Red Cross was not allowed to conduct monitoring visits; visits resumed after restrictions were lifted in October. The HRCSL and Red Cross had access to all prisoners and detainees, regardless of the type of facility.

#### **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 or her arrest or detention in court, but there were numerous reports that arbitrary arrest and detention occurred.

##### **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 may make arrests pursuant to arrest warrants that judges and magistrates issue 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. Justice Ministry officials noted that due to the limited infrastructure as well as human resources and legal constraints, in many cases more time elapsed before detainees appeared before a magistrate, particularly in PTA cases. For offenses that are bailable under the Bail Act, instead of arraignment in court, police may 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 police before seeing a magistrate. For suspects accused of nonbailable offenses, bail is granted only after appearing before a magistrate and at the magistrate's discretion.

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, some for more than 10 years.

Judges require approval from the AGD to authorize bail for persons detained under the PTA. The AGD provided such approval in some cases. In homicide cases regulations require the magistrate to detain 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 Court of Appeal but not in other cases; the law requires the provision of counsel only for cases heard at the High Court and Court of Appeal.

The government continued monthly to issue a gazette (or an order) deploying the armed forces to ensure public security following the expiration of a state of emergency that had been in place between April and August 2019 following the April 2019 Easter Sunday bomb attacks, keeping the military continuously deployed domestically.

On August 25, the inspector general of police told press the government had arrested 723 individuals for alleged involvement in the Easter Sunday bombings from 2019 and that 311 individuals remained in detention. According to civil society, almost all these individuals were being held without charge under various combinations of the PTA, the International Covenant on Civil and Political Rights (ICCPR) Act, and the penal code. On August 10, the first indictments for direct involvement in the attacks were filed against 25 suspects. International NGOs had limited access to the remaining attack suspects.

On August 28, the president appointed a three-member advisory board to make recommendations on holding or releasing individuals held under PTA detention orders. The justice minister told the press that those held under PTA detention orders could submit applications to the board, which would be required to make recommendations to the defense minister on whether to order release, set bail, or implement other actions, including rehabilitation, in each case. Some civil society groups reported being cautiously optimistic that the activation of the advisory board could lead to the release of some detainees, and some activists said they were willing to try the process to secure release of innocent detainees in their community. According to civil society, at year's end the government had released 16 PTA detainees on the recommendation of the board.

**Arbitrary Arrest:** The HRCSL received numerous complaints of arbitrary arrest and detention. 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. At year's end, according to civil society activists, those remaining in detention under the PTA included approximately 300 individuals who they reported identified as Muslim, approximately 70 Tamils held for years for alleged links to the LTTE during the civil war, and more than 110 Tamils arrested for social media posts critical of the government and alleged activities to revive the LTTE.

Since April 2020, when police stated that 11 persons had been arrested for spreading false content related to COVID-19 on social media, police continued periodically to announce action against those who generate, share, and forward “fake news” on social media platforms in order to “prevent the public from being misled.” Protesters engaging in demonstrations also reported police intimidation, arrests, and detentions (see sections 2.b. and 7.a.).

The government arrested five prominent Muslims in 2020 and during the year for alleged involvement in the 2019 Easter Sunday bombings and indicted three of them on speech-related offenses under the PTA. Advocates on behalf of these individuals claimed the government had been unable to produce credible evidence of their alleged connections to terrorist activity and filed FR petitions at the Supreme Court to free them, although proceedings were delayed for months. As of year's end, three had been released on bail and one acquitted, with one remaining in custody (see section 1.e.).

Poet and teacher Ahnaf Jazeem was arrested under the PTA in May 2020 for a collection of Tamil poems he published that allegedly contained “extremist” messages, but Amnesty International asserted that the writings spoke out against extremism, violence, and war. On May 16, 13 organizations issued a statement expressing concerns regarding his detention. On June 12, the Colombo Magistrate Court remanded Jazeem without presenting him before a magistrate or informing his lawyers. On September 7, the international NGO Freedom Now filed a petition on his behalf with the UN Working Group on Arbitrary Detention, noting “Ahnaf’s poetry should be celebrated, not condemned” and asserted his wrongful detention

was indicative of the country's "blatant misuse of antiterrorism laws to criminalize peaceful expression." Jazeem appeared before the Puttalam High Court and indicted under the PTA for speech-related offenses on November 15. The court granted Jazeem bail on December 15 after 18 months of detention. He was released on December 16.

On March 16, authorities arrested former Western Province governor Azath Salley under the PTA after he criticized the cabinet's decision to ban polygamy at a March 10 press conference. The arrest came after a ruling government parliamentarian filed a complaint alleging Salley had "direct or indirect" links to the Easter Sunday attacks. On June 25, the AGD filed an indictment against Salley for speech-related offenses under the PTA and ICCPR Act, and on August 17, the Colombo chief magistrate ordered Salley's detention. The high court refused Salley's bail application on September 17 and 24. On October 11, the Supreme Court granted Salley leave to proceed with an FR petition that he filed against his arrest and detainment. On December 2, the Colombo High Court acquitted Salley of all charges.

Member of parliament and leader of the All Ceylon Makkal Congress party Rishad Bathiudeen and his brother Riyaj Bathiudeen were arrested under the PTA on April 24 for alleged links to the 2019 bombings. Rishad Bathiudeen was previously arrested in October 2020 for misappropriating public funds during the 2019 presidential election and released on bail in November 2020. Riyaj Bathiudeen was previously arrested in relation to the Easter Sunday bombings in April 2020 and released without charge in October 2020 after police stated they found no evidence against him. Advocates said the police did not reveal why Rishad and Riyaj were arrested during the year, except to note that it related to the 2019 attacks. Rishad was granted bail on October 14, and Riyaj was released on bail on November 15.

On April 9, press reported Terrorism Investigation Department (TID) police arrested Jaffna mayor Visvalingam Manivannan on charges of attempting to revive the LTTE. The arrest came after police, prompted by social media comments, accused the mayor of forming a "police-like" unit that wore uniforms similar to those of the banned Tamil Eelam police (LTTE police wing). Speaking to press after giving police his statement, Manivannan explained that his office used the

Colombo Municipal Council uniform as a model for the new unit's uniforms and that the uniforms "held no further connotations." On April 9, the Jaffna Magistrate Court released the mayor on bail, charging him under the penal code for "exciting or attempting to excite feelings of disaffection for the government."

On April 17, the TID arrested four men from Jaffna and another from Mullaitivu under the PTA on charges of attempting to revive the LTTE. According to press reports, the Jaffna men were arrested after TID officers intercepted telephone conversations between them and suspected drug and gun smugglers arrested in India on March 18. The fifth man from Mullaitivu, described as a "rehabilitated former LTTE cadre," was arrested for maintaining contact with the four men from Jaffna. On July 19, the Jaffna Magistrate's Court released all five individuals. According to press reports, the TID informed the court that they could not pursue the case as there were no charges against them; the magistrate subsequently ordered their release.

President Rajapaksa pardoned 93 inmates, including 16 former LTTE cadres and 77 individuals imprisoned for minor offenses, to mark a Buddhist religious observance day on June 24. Press reported the 16 were convicted under the PTA on weapons-possession charges and served 10 to 13 years and that some of them were to be released in 2022 or 2024.

**Pretrial Detention:** Pretrial detainees composed approximately 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 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:** A person may legally challenge an arrest or detention and obtain release through the courts. The legal process takes years, however, and the Center for Human Rights Development reported that the perceived lack of judicial independence and minimal compensation discouraged individuals from seeking legal remedies. Individuals detained under the PTA have the right to challenge their detention, but many such individuals faced difficulties in accessing this right due to

administrative restrictions on access to lawyers and lack of financial resources to retain competent counsel.

