

Human Rights in Sri Lanka

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Abstract: This paper will consider the historical factors that helped shaped modern day human rights abuses in Sri Lanka. We'll look closely at the impact of colonial imperialism, and its profound impact on shaping current events and likely future scenarios in Sri Lanka. We'll provide multiple examples of what constitutes human rights abuses in Sri Lanka in modern times, and we'll predict with as much certainty as possible what the outcomes may be if government forces, including police departments, do not change their long-ingrained behavior and treat all of Sri Lanka's citizens with dignity and respect.

Keywords: Sri – Lanka, Human Rights, Torture, Immigration.

1. INTRODUCTION

Over the past three decades the world has viewed Sri Lanka through the lens of its 26-year long civil war that pitted the minority Tamil people, who are primarily Hindu, against a government made up almost entirely of the majority, Sinhalese Buddhists. A war can be distracting for the outside observer, as all aspects of government, including the treatment of its citizens, appears different in wartime. Human rights abuses that normally would draw rebuke are often overlooked or even accepted as the business of war.

With its victorious end to Sri Lanka's civil war in 2009, the government has now had 9 years in which to right the ship and end human rights abuses, particularly as they pertain to the Tamil people. This has not, according to outside observers, been accomplished. While the world waits impatiently, and encourages the Sri Lankan government to take more decisive steps toward repairing the great rift that continues to exist between the two groups, the government has instead chosen to create a new fault line with yet another minority group, this time with the Muslim citizens of Sri Lanka. By not taking the steps to resolve the outstanding issues from the civil war, including locating and releasing thousands of Tamil people the government arbitrarily rounded up in the waning weeks of the war, they strike fear in the hearts of Sri Lankan Muslims who are now coming under violent attack in a rising wave of nationalism.

These factors, added to the abysmal treatment including severe torture applied by police to individuals arrested either for petty crimes or terrorist-related incidents, has recently placed Sri Lanka under the lens of scrutiny for its on-going human rights abuses.

In this paper I consider the historical factors that helped shaped modern day human rights abuses in Sri Lanka. We'll look closely at the impact of colonial imperialism, and its profound impact on shaping current events and likely future scenarios in Sri Lanka. We'll provide multiple examples of what constitutes human rights abuses in Sri Lanka in modern times, and we'll predict with as much certainty as possible what the outcomes may be if government forces, including police departments, do not change their long-ingrained behavior and treat all of Sri Lanka's citizens with dignity and respect.

2. BRIEF HISTORY AND OVERVIEW OF SRI LANKA

The country of Sri Lanka is a teardrop shaped island located just 30 kilometers off the southern tip of India. This tropical land has human remains indicating life began here more than 35,000 years ago.

It's history, better known from the 6th century B.C. forward, is highly dependent on one's perspective. To the Tamil people, the Kingdom of Tambapani marks the first political organization, which was governed by a Tamil leader. The first Tamil ruler of that kingdom began his tenure during the 2nd century BCE, giving weight, however inconsequential that may be, to the indigenous Tamil people who have long fought for independent rule of the island.

The Sinhalese, who make up the other prominent ethnic group on the island, believe the island was first populated and ruled by their ancestors who arrived from India in 543 BCⁱ. Hence, an ongoing battle for power between the two groups has dominated much of the island's history. In any case, both groups were overpowered and ruled by colonial powers in the past several centuries.

When the Portuguese first arrived in 1505, Tamil and Sinhalese had their own kingdoms on the island separated by a large jungle buffer zone that served as a natural barrier and preserved peace. That ended with the arrival of colonial rule.

Ruled by European powers including Portuguese, Dutch, and ultimately British conquerors and colonialists, the island became quasi-independent in 1948, as it continued to be a Dominion of Britain. The island nation changed the name from "The British Colony of Ceylon" to "Ceylon", in that year, which it maintained until 1972, when Ceylon took became a fully independent republic. To reflect their new-found independence, islanders changed the country name "Sri Lanka".

Today the island population stands at just over 22 million: the vast majority, 75%, are Sinhalese Buddhists; 11% identify as Sri Lankan Tamils and they are largely Hindu; 9% are known as Sri Lankan Moors; and 4% are Indian Tamils, distinguished from the larger numbers of Sri Lankan Tamils. Religion doesn't always follow ethnicity: 70% of the country are Buddhist, nearly 13% Hindu, 10% are Muslim, 6% Roman Catholic, Christian and others make up the final 1.3%.

Sri Lankan Tamils are an ethnic group native to the South Asian island where they can prove existence from at least the second century B.C. Though they hold a majority in the Northern Province, and have significant numbers in the Eastern Province, *Sri Lankan Tamils'* 11% representation has left them vulnerable. Tamils have their own language and culture, though genetically they resemble the largest island group, the Sinhalese, who make up 74% of the country's population. While Sri Lankan Tamils are primarily Hindu, due to the island's strong Europeanⁱⁱ colonialist history, they have a significant Christian population as well.

