



Issues Paper

Sri Lanka: Treatment of Opposition Groups, Critics, and Persons with Certain LTTE Links

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1. Overview

Harassment and intimidation, detention without charge, torture while in detention, disappearances, and extra-judicial killings of people with particular profiles are routinely reported in Sri Lanka by media sources, human rights groups, and non-government organisations (NGOs). These same sources report that the perpetrators of such acts include both state and non-state actors. The purpose of this paper is to examine groups and profiles identified in the December 2012 *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*¹ as potentially at risk of serious harm, with particular emphasis on

¹ *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (21 December 2012), pp.26-28

groups/profiles that feature prominently in the Refugee Review Tribunal (RRT) Sri Lanka caseload. In addition, the paper examines the treatment of a claim group that routinely features in the RRT caseload, namely Tamil fishermen.

2. Current Political Climate

In 2004, the United People's Freedom Alliance (UPFA) formed a minority government in Sri Lanka, mainly comprised of the Sri Lanka Freedom Party (SLFP) and the *Janatha Vimukthi Peramuna* (People's Liberation Front or JVP). In 2005, Mahinda Rajapaksa of the SLFP narrowly won the Presidential election. In January 2008, President Rajapaksa cancelled the ceasefire agreement with the Liberation Tigers of Tamil Eelam (LTTE) after numerous violations of the agreement by the LTTE and ordered a new offensive against them. The government claimed final victory of the LTTE in May 2009.²

Since the defeat of the LTTE, President Rajapaksa's UPFA government has been characterised by intransigence regarding long-standing Tamil grievances, and increasing intolerance of persons and groups that criticise or obstruct its agenda. Power in Sri Lanka is increasingly concentrated in the hands of the Rajapaksa family. A 2011 *Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka* states that "the government has used its military success to create a discourse of triumphalism, which celebrates its claims to having developed the means and will to defeat 'terrorism.' It is a discourse couched in terms of Sinhala majoritarianism that presents the defeat of the LTTE as the defeat of all Tamil legitimate political aspirations".³ On 4 February 2013, President Rajapaksa "declared that the Tamil population in the north of the island would not get autonomy".⁴

Minority Rights Group International (MRGI) stated that "[t]he end of the conflict was marked by a wave of triumphalism on the part of the government". Furthermore, "[t]here have been attacks on opposition politicians and the media, a clampdown on civil society organizations, and growing intolerance of any form of opposition and dissent".⁵ Writing in 2011, the International Crisis Group argued that "[t]he government's intransigence and triumphalism a full two years after declaring victory over the LTTE has meant the country is yet to see any semblance of compromise or inclusiveness. Instead, President Rajapaksa and his powerful family members have maintained their war-time "with us or against us" mentality and continued to consolidate power and wealth, shaping much of the country as they wish".⁶

Freedom House expressed concern about the removal of oversight mechanisms and the limit on presidential terms with the passing of the 18th amendment to the constitution, and noted that the regime increasingly resembles a Rajapaksa family enterprise, with a dynastic succession plan:

Some observers charge that President Mahinda Rajapaksa's centralized, authoritarian style of rule has led to a lack of transparent, inclusive policy formulation. The Centre for Policy Alternatives (CPA) and others have noted the concentration of power in the hands of the Rajapaksa family. The president

² Freedom House 2012, *Freedom in the World 2012 – Sri Lanka*, UNHCR Refworld, 22 August <<http://www.unhcr.org/refworld/docid/503c7222b.html>> Accessed 18 September 2012

³ United Nations 2011, *Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka*, 31 March, p.111

⁴ Federal Office for Migration and Asylum 2013, *Information Centre Asylum and Migration: Briefing Notes*, 11 February, UNHCR Refworld <<http://www.unhcr.org/refworld/docid/5121e5ea2.html>> Accessed 5 March 2013

⁵ Minority Rights Group International 2011, *No War, No Peace: The Denial of Minority Rights and Justice in Sri Lanka*, 19 January, p.5 <<http://www.minorityrights.org/download.php?id=921>> Accessed 28 March 2011

⁶ International Crisis Group 2011, *Reconciliation in Sri Lanka: Harder than Ever*, Crisis Group Asia Report N°209, 18 July, p.40

himself holds multiple ministerial portfolios, and his brothers serve in other key posts: Gotabaya serves as defense secretary, Basil is minister for economic development, and Chamal is speaker of Parliament. A growing number of other relatives, including the president's son Namal, also hold important political or diplomatic positions. The president and his family consequently control approximately 70 percent of the national budget. During 2011, the president took steps to enhance Namal's profile in international and domestic forums, fueling speculation that he was being groomed as a potential successor.⁷

The Asian Human Rights Commission has recently adopted more scathing language, describing Sri Lanka in 2012 as a country rapidly descending into dictatorship:

In previous annual reports, the Asian Human Rights Commission has documented Sri Lanka's rapid fall into a dictatorship under the executive presidential system. This process has now been completed. There are violations written into the basic structure of its constitution, which was initially based on Sri Lanka being a republic and a democracy, recognizing the separation of powers between the executive, a legislature and judiciary, with the rule of law as its foundation and made on the basis of sovereignty of the people; now the legislature and the judiciary have been subjugated to the executive, through the 1972 and 1978 Constitutions. The executive president has now taken control of the legislature and the judiciary, and thereby reduced these two formerly independent branches of government into branches of the executive. This transformation is so complete that the principles of separation of powers and the rule of law can no longer be operated in any rational manner. The executive president is the sole and the direct controller of every aspect of governance, and all institutions are now expected to operate under his direction and according to his wishes.⁸

In this political climate, disappearances, detention without charge, torture, and extra-judicial killings of people with particular profiles are common.⁹ While President Rajapaksa lifted the forty year old state of emergency in August 2011, the *Prevention of Terrorism Act* (PTA) was amended, providing authorities with expanded powers to arrest and detain people without charge in undisclosed locations for extended periods.¹⁰ The Sri Lankan Police's Special Task Force (STF) and Terrorist Investigation Department (TID) are highly feared throughout Sri Lanka, with the former implicated in so-called 'white van' abductions.¹¹ According to *BBC News*, local human rights campaigners reported "32 unexplained abductions between last October [2011] and this February [2012], mostly in Colombo or northern Sri Lanka". *BBC News* states that victims

⁷ Freedom House 2012, *Freedom in the World 2012 – Sri Lanka*, UNHCR Refworld, 22 August <<http://www.unhcr.org/refworld/docid/503c7222b.html>> Accessed 18 September 2012

⁸ Asian Human Rights Commission 2012, *The State of Human Rights in Sri Lanka in 2012*, AHRC-SPR-011-2012, p.1 <http://www.humanrights.asia/resources/hrreport/2012/ahrc-spr-011-2012.pdf/at_download/file> Accessed 19 December 2012

⁹ Asian Human Rights Commission 2012, *The State of Human Rights in Sri Lanka in 2012*, AHRC-SPR-011-2012, pp. 8, 13, 31, 43 <http://www.humanrights.asia/resources/hrreport/2012/ahrc-spr-011-2012.pdf/at_download/file> Accessed 19 December 2012; International Crisis Group 2012, *Sri Lanka: Government Promises, Ground Realities*, 1 March <<http://www.crisisgroup.org/en/publication-type/media-releases/2012/asia/sri-lanka-government-promises-ground-reality.aspx>> Accessed 23 March 2012; UN General Assembly 2012, *Report of the Committee against Torture, Forty-seventh session (31 October-25 November 2011) : Forty-eighth session (7 May-1 June 2012)*, 12 November, UNHCR Refworld, pp.84-85 <<http://www.unhcr.org/refworld/docid/50a0f9b12.html>> Accessed 11 December 2012

¹⁰ Amnesty International 2012, *Locked Away: Sri Lanka's Security Detainees*, 13 May, p.7; Immigration and Refugee Board of Canada 2011, *Sri Lanka: Changes to the emergency regulations and the Prevention of Terrorism Act (August-September 2011)*, LKA103837.E, 29 September

¹¹ United Nations 2011, *Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka*, 31 March, p.17, para.63; Members of the Sri Lankan army have also been implicated in these abductions. See Francis, K 2012, 'Abduction squads in Sri Lanka target foes of powerful', *Washington Times*, source: *Associated Press*, 22 August <<http://www.washingtontimes.com/news/2012/aug/22/abduction-squads-in-sri-lanka-target-foes-of-power/#ixzz2Hu1F01jo>> Accessed 14 January 2013

are a “mix of Sinhala, Tamil and Muslim”, and that while “[a]ll sorts of people are disappearing... many of them appear to have been at loggerheads with the authorities”.¹²

The United Nations Committee Against Torture stated in 2011 that it remains “seriously concerned about reports received from non-governmental sources regarding secret detention centres run by the Sri Lankan military intelligence and paramilitary groups where enforced disappearances, torture and extrajudicial killings have allegedly been perpetrated”. The committee stated that it was concerned that the “sweeping powers granted under anti-terrorist legislation contributed to the large number of new disappearances”.¹³

In the north and the east, pro-government paramilitary groups such as the Eelam People’s Democratic Party (EPDP) and the Tamil Makkal Viduthalai Pulikal (TMVP) often work independently or in tandem with the STF, the TID, and the Sri Lankan Armed Forces to intimidate, detain and harm those perceived to be political opponents, as well as intimidate ordinary citizens during elections.¹⁴ These paramilitaries also operate their own criminal enterprises with impunity.¹⁵ The term impunity commonly features in NGO and news reporting of human rights abuses in Sri Lanka, undermining prospects for adequate state protection.

For a detailed analysis of the increasing authoritarian nature of the Rajapaksa regime, including: discussion of the sustained and ultimately victorious attack on the independence of the judiciary; the detention system and use of the PTA; the treatment of ‘rehabilitated’ and released ex ‘LTTE-combatants’; the attack on freedoms of expression and association; etc, see the International Crisis Group’s February 2013 report *Sri Lanka’s Authoritarian Turn: The Need for International Action*.¹⁶

¹² Haviland, C 2012 ‘Sri Lanka’s sinister white van abductions’, *BBC News*, 14 March
<<http://www.bbc.co.uk/news/world-asia-17356575>> Accessed 22 November 2012

¹³ UN General Assembly 2012, *Report of the Committee against Torture, Forty-seventh session (31 October-25 November 2011) : Forty-eighth session (7 May-1 June 2012)*, 12 November, UNHCR Refworld, p.86
<<http://www.unhcr.org/refworld/docid/50a0f9b12.html>> Accessed 11 December 2012

¹⁴ Human Rights Watch 2012, *World Report 2012: Sri Lanka*, January
<http://www.hrw.org/sites/default/files/related_material/srilanka_2012.pdf> Accessed 2 February 2012; US Department of State 2012, *Country Reports on Human Rights Practices 2011 – Sri Lanka*, 24 May, Section 1.b; Eelam Nation 2012, *Minister Basil Rajapaksa Sends Hoodlums to Intimidate Tamil Voters: Sampanthan, Hakeem Complain*, <<http://www.eelamnation.net/elem/newsdetails.php?newsId=7001>> Accessed 13 November 2012; ‘Rajapaksa’s ministers threaten Tamil voters in East’ 2012, *TamilNet*, 8 September
<<http://www.tamilnet.com/art.html?catid=13&artid=35539>> Accessed 13 November 2012; ‘Paramilitary terrorise and intimidate Batticaloa voters’ 2012, *Tamil Guardian*, 27 July
<<http://www.tamilguardian.com/article.asp?articleid=5377>> Accessed 22 August 2012

¹⁵ Immigration and Refugee Board of Canada 2012, *The Tamil Makkal Viduthalai Pulikal (TMVP) and Karuna factions; their relationship with each other; reports concerning their treatment of Sinhalese and Tamil citizens; whether they are still active as paramilitary groups*, LKA103950.E, 17 February; ‘SLA, paramilitary, extort money from traders in Batticaloa’ 2011, *TamilNet*, 13 July <<http://www.tamilnet.com/art.html?catid=13&artid=34173>> Accessed 20 November 2012; ‘SLA complicit in assisting Karuna’s extortion ring’ 2011, *TamilNet*, 5 August <<http://www.tamilnet.com/art.html?catid=13&artid=34264>> Accessed 30 November 2012

¹⁶ International Crisis Group 2013, *Sri Lanka’s Authoritarian Turn: The Need for International Action*, Crisis Group Asia Report N°243, 20 February

3. Groups/Profiles

The December 2012 *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* identifies groups that may be at risk of serious harm and therefor may require international refugee protection:

- (i) persons suspected of certain links with the Liberation Tigers of Tamil Eelam (LTTE);
- (ii) certain opposition politicians and political activists;
- (iii) certain journalists and other media professionals;
- (iv) certain human rights activists;
- (v) certain witnesses of human rights violations and victims of human rights violations seeking justice;
- (vi) women in certain circumstances;
- (vii) children in certain circumstances; and
- (viii) lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals in certain circumstances.¹⁷

The following sections provide up-to-date, fully cited information with particular emphasis on certain groups and profiles that have featured prominently in the RRT Sri Lanka caseload in the months prior to the release of this paper.