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

The law provides for an independent judiciary, but the government sometimes did not respect judicial independence and impartiality. Civil society organizations reported that passage of the 20th Amendment to the constitution, which gave the president sole discretion to appoint all judges of the superior courts, undermined judicial independence.

Political opposition and civil society raised alarm over the government's Presidential Commission of Inquiry (PCoI) on Political Victimization report, which alleged the previous government had targeted members of the existing government and their loyalists with politically motivated investigations and prosecutions. The report further determined that most of the complainants against former government members and officials were subject to political victimization, including those accused in emblematic human rights and fraud cases such as those allegedly responsible for the abduction and disappearance of 11 individuals in 2008 and 2009, the killing of journalist Prageeth Eknaligoda, the killing of *Sunday Leader* newspaper editor Lasantha Wickremathunga, the abduction and torture of journalist Keith Noyahr, the killing of rugby player Wasim Thajudeen, and the killing of inmates in the 2012 Welikada prison riot.

Arguing that the government could use the report's findings to pressure the attorney general and courts to end criminal proceedings against the existing government and its allies and take legal action against officials from the previous government, several opposition members and civil society representatives filed legal challenges. On January 29, the president appointed a Special PCoI (SPCoI) to implement some of the report's conclusions, and in April he expanded the SPCoI's mandate to encompass a review of all the report's findings. On October 28, the president issued a government order granting a six-month extension to the SPCoI's mandate, following an October 7 order granting the SPCoI authority to access telecommunications records of anyone under investigation without a court order. The PCoI generated domestic and international criticism that it was an attempt to interfere with the judicial system and advance impunity. Human Rights

Watch issued a statement calling on parliament to reject the findings of the PCoI.

## **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 Court 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 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**

Some Tamil and Muslim politicians and local human rights activists referred to alleged former Tamil-LTTE combatants, Muslims, or both accused of terrorism-related violent crimes as “political prisoners.” The government did not acknowledge any political prisoners and claimed the prisoners in question remained detained for terrorist or violent criminal acts. The government permitted access to prisoners on a regular basis by the HRCSL, magistrates, and the Board of Prison Visits. Authorities granted irregular access to those providing legal counsel and were reported to monitor and sit in during the prisoners’ visits with counsel.

The attorney general filed indictments against human rights lawyer Hejaaz Hizbullah for speech-related offenses under the PTA, ICCPR Act, and penal code on March 12. He remained in detention at year's end, more than 20 months since his April 2020 arrest. Police originally accused Hizbullah of being connected to the Easter Sunday attacks through his link with "Save the Pearls," an organization that partnered with the al-Zuhriya Arabic College in Puttalam between 2015 and 2017 to conduct an educational program for children exposed to drug culture, and for which he served as its president. On July 14, Amnesty International declared Hizbullah a prisoner of conscience. On August 26, more than 70 individuals and organizations including prominent religious leaders and human rights advocates demanded his immediate release, noting that the government's refusal to "even consent to Hizbullah's bail demonstrated the government's bad faith." On November 19, the Puttalam High Court judge denied bail, stating that the court did not have the authority to grant bail under the PTA without the attorney general's agreement. As of year's end, Hizbullah's lawyers' appeal of the denial to the court of appeal was pending.

Numerous activists, human rights lawyers, and international advocates claimed Hejaaz Hizbullah, Ahnaf Jazeem, Azath Salley, and Rishad and Riyad Biathudeen were arrested for their religious or political beliefs. A group of 96 local university academics issued a statement on July 13 calling for Hizbullah's and Jazeem's release. The Inter-Parliamentary Union based in Geneva also expressed interest in observing the Bathiudeens' court cases in July. UN High Commissioner for Human Rights Michelle Bachelet in her September 13 update at the UN Human Rights Council (UNHRC) raised concerns regarding the application of the PTA, citing Hizbullah and Jazeem by name. In October Amnesty International released a report in which it raised concerns regarding Hizbullah and Jazeem's prolonged detentions, requesting the government to stop the "state-sanctioned vilification and arbitrary detention of members of the Muslim community."

### **Politically Motivated Reprisal against Individuals Located Outside the Country**

**Threats, Harassment, Surveillance, and Coercion:** On March 28, the government issued an order designating seven Tamil diaspora organizations and 388 individuals, all ethnic Tamils and Muslims, as terrorists. The order reversed

the delisting of hundreds of diaspora organizations and representatives by the previous government. The new list also included several Sri Lanka-based Tamils accused of attempting to revitalize the LTTE and several Muslims accused of involvement in the 2019 Easter Sunday attacks, some of whom remained in detention. The order relisted Tamil diaspora groups and included the names and home addresses of dozens of individuals in TID custody. Diaspora leaders issued statements, some calling the listings arbitrary and an attempt to silence the Tamil diaspora. Local activists noted the listing of the addresses of those in TID custody endangered the families of designated persons.

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

Citizens may seek civil remedies for alleged human rights violations through domestic courts up to the Supreme Court.

### **Property Seizure and Restitution**

Land ownership disputes continued between private individuals in former war zones, and between citizens and the government.

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). During and immediately following the civil war, government officials frequently posted acquisition notices for HSZ lands that were inaccessible to property owners, many of whom initiated court cases, including FR cases before the Supreme Court, to challenge these acquisitions. Throughout the year lawsuits, including a 2016 Supreme Court FR case and numerous writ applications filed with 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.

With the amount remaining in dispute, many of those affected by the HSZs complained that the pace at which the government demilitarized land was too slow, that the military held lands it viewed as economically valuable for military benefit, and that military possession of land denied livelihood to the local population. According to the acquisition notices, while most of the land acquired was for use as army camps and bases, among the purposes listed on certain notices were the

establishment of a hotel, a factory, and a farm. Some Hindu and Muslim 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, and they described these acts as part of a “colonialization” plan to dilute the concentration of minorities in the north (see section 2.c.).

## **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 authorization. During the year civil society and journalists reported allegations of both online and offline surveillance.

On September 6, parliament approved a state of emergency, declared by the president on August 30, to control food prices and prevent hoarding amid shortages of some supplies. The emergency regulations enabled authorities to detain persons without warrants, seize property, enter and search any premises, suspend laws, and issue orders that could not be questioned in court, while allowing officials who issued the order to be immune from lawsuits. Opposition leaders and civil society organizations said the emergency declaration was not needed and that other laws could have been used to maintain essential supplies. The emergency regulations lapsed on September 30. Media and civil society reported that the government used the regulations to raid warehouses and seize food but did not indicate broader use of the emergency powers.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and other Media**

The constitution provides for freedom of expression, including for members of the press and other media, but the government sometimes restricted this right.

**Freedom of Expression:** Authorities restricted hate speech, including insults to

religion or religious beliefs, through a police ordinance and the penal code. The government requested media stations and outlets to refrain from featuring hate speech in their news items and segments. Restrictions on hate speech were applied selectively, with hate speech against Muslims more tolerated than against other groups.

On February 9, writer and Amnesty International prisoner of conscience Shakthika Sathkumara was discharged by the Polgahawela Magistrate Court after the attorney general's recommendation against filing an indictment in his case. Sathkumara's FR petition, last heard on October 26, was postponed to March 2022.

On August 22, the Colombo Magistrate Court granted bail to Ananda Palitha, secretary of the Ceylon Petroleum Corporation-affiliated union Jathika Sevaka Sangamaya, stating that "expressing opinions based on factual information is not a matter for remand since freedom of speech is guaranteed by the Constitution." The CID arrested Palitha on August 21 for spreading false information to alarm citizens. Palitha had publicly alleged a nationwide fuel shortage was underway. Palitha's attorney told press outlets that the arrest demonstrated the government's threat against freedom of expression.

At year's end retired government Agriculture Department official Ramzy Razeek's case remained pending with no charges filed. Razeek was arrested in April 2020 for a Facebook post condemning anti-Muslim racism during the COVID-19 pandemic. He was released on bail on medical grounds in September 2020.

