



Australian Government
Refugee Review Tribunal

Country Advice

Sri Lanka

Sri Lanka – LKA39336 – United National
Party – Police – Political Situation –
Detention – Returnees – Human Rights

7 October 2011

1. Please provide background information on the political stability and conflict and the political situation generally in Sri Lanka, and in particular in the area of Negombo.

In the last two years following the end of the country's civil war, Sri Lanka's political climate has been characterised by a concentration of power in the hands of President Mahinda Rajapaksa.^{1 2} Sri Lanka held presidential and parliamentary elections in January and April 2010 respectively. President Rajapaksa won re-election with a clear majority, defeating former Sri Lankan Army General Sarath Fonseka, who was supported by a number of opposition parties including: the United National Party (UNP); Janatha Vimukthi Peramuna (JVP); and the Tamil National Alliance (TNA).^{3 4} The ruling United People's Freedom Alliance (UPFA) also remained in power with a significant majority in parliament.⁵ The Alliance won 144 of the 225 seats. Independent election monitors expressed broad satisfaction with the conduct of the poll on election day, which attracted a 70% turnout. There were, however, incidents of pre-election violence.⁶ The next presidential election in Sri Lanka is due to be held by November 2015.^{7 8}

In September 2010, the 18th Amendment to the constitution was passed removing most of the remaining checks on the President's powers, as well as the two-term presidential term limit. This gives Rajapaksa a chance of remaining in power indefinitely. The International Crisis Group (ICG) labelled this amendment an "ominous" sign. The ICG alleged that the President pushed the amendment through parliament on the back of a two-thirds majority he obtained by "threatening or buying off members of minority and opposition parties".⁹

Two weeks after the 2010 presidential election, the main opposition candidate, former army chief Sarath Fonseka, was arrested. In August 2010, Fonseka was found guilty before a court martial of engaging in political activity while still in uniform, and was stripped of his rank and pension.

¹ 'Sri Lanka 2010' in 'The World Factbook', Central Intelligence Agency website, 9 November <https://www.cia.gov/library/publications/the-world-factbook/geos/ce.html> – Accessed 23 November 2010

² 'Sri Lanka: After the War' 2010, International Crisis Group website, 12 December <http://www.crisisgroup.org/en/key-issues/sri-lanka-after-the-war.aspx> – Accessed 17 March 2011

³ US Department of State 2010, *Background Note: Sri Lanka*, 7 June <http://www.state.gov/r/pa/ei/bgn/5249.htm> – Accessed 23 November 2010

⁴ UK Home Office 2011, Country of Origin Information Report – Sri Lanka, 4 July, p18

⁵ Human Rights Watch 2011, *World Report 2011 – Sri Lanka*, 21 January

⁶ UK Home Office 2011, Country of Origin Information Report – Sri Lanka, 4 July

⁷ 'Sri Lanka: Political structure' 2010, *Economist Intelligence Unit – ViewsWire*, 7 December

⁸ 'Past Elections' (undated), Sri Lanka Department of Elections website

<http://www.slelections.gov.lk/pastElection.html> - Accessed 6 January 2011

⁹ Sri Lanka: After the War' 2010, International Crisis Group website, 12 December <http://www.crisisgroup.org/en/key-issues/sri-lanka-after-the-war.aspx> – Accessed 17 March 2011

In a second court martial in September 2010, he was found guilty of corrupt military supply deals and sentenced to 30 months imprisonment.¹⁰

