



Human Rights Watch
UPR Submission

Sri Lanka

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Summary

Major hostilities between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) resumed in mid-2006 and in January 2008 the government formally withdrew from the ceasefire in place since 2002. Since then the fighting has claimed hundreds of civilians lives, and tens of thousands more have been displaced. Human Rights Watch has long documented serious violations of international human rights and humanitarian law by both parties to the conflict. We are deeply concerned that with the ceasefire's end, abuses will intensify.

The LTTE has directly targeted civilians with remote-controlled landmines and suicide bombers. It has murdered perceived political opponents and forcibly recruited ethnic Tamils into its forces, many of them children. Bomb and suicide attacks believed to have been carried out by the LTTE in January and February 2008 killed dozens of civilians. On February 2, 18 people died after a bomb exploded in a bus in Dambulla in the country's center. The next day, 11 died and 100 were wounded when a suicide bomber blew herself up in Colombo's main train station. A government minister was killed by a roadside bomb in January a week after a Tamil parliamentarian critical of the government was shot dead.

The Sri Lanka security forces have conducted indiscriminate bombing and shelling resulting in civilian casualties, been complicit in the use of child soldiers by nonstate armed groups, and committed widespread "disappearances" with near total impunity. Government institutions, including a series of ad hoc bodies, have failed to fully investigate or prosecute abusers.

The LTTE's utter disregard for the laws of war does not justify the Sri Lankan government's violations of the law. The government must also meet its obligations to provide humanitarian assistance to civilians in need and facilitate access for humanitarian organizations. It must respect the rights of all citizens, regardless of ethnicity or religion.

Human Rights Watch reiterates its call for the urgent deployment of a United Nations human rights field operation in Sri Lanka with a strong mandate to monitor abuses by all sides, publicly report its findings, and act to promote respect for basic rights at the local level. Further recommendations are provided at this end of this submission.

1. Enforced disappearances

According to governmental and non-governmental sources, more than 1,500 people were reported missing between December 2005 and December 2007. Some are known to have been killed, and others have surfaced in detention or otherwise have been found, but the majority remains unaccounted for. Evidence suggests most have been “disappeared” or abducted.

Human Rights Watch has conducted extensive research into enforced disappearances since 2006. In the vast majority of the cases we documented, the evidence indicates the involvement of government security forces—army, navy, or police. The victims are primarily young ethnic Tamil men who “disappeared” in the country’s embattled north and east, but also in the capital Colombo.

In the face of this crisis, the Sri Lankan government has failed to investigate seriously and prosecute those responsible. It has publicly labeled senior UN officials as “LTTE supporters” and “terrorists” because they highlighted “disappearances” or other rights violations. To date not a single member of the security forces has been held to account for a “disappearance” over the past two years. Four security force members held for abductions in Colombo—a rare instance of arrests—were recently released, it is unclear whether charges were dropped. Families interviewed by Human Rights Watch talked about their failed efforts to get the Sri Lankan authorities to act on the cases of their “disappeared” relatives.

Over the past two years, the government has created at least nine special bodies to address “disappearances” and other human rights violations—and it touts them as a sign of the efforts it has undertaken to address the problem. As yet, none of these special bodies have yielded concrete results.

In particular, Sri Lanka’s Human Rights Commission (HRC) has failed to adequately address the crises of “disappearances.” Despite the hundreds of cases reported to it over the last two years, the HRC has issued no public reports on the matter, has stopped providing statistics on the complaints it has received, and has tried to downplay the problem.

Although the LTTE has been implicated in some acts akin to “disappearances” its practice has been to outright murder political opponents rather than abduct them.

2. Internal displacement

Since mid-2006, hundreds of thousands of people have been displaced in the country's north and east. More than 100,000 people returned to their homes in the east under a government program begun last May, but renewed insecurity has caused some to leave their homes again. In late 2007, the UN High Commissioner for Refugees (UNHCR) received reports from the east of killings, abductions, harassment and general insecurity affecting displaced persons. Over the past year, government authorities have in some places in the east forced internally displaced persons to return to areas that remained insecure due to threats by armed groups, landmines, or the risk of renewed fighting. Protection for the displaced has been weak despite the presence of the UNHCR, with regular threats and occasional violence, including forced recruitment, by both the LTTE and pro-government armed groups. Others are prohibited from returning to their homes by the creation of "high security zones" controlled by the military. Those who have returned have often faced reprisals. The Supreme Court ruled that petitions regarding such zones are under the authority of the regional military commander.

3. Use of child soldiers

The LTTE has long been notorious for its forced recruitment of children and their deployment in combat. According to UNICEF, as of December 31, 2007, the LTTE had forcibly recruited 6,248 people under the age of 18.

Since 2006, the pro-government Tamil armed group known as the Karuna group has abducted and forcibly recruited children and young men for use as soldiers, with the complicity of Sri Lankan security forces. According to UNICEF, as of December 31, 2007, the Karuna group had forcibly recruited 453 children.

The government, including President Mahinda Rajapaksa, has repeatedly promised to conduct investigations into government complicity with Karuna group abductions, but no serious investigation is known to have taken place, and the abductions continue. The Karuna group reportedly abducted 15 children in December 2007 alone. The location of Karuna group camps and bases—in government-controlled areas—is widely known, and armed Karuna group members, including children, are routinely visible in the east.