**Freedom of Expression for Members of the Press and Media, Including Online Media:** Independent media were active and expressed a wide variety of views, including criticism of the government. Most online commentators and journalists shared opinions concerning government policies and politicians, including the president, without fear of consequence. Some journalists including citizen journalists, however, reported harassment, threats, intimidation, and interference from members of state security services, especially when reporting on issues related to the civil war or its aftermath, including missing persons. Tamil journalists reported military officers requested copies of photographs, lists of attendees at events, and names of sources for articles. They also reported the military directly requested that journalists refrain from reporting on sensitive

events, such as Tamil war commemorations or land occupation protests, as well as on posting anything related to former LTTE leaders, and that they feared repercussions if they did not cooperate.

On August 12, the Colombo Crimes Division (CCD) arrested columnist Keerthi Ratnayake of the web-based publication *LankaEnews* for allegedly sharing information with the Indian High Commission regarding a potential attack on the commission on August 15, India's Independence Day. According to his lawyer, police informed Ratnayake they had detained him under the PTA for 90 days. Press reported Ratnayake, who wrote on defense and political affairs, exposed an alleged government plot to kill drug kingpin Makandure Madush three days before Madush died under the custody of the CCD in October 2020, and he predicted the alleged extrajudicial killing of Kosgoda Tharaka in May. Ratnayake submitted an FR petition on November 9 against unlawful detention. On November 15, his detention was extended for another 90 days, and in December his bail application was rejected.

Press reported the CID on September 28 questioned the editors and journalists of several newspapers regarding articles published in their respective papers regarding an alleged "garlic scam" fraud involving the state-owned enterprise Sathosa, the essential foodstuffs distribution arm of the government. Prime Minister Mahinda Rajapaksa gave orders to the CID not to question journalists for reporting on the garlic scam, but six journalists were nonetheless summoned to the CID.

**Violence and Harassment:** There were reports of harassment and intimidation of journalists when covering sensitive issues. Reporters alleged that authorities, sometimes in government vehicles, surveilled journalists, especially those covering protests.

In May local media reported Tamil journalists travelling to Mullaitivu were repeatedly blocked at checkpoints by military officers, despite presenting travel permits. Media activists pointed out that most Sinhala journalists did not encounter such harassment while covering news stories when travel restrictions were imposed.

On July 3, professional associations, civil society, and opposition political parties raised concerns regarding veiled threats that senior deputy IGP Deshabandu Thennakoon sent on social media to Sinhalese-language journalist and editor Tharidu Jayawardana. Thennakoon commented on Jayawardana's Facebook page, stating, "Those who lie and mislead will be punished by nature as Prabhakaran was punished," alluding to former LTTE leader Velupillai Prabhakaran, who was killed at the end of the civil war in 2009. Six journalist organizations represented by the Media Organizations' Collective wrote to the IGP on July 3, raising concerns regarding Jayawardana's safety, while opposition leaders raised the issue in parliament, calling for an impartial inquiry and assurances for the journalist's safety.

The Committee to Protect Journalists reported officers with the Batticaloa branch TID interrogated Selvakumar Nilanthan on July 12, a freelance Tamil journalist and the secretary of the Batticaloa District Tamil Journalists Association, a local press freedom group, for approximately three hours. The journalist was asked whether he had any links to the LTTE and questioned extensively regarding his work. The committee said the interrogation added to the pattern of harassment of Tamil members of the press and called on authorities to cease intimidation tactics.

On September 14, police interrogated Batticaloa District Tamil Journalists Association's treasurer and journalist Punniyamoorthy Sasikaran for more than an hour without providing justification for the questioning, press reported. Police previously questioned Sasikaran on August 23 and earlier in the year for his alleged involvement in the Pothuvil to Polikandy (#P2P) protests (see section 2.b.), where they claimed they questioned him for his role in a fishermen's organization involved in organizing the protest, while Sasikaran said he was participating at #P2P as a journalist, not an organizer. The Federation of Media Employees Trade Union condemned the repeated interrogations by local authorities and alleged the state was constraining press freedom, especially of Tamil journalists, by enforcing self-censorship.

On November 28, the HRCSL announced an inquiry concerning the November 27 alleged assault on freelance journalist V. Vishwachandran in Mullaitivu by army personnel. Press reported video footage showed Vishwachandran claiming he was assaulted while taking a photograph of the "Mullivaikal" road sign. Pictures of

Vishwacahndran's hands reportedly showed injuries, and he was later admitted to a hospital. Police reportedly arrested three army personnel for their alleged involvement in the incident. On December 1, press reported the army issued a press statement stating the alleged assault was "carefully orchestrated" and "a maliciously planned plot." According to press reports, two soldiers who allegedly attacked Vishwachandran confessed to the offense and apologized to the victim in the presence of police officers on November 30, following which the case was resolved amicably without further legal action.

**Censorship or Content Restrictions:** On several occasions print and electronic media journalists noted they self-censored stories that criticized the president or his immediate family. The journalists said they had received calls from supporters of the government asking them to refrain from personal attacks on a small number of senior officials. While some online commentators reported occasionally self-censuring because of fears of harassment, threats, and intimidation, more journalists seemed concerned with whether antigovernment reporting might be rejected by publishers who feared losing advertising revenue controlled by the government. Those who worked for smaller media organizations reported increased self-censorship due to fear they would face heightened vulnerability, as they had no institutional backing for support.

**National Security:** Authorities continued to cite the PTA, ICCPR Act, or penal code to arrest and punish critics of the government and deter criticism of government policies or officials.

## **Internet Freedom**

There were credible reports that the government monitored private online communications without appropriate legal authority.

A Freedom House report covering the period between June 2020 and May said the state-owned Sri Lanka Telecom (SLT) introduced data packages in April where all but two SLT plans blocked virtual private networks, torrents, peer-to-peer applications, and the messaging application Telegram as part of their terms and conditions. The report also stated the online news outlet *LankaEnews* remained blocked on Dialog connections although it remained accessible on SLT

connections. Freedom House also reported the use of mobile applications, tracking tools, and vaccination registers online during the COVID-19 pandemic raised concerns regarding digital privacy.

A Muslim businessman, Fazl Muhammed Nizar, was detained by police under the PTA for a January 9 Facebook post accusing the government of using heavy-handed tactics to govern. A day before posting the video, Nizar wrote on Facebook that the authorities would be coming for him and refused to stop his social media posts or to take down the January 9 video, saying he was ready to face arrest. Nizar was arrested on January 11 by the CID and detained until January 18, after police stated his Facebook post incited racial tensions in violation of the ICCPR Act. On January 18, police informed the magistrate that it had obtained a 90-day detention order for Nizar under the PTA; as of December 10, he remained in detention.

On August 23, press reported the CID summoned activist Shehan Malaka to record a statement after he made comments on Facebook regarding the 2019 Easter Sunday attacks. Malaka reportedly appeared at the CID office on August 23 and 28, with several Catholic clergy expressing concerns that his summons indicated persons were being prevented from talking about the Easter Sunday investigations. The incident occurred after police announced on June 7 the creation of two new special teams under the CID to act against those who generate, share, and forward “fake news” on social media platforms, and those who cause religious or ethnic disharmony by the content shared. Some politicians, activists, and social media users condemned the announcement, criticizing the lack of formal guidelines from the government on who decides what constitutes “fake news.”

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

State university officials reportedly attempted to prevent professors and university students from criticizing government officials. The government interfered with university appointments and credentialing of individuals based on legal activities and political expression.

On January 8, University of Jaffna staff bulldozed a campus monument erected by students to commemorate Tamil victims of the 2009 final battle in Mullivaikal.