3.1 Persons with certain actual or imputed LTTE connections

In the December 2012 *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*, the UNHCR indicates that not all Tamils from northern and eastern Sri Lankan are vulnerable to harm due to imputed links with the Liberation Tigers of Tamil Eelam (LTTE):

At the height of its influence in Sri Lanka in 2000-2001, the LTTE controlled and administered 76% of what are now the northern and eastern provinces of Sri Lanka. Therefore, all persons living in those areas, and at the outer fringes of the areas under LTTE control, necessarily had contact with the LTTE and its civilian administration in their daily lives. Originating from an area that was previously controlled by the LTTE does not in itself result in a need for international refugee protection in the sense of the 1951 Convention and its 1967 Protocol.

However, previous (real or perceived) links that go beyond prior residency within an area controlled by the LTTE continue to expose individuals to treatment which may give rise to a need for international refugee protection, depending on the specifics of the individual case.¹⁸

The UNHCR does state that people with “more elaborate links to the LTTE” may require protection. These profiles can include:

- 1) Persons who held senior positions with considerable authority in the LTTE civilian administration, when the LTTE was in control of large parts of what are now the northern and eastern provinces of Sri Lanka;
- 2) Former LTTE combatants or “cadres”;
- 3) Former LTTE combatants or “cadres” who, due to injury or other reason, were employed by the LTTE in functions within the administration, intelligence, “computer branch” or media (newspaper and radio);

¹⁷ UNHCR 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (21 December 2012), pp.26-28

¹⁸ UNHCR 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (21 December 2012), pp.26-27

- 4) Former LTTE supporters who may never have undergone military training, but were involved in sheltering or transporting LTTE personnel, or the supply and transport of goods for the LTTE;
- 5) LTTE fundraisers and propaganda activists and those with, or perceived as having had, links to the Sri Lankan diaspora that provided funding and other support to the LTTE;
- 6) Persons with family links or who are dependent on or otherwise closely related to persons with the above profiles.¹⁹

The UNHCR states the following in relation to persons with actual links to the LTTE:

Information has been published documenting cases of mistreatment and torture of women and men in detention (police custody or other forms of detention), for reason of their or their family members' alleged former links with the LTTE. Killings have been reported which appear to be politically motivated, targeting persons believed to be LTTE sympathizers. Sexual violence, including but not limited to rape, against Tamil men in detention has also been reported recently, including reports of cases perpetrated in the post-conflict period. Sexual harassment of former LTTE combatants in rehabilitation centres has also been reported.

Former "rehabilitees" reportedly face problems reintegrating upon release. Many are visited by military and intelligence agents, or are required to report regularly to local military "Civil Affairs Officers", local police and military camps. Many are believed to have been put under pressure to act as informants. Should the individual fail to report to the military authorities on a regular basis, family members are directly questioned by the military on their whereabouts. Additionally, relatives of former LTTE fighters who did not surrender continue to face interrogation by the authorities. The issuance of ad hoc "release certificates" by these authorities, including with expiration dates, reportedly creates confusion as to the status of those who are released. "Rehabilitees" report that they self-limit their movements within and outside their immediate community, which also has a negative impact on certain livelihood opportunities.

The Presidential Task Force for Resettlement, Development and Security in the Northern Province reportedly discourages the provision of humanitarian support to former "rehabilitees" and their family members. Reportedly, this is the case even if those concerned may have specific needs following release, based on humanitarian criteria, such as belonging to a single-headed household.²⁰

In the immediate aftermath of the defeat of the LTTE, the Sri Lankan Armed Forces detained over 11,000 ethnic Tamils in so-called rehabilitation centres. The Sri Lankan government described these detainees as LTTE surrendees.²¹ In 2010, Human Rights Watch (HRW) reported on the denial of what is described as 'fundamental human rights' of the detainees:

The government has routinely violated the detainees' fundamental human rights, including the right to be informed of specific reasons for arrest, the right to challenge the lawfulness of the detention before an independent judicial authority, and the right of access to legal counsel and family members. The authorities' consistent failure to inform families of the basis for the detainees' arrest and their whereabouts raises serious concerns that some detainees may have been victims of torture and ill-treatment, which are more likely to take place where due process of law is lacking and which have long been serious problems in Sri Lanka. Given the lack of information about some detainees, there is also a risk that some may have been "disappeared."²²

¹⁹ UNHCR 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (21 December 2012), p.27

²⁰ UNHCR 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (21 December 2012), pp.27-28

²¹ Human Rights Watch 2010, *Legal Limbo: The Uncertain Fate of Detained LTTE Suspects in Sri Lanka*, February, p.4

²² Human Rights Watch 2010, *Legal Limbo: The Uncertain Fate of Detained LTTE Suspects in Sri Lanka*, February, p.1

In 2012 the US Department of State (USDOS) reported that some 10,200 of these detainees were classified as rehabilitated and released, with approximately 700 remaining in detention.²³ In January 2013, Sri Lanka Minister of Rehabilitation and Prison Reforms, Chandrasiri Gajadeera stated that there were only 125 unintegrated LTTE cadres remaining in detention.²⁴

Sources indicate that at least some of these former detainees had been harmed following their release from detention. USDOS reported that in 2011 that residents of Jaffna believe that persons imputed to be LTTE sympathisers and ex-combatants have been abducted by the pro-government paramilitary the Eelam People's Democratic Party (EPDP).²⁵ USDOS also reported that in June 2011, former LTTE combatant Balachchandran Satkunarasa was found hanging from a soccer goal post. Ex-LTTE combatant Vetharaniyam Lathees was abducted in November 2011; however he was released the following day.²⁶

USDOS also reported that in 2011 in eastern and northern Sri Lanka, "military intelligence and other security personnel, sometimes working with armed paramilitaries, were responsible for the documented and undocumented detention of civilians suspected of LTTE connections". Detention commonly involved interrogations that "frequently included torture".²⁷

USDOS describes as credible NGO reports of "undisclosed government facilities where suspected LTTE sympathizers were taken, tortured, and sometimes killed". Ex-combatants released from rehabilitation centres are reportedly subject to "intensive surveillance by the military", and experience "social stigma", "psychological trauma", and may experience difficulty gaining employment.²⁸ Amnesty International reported that "[f]ormer detainees have been harassed, rearrested and physically attacked. Killings and enforced disappearances of newly released detainees have also been reported".²⁹

In addition to the alleged ill-treatment of some 'rehabilitated' former detainees, a limited number of sources indicate that other former detainees with suspected LTTE connections have been harmed. In one individual case a Tamil businessman in Colombo was abducted in February 2012 "just days before the supreme court was due to hear his fundamental rights petition alleging unlawful arrest and detention and torture, stemming from his May 2009 arrest as a suspected LTTE member and 28-month detention".³⁰ He remained missing at the start of 2013.

No evidence was located indicating that ordinary Tamils, including those in the north, are routinely implicated with LTTE connections and harmed in ways described above.

NB: In relation to imputed LTTE connections, the Convention and Guide to Refugee Law provide the following guidance:

Article 1F of the *United Nations Convention relating to the Status of Refugees* states that "the provisions of the Convention shall not apply to any person with respect to whom there are serious reasons for considering that

²³ US Department of State 2012, *Country Reports on Human Rights Practices 2011 – Sri Lanka*, 24 May, Section 1.d

²⁴ Singh, S B 2013, 'Troubled Normalcy', *South Asia Intelligence Review*, Volume 11, No. 29, 21 January <http://www.satp.org/satporgtp/sair/Archives/sair11/11_29.htm> Accessed 5 February 2013

²⁵ US Department of State 2012, *Country Reports on Human Rights Practices 2011 – Sri Lanka*, 24 May, Section 1.b

²⁶ US Department of State 2012, *Country Reports on Human Rights Practices 2011 – Sri Lanka*, 24 May, Sections 1.a, 1.b

²⁷ US Department of State 2012, *Country Reports on Human Rights Practices 2011 – Sri Lanka*, 24 May, Section 1.c

²⁸ US Department of State 2012, *Country Reports on Human Rights Practices 2011 – Sri Lanka*, 24 May, Section 1.d

²⁹ Amnesty International 2012, *Locked Away: Sri Lanka's Security Detainees*, 13 May, p.7

³⁰ International Crisis Group 2012, *Sri Lanka: Government Promises, Ground Realities*, 1 March

<<http://www.crisisgroup.org/en/publication-type/media-releases/2012/asia/sri-lanka-government-promises-ground-reality.aspx>> Accessed 23 March 2012

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes”. The *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (21 December 2012) states that “[c]ertain former members of the LTTE, in particular former combatants” may warrant the exclusion considerations under Article 1F.¹

Section 7 of the *Guide to Refugee Law in Australia* states:

While the Refugee Review Tribunal (the Tribunal) has jurisdiction to deal with matters involving Articles 1C, 1D and 1E, it does not have jurisdiction to deal with Article 1F. Section 411 of the Act gives the Tribunal general jurisdiction to review decisions to refuse to grant or to cancel a protection visa. However, s.500(1)(c)(i) makes it clear that the Tribunal does not have jurisdiction to review a decision which relies on Article 1F of the Convention: such decisions are only reviewable by the Administrative Appeals Tribunal (AAT).

Furthermore, the Full Federal Court has held that the Tribunal does not have power to consider Article 1F at all, whether or not it had been relied upon in the primary decision. Thus, if the primary decision did not rely on Article 1F, the Tribunal has jurisdiction to review the decision but cannot adjudicate upon that provision. Therefore, if an applicant satisfies Article 1A(2) of the Convention, but the material before the Tribunal raises an Article 1F issue in relation to the applicant, the Tribunal cannot consider the material in relation to that issue and cannot finally determine whether the applicant is a person in respect of whom Australia has protection obligations under the Convention.¹

Should information regarding a review applicant’s LTTE connections and conduct be put to the tribunal in the course of conducting a review, raising the issue of Article 1F, a member should seek advice from the tribunals’ Legal Services section.

3.2 Persons Associated with Opposition Political Parties

While many political parties in Sri Lanka have employed violence and intimidation tactics during elections, Campaign for Free and Fair Elections (CaFFE) reported that during the 2010 election campaign, 98 per cent of reported violence “involved members of the ruling party”.³¹ The Centre for Monitoring Election Violence (CMEV) reported that during 2011 local elections, the UPFA was responsible for 16 major incidents of violence, while the UNP were responsible for two.³² However, as is noted in the following section on the TNA, most violence and intimidation of opposition political party workers and candidates in the north and east of Sri Lanka is perpetrated by members of paramilitary groups allied to the UPFA.

For comprehensive catalogues of election-related violent incidents in Sri Lanka, see the archive of CMEV reports on the Centre for Policy Alternatives website (<http://www.cpalanka.org/category/cmev-reports/>) and CaFFE reports on the CaFFE website (<http://www.caffesrilanka.org/Home-0.html>).

3.2.1 Tamil National Alliance

Ethnic Tamils who claim to have been organisers and activists with the TNA were a regular feature of the RRT’s Sri Lanka caseload in 2012. In recent years, there have been a number of

³¹ Campaign for Free & Fair Elections 2010, *19,000 observers but not at counting centres*, 4 April <http://www.caffesrilanka.org/19,000_observers_but_not_at_counting_centres-5-1992.html> Accessed 1 October 2012

³² Centre for Monitoring Election Violence 2011, *Local Authority Election 2011: Media Communique 1*, 17 March <<http://cmev.wordpress.com/2011/03/17/local-authority-election-2011-media-communique-1/>> Accessed 30 November 2011

reports of TNA candidates, activists and supporters suffering intimidation, particularly in Eastern Province and Jaffna.

The Tamil National Alliance (TNA) is an alliance of Tamil parties that seek autonomy for regions in the north and east of Sri Lanka dominated by Tamil-speaking³³ peoples. In recent elections in Sri Lanka, results indicate that the TNA is the favoured political party/alliance of Sri Lankan Tamils in Sri Lanka.³⁴

According to the International Crisis Group (ICG), the TNA is comprised of several Tamil political parties, some of which are former militant groups:

The TNA, founded in 2001 with the LTTE's encouragement, was the ambiguous product of the Tigers' anti-politics: a political formation with no real autonomy and no right to dissent, but used by the LTTE to claim popular support. It was built from parties with quite different histories and relationships to the LTTE and the armed struggle. Some member parties – Tamil Eelam Liberation Organisation (TELO) and Eelam People's Revolutionary Liberation Front (EPRLF) – were ex-militant groups, former LTTE rivals but not opposed to violence. The [Tamil United Liberation Front] TULF and the All Ceylon Tamil Congress (ACTC), on the other hand, were longstanding democratic parties; TULF members in particular were often uncomfortable with LTTE tactics and control. Some TNA politicians were genuinely supportive of the LTTE; others followed it under duress.³⁵

The largest and perhaps most dominant party in the TNA is the *Illankai Tamil Arasu Katchi* (ITAK), led by Rajavarthiam Sampanthan. In addition to ITAK, TELO, and EPRLF, recently joined alliance partners include the People's Liberation Organisation of Tamil Eelam (PLOTE), headed by D. Siddharthan, and the Tamil United Liberation Front (TULF), led by V. Anandasangarree. According to the ICG, TULF is one of Sri Lanka's oldest Tamil parties, formed in the early 1970s.³⁶ The leader of the TNA, Rajavarthiam Sampanthan, is a member of the Sri Lankan parliament for Trincomalee District.³⁷

Election Violence

In September 2012, elections were conducted to elect representatives to provincial councils in Eastern, North Central and Sabaragamuwa Provinces of Sri Lanka. Sri Lanka's *The Sunday Times* described the election climate in Eastern Province as 'volatile', and reported that a number of pre-election law violations were recorded in the province.³⁸ TNA/ITAK leader R. Sampanthan

³³ Tamil is the mother-tongue of three distinct groups of people in Sri Lanka: people who identify as Sri Lankan Tamils; Sri Lankan Muslims who have their own distinct identity and do not identify as ethnic Tamils; and descendants of Indian Tamils who came to Sri Lanka during the British colonial period.