Several other opposition politicians have also alleged harassment by authorities and the Government. Pro-LTTE *TamilNet* reported in February 2011 that in the run up to local elections in the Vanni region, TNA parliamentarians had alleged that “they are being intimidated by SLA [Sri Lankan Army] soldiers and intelligence unit men against holding election meetings”.¹¹ In December 2010, it was reported that government parliamentarians attempted to manhandle UNP Member of Parliament (MP) Jayalath Jayawardena in the parliamentary chamber after he was accused of inciting the Tamil diaspora, and of helping to organise protests in Britain which forced President Rajapaksa to cancel a public speaking engagement at the Oxford Union.^{12 13} It was also reported in December 2010 that the government planned to bring a no-confidence motion against the deputy leader of the UNP, Karu Jayasuriya, after he made a “statement that alleged war crimes in the country should be probed”.¹⁴ In October 2010, the UNP claimed that one of their MPs, Ranjan Ramanayake, had been arrested “on false and fabricated charges” after he was granted bail “on charges of having fraudulently obtained Rs.1,000,000 from a female teacher on the promise of marrying her”. Karu Jayasuriya alleged that there was no evidence of cheating in Mr Ramanayake’s case, “but he was arrested on fabricated charges to take revenge as he ignored government attempts to make him vote for the 18th Amendment to the constitution”.¹⁵ In September 2010, the UNP “accused the authorities of undermining democracy by intimidating parliamentarians” after Mangala Samaraweera was “unfairly questioned for hours by the police”.¹⁶ Samaraweera, who is an MP and the UNP’s media coordinator, had commissioned the production of a poster meant for public display, which protested the 18th amendment to Sri Lanka’s constitution.¹⁷ The poster depicted the president as a dictator. At the time, Karu Jayasuriya stated that “the ‘political harassment’ of Mr Samaraweera is a serious threat to freedom of expression in Sri Lanka”.¹⁸

2. Please provide information on the human rights record of Sri Lanka and in particular whether any particular individuals or groups are our singled out for ill treatment or discrimination.

Sri Lanka’s human rights record has been heavily criticised, both in the final stages of the civil war and in the two years since. The US Department of State (USDOS) listed numerous incidents of arbitrary or unlawful deprivation of life and disappearance, as well as several cases of torture during 2010.¹⁹

¹⁰ Human Rights Watch 2011, *World Report 2011 – Sri Lanka*, 21 January

¹¹ ‘SLA terrorizes TNA candidates in Vavuniyaa, Killinochi’ 2011, *TamilNet*, 16 February
<http://www.tamilnet.com/art.html?catid=13&artid=33554> – Accessed 18 August 2011

¹² Haviland, C. 2010, ‘Sri Lanka government calls opposition MP a “traitor”’, *BBC*, 8 December

¹³ ‘Sri Lanka govt. to begin process to unseat opposition MP over anti-Sri Lankan conduct’ 2010, *Asian Tribune*, 8 December

¹⁴ ‘Sri Lanka govt. to begin process to unseat opposition MP over anti-Sri Lankan conduct’ 2010, *Asian Tribune*, 8 December

¹⁵ ‘Ranjan released on bail with warning’ 2010, *Daily Mirror (Sri Lanka)*, 19 October

¹⁶ ‘Sri Lanka MP interrogated over “dictator” posters’ 2010, *BBC*, 28 September

¹⁷ Free Media Movement (FMM) 2010, ‘The Free Media Movement condemns the arrest of the printer, and the owner and workers at Sarala Graphics, Nugegoda’, Asian Human Rights Commission website, 10 September

¹⁸ ‘Sri Lanka MP interrogated over “dictator” posters’ 2010, *BBC*, 28 September

¹⁹ US Department of State 2011, *2010 Country Reports on Human Rights Practices – Sri Lanka*, 8 April

Groups singled out for ill treatment include those suspected of past involvement with the LTTE, political opponents of the regime and some journalists who criticise the Government. The ICG claims that emergency regulations and the *Prevention of Terrorism Act* continue to be used to detain LTTE suspects without trial and harass political opponents of the Rajapaksa regime.²⁰ Human Rights Watch (HRW) states that the *Act* gives police broad powers over suspects in custody. It is noted that not all of the *Act's* regulations are still in place.²¹ Official impunity was also said to be a problem, the US DOS reporting that there were no public indications or reports that civilian or military courts convicted any military or police members for human rights abuses.²²