The demolition generated wide-ranging criticism from minority leaders, civil society groups, and opposition politicians. In response to the demolition, Tamil politicians called for a January 11 general strike. Following the backlash, on January 11, the university laid the foundation stone to reconstruct the monument. On January 12, press reported the government stated the memorial was removed because its construction was unauthorized, claiming that politics had not been a consideration in the demolition. On April 23, the University of Jaffna Student Union unveiled the reconstructed memorial; however, Tamil media reported key elements of the memorial depicting military shelling had been removed.

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

The government restricted freedoms of peaceful assembly and association.

### **Freedom of Peaceful Assembly**

The law provides for freedom of peaceful assembly, but these freedoms were subject to multiple restrictions. The constitution restricts the freedom of assembly in the interest of religious harmony, national security, public order, or the protection of public health or morality. Freedom of peaceful assembly also may 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 a police ordinance, protesters must seek permission from the local police before holding a protest.

The government-imposed island-wide curfews that restricted free movement of persons citing COVID-19 concerns. According to civil society and political leaders, authorities used COVID-19 health guidelines in some instances to prevent opposition political rallies, while rallies by government supporters proceeded unhindered. Similarly, police repeatedly tried to obstruct protests organized by the families of the disappeared, political parties, civil society actors, union leaders, and religious leaders, citing COVID-19 regulations. The Bar Association of Sri Lanka condemned police actions against those engaged in public protests.

Pottuvil to Polikandi (#P2P), a four-day protest march organized by civil society groups and religious leaders and supported by Tamil and Muslim political parties and leaders, began on February 3. At the request of police, several courts across

the north and east issued orders banning protesters from taking part in the march, citing pandemic regulations and sections of the criminal code related to causing “communal disharmony” and “inciting disaffection with the government.” Police and paramilitary special task forces reportedly attempted to stop the march with roadblocks, but protesters defied police orders and pushed past barricades. The press reported no violence, and the protest ended peacefully. Following the protests, international organizations reported several Tamil politicians and civil society activists, including mothers of the disappeared, were summoned and questioned by the TID for allegedly taking part in the #P2P protests. On May 23, S. Sivayoganathan, one of the cochairs of Batticaloa Civil Society who was part of organizing the #P2P protests, was summoned to the TID and questioned for more than an hour regarding his involvement in organizing the protest. He was summoned again on August 25 for further interrogation.

According to media reports, unknown assailants allegedly damaged the Mullivaikal memorial, the main memorial for the war victims in the 2009 final battle zone on May 12, while in parallel the army removed a new monument commissioned by the Mullivaikal Remembrance Committee. On May 13, the committee lodged a complaint about being denied access to the monument. An army spokesperson told press on May 13 the army had no role in the destruction of the monument, claiming the possibility of third-party vandalization.

At the request of police, the Mullaitivu and Batticaloa Magistrate Courts issued orders on May 13 and 16, respectively, banning public commemorations of Mullivaikal Remembrance Day, May 18, the day the war ended in 2009, when Tamils gather to commemorate war victims. The orders cited potential violations of health guidelines, quarantine regulations, and the PTA. On May 15, the Jaffna Magistrate Court rejected a police request to ban commemorative events, allowing them so long as they abided by health guidelines, and ordered police to file cases only if commemorations violated any laws. According to press reports, the chief of defense staff and army commander stated that all persons had the right to commemorate war victims but noted that commemoration events needed to be done at home, otherwise those who gathered in Mullivaikal would be arrested whether they were citizens or politicians. On May 18, Tamil media reported 10 Tamils were arrested under the PTA in Batticaloa for holding a memorial event for

war victims, which the government declared was allegedly a commemoration event for the LTTE. They were released on bail on December 8 by Valaichenai Magistrate Court. Press also reported police entered the home of former Karaithuraipattu divisional secretary Kangaiya Thavarasa and presented him with a court order banning him from commemorating Mullivaikal while he was paying tribute to the victims at his home.

The government arrested five student leaders from the Inter University Students' Federation for involvement in a major protest held on August 3 criticizing a bill pertaining to administration of the Kotelawala National Defense University. According to police, the protesters allegedly violated the Public Property Act, the penal code, and quarantine regulations. In a letter to the magistrate court on August 4, police claimed the five inflicted 213,600 rupees (\$1,070) in damages on police barricades and infrastructure after allegedly burning a mock coffin made of cardboard at the August 3 demonstration. On September 14, 126 civil society groups and activists issued a public statement demanding the government stop endangering the safety of the detainees and called for their immediate release on bail. On November 11, a magistrate released the five protesters on bail. See section 7.a. for additional examples.

### **Freedom of Association**

The law provides for freedom of association but imposes restrictions on NGOs and criminalizes association with or membership in banned organizations. Religious organizations, including Muslim and Christian groups, reported incidents of intimidation (see section 2.c.).

During the year civil society reported allegations of monitoring, surveillance, intimidation, and harassment of civil society organizations, religious organizations, human rights defenders, and families of victims of rights violations, including repeated visits by the TID, CID, and other state security services, who questioned organizations regarding their staff, finances, and activities. Human rights activists also alleged unknown actors believed to be state security officials would call them, issuing threats, alleging staffers had supported terrorism, or suggesting the activists were being surveilled. Organizations that received frequent visits were in three overlapping categories: those located in the north and east provinces; those whose

key activities focused on human rights, accountability, or transitional justice; and those publicly known to engage with the international community.

The government moved the NGO Secretariat, which handled government oversight of NGO operations, including inspections of NGO finances, from the Ministry of Defense to the Foreign Ministry effective November 17. Reporting requirements to the NGO Secretariat included quarterly work plans and progress reports that had to be broken down by individual districts (of which there are 25). Some organizations reported those that fell under the secretariat's authority were compelled to seek prior approval for submitting proposals and subsequently for project activities, faced imposition of strict rules and conditions to obtain approvals, received directives on how to apportion or use financial resources, and faced badgering and criticism at the time approvals were requested for their annual plans. Smaller organizations also reported thinking they were compelled to attend meetings convened by the secretariat, as they believed failure to do so would result in their organizations' activities and approval being adversely affected.

NGOs receiving foreign funding reported that police officers, including TID and CID agents, visited their offices or called them in (sometimes asking them to travel to Colombo from other provinces) for lengthy and sometimes repeated interrogations related to their project funding and activities. NGO Secretariat officials explained that the CID investigations originated from Central Bank of Sri Lanka counterterrorist financing and anti-money-laundering regulations and that the CID was the correct statutory body to conduct such investigations. Some private individuals and businesses reported being subjected to similar investigations. Some NGOs reported their banks refused to release funds from their accounts unless the organizations provided information on NGO programs and staff to local authorities. Some expatriate staff of human rights NGOs had their visa renewals denied, while their organizations remained under investigation. Organizations said all of these factors contributed to the growth of a culture against freedom of association.

Throughout the year local organizations and activists publicized their concerns with government restrictions to association and shared their opposition to any new regulations or legislation that could further constrain their operations (see section 5).

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

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Country**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. Human rights organizations described military presence, including numerous military checkpoints, in the north and east as a measure of the government's COVID-19 response and travel restrictions.

### **e. Status and Treatment of Internally Displaced Persons**

The country's civil war, which ended in 2009, caused widespread, prolonged displacement, including forced displacement by the government and the LTTE, particularly of Tamil and Muslim civilians. The State Ministry of Rural Housing and Construction & Building Material Industries is responsible for internally displaced person (IDP) issues. In May the State Ministry appointed three officers to resolve problems faced by persons in the Northern and Eastern Provinces, including land questions. Most IDPs continued to reside 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 economic opportunities; inability to access basic public services, including acquiring documents verifying land ownership; lack of government resolution of competing land ownership claims; and other war-related reasons.