³⁴ In 2010, the International Crisis Group reported that while the TNA remained the most important Tamil party in Sri Lanka, it was not embraced by the large Sri Lankan Tamil diaspora, particularly in North America. The TNA was heavily criticized by diaspora groups such as the Transnational Government of Tamil Eelam (TGTE) and the Global Tamil Forum (GTF) for endorsing Sarath Fonseka in the January 2010 presidential election. See International Crisis Group 2010, *The Sri Lankan Tamil Diaspora after the LTTE*, Crisis Group Asia Report N°186, 23 February, pp.13,17

³⁵ International Crisis Group 2012, *Sri Lanka: Tamil Politics and the Quest for a Political Solution*, Crisis Group Asia Report N°239, 20 November, p.6

³⁶ International Crisis Group 2012, *Sri Lanka: Tamil Politics and the Quest for a Political Solution*, Crisis Group Asia Report N°239, 20 November, p.3, footnote 16, p.6

³⁷ 'Blue Brigade Have Asked For The Polling Cards Of Voters – Sampanthan Wrote To President Rajapakse' 2012, *Colombo Telegraph*, 6 September <<http://www.colombotelegraph.com/index.php/blue-brigade-have-asked-for-the-polling-cards-of-voters-sampanthan-wrote-to-president-rajapakse/>> Accessed 13 November 2012

³⁸ 'Brisk voting in Eastern Province, lighter turnout in other provinces' 2012, *The Sunday Times*, 9 September <<http://www.sundaytimes.lk/120909/news/brisk-voting-in-eastern-province-lighter-turnout-in-other-provinces-11530.html>> Accessed 13 November 2012

wrote to President Rajapaksa, complaining that persons working for the governing United Peoples Freedom Alliance (UPFA) engaged in intimidation of opposition candidates and supporters. Among his complaints, Sampanthan reported that: “[c]andidates and supporters of political parties opposed to the U.P.F.A.... and vehicles in which they travelled have been attacked”; “personnel claiming to be intelligence personnel have questioned persons engaged in electoral activities on behalf of political parties opposed to the U.P.F.A.... and warned them that they could face unpleasant consequences after the elections”; and “persons identified as the “Blue Brigade” have asked for the polling cards of voters, inspected the same, and warned them that they could face unpleasant consequences if they did not support the ruling party”.³⁹

The Tamil nationalist website Eelam Nation accused Basil Rajapaksa, Sri Lanka’s Minister for Economic Development and brother of President Mahinda Rajapaksa, of deploying “more than one thousand men” to intimidate “Tamils and Muslims in the three districts of the eastern province namely Ampaarai, Batticaloa and Trincomalee” during September 2012 local elections, creating “a climate of fear among voters”. Eelam Nation accused UPFA workers of “openly asking voters not to cast their votes for TNA and the SLMC and warning that their consequence would be dire if they did not vote for the ruling UPFA candidates”.⁴⁰ *TamilNet*⁴¹ reported similar stories of voter intimidation.⁴²

TamilNet reported that Basil and Namal Rajapaksa, brother and son of the President respectively, travelled to Trincomalee and Batticaloa in September 2012 to “strike a deal between the TNA councillors and the Rajapaksa regime”. *TamilNet* claims that “[t]he Colombo operatives began to threaten the TNA councillors as they were not able to win the ‘hearts and minds’ of the Tamil people even after promising 50 million rupees in cash to each councillor, a house in Colombo and a vehicle” in return for support for the ruling UPFA. *TamilNet* claims that some TNA councillors have “gone into hiding”, fearing “abduction and intimidation”.⁴³

Lankasri News reported in August 2012 claims that supporters of the current Chief Minister of Eastern Province Sivanathurai Chandrakanthan (aka Pillyan) carried out an attack against a TNA candidate for Vaakarai in Kalkuda, resulting in his hospitalisation.⁴⁴

In July 2012, *TamilNet* reported that paramilitary groups in Batticaloa “threatened candidates who are being fielded by the Tamil National Alliance (TNA) in the forthcoming elections to the Eastern Provincial Council” in July 2012.⁴⁵

³⁹ ‘Blue Brigade Have Asked For The Polling Cards Of Voters – Sampanthan Wrote To President Rajapakse’ 2012, *Colombo Telegraph*, 6 September <<http://www.colombotelegraph.com/index.php/blue-brigade-have-asked-for-the-polling-cards-of-voters-sampanthan-wrote-to-president-rajapakse/>> Accessed 13 November 2012

⁴⁰ Eelam Nation 2012, *Minister Basil Rajapaksa Sends Hoodlums to Intimidate Tamil Voters: Sampanthan, Hakeem Complain*, <<http://www.eelamnation.net/elem/newsdetails.php?newsId=7001>> Accessed 13 November 2012

⁴¹ In November 2012, the International Crisis Group (ICG) stated that the editors of *TamilNet* are linked to the ‘Nediyavan’ faction of the LTTE. In June 2013, *TamilNet* reported that the ICG “silently withdrew” this claim “after challenged by TamilNet”. *TamilNet* states that it is committed to the creation of Tamil Eezham (Eelam). See International Crisis Group 2012, *Sri Lanka: Tamil Politics and the Quest for a Political Solution*, Crisis Group Asia Report N°239, 20 November; ‘Gotabhaya names TamilNet a ‘security threat’ 2013, *TamilNet*, 23 June <<http://www.tamilnet.com/art.html?catid=79&artid=36429>> Accessed 25 June 2013; ‘FAQ on Tamil’ n.d., *TamilNet* <<http://www.tamilnet.com/aboutus/index.html?catid=67&artid=32598>> Accessed 25 June 2013

⁴² ‘Rajapaksa’s ministers threaten Tamil voters in East’ 2012, *TamilNet*, 8 September <<http://www.tamilnet.com/art.html?catid=13&artid=35539>> Accessed 13 November 2012

⁴³ ‘UPFA operatives threaten TNA councilors to join UPFA in East’ 2012, *TamilNet*, 13 September <<http://www.tamilnet.com/art.html?catid=13&artid=35563>> Accessed 13 November 2012

⁴⁴ ‘Attack carried out against TNA candidate in Batticaloa’ 2012, *Lankasri News*, 22 August <<http://www.lankasrinews.com/view.php?22AOld0acp5YOd4e2IMM202cAmB3ddeZBmK302eMAA2e4UY5naca2I0K42>> Accessed 23 August 2012

Similarly, the *Tamil Guardian* reported that cadres from the *Tamil Makkal Viduthalai Pulikal* (TMVP) paramilitary intimidated people intending to vote TNA in council elections in Batticaloa, Eastern Province in July 2012.⁴⁶

Outside of Eastern Province, TNA candidates have also complained of threats and other forms of intimidation. The US Department of State reported that the TNA complained that “security personnel...threatened candidates and detained persons to prevent them from attending election meetings” in Jaffna during July 2011 local council elections. The party also claimed that “approximately 50 army personnel assaulted TNA MPs and their supporters at the first local government election campaign meeting held by the TNA near Jaffna” in June 2011.⁴⁷ Both the ICG and Human Rights Watch (HRW) reported the same incident.⁴⁸ TNA parliamentarian MA Sumanthiran told *BBC Sinhala* that “Jaffna military commander Maj Gen Mahinda Hathurusinghe expressed regret over the incident...Saying that the incident was not good for the army,” and promising “to find the culprits and punish them”.⁴⁹

There are also reports that TNA candidates were physically attacked by persons working for the Eelam People’s Democratic Party (EPDP), a former Tamil paramilitary that supported the Sri Lankan Army to take control of Jaffna in 1995. The ICG wrote in 2012 that the “EPDP’s current function seems to be to weaken the TNA and prevent the emergence of any serious political resistance to government rule... in the run-up to the July 2011 local government elections, EPDP thugs were also accused of involvement in a series of physical attacks on TNA candidates during the campaign”.⁵⁰

In September 2012, the Campaign for Free and Fair Elections (CaFFE) reported that TNA supporters were accused of intimidating voters in Batticaloa District during the election campaign for the Eastern Provincial Council.⁵¹

No evidence was located indicating that ordinary Tamils are harmed by the TMVP, Karuna Group, or the EPDP due to imputed support for the TNA. As noted previously, ordinary Tamils have been intimidated by members of these pro-UPFA paramilitaries during election campaigns.

3.2.2 United National Party

The United National Party (UNP) is currently Sri Lanka’s main opposition party. There is a well-documented corpus of examples of intimidation, threats and assaults directed at UNP members and supporters by members and supporters of the ruling United People’s Freedom Alliance (UPFA), or its main party the Sri Lanka Freedom Party (SLFP), during election campaigns. It

⁴⁵ ‘Paramilitary groups threaten TNA candidates in Batticaloa district’ 2012, *Tamil News Network*, source: *TamilNet*, 22 July <<http://www.tamilnewsnetwork.com/2012/07/22/paramilitary-groups-threaten-tna-candidates-in-batticaloa-district/>> Accessed 22 August 2012

⁴⁶ ‘Paramilitary terrorise and intimidate Batticaloa voters’ 2012, *Tamil Guardian*, 27 July <<http://www.tamilguardian.com/article.asp?articleid=5377>> Accessed 22 August 2012

⁴⁷ US Department of State 2012, *Country Reports on Human Rights Practices 2011 – Sri Lanka*, 24 May, Section 1.b

⁴⁸ International Crisis Group 2012, *Sri Lanka’s North I: The Denial of Minority Rights*, Crisis Group Asia Report N°219, 16 March, p.14; Human Rights Watch 2012, *World Report 2012: Sri Lanka*, January <http://www.hrw.org/sites/default/files/related_material/srilanka_2012.pdf> Accessed 2 February 2012

⁴⁹ ‘Military ‘apologies’ for attack on Tamil MPs’ 2011, *BBC Sinhala*, 19 June

<http://www.bbc.co.uk/sinhala/news/story/2011/06/110619_jaffna_tna_attack.shtml> Accessed 10 February 2013

⁵⁰ International Crisis Group 2012, *Sri Lanka’s North I: The Denial of Minority Rights*, Crisis Group Asia Report N°219, 16 March, p.12

⁵¹ ‘Brisk voting in Eastern Province, lighter turnout in other provinces’ 2012, *The Sunday Times*, 9 September <<http://www.sundaytimes.lk/120909/news/brisk-voting-in-eastern-province-lighter-turnout-in-other-provinces-11530.html>> Accessed 30 November 2012

should also be noted that there have been a number of incidents of internal party violence between various UNP factions, most recently regarding the leadership of the UNP.⁵²

Freedom House reported that a number of UNP politicians switched their allegiances to the UPFA in 2007 and 2008 when the latter formed government in order to ‘avoid prosecutions based on fabricated charges’. In one example, former leader of the UNP, S.B. Dissanayake, faced criminal charges that were dropped when he crossed over to the Rajapaksa government in 2009.⁵³ *The Political Handbook of the World* states that as many as 1000 former UNP (and JVP) members defected to the SLFP “due to dissatisfaction with their respective parties’ electoral strategy”.⁵⁴

Recent incidents involving UNP candidates and party workers are tabulated below:

September 2012	UPFA supporters attacked two UNP offices at Pallegama and Padiyathalawa. ⁵⁵ A group of 40 women “engaged in a house to house campaign in Eravur” were attacked by supporters of a UPFA candidate” in Akkaraipattu in the east of Sri Lanka. ⁵⁶
August 2012	<i>Digatha News</i> also reported that UPFA members attacked UNP candidates as well as candidates from other rival parties in the eastern province in the lead up to provincial council elections. UNP National Organiser and Chief Minister aspirant Daya Gamage’s Paddiyathalawa party office was attacked. ⁵⁷
November 2011	UPFA ministers physically attacked UNP ministers during the President’s budget speech while parliament was in session. ⁵⁸
October 2011	A UPFA candidate reportedly applied “undue pressure on voters at several polling stations including Kadulla, Wadulwatte, Jana Sabha, Kelanipura and Kambi Kotuwa on polling day”. ⁵⁹
September 2011	UPFA “thugs” attacked a home of a UNP supporter, as well as a UNP election office in Bambalapitiya. ⁶⁰ <i>Lanka e-News</i> , an anti-government news website, quoted the UNP Mayor of Colombo Municipal Council, who claimed that UPFA supporters physically attacked UNP supporters during local elections in September. Muzammil claimed that UPFA