In an effort to prevent any LTTE resurgence after the effective end to the civil war in May 2009, the government continued to search for and detain persons it suspected of being LTTE sympathizers or operatives. The UK Home Office stated in October 2010 that those recruited by the LTTE in the days and weeks before their defeat, those who carried out official functions in LTTE administered areas, and those who received a salary from the LTTE but had not taken any active part in hostilities were subject to arrest. The basis for arrests included allegations by fellow internally displaced persons (IDPs) and paramilitary groups in the internment camps. The Home Office estimated that approximately 12,000 individuals were arrested and detained during the final months and immediate aftermath of the end to military conflict in May 2009.²³

The ICG further added in early 2010 that ex-militants had claimed they had been tortured and beaten in detention centres.²⁴ The pro-LTTE *TamilNet* reported in May 2011 that prisoners in Vavuniya had begun a hunger strike to protest the return of inmates who had been transferred to another prison as well as the “physical harms against them”.²⁵

The Home Office, however, also stated that according to the British High Commission in Sri Lanka, those housed in Protective Accommodation and Rehabilitation Centres (PARC) offered no evidence of mistreatment. PARC centres were used in the post-conflict period to temporarily detain former LTTE cadres who were not charged with offences. The International Organisation of Migration visited two garment factories where female ex-combatants were being housed and noted that “[a]ll women were generally positive of their situation but were anxious to know their release dates”. It added that “[a] government representative present said that they would be released by the end of September 2010”.²⁶

While the law provides for freedom of speech and of the press, the US DOS stated that Government officials criticized, pressured, and harassed the media, and most journalists practiced self-censorship.²⁷ The Government’s threats toward journalists were said to have had the effect of “effectively curtailing public debate” according to HRW.²⁸ The US DOS noted the January 2010 disappearance of Prageeth Eknaliagoda, a journalist for *Lanka-e-news*, a case for which there had been no progress by the end of that year. It also cited the case of journalist, J.S.

²⁰ ‘Sri Lanka: After the War’ 2010, International Crisis Group website, 12 December <http://www.crisisgroup.org/en/key-issues/sri-lanka-after-the-war.aspx> – Accessed 17 March 2011

²¹ Human Rights Watch 2011, *World Report 2011 – Sri Lanka*, 21 January

²² US Department of State 2011, *2010 Country Reports on Human Rights Practices – Sri Lanka*, 8 April

²³ UK Home Office 2011, Country of Origin Information Report – Sri Lanka, 4 July

²⁴ UK Home Office 2011, Country of Origin Information Report – Sri Lanka, 4 July

²⁵ ‘Tamil prisoners in Vavuniyaa launch protest’ 2011, *TamilNet*, 14 May

<http://www.tamilnet.com/art.html?catid=13&artid=33948> – Accessed 18 August 2011

²⁶ UK Home Office 2011, Country of Origin Information Report – Sri Lanka, 4 July, p18

²⁷ US Department of State 2011, *2010 Country Reports on Human Rights Practices – Sri Lanka*, 8 April

²⁸ Human Rights Watch 2011, *World Report 2011 – Sri Lanka*, 21 January

Tissainayagam, who was allegedly tortured while in authorities' custody and was sentenced to 20 years imprisonment.²⁹

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4. Please provide information on whether supporters and workers of the United National Party were captured by members of the Sri Lankan Freedom Party in 2005, and if so their treatment.

No information was found of UNP supporters or workers being captured by Sri Lanka Freedom Party (SLFP) members in 2005. An article from 2006 mentions attacks on UNP supporters by supporters of the JVP, a party which has, at times been allied with the Sri Lanka Freedom Party (SLFP).³⁰

5. Is there any information on the “Criminal Investigative Detective”? If so please provide information on what this is and what it does.

This most likely refers to the Criminal Investigation Department (CID). The Immigration and Refugee Board of Canada describes the CID's responsibilities as including investigation of cases and laying of potential charges under the Sri Lankan Criminal Code and Immigration Act at the airport. The CID may investigate cases of document malfeasance, human smuggling and trafficking, and conduct criminal background checks of returned Sri Lankan nationals in order to check for any outstanding domestic criminal warrants.³¹

The only comprehensive description found of the CID was in Wikipedia which cited a page of the Sri Lanka Police website which is no longer active. While there were references to the CID on the Sri Lanka Police website, no description of it was found except to say that it was formed in 1870.³²

Wikipedia states that the CID is a department of the Sri Lankan police service which carries out investigations pertaining to national security as well as investigations into serious crimes, such as murder, organized crime, rape, and “grievous hurt cases of a very serious nature that require special skills and complex detection”. The CID was modelled after the British Police Criminal Investigation Department and constitutes the plain clothes detectives of the Sri Lanka Police. The CID reportedly has the power to “arrest any person from anywhere in Sri Lanka without getting approval from any Range DIG [Deputy Inspector General of Police]”. It is located on the 4th floor of the new Secretariat Building, Fort, Colombo.³³

²⁹ US Department of State 2011, *2010 Country Reports on Human Rights Practices – Sri Lanka*, 8 April

³⁰ ‘JVP trying to incite people: Bandula’ 2006, South Asian Media Net website, source: Daily Mirror, 20 March http://www.southasianmedia.net/Archive_full.cfm?nid=279087 – Accessed 26 May 2006

³¹ Immigration and Refugee Board of Canada 1997, *LKA103344.E – Sri Lanka: Security controls at the international airport and ports*, 28 January

³² ‘Police History’ (undated), Sri Lanka Police website <http://www.police.lk/index.php/police-history> – Accessed 5 October 2011

³³ ‘Criminal Investigation Department (Sri Lanka)’ 2011, Wikipedia website [http://en.wikipedia.org/wiki/Criminal_Investigation_Department_\(Sri_Lanka\)#cite_note-0](http://en.wikipedia.org/wiki/Criminal_Investigation_Department_(Sri_Lanka)#cite_note-0) – Accessed 5 October 2011. **Users should be aware that Wikipedia is a Web-based free-content encyclopaedia which is written collaboratively by volunteers.** The Research Service recommends that users of Wikipedia familiarise themselves with the regulatory practices which Wikipedia employs as a preventative measure against vandalism, bias and inaccuracy.

Media references to the CID include accusations of illegal arrest, torture, beatings and denial of medical treatment.

6. Please provide information on the effectiveness of the Sri Lankan police and also any information that might be available on police detaining citizens for questioning as to their political activities, and also any information on the treatment of political activists by Sri Lankan police.

Effectiveness

The Sri Lankan Police Service functions under the aegis of the Ministry of Home Affairs but is currently in effect directly controlled by the president. According to Jane's Sentinel, police are poorly paid and susceptible to corruption at lower levels. At higher levels senior police officials are often subject to political pressures. Human rights organisations have been critical of the Sri Lankan police, stating that rapid expansion and poor training have contributed to lack of professionalism.³⁴ It is also reported that generally there is little trust in the police.³⁵ Furthermore, the July 2010 *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* indicates that cases of rape, domestic violence and other forms of violence against women are given "low priority" by the police and judiciary.³⁶

Also inhibiting effectiveness is the low numbers of Tamil speaking police in Tamil majority areas. The government was, however, hiring and training ethnic Tamils in an effort to improve this situation. Since late in 2009, the government recruited approximately 500 new Tamil speaking police from the Jaffna region to serve in the North Jaffna Peninsula.³⁷ The British High Commission reported that a Senior Military Official in Jaffna had informed them that the Sri Lankan government had been encouraging the Tamil population to join the security forces. Furthermore, in 2009, the police department started offering monthly bonuses to officers who could speak Tamil, while books on learning Tamil were introduced at police stations.³⁸

Treatment and Detention of Political Activists

Police were accused of failing to provide protection to opposition supporters in some cases. One case involved failure to protect a group of opposition activists who were fired upon when travelling to a rally in January 2010. Police did, however, arrest two people in relation to the attack.³⁹ The Asian Human Rights Commission alleged that police supported the incumbent president in the election campaign.⁴⁰ The Asian Human Rights Commission reported a case in December 2009 "of police brutality against members of the United National Party who were in