Sadly, just 5 years after Sri Lankans adopted a constitution in 1978, a civil war erupted. The war lasted 25 years, ending just nine years ago, in 2009. Like many other indigenous peoples, whose power was partially regained after colonialist power receded, the native Tamil people felt strongly about the direction of the new government. However, that direction did not match the desires of the larger, Sinhalese population. This was not a new development or awareness—Tamil grievances began long before independence was won in 1972. The underlying disagreements were festering as early as 1948, and only became more tangibly clear when Britain succeeded power. Some of the more notable Tamil grievancesⁱⁱⁱ:

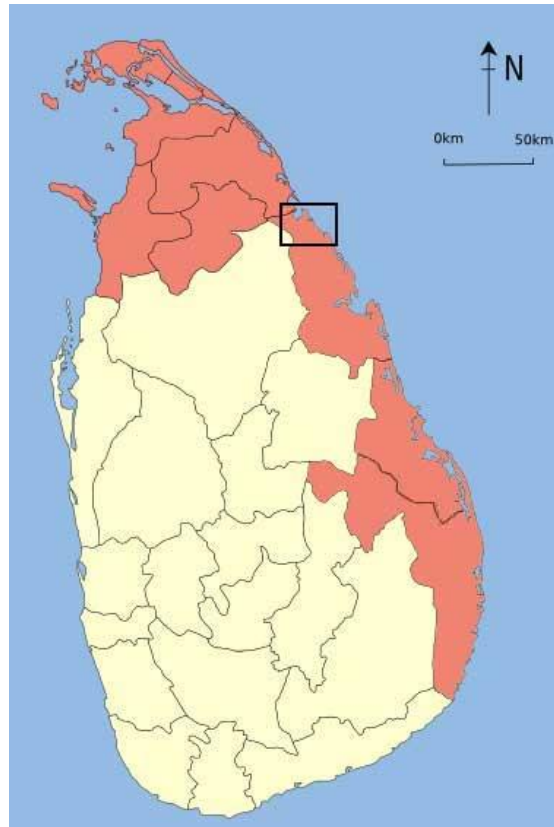
- In 1948 Tamil plantation workers who were born in Sri Lanka but whose ancestors had come from India in the 19th century were denied Sri Lankan citizenship.
- In 1956 Sinhala was made the sole official language. This put Tamils at a disadvantage in getting government jobs and accessing government services.
- In 1971 a process called "standardisation" meant that Tamils had to get higher examination marks than Sinhalese to get into university.
- In 1972 a new constitution made Buddhism (the religion of most Sinhalese) the state religion.

The years between 1971 and 1983 saw marked tension, eruption of violence, and eventually full-blown civil war between the Tamil and Sinhalese peoples. Religion was one factor, as Buddhism was named by the Sinhalese as the country's primary religion—an affront to the Hindu Tamil people. In 1976, Tamils formed a liberation group calling itself LTTE, or the Liberation Tigers of Tamil Eelam. A political group formed as well; this was a more defined separatist group, named Tamil United Liberation Front (TULF). The party won all seats in Tamil areas, but it wasn't long before anti-Tamil riots erupted, in which more than 100 Tamils were killed.

The reprisals began immediately, as members of the TULF killed 13 Sinhalese soldiers in an ambush, which in turn resulted in riots that led to the deaths of several hundred Tamils. Over the next few years, violence escalated as the Tamil insurgents used car bombs, suitcase bombs on planes, and landmines against Sinhalese military and civilian targets. The quickly expanding Sri Lankan army responded by rounding up Tamil youths, torturing, and disappearing them.^{iv}

The civil war continued for the next 25 years, with human rights atrocities growing ever more prevalent on both sides.

What the Tamils sought was an independent state reminiscent of pre-colonial times in the areas where they held a majority or significant presence, which as noted above is in the northern and eastern parts of the island, as indicated in the darker areas in the following map.



Coral colored areas indicate Tamil-dominant areas representing 11% of country population. Light yellow indicates Sinhalese majority regions, representing 75%.

Finally, in 2009, the government declared victory over the Tamil Tigers after capturing their primary territory. The 26-year war finally came to an end.

3. UN HUMAN RIGHTS VIOLATIONS AND INVESTIGATIONS INTO WAR CRIMES

In June of 2018, the US House Committee on Foreign Affairs convened a study on Global Human Rights, with a focus on pledges the Sri Lankan government made to the United States and the United Nations Human Rights Council (UNHRC) three years ago in 2015:^v

...To address issues of accountability for human rights violations during the country's civil war, only to renege on them later. This has given the country's military and police impunity to continue perpetrating abuses in the post-civil war period, raising the possibility of renewed conflict.