⁵² In 2011, violence was reported between supporters of UNP leader Ranil Wickremasinghe and supporters of his former deputy, Karu Jayasuriya. See ‘UNP head office attacked by dissidents’2011, *BBC Sinhala*, 19 December <http://www.bbc.co.uk/sinhala/news/story/2011/12/111219_unp_election.shtml> Accessed 23 January 2013

⁵³ Freedom House 2012, *Countries at the Crossroads 2012: Sri Lanka* <<http://www.freedomhouse.org/sites/default/files/Sri%20Lanka%20-%20FINAL.pdf>> Accessed 25 September 2012

⁵⁴ Lansdorf, T (ed) 2012, ‘Sri Lanka’, in *Political Handbook of the World*, CQ Press, Washington, DC, p.1352 <http://library.cqpress.com/phw/phw2012_SriLanka> Accessed 2 November 2012

⁵⁵ Gunasekera, L 2012, ‘CaFFE reports increasing violence against SLMC in Akkaraipattu’, *The Island*, 2 September <http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=60660> Accessed 27 September 2012

⁵⁶ Gunasekera, L 2012, ‘CaFFE reports increasing violence against SLMC in Akkaraipattu’, *The Island*, 2 September <http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=60660> Accessed 27 September 2012

⁵⁷ Neyo 2012, ‘Daya Gamage's Paddiyathalawa party office attacked’, *Digatha News*, 29 August <http://www.digathanews.com/index.php?option=com_content&view=article&id=4166:daya-gamages-paddiyathalawa-party-office-attacked&catid=73:political&Itemid=124> Accessed 27 September 2012

⁵⁸ Abeywickrema, M I 2011, ‘Sri Lanka’s Shame’, *The Sunday Leader*, 27 November <<http://www.thesundayleader.lk/2011/11/27/sri-lanka%E2%80%99s-shame/>> Accessed 1 October 2012

⁵⁹ Perera, Y 2011, ‘Police ignored orders from Polls Chief: CaFFE’, Campaign for Free and Fair Elections, source: *Daily Mirror*, 14 October <http://www.caffesrilanka.org/Police_ignored_orders_from_Polls_Chief_CaFFE_-5-2949.html> Accessed 27 September 2012

⁶⁰ Campaign for Free & Fair Elections 2011, *Muzammil slams Govt. for polls thuggery*, 21 September <http://www.caffesrilanka.org/Muzammil_slams_Govt._for_polls_thuggery_-5-2908.html> Accessed 27 September 2012

	supporters also destroyed the home of a UNP supporter, and destroyed UNP vehicles at the candidate's electoral office. ⁶¹
July 2011	CaFFE reported that a senior UPFA minister accompanied by a group of 80 others reportedly "arrived at the Thalawekele Estate in the Thalawekele Urban Council Area, and assaulted 15 people including supporters of Mr. Syllvester; a UNP candidate". Mr. Syllvester, his father and three others were subsequently taken into police custody. ⁶²
March 2011	UPFA supporters carrying automatic weapons reportedly attacked UNP supporters at an election meeting. UNP deputy leader Karu Jayasuriya released a statement in the wake of the attack in which he stated "[i]t appears to be the 'policy' of the government to unleash thugs armed with automatic guns and crow bars to target unarmed opposition UNP activists". The deputy leader also referred to a previous attack on a UNP candidate in which the latter's hand was cut by a UPFA contender in Jayasuriya, and "charged that the police have been reduced to helpless onlookers as violence unleashed by government goons intensified". ⁶³ UPFA supporters attacked a UNP candidate near the President's Residence in Colombo. UPFA supporters attacked and chased UNP supporters in Wattala, in the North Western Province. UPFA supporters attacked a UNP candidate with an iron rod near a polling station in Kurunegala, in the North Western Province. When the candidate attempted to escape, the UPFA supporters allegedly fired gunshots and destroyed vehicles and neighbouring houses. UPFA supporters armed with guns attacked the house of a UNP candidate in Kalutara, injuring 15 people. ⁶⁴
February 2011	<i>The Sunday Times</i> reported five incidents of inter-party violence in Kandy in the lead up to local government elections. The report does not specify the parties responsible for the attacks. ⁶⁵
January 2011	<i>The Island</i> and CaFFE reported that the Commissioner of Elections cancelled the results of the local elections at 37 different polling centres in Nawalapitiya in the Kandy district because of election malpractices, including numerous incidents of election-related violence. ⁶⁶ <i>The Island</i> noted that the violence was caused by SLFP supporters/candidates. ⁶⁷

⁶¹ 'UNP Muzammil's Supporters brutally attacked' 2011, *Lanka-e News*, 20 September

<<http://www.lankaenews.com/English/news.php?id=12271>> Accessed 30 November 2011

⁶² Campaign for Free & Fair Elections 2011, *Hundreds of Polling Cards Forcibly Collected in Killinochchi*, 23 July <[http://www.caffesrilanka.org/Hundreds of Polling Cards Forcibly Collected in Killinochchi,-5-2860.html](http://www.caffesrilanka.org/Hundreds_of_Polling_Cards_Forcibly_Collected_in_Killinochchi,-5-2860.html)> Accessed 27 September 2012

⁶³ Campaign for Free & Fair Elections 2011, *As violence intensify, police reduced to helpless onlookers – Karu*, 6 March <http://www.caffesrilanka.org/As_violence_intensify,_police_reduced_to_helpless_onlookers_Karu-5-2699.html> Accessed 27 September 2012

⁶⁴ Centre for Monitoring Election Violence 2011, *Local Authority Election 2011: Final Media Communique on Election Day*, 17 March <<http://cmev.wordpress.com/2011/03/17/local-authority-election-2011-final-media-communique-on-election-day/>> Accessed 29 November 2011

⁶⁵ 'Poll monitors decry lawlessness' 2011, *The Sunday Times*, 20 February <http://sundaytimes.lk/110220/News/nws_14.html> Accessed 1 October 2012

⁶⁶ Campaign for Free & Fair Elections 2010, *Re-poll scheduled for April 20*, 11 April <http://www.caffesrilanka.org/Re_poll_scheduled_for_April_20-5-2020.html> Accessed 1 October 2012; 'UPFA partners allege SLFP responsible for rejection of LG nomination papers: Sajith, too, accuses Ranil of manipulating process' 2011, Campaign for Free & Fair Elections website, source: *The Island*, 30 January <http://www.caffesrilanka.org/UPFA_partners_allege_SLFP_responsible_for_rejection_of_LG_nomination_papers_Sajith,_too,_accuses_Ranil_of_manipulating_process_-5-2568.html> Accessed 1 October 2012

⁶⁷ 'UPFA partners allege SLFP responsible for rejection of LG nomination papers: Sajith, too, accuses Ranil of manipulating process' 2011, Campaign for Free & Fair Elections website, source: *The Island*, 30 January <http://www.caffesrilanka.org/UPFA_partners_allege_SLFP_responsible_for_rejection_of_LG_nomination_papers_Sajith,_too,_accuses_Ranil_of_manipulating_process_-5-2568.html> Accessed 1 October 2012

	<p>The <i>Sri Lanka Guardian</i> reported that the office of pro-UNP news website <i>Lankaenews</i> was set alight. A reporter for the website also went missing in January 2010.⁶⁸</p>
April 2010	<p>“Thugs” associated with a powerful UPFA candidate in Kandy reportedly damaged the car of a UNP candidate.⁶⁹</p> <p>UPFA supporters attacked a UNP election bus carrying UNP supporters.⁷⁰</p> <p>Supporters of UPFA Minister Mahindananda Aluthgamage threatened and “chased away voters believed to be supporters of Minister Sarath Amunugama”, a candidate who changed parties from the UNP to the UPFA.⁷¹</p> <p>CaFFE reported “indications of psychological intimidation of voters” by the UPFA in Kandy district.⁷²</p> <p>Keerthi Tennakoon, spokesperson for CaFFE, noted in a separate report that “goons” supporting a former Minister terrorised supporters of all parties, chased polling agents representing opposition parties away from polling booths, and intimidated voters at booths to steal their ballot papers. The police reportedly refused to intervene, and the Elections Commissioner only acted after he was pressured by members from all parties to nullify the votes.⁷³</p> <p>CaFFE reported that the Kandy district election coordinator Thushara Wijeratne was assaulted with a weapon “causing him grievous bodily harm”, after which he was hospitalised. Three other election monitors were reportedly also assaulted by UPFA supporters on election day.⁷⁴</p>
March 2010	<p>UNP candidate Mazahim Mohamed told the <i>Daily Mirror</i> that he and his supporters were handing over nomination papers when they were attacked by UPFA supporters armed with pistols, bicycle chains and clubs. Twelve UNP supporters were reportedly injured.⁷⁵</p>

⁶⁸ ‘Arson attack on Lanka E-News -- An attack on society’ 2011, *Sri Lanka Guardian*, 1 February
<<http://www.srilankaguardian.org/2011/02/arson-attack-on-lanka-e-news-attack-on.html>> Accessed 1 October 2012

⁶⁹ Campaign for Free & Fair Elections 2010, *Politician, supporters assaulted by thugs*, 13 April
<http://www.caffesrilanka.org/Politician,_supporters_assaulted_by_thugs_-5-2028.html> Accessed 1 October 2012

⁷⁰ Campaign for Free & Fair Elections 2010, *UNF, UPFA clash in Nawalapitiya*, 2 April
<http://www.caffesrilanka.org/UNF,_UPFA_clash_in_Nawalapitiya_-5-1986.html> Accessed 1 October 2012

⁷¹ Campaign for Free & Fair Elections 2010, *Minister regrets intra-party clashes*, 15 April
<http://www.caffesrilanka.org/Minister_regrets_intra_party_clashes_-5-2034.html> Accessed 1 October 2012

⁷² Campaign for Free & Fair Elections 2010, *Psychological Intimidation Replaces Physical Violence in Re Polling Areas*, 20 April

<http://www.caffesrilanka.org/Psychological_Intimidation_Replaces_Physical_Violence_in_Re_Polling_Areas-5-2040.html> Accessed 1 October 2012

⁷³ Campaign for Free & Fair Elections 2010, *Re-poll scheduled for April 20*, 11 April
<http://www.caffesrilanka.org/Re_poll_scheduled_for_April_20-5-2020.html> Accessed 1 October 2012

⁷⁴ Campaign for Free & Fair Elections 2010, *CaFFE Election Day Press Release*, 8 April
<http://www.caffesrilanka.org/CaFFE_Election_Day_Press_Release-5-2008.html> Accessed 1 October 2012

⁷⁵ Campaign for Free & Fair Elections 2010, *UNP supporters come under attack in Payagala, Badulla*, 1 March
<http://www.caffesrilanka.org/UNP_supporters_come_under_attack_in_Payagala,_Badulla-5-1884.html> Accessed 27 September 2012

	UPFA supporters reportedly attacked a UNP electoral office in Puttalam in the west, injuring a UNP supporter. UPFA also attacked a convoy of vehicles belonging to three UNP candidates. A total of 13 vehicles were damaged. ⁷⁶
January 2010	A bus carrying UNP supporters was shot at in Hambantota district during the 2010 January presidential elections and a woman was killed. ⁷⁷ UNP parliamentary member for Kurunegala district Akila Viraj Kariyawasam was shot at the residence of the provincial council opposition leader. ⁷⁸

3.2.3 Janatha Vimukthi Peramuna

The *Janatha Vimukthi Peramuna* (JVP) is a Marxist party that attempted to overthrow the government of Sri Lanka (then Ceylon) in 1971. The attempt was defeated and the JVP became a legally registered political party in 1977, enjoying significant success during local elections in 1979. However, in the 1980s the JVP returned to guerrilla operations via its military wing, known as the Patriotic People's Movement (*or* DJV). In 1989, its founder and leader Rohana Wijeweera and General Secretary Upatissa Gaanayake were killed by security forces under “questionable circumstances”. According to the *Political Handbook of the World*, some 50,000 may have died as a direct result of the JVP/DJV conflict.⁷⁹

By the 1990s, the JVP re-emerged as a political force, and in 2004 it became a member of the ruling UPFA coalition. Its main faction remains supportive of President Rajapaksa; however numerous sources describe a significant faction within the JVP that is highly critical of Rajapaksa and sympathetic to the plight of Tamils in Sri Lanka.⁸⁰ Some members of this so-called ‘dissent faction’ have been threatened, harmed, and in some cases disappeared and/or killed.