³⁴ UK Home Office 2011, Country of Origin Information Report, 4 July

³⁵ Rordam, S. 2010, 'Decriminalization of rape through impunity for perpetrators', Asian Human Rights Commission website, 22 November

³⁶ United Nations High Commissioner for Refugees 2010, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*, 5 July, p 7

<http://www.unhcr.org/refworld/pdfid/4c31a5b82.pdf> – Accessed 22 August 2011

³⁷ US Department of State 2011, *2010 Country Reports on Human Rights Practices – Sri Lanka*, 8 April

³⁸ UK Home Office 2011, Country of Origin Information Report, 4 July

³⁹ '2 arrested after 1st killing of Sri Lanka election campaign' 2010, *Kyodo News*, 13 January

⁴⁰ '2 arrested after 1st killing of Sri Lanka election campaign' 2010, *Kyodo News*, 13 January

possession of lawful posters for a rally supporting the presidential opposition candidate”.⁴¹ There was a report in 2010, however, of police arresting six people following an attack by Peoples Liberation Front members on a UNP rally.⁴²

Several cases were reported of Tamils being detained or arrested upon suspicion of being connected to the LTTE. Most of these occurred in the former conflict zones of the north:

- A report from *TamilNet*, published on 24 December 2009, states that a Tamil youth in Vavuniya, alleged to be a LTTE senior cadre, had been arrested by the Police’s Terrorist Intelligence Division.⁴³
- A report from *TamilNet*, published on 24 October 2009, refers to the arrest of four Tamils in Vavuniya, with the police claiming that “all the suspects are former LTTE cadres who had been involved in abduction and extortion”.⁴⁴
- A report from *Lankapuvath*, published on 24 September 2009, refers to the arrest of a “LTTE female cadre” by police in Vavuniya.⁴⁵

Police were also accused of abusing detainees. Human Rights Watch (HRW) states that Sri Lanka has a long history of custodial abuse by the police forces, at times resulting in death.⁴⁶ The UK Home Office cites allegations of widespread torture and ill-treatment committed by police and military.⁴⁷ A January 2010 International Crisis Group report refers to claims by its sources that women held in the camps had been raped or sexually assaulted. It adds, however, that with no independent monitors allowed access to the camps, “it has not been possible to confirm or disprove these accusations”.⁴⁸

7. Deleted.

8. Deleted.

⁴¹ ‘Sri Lanka: Two men are abused by police for carrying opposition posters during the presidential election; one is arbitrarily arrested’ 2010, Asian Human Rights Commission website, AHRC-UAC-021-2010, 4 March <http://www.ahrchk.net/ua/mainfile.php/2010/3385/> – Accessed 22 April 2010

⁴² Zhan Jie, C. 2010, ‘6 arrested, 12 vehicles damaged in protest rally in Sri Lanka’, *Xinhua News Agency*, 10 February

⁴³ ‘2 Tamil youths arrested in Katunayake, Vavuniyaa’ 2009, *TamilNet*, 24 December <http://www.tamilnet.com/art.html?catid=13&artid=30870> – Accessed 18 August 2011

⁴⁴ ‘5 Tamils arrested in Vavuniyaa, Ampaa’rai’ 2009, *TamilNet*, 24 October <http://www.tamilnet.com/art.html?catid=13&artid=30502> – Accessed 18 August 2011

⁴⁵ ‘Another LTTE female cadre arrested in Vavuniya’ 2009, *Lankapuvath*, 24 September <http://www.lankapuvath.lk/index.php/latest-news/security/3833-another-ltte-female-cadre-arrested-in-vavuniya-> – Accessed 18 August 2011

⁴⁶ Human Rights Watch 2011, *World Report 2011 – Sri Lanka*, 21 January

⁴⁷ UK Home Office 2011, Country of Origin Information Report – Sri Lanka, 4 July

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