As of May a total 38,025 families, including 4,989 refugee returnees from India, had been resettled in Jaffna, and 20,823 acres of land had been returned, with a government priority of resettling an additional 245 internally displaced families living in 16 welfare centers in Jaffna. The army returned 12 acres of private land in Kumburumullai, Batticaloa, to the respective landowners through the Office of the District Secretary on August 3, press reported. On August 16, the army returned another two acres of private land in Kokkatticholai in Batticaloa, which

had been used as an LTTE base before the end of the war. During the August 11 meeting with the Batticaloa District Secretary, army and police officials reportedly assured that most military- and police-held private lands in the district would be returned to the respective landowners before the end of the year to facilitate the return of IDPs.

On October 28, press reported the army formally returned 11 acres of private land belonging to 30 families in Puthukkudiyiruppu, Mullaitivu District. The army had returned 7.5 acres in 2017 (of 19 total at that location) after the landowner protested the continued occupation, with the assurance that it would release the rest within three months.

## **f. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern.

**Access to Asylum:** The law does not provide for the granting of asylum or refugee status. Remaining in Sri Lanka as a recognized refugee is not permitted by authorities. A 2005 memorandum of understanding allows UNHCR to operate in the country to conduct refugee registration and status determinations. But with no legal or policy framework on asylum in the country, ability to enter the country to seek asylum remained difficult, with at least one known instance of refoulement. UNHCR also facilitated durable solutions for refugees in the form of resettlement to third countries. The government relied on UNHCR to provide food, housing, and education for refugees in the country and to pursue third-country resettlement for them. Asylum seekers, however, had to rely on the support of NGOs for basic needs.

**Access to Basic Services:** The law does not permit refugees and asylum seekers to work or enroll in the government school system, but many worked informally. Refugees and asylum seekers registered with UNHCR had access to free health care in state hospitals. Local press reported Iranian refugees protested outside the UNHCR office in Colombo on October 5, seeking expedited support on their

resettlement cases and highlighting access to services, such as education for their children.

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

The constitution provides citizens with 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:** In March 2020 President Rajapaksa dissolved parliament, calling for an election in April. The Elections Commission postponed the election twice, citing COVID-19 concerns, which allowed the president to govern without the opposition-controlled legislature for five months. In June 2020 the Supreme Court unanimously dismissed seven petitions challenging President Rajapaksa's dissolution of parliament. In that same month the Elections Commission announced the general election would be held on August 5, 2020, after more than five months' delay due to the COVID-19 pandemic.

Parliamentary elections were conducted in August 2020. The ruling Sri Lanka Podujana Peramuna (SLPP) won 59 percent of the vote, or 145 seats, just shy of the two-thirds majority (150 seats) it sought. The SLPP reached a two-thirds majority coalition with the support of smaller, progovernment parties that ran independently of the SLPP but joined or aligned with the SLPP-led Sri Lankan People's Freedom Alliance. The SJB came in second, with 23.9 percent of the vote and 54 seats. The United National Party, the country's founding political party, won 2.61 percent. The parliamentary elections were conducted peacefully, with few reported violations, no violence, and public-health guidelines largely adhered to by voters.

COVID-19 travel restrictions and public-health guidelines prevented the travel of international observers and limited domestic election observers. The election was largely considered free and fair, although civil society and some monitoring bodies reported some instances of voter intimidation.

Following the passage of the 20th Amendment, the National Election Commission

was no longer deemed an independent institution by domestic and international observers.

**Political Parties and Political Participation:** There were no reports of restrictions on political parties participating in elections except for those prohibited due to terrorist affiliations.

**Participation of Women and Members of Minority Groups:** No laws limit the participation of women or members of minority groups in the political process, and they did participate. There were reports of harassment of women and minorities prior to the parliamentary elections in 2020. Although women formed most of the electorate, only 5 percent of elected legislators were women.

## **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. There were numerous reports of government corruption during the year.

**Corruption:** Corruption remained a significant and continuing problem, including at the highest levels of government. International companies frequently reported requests for bribes on matters ranging from customs clearances to government procurement.

On August 6, while delivering a judgement dismissing a case filed against two labor field officers for accepting a bribe of 15,000 rupees (\$74), press reported a Colombo High Court judge stated that the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) favored politicians by withdrawing cases against them based on technicalities but that CIABOC did not take the same approach to cases against the public, which the judge declared was clear discrimination. In its final report tabled in parliament on March 9, the PCoI appointed in January 2020 to investigate alleged political victimization during the tenure of the previous government recommended the withdrawal of nearly 40 cases of bribery and corruption pending in the courts, identifying them as incidents of political victimization. In her report for the 46th Session of the UNHRC, High

Commissioner Bachelet noted that the PCoI had “undermined police investigations and court proceedings related to several high-profile human rights and corruption cases.”

Ahimsa Wickrematunge, daughter of slain journalist Lasantha Wickrematunge, filed a complaint on January 8 with the UN Human Rights Committee regarding alleged government involvement in her father’s death 12 years earlier. The Center for Justice and Accountability, an international human rights NGO, supported the filing of Ahimsa’s complaint alleging that her father was killed by a military-linked hit squad while driving to work in 2009, days before he was to testify in a defamation case filed by then defense secretary Gotabaya Rajapaksa regarding an article implicating him in a corruption scandal involving the purchase of MiG fighter planes.

On July 27, the Colombo High Court acquitted Avant-Garde Maritime Services chairman Nissanka Yapa Senadhipathi and retired major general Palitha Fernando of charges of soliciting and accepting 35.5 million rupees (\$175,000) in bribes. The decision was pursuant to the AGD informing the court that the CIABOC would withdraw the case after the defendants filed a petition against the CIABOC for technical errors, as the CIABOC had failed to obtain the written approval of its three commissioners when filing the charges against the accused. This action concluded a long-standing corruption case filed by the CIABOC in 2015 related to a floating armory seized near Galle Fort. On May 20, the president appointed Fernando as one of the commissioners of the Office for Reparations, a key institution providing relief to families of the disappeared. On June 21, High Commissioner Bachelet said, “I am concerned that recent appointments to the Office on Missing Persons and Office for Reparations, and steps to discourage investigations into past crimes, are further undermining victims’ trust.”

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups investigated and published their findings on human rights cases. Government officials, however,

were unreceptive to findings and employed bureaucratic obfuscation to inhibit the work of such organizations.

Numerous human rights defenders reported police and security services increased monitoring and surveillance of them through “burdensome and arbitrary” reporting requirements and harassment and intimidation during in-person home and office visits. These visits were often followed by additional visits, letters, or telephone calls, the frequency of these actions varying depending on the organization or individual’s mission or geographic location, with those in the north and east reporting the greatest number of follow-up actions. Individuals reported that the visits caused distress, anxiety, and other mental health problems for themselves and their families, as well as affected their work on advancing issues such as human rights, accountability, and transitional justice. See section 2.b. for additional examples.

**The United Nations and Other International Bodies:** On January 27, the Office of the UN High Commissioner for Human Rights (OHCHR) issued a report raising concerns regarding the “deteriorating human rights situation” and called on the international community to take robust action, including urging the UNHRC to ensure more monitoring and reporting on the human rights situation in the country and to mandate the collection and preservation of evidence of gross human rights violations for future prosecutions.

On March 23, the UNHRC passed Resolution 46/1 to address justice, accountability, and reconciliation in Sri Lanka. The resolution was cosponsored by 40 countries and included a mandate to establish a 12-person, \$2.8 million OHCHR secretariat for the collection and analysis of information and evidence of gross human rights violations or serious violations of international humanitarian law. The government rejected the mandate and declared its provisions could not be implemented without the government’s consent.

During the year the government did not implement a mechanism to hold accountable military and security personnel accused of atrocities during the 1983-2009 civil war as called for in 2015 by UNHRC Resolution 30/1.