Networking for Rights in Sri Lanka refers to the JVP breakaway group as the ‘Frontline Socialist Party’ (FSP). In April 2012, two activists with the FSP, Premakumar Gunaratnam and Dimithu Attygalle, were abducted. Despite denials of any knowledge of their abductions, pressure from the Australian government saw the abductees released four days later; Gunaratnam is an Australian citizen.⁸¹

⁷⁶ Campaign for Free & Fair Elections 2010, *UPFA candidates vehicle attacked in Eravur*, 22 March <http://www.caffesrilanka.org/UPFA_candidates_vehicle_attacked_in_Eravur-5-1968.html> Accessed 1 October 2012

⁷⁷ Asian Human Rights Commission 2012, *The State of Human Rights in Sri Lanka in 2012*, AHRC-SPR-011-2012 <http://www.humanrights.asia/resources/hrreport/2012/ahrc-spr-011-2012.pdf/at_download/file> Accessed 19 December 2012

⁷⁸ ‘UNP parliamentary member for Kurunegala district Akila Viraj Kariyawasam shot at: Three injured’ 2010, *Global Tamil News*, 27 January <<http://www.globaltamilnews.net/GTMNEditorial/tabid/71/articleType/ArticleView/articleId/47797/language/en-US/UNP-parliamentary-member-for-Kurunegala-district-Akila-Viraj-Kariyawasam-shot-at-Three-injured.aspx>> Accessed 11 January 2013

⁷⁹ Lansdorf, T (ed) 2012, ‘Sri Lanka’, in *Political Handbook of the World*, CQ Press, Washington, DC, p.1352 <http://library.cqpress.com/phw/phw2012_SriLanka> Accessed 2 November 2012

⁸⁰ Asian Human Rights Commission 2012, *The State of Human Rights in Sri Lanka in 2012*, AHRC-SPR-011-2012, p.96 <http://www.humanrights.asia/resources/hrreport/2012/ahrc-spr-011-2012.pdf/at_download/file> Accessed 19 December 2012

⁸¹ Networking for Rights in Sri Lanka 2012, *Human Rights Defenders, Freedom of Assembly, Freedom of Association and Dissent in Sri Lanka*, NGO Submission to the Universal Periodic Review – second cycle on Sri Lanka (14th UPR Working Group – Oct/Nov. 2012), 23 April, p.5 <<https://nfrsri.lanka.files.wordpress.com/2012/06/nfr-sri-lanka-joint-upr-submission-sri-lanka-nov-2012-defenders-freedom-of-assembly-freedom-of-association-and-dissent.pdf>> Accessed 19 November 2012

In December 2011, two activists associated with this faction of the JVP disappeared while on a trip to Jaffna to organise a protest against disappearances.⁸² According to the US Department of State, Lalith Kumar Weeraraj and Kugan Muruganandan disappeared in Jaffna after leaving their residence; “Weeraraj had been active in raising human rights concerns faced by the Tamil people, such as disappearance and detention issues. He was threatened, assaulted, and detained by security forces on previous occasions”.⁸³

In June 2012, two people were shot and killed by “a group of unidentified men on motorcycles” who opened fire on a JVP meeting in Katuwana in Hambantota district. The Asian Human Rights Commission reported that an armed gang is operating in the Hambantota district on behalf of the Rajapaksa family.⁸⁴

3.3 Other (Perceived) Government Opponents

3.3.1 NGO Staff/Human Rights Workers

Sri Lanka has been a dangerous place for aid and other non-government organisation (NGO) workers. On 4 August 2006, 17 Sri Lankan aid workers with the Paris-based international humanitarian agency *Action Contre La Faim* (Action Against Hunger or ACF) were executed in the ACF compound in the town of Mutur, Trincomalee district. According to Human Rights Watch (HRW), the group was providing assistance to survivors of the December 2004 Indian Ocean tsunami. A presidential commission of inquiry exonerated the army and navy, “instead blaming the LTTE or Muslim militia”. However, a human rights group called University Teachers for Human Rights conducted their own investigation, concluding that two police constables and Naval Special Forces commandos perpetrated the killings.⁸⁵

In September 2009, two Sri Lankan UN workers were arrested by Sri Lankan police and reportedly mistreated during interrogation.⁸⁶ According to the International Crisis Group (ICG), the police accused the workers of “working with the LTTE”. The ICG reported in 2010 that the Sri Lankan government had revoked the visas of a number of UN international staff, “apparently in retaliation for critical comments they made about government policies”. Other international humanitarian and aid agencies staff have also had visas cancelled since the end of the war. One major consequence of this, reports the ICG, is that “[t]he well-founded threat of being detained, if you are Sri Lankan, or forced out of the country, if you are foreign, has led many aid workers to keep quiet”.⁸⁷

⁸² International Crisis Group 2012, *Sri Lanka: Government Promises, Ground Realities*, 1 March
<<http://www.crisisgroup.org/en/publication-type/media-releases/2012/asia/sri-lanka-government-promises-ground-reality.aspx>> Accessed 23 March 2012

⁸³ US Department of State 2012, *Country Reports on Human Rights Practices 2011 – Sri Lanka*, 24 May, Section 1.b

⁸⁴ Asian Human Rights Commission 2012, *The State of Human Rights in Sri Lanka in 2012*, pp.7-8
<http://www.humanrights.asia/resources/hrreport/2012/ahrc-spr-011-2012.pdf/at_download/file> Accessed 19 December 2012

⁸⁵ Human Rights Watch 2012, *Sri Lanka: Massacre of Aid Workers Goes Unpunished*, 2 August, UNHCR Refworld
<<http://www.unhcr.org/refworld/docid/50213f572.html>> Accessed 19 December 2012

⁸⁶ UN News Centre 2009, *UN extremely concerned over detention of staff members in Sri Lanka*, 10 September
<<http://www.un.org/apps/news/story.asp?NewsID=32019>> Accessed 19 November 2012

⁸⁷ International Crisis Group 2010, *Sri Lanka: A Bitter Peace*, Crisis Group Asia Briefing N°99, 11 January, p.19
<[http://www.crisisgroup.org/~media/Files/asia/south-asia/sri-lanka/b99%20sri%20lanka%20a%20bitter%20peace.ashx](http://www.crisisgroup.org/~/media/Files/asia/south-asia/sri-lanka/b99%20sri%20lanka%20a%20bitter%20peace.ashx)> Accessed 19 November 2012

According to the organisation Networking for Rights in Sri Lanka, the Sri Lankan government regularly accuses NGO personnel, locally-engaged UN staff, and human rights defenders of working for the LTTE.⁸⁸

Sources indicate that Sri Lankan authorities target some human rights defenders. The December 2012 *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* state that a human rights defender reportedly died “after having allegedly been mistreated in public by members of the Special Task Force”. The ‘guidelines’ add that the UNHCR received reports that retaliation was taken against human rights defenders “seeking to make use of UN mechanisms”.⁸⁹ Networking for Rights in Sri Lanka states that human rights defenders have been characterised as ‘terrorists’ and ‘traitors’:

The period of May 2008 to March 2012 was characterised by the continued suppression of dissent in all forms in Sri Lanka (SL). Those defending human rights, documenting violations and expressing dissent in any form, both nationally and locally were targeted as traitors and terrorists and worked under constant threat of violent reprisals. Many were forced into hiding and to seek protection outside Sri Lanka due to threats and surveillance. Activists mobilising people at the community level against human rights violations also faced serious threats.⁹⁰

In March 2012, a spokesman for the UN High Commissioner for Human Rights reported that various forms of media in Sri Lanka participated in a “continuous campaign of vilification” against a number of human rights activists, “describing them as an ‘NGO gang’ and repeatedly accusing them of treason, mercenary activities and association with terrorism”. The activists were targeted by this campaign for supporting a UN resolution “calling on the government to take immediate measures for reconciliation and address accountability issues”. The UN spokesman stated that “[s]ome of these reports have contained barely veiled incitement and threats of retaliation”.⁹¹ Networking for Rights in Sri Lanka reported that in March 2012, state television channel ITN showed photos of a number of human rights defenders, and declared that they were “aligned with the LTTE”, and described them as “traitors and degenerates”.⁹²

In late 2010 and early 2011, pro-government newspapers ran a campaign slandering NGOs who participated in a training session on how to submit complaints using UN human rights

⁸⁸ Networking for Rights in Sri Lanka 2012, *Human Rights Defenders, Freedom of Assembly, Freedom of Association and Dissent in Sri Lanka*, NGO Submission to the Universal Periodic Review – second cycle on Sri Lanka (14th UPR Working Group – Oct/Nov. 2012), 23 April, p.10
<<https://nfrsrilanka.files.wordpress.com/2012/06/nfr-sri-lanka-joint-upr-submission-sri-lanka-nov-2012-defenders-freedom-of-assembly-freedom-of-association-and-dissent.pdf>> Accessed 19 November 2012; Observatory for the Protection of Human Rights Defenders 2011, *Asia Annual Report 2011*, p.377
<http://www.omct.org/files/2011/10/21443/obs_2011_uk_asie.pdf> Accessed 19 November 2012; ‘HR Chief warns Sri Lanka against reprisals on activists’ 2012, *ColomboPage News*, 23 March
<http://www.colombopage.com/archive_12/Mar23_1332522718CH.php> Accessed 19 November 2012

⁸⁹ UNHCR 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (21 December 2012), pp.30-31

⁹⁰ Networking for Rights in Sri Lanka 2012, *Human Rights Defenders, Freedom of Assembly, Freedom of Association and Dissent in Sri Lanka*, NGO Submission to the Universal Periodic Review – second cycle on Sri Lanka (14th UPR Working Group – Oct/Nov. 2012), 23 April, p.3
<<https://nfrsrilanka.files.wordpress.com/2012/06/nfr-sri-lanka-joint-upr-submission-sri-lanka-nov-2012-defenders-freedom-of-assembly-freedom-of-association-and-dissent.pdf>> Accessed 19 November 2012

⁹¹ ‘HR Chief warns Sri Lanka against reprisals on activists’ 2012, *ColomboPage News*, 23 March
<http://www.colombopage.com/archive_12/Mar23_1332522718CH.php> Accessed 19 November 2012

⁹² Networking for Rights in Sri Lanka 2012, *Human Rights Defenders, Freedom of Assembly, Freedom of Association and Dissent in Sri Lanka*, NGO Submission to the Universal Periodic Review – second cycle on Sri Lanka (14th UPR Working Group – Oct/Nov. 2012), 23 April, p.10
<<https://nfrsrilanka.files.wordpress.com/2012/06/nfr-sri-lanka-joint-upr-submission-sri-lanka-nov-2012-defenders-freedom-of-assembly-freedom-of-association-and-dissent.pdf>> Accessed 19 November 2012

mechanisms. The NGOs were labelled “foreign spies”, and were accused of acting against the government and “submitting false allegations to international human rights organisations”. Following the publication of these articles, several participants received threats from the security forces.⁹³

In May 2009, Stephen Sunthararaj, a project manager for the Centre for Human Rights and Development (CHRD) in Colombo, was abducted by armed men reportedly wearing military uniforms immediately following his release from almost three months in police detention in Colombo. He remains missing and no progress has been made in the investigation into his apparent enforced disappearance.⁹⁴

According to Human Rights Watch, “[c]ivil society and human rights groups” report that they are increasingly subject to surveillance:

Civil society and human rights groups throughout Sri Lanka continue to report increased surveillance and clampdowns on activities and their free speech rights. After the March 2012 Human Rights Council resolution on Sri Lanka, government-controlled media and government officials publicly named and threatened human rights defenders who had advocated support of the resolution. A cabinet minister threatened to “break the limbs” of the defenders. In response to an international outcry, the government then toned down its rhetoric, but the harassment of civil society groups and human rights defenders, particularly those in the country’s north and east, continues. Local activists have expressed deep concerns about their security, but even greater concerns for those they assist. This is especially the case in rural areas where people’s lives are more easily monitored. Human rights and humanitarian workers in the north and east report being unable to work without surveillance and have to inform the military and obtain approval for any activity, including digging a well or conducting livelihood training sessions.⁹⁵

⁹³ Observatory for the Protection of Human Rights Defenders 2011, *Annual Report 2011 - Asia*, pp.376-77 <http://www.omct.org/files/2011/10/21443/obs_2011_uk_asie.pdf> Accessed 19 November 2012

⁹⁴ Amnesty International 2012, *Locked Away: Sri Lanka’s Security Detainees*, p.7

⁹⁵ Human Rights Watch 2012, *Sri Lanka: Address Rights Rollback at Review*, 30 October, UNHCR Refworld <<http://www.unhcr.org/refworld/docid/509793ae2.html>> Accessed 15 November 2012

3.3.2 Public Protestors & Union Organisers

The UNHCR stated in December 2012 that there were no mass arrests of protestors reported in 2012.⁹⁶ *TamilNet* reported in October 2012 that plain clothes Sri Lankan military intelligence officers and police recorded the attendance of persons attending a protest in Jaffna.⁹⁷ The International Crisis Group (ICG) reported that in December 2011, military personnel and police “actively disrupted a public protest on international human rights day, preventing activists from Colombo from joining and photographing those who took part”.⁹⁸