4. Lack of accountability and the failure of national institutions

Over the past two years, the government has consistently failed to act in the face of serious and persistent human rights violations. The criminal justice system, particularly the police and the Attorney General's office, have not effectively investigated human rights violations or brought perpetrators to justice. The high level of violence has created an atmosphere of fear and insecurity for civilians, particularly ethnic Tamils.

The independence of the Human Rights Commission (HRC) and the National Police Commission have been significantly undermined by the president's May 2006 decision to bypass constitutional requirements and directly appoint commissioners to these bodies. The monitoring and investigative authority of the HRC has also been effectively negated by the obstructive attitude of the security forces and lack of government support.

As a sign of the HRC's failings, in December 2007 the International Coordinating Committee of National Human Rights Institutions downgraded the HRC's status to "observer" because of government encroachment on its independence. Namely concerns that commission appointment were not in compliance with Sri Lankan law; and because of doubts that the commission's practice was not "balanced, objective and non-political, particularly with regard to the discontinuation of follow-up to 2,000 cases of disappearances in July 2006."

Aside from the HRC, the government has created at least nine special bodies to address human rights violations, but they have so far failed to halt the abuse. They serve instead as a way for the government to falsely claim that it is taking steps to improve human rights.

The most prominent special body is the Presidential Commission of Inquiry (Col) to investigate serious cases of human rights violations by the government and LTTE since August 2005. An international group of observers, called the International Independent Group of Eminent Persons, has not been permitted to play a significant role in the commission's work.

The Col remains an advisory body that investigates cases and makes recommendations, but there is no guarantee that relevant government bodies will act on them. The role of the Attorney General's office in the commission's work has raised serious conflict of interest concerns. Efforts to establish a witness protection program have been inadequate, significantly limiting the Col's ability to conduct investigations. In September 2007, the international observers reported that since the inception of the commission, "no substantial progress has been made into any of the mandated cases."

5. Abuses against Sri Lankan migrant women domestic workers

Over 125,000 Sri Lankan women migrate to the Middle East as domestic workers each year. While many have built homes and supported their children's education through their wages, others experience a range of abuse from recruitment agents and employers and receive little protection from the Sri Lankan authorities or governments abroad.

Despite some recent improvements, the Sri Lankan government inadequately regulates the vast labor recruitment industry. The government does not require registration or licensing of village-level subagents. Many agents and their unregulated subagents charge illegal and exorbitant fees. Women often incur debts at usurious interest rates. Agents and subagents sometimes deceive prospective workers about the nature and conditions of work they will perform, their wages, and the country in which they will be employed.

The services provided by Sri Lankan missions abroad are uneven. Gaps include failure to provide rescue assistance to domestic workers who contact the mission for help; lack of follow-up on cases; lack of counseling services to traumatized domestic workers; and poor, overcrowded conditions in embassy and consulate shelters. Upon return to Sri Lanka, many domestic workers said they faced obstacles to filing complaints and obtaining victim services.

Recommendations

Given the escalation in fighting and the resultant human rights abuses, Human Rights Watch calls on all parties to the conflict—the Sri Lankan government and the LTTE and other non-state armed groups—to respect their obligations under human rights and international humanitarian law. We call on the Sri Lankan government to:

- Accept a human rights monitoring mission under United Nations auspices to investigate abuses by all parties, report publicly on abuses to enable prosecutions, and facilitate efforts to improve human rights at the local level.
- Improve humanitarian access to all populations at risk.
- Take all necessary steps to minimize civilian casualties in the event of renewed hostilities.

Regarding Enforced Disappearances, the Sri Lankan government should:

- Ensure that all persons taken into custody are held in recognized places of detention, with detailed detention records. Detained individuals must be allowed contact with family and unhindered access to legal counsel; they should promptly be brought before a judge and informed of the reasons for arrest and any charges against them.
- Repeal or revise emergency regulations that allow arbitrary arrest and detention.
- Invite the UN Working Group on Enforced and Involuntary Disappearances to visit Sri Lanka as soon as possible.
- Sign and ratify the Convention against Enforced Disappearance.

Regarding internal displacement, the Sri Lankan government should:

- Take all measures necessary to ensure safety for displaced persons, and that returns be voluntary and in conditions of safety and dignity.
- Facilitate the delivery of humanitarian aid by Sri Lankan and international organizations to displaced populations in need.

Regarding child soldiers, the Sri Lankan government should:

- Immediately end all cooperation with the Karuna group in the recruitment of children.
- Fulfill its pledge to investigate the role of the security forces in child recruitment and other abductions by the Karuna group, and hold all those responsible accountable.

Regarding the lack of accountability and the failure of national institutions, the Sri Lankan government should:

- Respect the independence of the Human Rights Commission.

- Discipline or prosecute as appropriate members of the security forces implicated in human rights abuses, including as a matter of command responsibility when superiors knew or should have known of ongoing crimes but failed to take action.

Regarding migrant women domestic workers, the Sri Lankan government should:

- Establish mechanisms for regular and independent monitoring of labor agencies and their subagents. They should require labor agents to register their subagents, and hold agents responsible for their subagents' actions.
- Ensure any medical testing of prospective migrant women or administration of contraceptive medication is voluntary and performed with informed consent.
- Improve protections and services at Sri Lankan consular offices for migrant domestic workers who have faced abuse.

Attachments

Report Return to War: Human Rights Under Siege

Report Complicit in Crime: State Collusion in Abductions and Child Recruitment by the Karuna Group

Report Exported and Exposed: Abuses against Sri Lankan Domestic Workers in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates