

Sri Lanka

The endgame and aftermath of the armed conflict between the Sri Lankan government and the separatist Liberation Tigers of Tamil Eelam (LTTE) dominated events in Sri Lanka throughout 2009. During the last months of the war, both sides committed serious violations of international humanitarian law, in what a senior United Nations official described as a “bloodbath,” while the overall human rights situation in the country continued to deteriorate as the government adopted increasingly repressive policies.

During the final months of the conflict that ended in May, the LTTE continued to forcibly recruit civilians, including children, into its forces, used civilians as human shields, and physically prevented and at times shot at Tamil civilians under their control trying to flee the fighting. Government forces indiscriminately shelled densely populated areas, including hospitals. Both parties prevented vital humanitarian assistance from reaching the civilian population.

Since March 2008 the government has confined displaced Tamils fleeing the fighting. The population of the detention camps skyrocketed to over a quarter million people after the LTTE’s defeat in May. Security forces also detained, in many cases in violation of domestic and international law, more than 10,000 people suspected of LTTE involvement or sympathies. Threats, physical attacks, and arbitrary arrests against journalists, human rights defenders, and humanitarian workers continued unabated, causing significant numbers to leave the country. As in the past, rights violators enjoyed near-complete impunity.

Violations of Laws of War

On May 19, 2009, the Sri Lankan government declared victory over the LTTE, marking an end to a 26-year-long armed conflict that had caused between 80,000 and 100,000 deaths. During the last months of the war both the Sri Lankan armed forces and the LTTE repeatedly violated the laws of war, causing unnecessary civilian suffering and casualties.

Forced to retreat by government offensive operations, the LTTE drove civilians into a narrow strip of land on Sri Lanka’s northeastern coast, effectively using several hundred thousand people as human shields. The LTTE shot at and injured or killed many of those trying to flee

from the war zone to government-held territory. LTTE forces also deployed near densely populated areas, placing civilians in increased danger of attack. As the fighting intensified, the LTTE stepped up its practice of forcibly recruiting civilians, including children, into its ranks and, to hazardous forced labor on the battlefield.

Government forces repeatedly and indiscriminately shelled densely populated areas, sometimes using heavy artillery and other area weapons incapable of distinguishing between civilians and combatants. As the LTTE-controlled area shrank, the government unilaterally declared “no-fire zones” or “safe zones” on three different occasions, calling upon civilians to seek shelter there; nevertheless, government forces continued attacking these areas. In disregard of the laws of war, government forces also fired artillery at or near hospitals on at least 30 occasions.

High-level government officials tried to justify attacks on civilians by arguing that people remaining in the war zone were LTTE sympathizers and therefore legitimate targets, indicating possible intent to commit war crimes.

Civilians in the war zone also suffered from lack of food, water, shelter, and medicines. The government’s decision in September 2008 to order humanitarian agencies out of the LTTE-controlled area greatly exacerbated their plight. Ongoing fighting, lack of oversight, and the manipulation of aid delivery by government and LTTE forces contributed to the deepening humanitarian crisis.

Exact information on the extent of humanitarian law violations by both sides as well as casualty figures remains limited, largely because the government barred all independent observers, including the media and human rights organizations, from operating near the war zone. The UN estimated that at least 7,000 people were killed and 13,000 injured during the last five months of the war.

Detention Camps for Internally Displaced Persons

Since March 2008 the government has confined virtually all civilians displaced by the war in military-controlled detention camps, euphemistically called “welfare centers.” In violation of international law, the government denied more than 280,000 displaced their rights to liberty and freedom of movement. As of November 18, 2009, six months after the end of hostilities, the government continued to hold more than 129,000 people (more than half of them women and girls) in the camps. Over 80,000 of these were children.

The government's refusal to release displaced persons from the camps contributed to severe overcrowding, with many of the camps holding twice the number recommended by the UN. As a result, access to basic requirements such as food, water, shelter, toilets, and bathing, has been inadequate. These conditions imposed particular hardships on the elderly, children, and pregnant women.

The authorities failed to provide camp residents with sufficient information about the reason for their continued detention, the whereabouts of relatives, or the criteria and procedure for their return home. Families in the detention camps had no access to mechanisms for finding missing relatives who might be in other camps or in unofficial detention centers. The military camp administration prevented humanitarian organizations, including the UN and the International Committee of the Red Cross (ICRC), from undertaking effective monitoring and protection in the camps.

Arbitrary Detention and Enforced Disappearances

The government detained more than 10,000 displaced persons at checkpoints and from the camps on suspicion of LTTE involvement, in many cases citing vague and overbroad emergency laws still in force after the end of the war. Many arrests were carried out in violation of domestic and international law. The authorities failed to inform families of their relatives' fate and whereabouts, raising fears that some detainees were forcibly disappeared.

The authorities also specifically targeted key witnesses to the final stages of the war. They arrested and held for several months several government doctors who had been working in areas under LTTE control and had reported on government shelling and resulting civilian casualties. While in detention the doctors retracted wartime statements, raising suspicion of undue pressure and ill-treatment.

Enforced disappearances and abductions, a longstanding and widespread problem in Sri Lanka, continued, especially in the north and east. From January to June 2009, 16 enforced disappearances were reported in Trincomalee district alone.

Attacks on Civil Society Actors

Threats and attacks against outspoken and critical civil society actors continued in 2009, including after the end of the war, further shrinking the already limited space for public debate.