An unnamed diplomatic mission in Colombo informed the Danish Immigration Service (DIS) in October 2010 that:

...every activity related to political dissent is problematic. Political opposition can barely be expressed in public, neither by journalists nor other groups, and that there is no difference between ethnic groups when it comes to political dissent. The level of persecution also affects the civil servants and there are examples of transfers of critical judges as well as employees within the army who at the time of the presidential elections supported the opposition candidate.⁹⁹

The Executive Director of the National Peace Council informed the DIS in October 2010 that:

...people thought things had been improving before the presidential elections in January 2010 and parliamentary elections in April 2010, but that now they had become worse in the area of political freedoms. Protests and demonstrations by the opposition parties have been broken up by the police, opposition members of parliament have been arrested for making public protests, a media station critical of the government has been attacked in Colombo despite all the security presence without anyone being arrested.¹⁰⁰

Freedom House reported in August 2012 that while “permission for demonstrations is usually granted... police occasionally use excessive force to disperse protestors”. Greater restrictions on mass gatherings are placed on people in the north and east:

Emergency regulations that empowered the president to restrict rallies and gatherings lapsed in August 2011, and permission for demonstrations is usually granted. However, police occasionally use excessive force to disperse protestors, as was the case when trade unions staged a massive protest against pension reform in May 2011. In June, a journalist and two others were arrested and interrogated by police after they attempted to display posters advertising a public discussion forum and were accused of conspiring against the government. The army has placed some restrictions on assembly, particularly for planned memorial events in the north and east concerning the end of the war, according to the International Crisis Group.¹⁰¹

⁹⁶ UNHCR 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (21 December 2012), p.31

⁹⁷ ‘Jaffna protests Sri Lanka’s oppression of Tamil civic bodies’ 2012, *TamilNet*, 23 October <<http://www.tamilnet.com/art.html?catid=13&artid=35685>> Accessed 14 November 2012

⁹⁸ International Crisis Group 2012, *Sri Lanka’s North I: The Denial of Minority Rights*, Crisis Group Asia Report N°219, 16 March, p.15

⁹⁹ Danish Immigration Service 2010, *Human Rights and Security Issues concerning Tamils in Sri Lanka, Report from Danish Immigration service’s fact-finding mission to Colombo, Sri Lanka, 19 June-3 July 2010*, October, p.41

¹⁰⁰ Danish Immigration Service 2010, *Human Rights and Security Issues concerning Tamils in Sri Lanka, Report from Danish Immigration service’s fact-finding mission to Colombo, Sri Lanka, 19 June-3 July 2010*, October, p.41

¹⁰¹ Freedom House 2012, *Freedom in the World 2012 – Sri Lanka*, 22 August, UNHCR Refworld <<http://www.unhcr.org/refworld/docid/503c7222b.html>> Accessed 18 September 2012

The US Department of State reported in May 2012 that the Sri Lankan government restricts some protests in the north, while requiring “army representatives be present” at “public assemblies in the north” that are permitted to go ahead:

The law provides for freedom of assembly, but the government did not respect this right in practice, and some restrictions existed. The government required that army representatives be present at public assemblies in the north. There were a number of cases in which security forces restricted participation in demonstrations. On December 10, police detained a group of 42 human rights defenders and political activists from the south in Jaffna and prevented them from attending a protest to mark International Human Rights Day. Police reportedly responded with excessive force to violent protests in Dambulla and Bandarawela following a December 12 government regulation to make plastic crates compulsory when transporting vegetables and fruits.¹⁰²

In rare cases, authorities have employed extremely violent measures to disperse crowds and deter further protests, including the use of live fire. In a recent example, police fired into a crowd in May 2011 in the Katunayake Free-Trade Zone (FTZ) north of Colombo, killing one person, Roshan Chanaka. According to the ICG, “[h]undreds of factory workers” in FTZ were protesting “against a proposed pension law”. However, the ICG also adds that this extreme response triggered further mass protests, forcing the resignation of the police inspector general, and resulting in both a criminal investigation into the incident and the withdrawal of the proposed pension bill by the government.¹⁰³ The Asian Human Rights Commission (AHRC) indicated that authorities interfered in the burial of Roshan, perhaps to prevent his funeral from doubling as a mass protest. According to the AHRC, Sri Lankan authorities removed his body from his family home and reportedly allowed “criminal gangs...to operate on the roads with poles in their hands to prevent anyone from participating in the funeral”.¹⁰⁴

Other cases of deaths at protest rallies have been recorded. Networking for Rights in Sri Lanka reported that, in August 2011, “[p]olice used tear gas to disperse crowds who were throwing stones at a protest in Pottuvil”, and a protestor at Pottuvil was reportedly shot and killed by security forces. In February 2012, a fisherman, Anton Fernando, was shot dead by police at a protest in Chilaw against fuel prices rises.¹⁰⁵ Following the Chilaw protest, the Secretary General of the Sri Lankan branch of the World Forum of Fisher People (WFFP), Herman Kumara, reportedly received death threats and went into hiding.¹⁰⁶

In March 2012, *BBC News* reported that an unnamed senior police officer in Colombo told a Sinhala-language newspaper that, as a precaution against possible street protests, “we have

¹⁰² US Department of State 2012, *Country Reports on Human Rights Practices 2011 – Sri Lanka*, 24 May, Section 2b

¹⁰³ International Crisis Group 2011, *Reconciliation in Sri Lanka: Harder than Ever*, Crisis Group Asia Report N°209, 18 July, p.18, footnote 124; ‘Chilaw murder by unlawful shooting a premeditated killing: Gota–Ravi conspiracy exposed’ 2012, *Lanka-E -News*, 20 February <<http://lankaenews.com/English/news.php?id=12700>> Accessed 15 November 2012

¹⁰⁴ Asian Human Rights Commission 2012, *The State of Human Rights in Sri Lanka in 2012*, AHRC-SPR-011-2012, p.52 <http://www.humanrights.asia/resources/hrreport/2012/ahrc-spr-011-2012.pdf/at_download/file> Accessed 19 December 2012

¹⁰⁵ Networking for Rights in Sri Lanka 2012, *Human Rights Defenders, Freedom of Assembly, Freedom of Association and Dissent in Sri Lanka*, NGO Submission to the Universal Periodic Review – second cycle on Sri Lanka (14th UPR Working Group – Oct/Nov. 2012), 23 April, p.3 <<https://nfrsrilanka.files.wordpress.com/2012/06/nfr-sri-lanka-joint-upr-submission-sri-lanka-nov-2012-defenders-freedom-of-assembly-freedom-of-association-and-dissent.pdf>> Accessed 19 November 2012; Haviland, C 2012, ‘Protesting fisherman shot dead’, *BBC Sinhala*, source: *BBC News*, 15 February <http://www.bbc.co.uk/sinhala/news/story/2012/02/120215_oil.shtml> Accessed 15 November 2012

¹⁰⁶ ‘Fishermen leader in hiding after threats’ 2012, *BBC Sinhala*, 26 February <http://www.bbc.co.uk/sinhala/news/story/2012/02/120226_herman_hiding.shtml> Accessed 15 November 2012

arranged to bring tear gas, and we have plenty of white vans in Sri Lanka”.¹⁰⁷ The *Associated Press* reported in August 2012 that white vans are often “parked in front of the homes of government critics, in clear attempts to terrify them into silence”.¹⁰⁸

On 28th November 2010, Aruna Roshantha and Marcus Fernando, two fisheries rights activists protesting against the governments’ proposed sea plane project in Negombo were arrested and accused of conspiring against the government and attempting to incite people to overthrow the government. Mr. Roshantha, who is the Fisheries Union President, and Mr. Marcus had distributed leaflets against the sea plan project at a protest in Negombo the previous day. Their case is still pending.¹⁰⁹

3.3.3 Tamil Fishermen

In 2012, the RRT received a large number of claims by ethnic Tamils people claiming to be targeted for serious discrimination and harm due to their alleged employment as fishermen. These claims continue to be made in 2013. Common associated claims include:

- Tamil fishermen are subject to onerous permit requirements, from which Sinhalese fishermen are exempt.
- Tamil fishermen are restricted from fishing in lucrative ‘security zones’, unlike Sinhalese fishermen.
- The government, with the assistance of the Sri Lankan Navy, is attempting to Sinhalise the fishing industry in the north as part of a broader Sinhalisation project.
- Tamil fishermen are imputed with being pro-LTTE, and therefore subject to arbitrary searches, demands for bribes, arbitrary restrictions, and violence.

Sinhalisation

Fishing in Tamil-dominated regions of Sri Lanka is a sensitive issue. Prior to the civil war, northern Sri Lanka produced over half of the country’s total annual catch. At the height of the war in 2006, fishing in the north collapsed, contributing to less than 5 per cent of the national catch. A 2012 report for the Secure Livelihoods Research Consortium states that the resuscitation of this industry is central to post-war reconstruction in Tamil-dominated regions.¹¹⁰ While there are signs that the fishing industry is recovering, there is a perception among Sri Lankan Tamils that post-war reconstruction of the industry is primarily benefitting ethnic Sinhalese.¹¹¹

¹⁰⁷ Haviland, C 2012 ‘Sri Lanka’s sinister white van abductions’, *BBC News*, 14 March <<http://www.bbc.co.uk/news/world-asia-17356575>> Accessed 22 November 2012

¹⁰⁸ Francis, K 2012, ‘Abduction squads in Sri Lanka target foes of powerful’, *Washington Times*, source: *Associated Press*, 22 August <<http://www.washingtontimes.com/news/2012/aug/22/abduction-squads-in-sri-lanka-target-foes-of-power/#ixzz2Hu1F01jo>> Accessed 14 January 2013

¹⁰⁹ Networking for Rights in Sri Lanka 2012, *Human Rights Defenders, Freedom of Assembly, Freedom of Association and Dissent in Sri Lanka*, NGO Submission to the Universal Periodic Review – second cycle on Sri Lanka (14th UPR Working Group – Oct/Nov. 2012), 23 April, p.6 <<https://nfrsrilanka.files.wordpress.com/2012/06/nfr-sri-lanka-joint-upr-submission-sri-lanka-nov-2012-defenders-freedom-of-assembly-freedom-of-association-and-dissent.pdf>> Accessed 19 November 2012

¹¹⁰ Fernando, P & Moonesinghe, S 2012, *Livelihoods, Basic Services and Social Protection in Sri Lanka*, Secure Livelihoods Research Consortium, Working Paper 6, August, p.8 <<http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7783.pdf>> Accessed 29 October 2012

¹¹¹ International Crisis Group 2012, *Sri Lanka’s North I: The Denial of Minority Rights*, Crisis Group Asia Report N°219, 16 March, p.19

Furthermore, Tamils believe that they are being discriminated against by Sri Lankan authorities and Sinhalese fishermen are operating outside of the fishing cooperative societies system that has operated in the north since the 1950s. Grievances by Tamil fishermen are part of a wider anxiety regarding the perceived ‘Sinhalese’ of the north following the defeat of the LTTE in 2009.¹¹²

Before the war, commercial fishing in northern Sri Lanka was not an exclusively Tamil enterprise; in some districts approximately 20 per cent of fishing licences were held by Sinhalese fishermen. There were also a number of fishermen from the Sri Lankan Muslim community. However, during the war, both Muslim and Sinhalese fishermen were expelled from the north by the LTTE. Since the defeat of the LTTE, a number of Sinhalese fishermen have returned to the north and northeast. In late 2011, the ICG interviewed Tamil fishermen in southern Mullaitivu who expressed concerns regarding the return of these communities. According to the ICG, the main concerns of the Tamils are: that some of the ‘returnees’ are not the original holders of licenses to fish in the Mullaitivu district; many arrivals are Sinhalese who have been granted new licences by Sri Lankan authorities; the recent arrivals do not “respect the cooperative society”; and that the Sinhalese fishermen have a close relationship with the Sri Lankan armed forces.¹¹³

A report published by *Inter Press Service* (IPS) in February 2012 reports that the Sri Lankan military has become an all-pervasive presence in the development of the economy of the north, including the exercising of control over the fishing industry:

The NPC and the Law and Society Trust – both well-respected human rights defenders – have extensive documented evidence of the army’s creeping presence in the economy, including scores of army-run restaurants alongside major highways; military-owned farms, souvenir shops and grocery stores [sic]; navy control over fishing and the transportation of food as well as the civil-military coordination website listing “tourism” as one of its primary services.¹¹⁴

The ICG has also reported on the controversial large-scale involvement of the Sri Lankan armed forces in industries and enterprises in the north, as well as their sponsorship of Sinhalese.¹¹⁵

Economic Viability

For many small-scale fishermen, both Tamil and Sinhalese, fishing is increasingly economically unviable. In 2012, Sri Lankan fishermen incurred dramatic increases in the costs of fuel; diesel prices rose by 36 per cent and kerosene by 49 per cent; the two most common fuels used by fishermen. Petrol rose by a more modest nine per cent. The government blamed the US imposed sanctions on Iran, which reportedly supplies Sri Lanka with 90 per cent of its crude oil imports.¹¹⁶