**Government Human Rights Bodies:** The HRCSL has jurisdiction to investigate

human rights violations. The HRCSL consists of five commissioners and has divisions for investigations, education, monitoring and review, and administration and finance. 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, 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 the government has not complied with its request, the HRCSL may refer the case to the High Court for prosecution for contempt by the AGD, 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. Since the passage of the 20th Amendment, rights groups assessed the HRCSL did not operate independent of and without interference from the government.

A memorandum of understanding between the United Nations, HRCSL, the Ministry of Defense, and the Ministry of Law and Order, finalized in 2018, determined the HRCSL is responsible for vetting military and police participants in peacekeeping operations.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law prohibits rape and domestic violence, but enforcement of the law was inconsistent. The law does not criminalize rape of men but does criminalize “grave sexual abuse.” The prescribed penalties for rape are seven to 20 years’ imprisonment and a fine of at least 200,000 rupees (\$1,000). For domestic violence, a victim can obtain a protection order for one year and request a maintenance allowance. The law prohibits spousal rape only if the spouses are legally separated.

Women’s organizations reported police and judiciary responses to rape and domestic violence incidents and cases 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 scarce nationwide due to a lack of support.

According to the local NGO Women's Development Foundation, cybersex crimes against women and children increased 300 percent following the onset of COVID-19. Local organizations widely said the socioeconomic effects of the pandemic and government lockdowns contributed to the vulnerability of at-risk groups and resulted in an increase in cybersex crimes, including online sex trafficking. Some organizations attributed the steep increase to the return of urban workers to rural areas and the increase in social media and smart phone usage while at home. Reports of gender-based violence rose substantially during the pandemic, with reports of survivors often being trapped indoors with their perpetrators.

In April rural women facing exorbitant interest rates from unregulated lenders held protests calling for the abolition of microfinance loans. Several microfinance institutions were reported to have hired village watchdogs to recover loans, and reports of demands for sexual favors in exchange for repayment were common. According to the Asian Development Bank, the incidence of violence against women remained high in rural and estate sectors.

**Female Genital Mutilation/Cutting (FGM/C):** The law does not prohibit FGM/C for women and girls. Some of the country's Muslims 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 recent statistics on the prevalence of FGM/C in the country, although it was not believed to be common. A 2018 Ministry of Health circular banned medical practitioners from carrying out FGM/C, but since the practice was usually carried out by traditional practitioners known as *Ostha Maamis*, activists said the prohibition had little effect. Several civil society groups led mostly by Muslim women continued to campaign 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.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Couples and individuals have the right to decide the number, spacing, and timing of their children and to manage their reproductive health. They have access to the information and means to do so, free from discrimination, coercion, or violence. No significant legal, social, or cultural barriers adversely affected access to skilled health care workers in attendance during pregnancy and childbirth or contraception. According to organizations working on reproductive rights, sexual and reproductive health services, in both the public and private sectors, were heavily curtailed during COVID-19 lockdowns except for deliveries and pregnancy-related services. Most pharmacies remained open during lockdowns and many contraceptives remained accessible.

The government provided access to sexual and reproductive health services for survivors of sexual violence; however, NGOs reported police were often unaware of resources available, limiting referrals.

**Discrimination:** Women have equal rights to men under civil and criminal law, although societal discrimination existed throughout the country. 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. The National Police Commission increased the contribution of women in the police service by increasing the number of female officers at each post.

## **Systemic Racial or Ethnic Violence and Discrimination**

Both local and Indian-origin Tamils maintained that they suffered long-standing, 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, journalists, and NGO staff and former or suspected former LTTE members.

According to an October Amnesty International report, the Muslim community has

experienced consistent discrimination, harassment, and violence since 2013. The government failed to prosecute individuals and groups involved in vandalizing mosques, Muslim-owned businesses, and homes after the May 2019 riots that followed the Easter Sunday terrorist attacks. As of October 14, according to civil society groups, more than 300 individuals (almost all Muslim) remained in detention in alleged connection with the Easter Sunday attacks (see section 1.d.).

On February 25, the government reversed the mandatory cremation policy for all COVID-19 victims, which had been in effect since March 2020. The policy violated Muslim religious tenants and the religious preferences of some Christians and Buddhists. International organizations reported the government used the COVID-19 pandemic to “stoke communal tensions” as well as to limit religious freedom. Some extremist Buddhist monks and other extremist groups continued to use hate speech on social media with impunity.

On October 26, President Rajapaksa appointed a 13-member presidential task force to implement his “One Country, One Law” campaign pledge and named general secretary of the Buddhist group Bodu Bala Sena and Buddhist monk Galagodaaththe Gnanasara Thero as chairman. The presidential task force initially included four Muslims but no Tamils or Christians. On November 6, the president limited the mandate of the task force to presenting proposals for a framework of the “One Country, One Law” concept. He also appointed three Tamil members, replacing two of the original members (one Sinhalese and one Muslim) who had resigned. As of December 7, the task force had held public consultations in the northern and eastern provinces. Civil society, opposition politicians, and representatives of ethnic and religious minority groups criticized the announcement of the task force and the appointment of Gnanasara as chairman, noting fears that the task force would “eventually turn towards targeting minorities.”

See sections 1-5 for incidents affecting racial and ethnic minority groups, and section 2.c. for issues impacting religious minority groups.

## **Indigenous Peoples**

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, although some faced land encroachment issues. They freely participated in political and economic life without legal restrictions, but some did not have legal documents.

## **Children**

**Birth Registration:** Children obtain citizenship from their parents.

**Child Abuse:** There was growing public concern regarding the high incidence of violence, including sexual violence, against children in the family and community, as well as incidents of online violence and bullying.

Despite successful efforts to reform the penal code, the basic criminal law, and other laws on child abuse, cruelty to children and their exploitation in trafficking and child labor persisted. Penalties vary based on the type and degree of child abuse, but trials tended to drag on for years.

Most child abuse complaints were received by the National Child Protection Authority (NCPA) via a toll-free 24-hour hotline. Teachers, school principals, and religious instructors reportedly sexually abused children. Civil society organizations working on children's issues asserted children had insufficient mechanisms to report domestic violence or abuse safely. Although police stations were supposed to have an officer dedicated to handling abuse complaints from women and children, the government did not consistently implement this practice nationwide. The police's Children and Women Bureau played a major role in investigating abuse cases, but depending on the severity of the case, some fall under the jurisdiction of the magistrates' courts as outlined in the criminal procedure code. In these instances police file a formal complaint sheet and begin a judicial medical process. The attorney general files indictments for child abuse cases exclusively in high courts.

The NCPA reported no decrease in the number of child abuse cases throughout the pandemic and associated travel restrictions and lockdowns. The NCPA received nearly 4,000 complaints of child abuse and received information from 48,000 telephone calls from January to June 30. The Cabinet of Ministers granted approval to install video-recording units at hospitals throughout the nine provinces. The only evidence reporting unit for children was at the NCPA office in Colombo.

On February 12, the Supreme Court ruled that corporal punishment in schools was unlawful, after considering a petition filed by a 15-year-old who sustained permanent damage to his hearing when a teacher hit him across the ear in 2017. The court included both physical and mental harm in its definition of corporal punishment, which it deemed cruel and degrading, and referenced the country's international commitments under the UN Convention on the Rights of the Child, the penal code and Education Ministry circulars in its decision, which was hailed as a landmark ruling by civil society.

See section 7.c. for other examples.

**Child, 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 younger than 16, with or without her consent, amounts to statutory rape. The provision, however, does not apply to married Muslim girls older than 12. The Muslim Marriage and Divorce Act, which applies only to Muslims, permits the marriage of girls as young as 12 with the consent of the bride's father, other male relatives, or a *quazi* (a judge who interprets and administers Islamic law).

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

On June 7, police arrested a 35-year-old suspect for procuring and trafficking a 15-year-old girl in Mount Lavinia, a suburb south of Colombo. The suspect allegedly "sold" the child online to third parties for a period of three months, utilizing websites linked to a "cyber shack" in Mount Lavinia. By July 23, police had arrested more than 41 individuals, including the victim's mother, on child sex trafficking, child abuse, statutory rape, and other charges. A few suspects were released on bail. Police arrested the owner of the website and, according to the local office of Save the Children, the NCPA was closely supporting the child victim, who was receiving professional medical care and academic tutoring.

**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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

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

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **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, however, 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. Election assistance to persons with disabilities was limited in some instances due to conflicting COVID-19 social distancing regulations. Disability rights groups alleged the government had shown no interest in taking steps to implement further protections for persons with disabilities.

There are legal provisions for assisted voting of persons with disabilities. Anyone with a partial or full visual or physical disability may mark their ballot with the assistance of a person of their choice or the senior presiding officer if they are unable to be accompanied by an assistant. According to the Asian Network for Free Elections, most polling stations had steps for which wheelchair-bound voters required assistance.

## **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 patients and occasionally refused to provide health care to HIV-positive persons.

The number of HIV-infected male patients between the ages of 19 and 25 appeared on the rise in the country, according to the National Sexually Transmitted Disease (STD)/AIDS Control Program of the Ministry of Health. The ministry reported in March that there were 4,073 HIV-positive patients in the country, but only 2,000 HIV-positive patients were registered with the National STD/AIDS Control Program and were receiving antiretroviral treatment.

According to the National STD/AIDS Control Program, as of August the country vaccinated most of its HIV-positive population older than age 30 against COVID-19. The program reported a decrease in the number of those getting tested for HIV over the past year and that it introduced an online self-assessment process through its website.

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

The law criminalizes consensual same-sex sexual conduct between adults. Those convicted of engaging in same-sex sexual activity in private or public face 10 years' imprisonment. Although prosecutions were rare, human rights organizations reported police used the threat of arrest to assault, harass, and sexually and monetarily extort lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons. Antidiscrimination laws do 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.

On March 1, on United Nations "Zero Discrimination Day," the president tweeted, "Today is #ZeroDiscriminationDay. As the president of Sri Lanka, I am determined to secure everybody's right to live life with dignity regardless of age,

gender, sexuality, race, physical appearance, and beliefs.” The president’s message was welcomed by many on social media, even as some pointed to a section of the penal code that criminalizes same-sex relations. Some human rights activists thanked the president, indicating he became the first head of state in the country to openly acknowledge the rights of LGBTQI+ citizens. Other advocates said in March that the LGBTQI+ community faced discrimination daily due to the country’s legal landscape and social stigmas. Human rights activists noted a pervasive culture of impunity among police heightened the risk of abuse for all marginalized groups including the LGBTQI+ community.

On August 3, cabinet spokesperson Keheliya Rambukwella told press LGBTQI+ rights are not constitutionally recognized but discussions continued, and that he was not aware of police actions against LGBTQI+ persons.

The Colombo chief magistrate dismissed charges against three men for homosexuality after the AGD informed police it would not pursue the case. One of the men, a Swedish national, had filed a complaint with the HRCSL stating that police officers subjected him to torture and cruel, inhuman, and degrading treatment.

## **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 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 operated 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 law allows the president to declare services provided by government agencies as “essential” public services. 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. Unions that do not meet the 40 percent threshold can merge with others and operate as one. The International Trade Union Confederation reported that employers used the 40 percent threshold to refuse to bargain with unions. 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 rupees (\$500). 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. These penalties were commensurate with those under other laws involving denials of civil rights, such as discrimination. Only the Labor Ministry has legal standing to pursue an unfair labor practice case, including for antiunion discrimination.

Only the Department of Labor may bring antiunion discrimination cases before a magistrate court, not victims of such discrimination. From 1999 to year’s end, the Labor Ministry filed 14 cases against companies for unfair labor practices under the Industrial Disputes Act. Citing routine government inaction on alleged violations of labor rights, some unions pressed for standing to sue for such practices, 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. In addition, most large-scale private firms in the services sector, other than banks and tourist hotels, prohibited forming or joining a labor union within work premises and included it as a binding clause in the letter of appointment or contracts signed between the employee and the firm; this practice transgresses the country's legal framework.

The government generally respected workers' freedom of association and the right to bargain collectively. Public-sector unions staged numerous work stoppages on several issues, ranging from government moves to privatize state-owned enterprises to wage issues. The International Labor Organization expressed concern that EPZ enterprises refused to recognize the right of unions to bargain collectively.

In November 2020, in response to the COVID-19 pandemic, President Rajapaksa issued an "extraordinary gazette" order making port workers essential employees. Under the essential services act, any port employee not attending work faces "conviction after summary trial before a magistrate" and is "liable to rigorous imprisonment" of two to five years, a fine between 2,000 and 5,000 rupees (\$10 and \$25), or both. The essential service acts were previously used to break strikes and protests and negatively impacted workers deemed "essential." When emergency laws are declared, essential service orders can be extended to the private sector as well.

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. 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.

Seven unions representing EPZ employees made a series of proposals to the labor minister to protect their rights and safety during the COVID-19 pandemic. The

labor unions that wrote the proposals were supported by 20 civil society organizations. Apparel unions also wrote open letters requesting the government do more to protect their workforce from the global pandemic, including expediting vaccination efforts among garment workers, increasing COVID-19 testing at factories, providing personal protective equipment, and including the industry in general COVID-related lockdowns. While the government took steps to implement a 5,000-rupee (\$25) COVID-19 subsidy for EPZ employees, there were reports the subsidy was insufficient, with most workers out of work for months.

On July 7, police arrested former Janatha Vimukthi Peramuna provincial councilors Samantha Vidyaratna and Mahinda Jayasinghe, All-Ceylon Farmers Federation national organizer Namal Karunaratne, Frontline Socialist Party member and Center for Labor Struggles coordinating secretary Duminda Nagamuwa for allegedly violating quarantine regulations. They were arrested for protesting on July 1 in Badulla against the government's chemical fertilizer ban, protesting with the workers of the State Engineering Corporation of Sri Lanka demanding their salaries be paid on time, and protesting the destruction of the Muthurajawela wetlands north of Colombo. According to the police media spokesman, the suspects were released on bail on July 7.

The forced quarantine of trade union leaders including Ceylon Teachers' Union general secretary Joseph Stalin, Frontline Socialist Party politburo member Duminda Nagamuwa, and several others following their arrest on July 7-8 for participating in an education-related protest elicited a strong backlash from the opposition and civil society. According to press reports, the Colombo Magistrate Court released all the protesters on bail after rejecting the police's request to direct them into quarantine, something the courts were not authorized to do. On July 10, the public-health inspectors stated they did not recommend protesters be quarantined, as there were strict guidelines on who can be quarantined and on what grounds. Despite this, press reported police forcibly took the protesters to a government-run quarantine center in Mullaitivu in the northern province. Following pressure by trade unions across the country, lawsuits against the members' detention, and public criticism at the forced quarantine as a violation of the union leaders' civil liberties, the government released the members before the standard 14-day period on July 16.

On August 4, police arrested 44 teachers and principals after a protest outside the presidential secretariat in Colombo and detained them at the Harbor police station, releasing them a day later. Other activists and leaders, including leaders from the Progressive Women's Collective and the Ceylon Teachers' Union, were arrested for their involvement in protests in July and then later released on bail. The protesters were demanding a solution to salary anomalies and, according to the police spokesperson, were charged with unlawful assembly, obstruction of vehicular movement and main roads, as well as violating quarantine regulations.

According to trade union leaders and worker's rights organizations, nearly 250,000 teachers participated in more than two months of strikes, and protests and strikes led by railway, postal, plantation, fishermen, and health workers were held throughout the year. Numerous protesters were arrested and charged with violating quarantine regulations, unlawful assembly, or both, while other demonstrators said they faced continued threats and reprisals for leading or participating in protests. Activists noted the quarantine regulations were selectively applied to movements criticizing the government and that the emergency regulations directly impacted workers' and their ability to strike or protest without fear of reprisals.

On November 10, the prime minister agreed to a two-decade demand by teachers and principals for salary increases, including agreeing to their demand that the entire raise be provided in a single increment, ending months of union strikes and protests (see section 2.b.). Teachers ended their strike on October 25 and returned to teaching, but they refused to participate in nonacademic activities until the prime minister's November 10 decision.

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

The law prohibits all forms of forced and compulsory labor, but penalties were not commensurate with those for other analogous serious crimes, such as kidnapping. The government did not effectively enforce the laws due to inadequate resources, inspections, and remediation efforts, as well as a lack of identification of forced labor cases. Labor Ministry inspections did not extend to domestic workers except in the event of a report of underage 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 16 and 18 and women working as live-in domestic workers in some homes were vulnerable to forced labor (see section 7.c.).

Traffickers exploited men, women, and children in forced labor. Traffickers recruited women from rural areas with promises of urban jobs in the hospitality sector, salons, spas, and domestic work but exploited some in forced labor. While conditions for most tea plantation workers on larger corporate tea estates met international certification standards, such as Fair Trade, some smaller tea estate owners exploited men and women in bonded labor. Some NGOs documented cases in which employers “sold” workers’ debts to another estate and forced the workers to move. The same reports stated that some tea estates illegally deducted more than 75 percent of workers’ daily earnings for miscellaneous fees and repayment of debts, including charging workers for the pay slip itself. Three international organizations reported that forced labor continued at approximately nine tea estates.

Police continued to arrest trafficking victims for vagrancy, prostitution, and immigration offenses. Police allegedly accepted bribes to permit commercial sexual exploitation, and NGOs reported that workers in government and private shelters for trafficking victims abused and exploited residents. Also see the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum age for employment was raised from 14 to 16 in January, 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 to 16 in 2016. The law prohibits hazardous work for persons younger than 18. The law limits the working hours of children ages 16 and 17 to 10 hours per day. The government estimated less than 1 percent of children – approximately 40,000 – were working, although employment was often in hazardous occupations. The government classifies 71

activities as hazardous. Although the government did not effectively enforce all laws, existing penalties were commensurate with those for other analogous serious crimes, such as kidnapping.

The Labor Ministry made some progress in eliminating the worst forms of child labor. The government appointed district coordinators with responsibility for reducing child labor in all 25 districts and provided new guidelines for district officials. The Department of Labor continued its efforts to monitor workplaces on the list of hazardous work for children. The government reported there were 11 shelters for child victims of trafficking at the provincial level.

Children worked in the construction, manufacturing, mining, transport, street vending, 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.

The government amended the Employment of Women, Young Persons, and Children Act to prohibit the employment of persons younger than 18 as domestic servants. Family enterprises, such as family farms, crafts, small trade establishments, restaurants, and repair shops, commonly employed children. Criminals reportedly exploited children, especially boys, for child sex trafficking in coastal areas catering to sex tourists (see section 6, Children).

On July 15, a domestic worker age 16 died at the home of former minister and leader of the Muslim political party All Ceylon Makkal Congress Rishad Bathiudeen. The girl reportedly died of self-inflicted burns, but a coroner's postmortem revealed the victim had been sexually abused over a long period of time. A magistrate court ordered exhumation of the victim's body for a second postmortem on July 30; announcement of the findings was pending as of December 12.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

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

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

Women have a range of workforce restrictions, including caps on overtime work and limits on nighttime shifts. Women are restricted from certain jobs. Women are prohibited from working in mines, except under certain circumstances, and are equated with young persons in laws prohibiting cleaning of transmission machinery while in motion. A previous effort to remove these prohibitions was unsuccessful in the face of opposition from many trade unions. The retirement age for women was raised in November to match that of men.

Employers are required to bear the full cost of providing maternity-leave benefits to their employees for 12 weeks. The labor market was characterized by high female unemployment and low female labor force participation. Unemployment rates for women younger than age 40 were much higher than they were for men, and this discrepancy was also connected to age. A woman between the age of 25 and 39 seeking employment was 3.8 times more likely to be unemployed than a man seeking employment in the same age cohort. An estimated 55 percent of employees in the public sector were men and 45 percent were women. In contrast, 70 percent of employees outside the public sector were men and only 30 percent were women. According to civil society, some groups in the north and east reported experiencing employment and occupation barriers.

The government did not always effectively enforce these laws, and discrimination based on the above categories occurred with respect to employment and occupation. Penalties were commensurate with those under laws related to civil rights, such as election interference. For example, some employers specified positions requiring male or female applicants, and women often earned less than men for equal work. The earnings gap between men and women was 15.9 percent. Companies also openly evaded paying legally mandated maternity benefits through hiring discrimination of young women. The Ministry of Women's Affairs also

described widespread social stigma and harassment and minimal child-care services. The Ministry of Women worked with the World Bank in 2019 to open career centers for women business owners to offer technical and vocational training for in-demand occupations. The ministry also expanded day-care centers across the country and offered tax incentives to cover the salaries for women on maternity leave in 2019, but these centers were not able to operate during the global coronavirus pandemic.

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

**Wage and Hour Laws:** Parliament passed its first-ever national minimum wage law in 2015 and revised it during the year to include a daily minimum wage and raise the monthly minimum by 12.5 percent. The Department of Labor's wage boards continued to set minimum wages and working conditions by sector and industry in consultation with unions and employers. The minimum private-sector and public-sector wages were above the government's official poverty line.

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.

Enforcement of minimum wage and overtime laws was insufficient. Under the Shop and Office Act, penalties for violating hours of work laws are a fine of 500 rupees (\$2.50), six months' imprisonment, or both. The law provides for a fine of 50 rupees (\$0.25) per day if the offense continues after conviction. These penalties were commensurate with those for similar crimes, such as fraud. In 2018 amendments to the factory's ordinance and the wages board ordinance increased fines for nonpayment of salaries to workers under the purview of the wages board to between 5,000 rupees (\$25) and 10,000 rupees (\$50), along with imprisonment not exceeding one year.

Labor Ministry inspectors verified 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, but officials and trade unions noted concerns that the system was not well maintained.

**Occupational Safety and Health:** 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 occupational safety and health standards in all sectors. Penalties for violations of occupational safety and health laws were commensurate with those for crimes such as negligence. The Labor Ministry's resources, inspections, and remediation efforts were insufficient. The number of labor inspectors was insufficient for the country's workforce. Occupational health and safety standards in the rapidly growing construction sector, including 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 regulations apply whenever a company has at least one permanent employee, but seasonal workers are not necessarily covered.

When the government imposed a countrywide lockdown on March 20 due to COVID-19, employers in free-trade zones required workers to continue working until cases spread and workers protested. After one month, several large companies resumed work, putting workers in unsafe conditions amid rising COVID-19 infections. There were reports that wages were not paid or were delayed.

The Industrial Safety Division of the Department of Labor compiles annual information on workplace safety. During 2020, 71 fatal and 1,116 nonfatal workplace accidents were reported to the Department of Labor. Similar data for 2021 were not available at year's end.

**Informal Sector:** According to the *2019 Labor Survey*, approximately 62 percent of the country's workforce was employed informally, and legal entitlements

enjoyed by formal-sector workers such as Employees Provident Fund, Employees Trust Fund, paid leave, gratuity payments, and security of employment were not available to a large majority of the aggregate workforce in the country. Labor inspectors did not monitor wages or working conditions or provide programs or social protections for informal-sector workers. In November media reported most of those working in the informal economy were self-employed and that the informal sector accounted for 87.5 percent of the total employment in agriculture. Local media reported that employees in the informal sector lacked job protections.