On numerous occasions unidentified perpetrators attacked journalists and media outlets critical of the government. In one of the most brazen attacks, unidentified armed men in January assassinated *Sunday Leader* newspaper editor Lasantha Wickremetunga, a senior journalist acclaimed for his investigative reporting. On June 1, unidentified men abducted and severely beat Poddala Jayantha, general secretary of the Sri Lanka Working Journalists Association, who was later released.

The government continued to use anti-terror laws and emergency regulations against peaceful critics. On August 31 the Colombo High Court, in a deeply flawed trial, sentenced J.S. Tissainayagam, a journalist who had written critically of the government's military campaign, to 20 years' hard labor under the Prevention of Terrorism Act. He and his publishers had been arrested and detained in March 2008, but he was not formally charged for nearly six months. The hostile, sometimes deadly, media environment drove at least 11 Sri Lankan journalists into exile in the 12 months to June 2009, according to the Committee to Project Journalists.

Human rights activists were also targeted. On May 7, armed men in uniform abducted Stephen Suntharaj, a staff member of the Centre for Human Rights and Development who had just been released by a Supreme Court order after having spent two months in police detention. Suntharaj is still missing. On August 20, Paikiasothy Saravanamuttu, the executive director of the Centre for Policy Alternatives, a leading Sri Lankan NGO, received a death threat in an anonymous letter blaming him for Sri Lanka's possible loss of European Union trade privileges. Two weeks later police detained him briefly at the airport as he was reentering the country.

Government officials continued to publicly accuse international agencies, including the UN and the ICRC, of being LTTE supporters or sympathizers. In September the government expelled a UNICEF spokesperson who had drawn attention to the plight of children during and in the aftermath of the war. In July the government asked the ICRC to close its offices in eastern Sri Lanka, and barred it from accessing most displaced persons in the north.

Justice and Accountability

Despite government promises, including in a May 23, 2009 joint statement by President Mahinda Rajapaksa and UN Secretary-General Ban Ki-moon, no serious steps have been taken to investigate allegations of human rights and laws-of-war violations during the war's final months. On the contrary, high-ranking government officials, including the president, repeatedly dismissed such allegations, claiming that there had been no violations by the

armed forces. A committee of experts established by Rajapaksa in October to look at United States government allegations of war crimes in Sri Lanka does not have the mandate, resources, or independence to conduct an adequate investigation.

The government's refusal to address accountability for serious abuses continues a longstanding pattern of impunity for rights violations by state security forces. Past efforts to address shortcomings through the establishment of ad hoc mechanisms in Sri Lanka have produced few results. In June a presidential commission of inquiry into human rights abuses disbanded after having investigated only 7 of the 16 mandated cases. In the most prominent case, the commission, without sufficient basis, exonerated the armed forces in the execution-style slaying of 17 aid workers in 2006. An International Independent Group of Eminent Persons withdrew from its observer role to the commission in 2008 because of flaws in the commission's working methods. To date the president has yet to release the commission's report on any of the cases.

Reflecting the continuing impunity for even the most egregious human rights violators, the government in April 2009 appointed as minister of national integration V. Muralitharan, who as LTTE-leader Colonel Karuna was implicated in the execution of hundreds of police officers in the early 1990s and the recruitment of thousands of children into LTTE ranks and, later, his splinter group.

Key International Actors

While many governments and diplomats worked hard to persuade the Sri Lankan government to respect rights and to avoid civilian casualties in the conflict, it largely ignored such entreaties. The United States and some European Union governments publicly condemned violations by both sides and called for a humanitarian corridor for civilians trapped in the war zone. Collectively, however, international actors signally failed to address the humanitarian crisis. The UN Security Council did not even discuss the unfolding crisis as part of its official agenda. During a special session on Sri Lanka at the UN Human Rights Council in May, governments including Brazil, Cuba, India, and Pakistan led efforts to prevent the passage of a strong resolution, ensuring the adoption of a deeply flawed resolution that largely commended the Sri Lankan government for its current policies.

While some UN actors, such as the Office of the High Commissioner for Human Rights and the special rapporteur on extrajudicial executions, were outspoken during the crisis, others, such as the senior UN official in Sri Lanka and Secretary-General Ban Ki-moon, failed to adequately denounce laws-of-war violations against civilians trapped in the conflict zone

and rights violations against displaced persons. In contrast to other conflicts, for instance, the UN refused to publish its estimates of the number of civilian casualties. And Ban failed to hold the Rajapaksa government to commitments made in their May 23 joint communiqué.

In September the European Commission completed an investigation into Sri Lanka's compliance with 27 international conventions on human rights, labor rights, and environmental standards to determine whether Sri Lanka qualified for an extension of a preferential trading scheme called GSP+. Sri Lanka's refusal to cooperate with the investigation and grave concerns about its human rights record put into question whether the privilege would be extended in December 2009. The US State Department War Crimes Unit issued a report on the final months of the war in October that detailed laws of war violations by both sides.

The International Monetary Fund granted Sri Lanka a US\$2.6 billion loan in July. The vote was delayed for weeks because of concerns about the human rights situation in the country. At the vote, five countries—the United States, United Kingdom, France, Germany, and Argentina—made the highly unusual move of abstaining from the vote in a show of disapproval of Sri Lanka's human rights violations.