¹¹² International Crisis Group 2012, *Sri Lanka’s North I: The Denial of Minority Rights*, Crisis Group Asia Report N°219, 16 March, p.17; The Social Architects 2012, *Salt on Old Wounds: the Systematic Sinhalese of Sri Lanka’s North, East and Hill Country*, March, p.33 <<http://www.internationalpolicydigest.org/wp-content/uploads/2012/10/Salt-on-Old-Wounds.pdf>> Accessed 26 October 2012; Veerasingham, R 2012, “Systematic Sinhalese in North” – Tamil politicians’, *Journalists for Democracy in Sri Lanka*, 14 September <<http://www.jdslanka.org/index.php/2012-01-30-09-30-42/politics-a-current-affairs/181-systematic-sinhalese-of-fishing-livelihood-in-jaffna-mullaitivu-tamil-politicians>> Accessed 26 October 2012

¹¹³ International Crisis Group 2012, *Sri Lanka’s North I: The Denial of Minority Rights*, Crisis Group Asia Report N°219, 16 March, p.19

¹¹⁴ Pieris, N 2012, ‘SRI LANKA: Terrorists Out, Army In – Part 1’, *Inter Press Service*, 16 February <<http://www.ipsnews.net/2012/02/sri-lanka-terrorists-out-army-in-ndash-part-1/>> Accessed 29 October 2012

¹¹⁵ International Crisis Group 2012, *Sri Lanka’s North II: Rebuilding under the Military*, Crisis Group Asia Report N°220, 16 March, pp.2, 23; International Crisis Group 2012, *Sri Lanka’s North I: The Denial of Minority Rights*, Crisis Group Asia Report N°219, 16 March, pp.17-19 Such is the role of the military in economic development activities, the government department in charge of the armed forces is called ‘The Department of Defence and Urban Development’. See <<http://www.defence.lk/english.asp>>

¹¹⁶ Haviland, C 2012, ‘Bus strike called off’, *BBC Sinhala*, source: *BBC News*, 13 February <http://www.bbc.co.uk/sinhala/news/story/2012/02/120213_bus_strike.shtml> Accessed 15 November 2012

During a protest by fishermen from a variety of ethnic and religious backgrounds in Chilaw, North Western province in February 2012, a fisherman was shot dead by police.¹¹⁷

For Tamil fishermen in the north whose property and equipment were either stolen or destroyed during the war, the cost of rebuilding is prohibitive. The International Crisis Group (ICG) reported in 2012 that the average fishing cooperative member in the Mullaitivu district must borrow an average of 2 million Sri Lankan Rupees (LKR) or approximately US\$18,000 to purchase new boats and other equipment in order to recommence commercial operations.¹¹⁸ The Sri Lankan government reportedly promised fishing cooperative members loans at concessionary rates to help rebuild their businesses; however, according to a local fisherman in September 2011, “only fourteen members from the Mullaitivu fishing cooperative society have received the promised 4.5 per cent interest-rate loans from the Bank of Ceylon. 200 had applied and are in the process of receiving funding from other lenders at commercial rates. Some have resorted to borrowing from informal markets”.¹¹⁹ No independent sources were located indicating that Sinhalese migrants are more readily granted discounted loans from the state for the purposes of establishing businesses, including fishing.

Recent interviews with would-be asylum seekers in Sri Lanka indicate that many, including former fishermen, are motivated to leave by the decline in the viability of fishing and the absence of job opportunities in the country. An August 2012 report by *Agence France Presse* interviewed two fishermen, brothers, from Udappu who claim that despite being arrested and detained previously for illegally departing Sri Lanka, they would make further attempts to depart because “[t]he future here is very bleak. We want to get out of poverty...I can be a labourer or a cleaner in Australia”. Quintus Fernando, “a local community leader”, told *AFP* that “[s]ome of those who are leaving for Australia are actually trying to escape loan sharks...They charge five times more than commercial banks he said, explaining that most fishermen are forced to borrow money to buy their equipment because they do not have any collateral to take out loans from banks”.¹²⁰ A report in *IRIN News* quotes a Tamil woman whose son was detained while attempting to travel to Australia by boat. The woman informed *IRIN News* that she wasn’t surprised that her son attempted the journey as “[t]here are no jobs in Sri Lanka”. *IRIN News* does state that “while unemployment and economics play a major factor in the decision by these men, so too do the prevailing effects of Sri Lanka’s decades-long civil war, which ended in May 2009”.¹²¹

It is also worth noting that the 2004 Boxing Day Tsunami devastated near-shore habitats and breeding grounds (such as coral reefs and mangroves), leading to a large drop in catch numbers.¹²² At the time of writing, these areas are still in the process of recovering.

¹¹⁷ Haviland, C 2012, ‘Protesting fisherman shot dead’, *BBC Sinhala*, source: *BBC News*, 15 February <http://www.bbc.co.uk/sinhala/news/story/2012/02/120215_oil.shtml> Accessed 15 November 2012; ‘Chilaw murder by unlawful shooting a premeditated killing: Gota–Ravi conspiracy exposed’ 2012, *Lanka-E -News*, 20 February <<http://lankaenews.com/English/news.php?id=12700>> Accessed 15 November 2012; ‘Gota directly gave orders for the murder in Chilaw: High ranking police officer exposes the truth’ 2012, *Lanka-e-News*, 16 February <<http://lankaenews.com/English/news.php?id=12689>> Accessed 15 November 2012

¹¹⁸ International Crisis Group 2012, *Sri Lanka’s North II: Rebuilding under the Military*, Crisis Group Asia Report N°220, 16 March, p.9

¹¹⁹ International Crisis Group 2012, *Sri Lanka’s North II: Rebuilding under the Military*, Crisis Group Asia Report N°220, 16 March, p.9, footnote 63

¹²⁰ Jayasinghe, A 2012, ‘No risk too high for Sri Lankans wanting to migrate’, *Agence France-Presse*, 19 August

¹²¹ ‘SRI LANKA: More people boarding boats to Australia’ 2012, *IRIN News*, 12 July <<http://www.irinnews.org/Report/95855/SRI-LANKA-More-people-boarding-boats-to-Australia>> Accessed 23 January 2013

¹²² Risvoll, C M 2006, *Tsunami Recovery in Batticaloa District, Eastern Sri Lanka: Livelihood Revival and the Performance of Aid Delivery Systems in the Fisheries Sector*, MA Thesis, Norwegian University of Life Sciences,

Fishing Permits/Licenses

Sources provide inconsistent, and often contradictory information regarding the fishing licence and permit regime in Tamil-dominated regions of Sri Lanka. However, there is evidence that Tamils may experience some difficulties obtaining and renewing licences from the Department of Fisheries (DoF). Furthermore, there is evidence that Tamil fishermen are subject to more security checks than their Sinhalese counterparts.

In November 2012, the Department of Foreign Affairs & Trade (DFAT) advised the Department of Immigration and Citizenship (DIAC) that the DoF “is the regulatory body dealing with fishing matters in Sri Lanka and is the only organisation with the authority to issue fishing licences in the country”. The DoF issues 17 different types of fishing licences to boat owners and has 15 district fisheries offices to receive fishing applications and issue licences. The DoF informed post that “[b]oth fishing licences and boat registrations must be renewed annually”. The DoF stated that the Sri Lanka Navy cannot and does not issue fishing licences for fishing boats; “[d]uring the conflict period the navy issued a pass for outgoing boats. Boats were not allowed to go out to sea without this pass. However, after the end of the conflict, fishing restrictions have been lifted and such passes are no longer issued. However, due to security reasons, the navy still may carry out security checks on boats before they leave to go to sea”. Post adds that it “is not aware of any reports that Sri Lankan Tamils (or any other ethnic grouping) are mistreated if they are caught illegally fishing”.¹²³

A March 2012 report by The Social Architects¹²⁴ reports Tamil fishermen believe that new licenses are being issued to Sinhalese fishermen with the assistance of the military, while Tamils experience difficulty having licences renewed:

Recently, it has been reported that the Minister of Fisheries has been discriminating against Tamils by not renewing their fishing permits. Currently, Sinhalese people obtain fishing permits easily in Mullaitivu with the assistance of the military as the renewal process is taking place at the Divisional Secretariat.

While Tamils in Mullaitivu have only been given temporary permits recently, the State gives Sinhalese people permanent permits with little hesitation. To be clear, many Tamils have applied for permanent permits, but those have not been granted by the State.¹²⁵

The report also states that “[r]ecently, the Sri Lankan Navy has been pressuring people from Sampur to lease their Padugals [fishing permits] to Sinhalese fishermen. Understandably, Tamil

May, p.14 <http://www.umb.no/statisk/noragric/publications/master/2006_camilla_risvoll.pdf> Accessed 24 June 2013

¹²³ DIAC Country Information Service 2012, *Country Information Report No. 12/67 – CIS Request Sri Lanka: Questions arising from recent applications*, (sourced from DFAT advice of 29 November 2012), 29 November

¹²⁴ The Social Architects describe themselves as “a diverse group of writers, intellectuals and working professionals”, mainly from Sri Lanka’s north and east, who seek “to educate, to inform and to provide timely, thoughtful analysis on a range of topics.” The group can be described as sympathetic to Tamil grievances. See: The Social Architects 2012, *Salt on Old Wounds: The Systematic Sinhalization of Sri Lanka’s North, East and Hill Country*, March, p. 4 <<http://www.internationalpolicydigest.org/wp-content/uploads/2012/10/Salt-on-Old-Wounds.pdf>> Accessed 26 October 2012

¹²⁵ The Social Architects 2012, *Salt on Old Wounds: the Systematic Sinhalization of Sri Lanka’s North, East and Hill Country*, March, p.33 <<http://www.internationalpolicydigest.org/wp-content/uploads/2012/10/Salt-on-Old-Wounds.pdf>> Accessed 26 October 2012

community members have wondered ‘If Sinhalese people are allowed to use our permits to fish, then why can we not use our own permits to fish?’”¹²⁶

The ICG reported in 2011 that Tamil fishermen seeking to renew their licences have difficulties due to the application form being printed in Sinhala only.¹²⁷ In March 2012, an ICG report remarked that “Sinhalese fishermen also benefit from the fact they have none of the additional military registration requirements that apply to Tamil fishermen”.¹²⁸

Restricted Fishing Zones

In addition to grievances relating to the acquisition and renewal of licences and permits, Tamil fishermen in northern Sri Lanka commonly complain that they are not permitted to fish in lucrative fishing grounds classified by the Sri Lankan Navy as security zones, while Sinhalese fishermen may fish unrestricted. However, while Tamil sources report that numerous restricted zones remain in place, independent sources report that most restrictions have been lifted. Areas close to military installations remain subject to restrictions. No reliable sources were located on the subject of whether Sinhalese fishermen can fish in lucrative fishing grounds unhindered; however there is evidence that Sinhalese fishermen access some zones close to military installations unhindered.

The ICG reported in March 2012 that “[m]any security restrictions, which had severely limited fishing off the northern and eastern coasts during the war, have been removed, though not all”. Fishing remains restricted in areas close to naval or army camps, some of which have caused the displacement of former fishing communities. The ICG also provided one example of where Sinhalese fishermen had unhindered access to a security zone for the purposes of fishing, namely a zone restricted to Tamils in the Iranamadu tank (reservoir).¹²⁹

A March 2012 report by The Social Architects states that fishing is prohibited in the Sampur, Trincomalee HSZ/Special Economic Zone, although the security forces allowed people to use some fishing permits in Kadalkarichennai, Sampur. The Social Architects also report that a “de facto High Security Zone” is located between Selvapuram and Mulliyavaikkal in Mullaitivu district and “Tamils are not allowed to fish in this area”.¹³⁰

A report in the ‘Jaffna Journal’¹³¹ in August 2012 states that fishing restrictions affect a number of Tamil communities in Mullaitivu, including “the areas of Kokkilaai to Chundikkulam in Kilaakaththai, Maathirikiraama, Uppumaaveli, Thoondai, Alambil, Semmalai, Naayaaru, Kokkuththoduvaai, and Karunaattukkernee.”¹³²

¹²⁶ The Social Architects 2012, *Salt on Old Wounds: The Systematic Sinhalization of Sri Lanka’s North, East and Hill Country*, March, p.34 <<http://www.internationalpolicydigest.org/wp-content/uploads/2012/10/Salt-on-Old-Wounds.pdf>> Accessed 26 October 2012

¹²⁷ International Crisis Group 2011, *Reconciliation in Sri Lanka: Harder than Ever*, Crisis Group Asia Report N°209, 18 July, p.39, footnote 264

¹²⁸ International Crisis Group 2012, *Sri Lanka’s North I: The Denial of Minority Rights*, Crisis Group Asia Report N°219, 16 March, p.19

¹²⁹ International Crisis Group 2012, *Sri Lanka’s North II: Rebuilding under the Military*, Crisis Group Asia Report N°220, 16 March, pp.9, 18-19, 21

¹³⁰ The Social Architects 2012, *Salt on Old Wounds: the Systematic Sinhalization of Sri Lanka’s North, East and Hill Country*, March, pp.33-34 <<http://www.internationalpolicydigest.org/wp-content/uploads/2012/10/Salt-on-Old-Wounds.pdf>> Accessed 26 October 2012

¹³¹ The Jaffna Journal is a blog, not a scholarly journal.

¹³² Elephant Pass 2012, *Fishing in Turbulent Waters*, Jaffna Journal, 20 August <<http://jaffnajournal12.blogspot.com.au/>> Accessed 29 October 2012

The month following the defeat of the LTTE, the *Daily News* reported that President Rajapaksa lifted restrictions on fishing in the Eastern Sea “during the day”. Due to security reasons, boats wishing to fish in Trincomalee harbor first had to obtain permission from the Sri Lankan Navy, and must be detectable by navy radar.¹³³ According to *TamilNet*,¹³⁴ these restrictions were briefly lifted, before being re-imposed after six months. *TamilNet* also reported that the re-imposition did not affect Sinhalese deep-sea fishermen.¹³⁵ In 2010, the restriction on night-time fishing in the Eastern Seas was removed,¹³⁶ and all restrictions pertaining to Trincomalee harbour were reportedly lifted in 2012.¹³⁷

Due to the surge in the number of boats carrying asylum seekers from various fishing ports, reports indicate that the Sri Lankan Navy routinely board and inspect fishing vessels on both the east and west coasts.¹³⁸

Violence

No reports were located indicating that Sri Lankan authorities have physically harmed Tamil fishermen while at sea. In November 2012, the Department of Foreign Affairs & Trade (DFAT) advised the Department of Immigration and Citizenship (DIAC) that it “is not aware of any reports that Sri Lankan Tamils (or any other ethnic grouping) are mistreated if they are caught illegally fishing”.¹³⁹

At the height of the war, five Tamil fishermen and another person were found dead at Pesalai beach and Pesalai Church in June 2006. The killings have never been properly investigated; however the ICG reported that military personnel are suspected by some to have committed the killings.¹⁴⁰ As noted previously, a fisherman was shot dead by police in Chilaw in February 2012 while protesting the government’s large increases in the costs of fuels. Some Tamil activists argue that the fisherman was deliberately targeted rather than randomly shot.¹⁴¹

News reports indicate a limited number of violent clashes have occurred between Tamil and Sinhalese fishermen in the north in recent years. In a recent example, *Global Tamil News* reported in September 2012 that Tamil and Sinhalese fishermen violently clashed due to a dispute regarding fishing in the Thannimurippu tank in Mullaitivu district. The report states that a court

¹³³ ‘Fishing restrictions in East eased’ 2009, *Daily News (Sri Lanka)*, 15 June

¹³⁴ See footnote 38 for information on *TamilNet*.

¹³⁵ ‘SLN reintroduces pass system for fishing in Trincomalee’ 2010, *TamilNet*, 2 August

<<http://www.tamilnet.com/art.html?catid=13&artid=32333>> Accessed 11 October 2012

¹³⁶ ‘Sea fishing in Sri Lanka’s eastern coast now free’ 2010, *Sri Lankan Government News*, 2 January

¹³⁷ ‘Fishing restrictions lifted in Trinco’ 2012, *Daily Mirror (Sri Lanka)*, 20 June

<<http://www.dailymirror.lk/news/19581-fishing-restriction-removed-in-trinco.html>> Accessed 11 October 2012

¹³⁸ Jayasinghe, A 2012, ‘No risk too high for Sri Lankans wanting to migrate’, *Agence France-Presse*, 19 August;

‘SRI LANKA: More people boarding boats to Australia’ 2012, *IRIN News*, 12 July

<<http://www.irinnews.org/Report/95855/SRI-LANKA-More-people-boarding-boats-to-Australia>> Accessed 23 January 2013

¹³⁹ DIAC Country Information Service 2012, *Country Information Report No. 12/67 – CIS Request Sri Lanka: Questions arising from recent applications*, (sourced from DFAT advice of 29 November 2012), 29 November

¹⁴⁰ International Crisis Group 2011, *Reconciliation in Sri Lanka: Harder than Ever*, Crisis Group Asia Report N°209, 18 July, p.5, footnote 18

¹⁴¹ Haviland, C 2012, ‘Protesting fisherman shot dead’, *BBC Sinhala*, source: *BBC News*, 15 February

<http://www.bbc.co.uk/sinhala/news/story/2012/02/120215_oil_shtml> Accessed 15 November 2012; ‘Chilaw murder by unlawful shooting a premeditated killing: Gota–Ravi conspiracy exposed’ 2012, *Lanka-E -News*, 20 February <<http://lankaenews.com/English/news.php?id=12700>> Accessed 15 November 2012; ‘Gota directly gave orders for the murder in Chilaw: High ranking police officer exposes the truth’ 2012, *Lanka-e-News*, 16 February <<http://lankaenews.com/English/news.php?id=12689>> Accessed 15 November 2012

found in favour of Tamil and Muslim fishermen, however the ruling was being ignored by Sinhalese fishermen.¹⁴²

3.3.4 Certain Members of the Judiciary and Lawyers

There is strong evidence that President Rajapaksa and his allies are aggressively undermining the independence of the judiciary. Those that seek to defend judicial independence, namely judges, magistrates, and a large corps of lawyers, are increasingly vilified by the government and pro-government media. Some judges and lawyers have been threatened and physically attacked. Given the vilification of the judiciary by the regime, attackers enjoy a high degree of impunity.

In January 2013, President Rajapaksa reportedly signed a ruling by Sri Lanka's parliament to dismiss Chief Justice Shirani Bandaranayake. The court, however, previously stated that it does not recognise the authority of the presidentially-appointed council that prosecuted the Chief Justice's impeachment, ruling the process unconstitutional.¹⁴³ The controversial 18th amendment to the Constitution, passed in September 2010, not only removed the two term limit of a presidency, it also granted the President control over appointments to key positions, including the Chief Justice and the Attorney General.¹⁴⁴ In late 2012, the Sri Lankan parliament began impeachment proceedings against Chief Justice Shirani Bandaranayake, charging her with "failing to declare her assets fully", "failing to declare foreign currency", and "harassing a female magistrate". However, sources report that the charges are considered by some as revenge for her ruling the so-called Divineguma Bill unconstitutional. The bill would have reversed a number of powers devolved to regional councils and handed such powers (and funds) to the finance and development ministry, currently headed by President Rajapaksa's brother Basil.¹⁴⁵

In December 2012, the Asian Human Rights Commission (AHRC) reported that an attempt was made on the life of Gunaratne Wanninayaka, President of Colombo Magistrate's Court Lawyer's Association. The AHRC states that it believes the attack by four men at his home in Colombo was revenge for organising a protest condemning the impeachment of the Chief Justice and indicates that the Ministry of Defence (headed by President Rajapaksa's brother Gotabaya) is responsible for most attacks and assassinations of government critics.¹⁴⁶

In November 2012, the *UN News Service* expressed concern that the impeachment of Shirani Bandaranayake is part of a broader pattern of "intimidation and attacks against judges and judicial officers in Sri Lanka". UN Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, stated in a news release that such attacks might constitute an attack on

¹⁴² 'Tamil Fisherman injured in a Skirmish with Sinhalese Fishermen' 2012, *Global Tamil News*, 22 September <<http://gtmn.brandx.eu/GTMNEditorial/tabid/71/articleType/ArticleView/articleId/83258/language/en-US/Tamil-Fisherman-injured-in-a-Skirmish-with-Sinhalese-Fishermen.aspx>> Accessed 26 October 2012

¹⁴³ 'Sri Lanka president sacks chief justice Bandaranayake' 2013, *BBC News*, 13 January <<http://www.bbc.co.uk/news/world-21002642>> Accessed 14 January 2013

¹⁴⁴ UNHCR 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (21 December 2012), p.10

¹⁴⁵ Haviland, C 2012, 'Shirani Bandaranayake: Charges set out as impeachment begins', *BBC News*, 6 November <<http://www.bbc.co.uk/news/world-asia-20222196>> Accessed 2 January 2013; Asian Human Rights Commission 2012, *The State of Human Rights in Sri Lanka in 2012*, AHRC-SPR-011-2012, p.2 <http://www.humanrights.asia/resources/hrreport/2012/ahrc-spr-011-2012.pdf/at_download/file> Accessed 19 December 2012

¹⁴⁶ Asian Human Rights Commission 2012, *An attempt to use violence against lawyers opposing the government's move to impeach the CJ*, source: *Sri Lanka Guardian* <<http://www.srilankaguardian.org/2012/12/impeachment-motion-attempt-on-lawyers.html>> Accessed 19 December 2012; Asian Human Rights Commission 2012, 'An Attempt On A Lawyer's Life', *Colombo Telegraph*, 18 December <<http://www.colombotelegraph.com/index.php/an-attempt-on-a-lawyers-life/>> Accessed 3 January 2013

the independence of the justice system in Sri Lanka. Furthermore, the *UN News Service* reports that “most cases of attacks and interference against the judiciary in Sri Lanka are not genuinely investigated, and perpetrators are not held to account”.¹⁴⁷

Amnesty International reported that in October 2012, a senior high court judge, Manjula Tilakaratne, was “attacked and injured by armed assailants after he had complained of attempts to interfere with the independence of the judiciary”.¹⁴⁸ The International Commission of Jurists (ICJ) reported that Tilakaratne was “pistol-whipped... while the others beat him with their bare fists and an iron rod” in broad daylight. The ICJ laments that no one has been arrested for the assault.¹⁴⁹

3.3.5 Journalists/Independent Media

Due to its limited direct relevance to the present RRT Sri Lanka caseload, only brief information relating to attacks on the independent media and journalists is provided.

In December 2012, the UNHCR stated:

Recent reports document, amongst others, cases of harassment, arbitrary detention, threats and physical intimidation of journalists and other media professionals, allegedly perpetrated or condoned by officials or pro-government forces. Media professionals appear to be targeted owing to the topics they cover in their reports, such as government accountability and the rule of law. Limitations on press freedom in the form of guidelines, including registration requirements and a code of conduct, have been introduced. If these regulations are not adhered to, journalists and media professionals may find themselves at risk.¹⁵⁰

Freedom House reported in 2012 that journalists “who cover human rights or military issues... encounter considerable levels of intimidation”, including death threats. There have been a number of journalists killed in recent years, and subsequently Sri Lankan journalists now practice a high degree of self-censorship. The most notorious killing occurred in 2009, when Lasantha Wickrematunga was murdered. Freedom House reported that in July 2011, “Wickrematunga’s brother, who heads the Sunday Leader newspaper, received a threatening telephone call from President Rajapaksa in response to an article. The paper’s editor, Frederica Jansz, also received threats in October”.¹⁵¹

The Committee to Protect Journalists stated in 2012 that, since 2007, 23 journalists have been forced into exile and that “only three have returned. Although self-censorship is widespread, the intimidation continues. The Sri Lankan police recently raided the offices of two websites and arrested nine journalists for “propagating false and unethical news on Sri Lanka.” Reporters Without Borders ranks Sri Lanka 163 out of 179 nations on its global Press Freedom Index.¹⁵²

¹⁴⁷ ‘UN independent expert concerned over reports of intimidation of judges in Sri Lanka’ 2012, *UN News Service*, 14 November <<http://www.unhcr.org/refworld/docid/50a621752.html>> Accessed 19 December 2012

¹⁴⁸ Amnesty International 2011, *Sri Lanka’s empty promises and denial of rights crisis exposed at UN*, 1 November, UNHCR Refworld <<http://www.unhcr.org/refworld/docid/509783242.html>> Accessed 3 January 2013

¹⁴⁹ International Commission of Jurists 2012, *Authority without accountability: The crisis of impunity in Sri Lanka*, November, p. 6 <<http://www.unhcr.org/refworld/docid/50ae365b2.html>> Accessed 19 December 2012

¹⁵⁰ UNHCR 2012, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*, 21 December, p.29-30

¹⁵¹ Freedom House 2012, *Freedom in the World 2012 – Sri Lanka*, UNHCR Refworld, 22 August <<http://www.unhcr.org/refworld/docid/503c72222b.html>> Accessed 18 September 2012

¹⁵² Denyer, S 2012, ‘Sri Lanka is descending toward dictatorship, rights activists and opposition leaders say; U.S. is determined to remain engaged’, *The Washington Post*, 13 July

The United Nations reported that J.S. Tissainayagam, a journalist who had published criticism of the Government's military campaign, was sentenced to 20 years of hard labour in 2009, "in what was the first conviction of a journalist under the PTA". Another well-known journalist and cartoonist, Prageeth Ekneligoda, also a government critic, "disappeared in January 2010 and has not been heard of since".¹⁵³

<http://www.washingtonpost.com/world/asia_pacific/sri-lanka-descending-toward-dictatorship-critics-say/2012/07/13/gJQAUOoXhW_story.html> Accessed 12 December 2012

¹⁵³ United Nations 2011, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, 31 March, p.113

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