The special session focused their energies on the top 3 issues they believed represented the most ongoing and egregious human rights violations the Sri Lankan government is currently culpable in 1) Disappearances 2) Torture and 3) Militarization. In sum, the evidence shows that Sri Lanka ranks only second to Iraq in the number of unresolved cases of enforced disappearances and which are not even limited to wartime activities. Regarding torture, the report details:^{vi}

Torture was used extensively on Tamil political prisoners during the civil war by both the military and police. This was facilitated by the draconian Prevention of Terrorism Act that permitted arbitrary detention and allowed confessions admissible as evidence...the practice has continued even under the present government where torture is used in police stations across the country on suspects regardless of their ethnicity.

The third issue under scrutiny at the special session was militarization, particularly of the Tamil speaking areas. As the report mentions:

As in the case of disappearances and torture, high levels of militarisation has continued after armed conflict ended as part of the post-war pacification project of the government.

This paper will examine each of these areas of concerns as well as other human rights issues in Sri Lanka today. First, we will examine the history and population makeup of the country and place these human rights concerns in context of area and time.

By 2011, after years of accusations by both sides, an official UN report cited grave concerns over the atrocities allegedly committed by both Tamil Tigers and the Government forces, which were made up primarily by the majority Sinhalese. The UN report called for an International investigation into possible war crimes; however, the government, however, primarily implicated in the findings, rejected their report as biased. One year later, however, the UN Human rights Council adopted a resolution urging Sri Lanka to investigate war crimes committed over the course of the civil war. They declined. These requests by the UN escalated over the next several years, until finally, in 2016, the government admitted that 65,000 people remained missing after the civil war ended. Shortly thereafter, a law was passed to establish an office to trace the disappearance of those missing.

4. HUMAN RIGHTS CONCERNS POST CIVIL WAR

The war crimes committed by both sides during the civil war have continued in different forms after the war ended. Despite pledges made, accountability and political reconciliation between the two sides did not go smoothly.

For starters, the government had pledged to release names of people who remained in their custody, particularly those Tamil fighters who forcibly disappeared during the final two months of the war. They neglected to do so.

The following excerpt from a report by Human Rights Watch details the lack of progress on Truth, Reconciliation, and Accountability for Past Abuses:^{vii}

In October 2015, the UNHRC adopted a consensus resolution in which Sri Lanka pledged to undertake several human rights reforms, including transitional justice demands arising from the civil war, and to establish four transitional justice mechanisms, including a judicial mechanism with “participation of international judges, prosecutors, lawyers and investigators” with an independent investigative and prosecutorial body.

Civil society leaders, appointed by the government, conducted nationwide consultations in 2016, and handed a comprehensive report to the government in January 2017. It contained strong recommendations, including for a hybrid justice mechanism, acknowledging the need for independent international participation to ensure justice for victims of war crimes and other grave human rights abuses by all sides. The report included the need for justice for all victims of the long conflict, regardless of ethnicity, religion, or political persuasion.

Neither the president nor the prime minister received the report publicly and it has since languished, with scant government attention. The government’s response to the report since January 2017 has also been disappointing. Senior cabinet ministers explicitly rejected the recommendation that foreign nationals participate in the special court. Both the president and the prime minister publicly reiterated the point, and further emphasized that the government would not allow “war heroes” to be prosecuted.

This is not to say the government was more culpable than the Tamil Tigers in their war crimes. Indeed, one of the most horrific crimes occurred when Tamil Tigers captured up to 700 Sinhalese police officers. After promising the government no harm would befall the officers if they laid down their arms, the police relinquished their weapons. The Tamil Tigers took the police officers into the jungle and systematically shot each police officer until every one was dead.

Over 100,000 people eventually died in the war, many of them in utterly brutal ways. In the closing days of the war, the government round up 11,000 people they suspected of cooperating or even communicating with the rebels. Most have not been released, and information on them is scant. Until the truth and reconciliation work is dealt with, revenge and other atrocities will continue to fester, and could in fact, reignite.

5. SRI LANKAN POLICE ROUTINELY USE TORTURE

Another concern today is the widespread use of torture by police. Last year, in July of 2017, a British lawyer who serves as a UN special rapporteur visited Sri Lanka with the full cooperation and blessing of the Sri Lanka government. His report suggested the country's judicial system, and tolerance of torture, is "a stain on the country's international reputation".^{viii}

The lawyer's report included quotations that expressed his extreme exasperation for the level of abuse allowed and perhaps encouraged among police officers. In part, he stated:

In recent years, cases of torture and enforced disappearances have continued to be reported, with no one being held responsible. Journalists, activists and human rights defenders have been attacked. At least 14 media workers have been the victims of unlawful killings since the beginning of 2006; one has allegedly disappeared in the custody of the security forces, while others have been tortured and arbitrarily detained.^{ix}

There appears to be little if any attempts to hide, suppress, or even dissuade police from using brutal force. UN special rapporteur's report suggested the use of torture is extended to those arrested on national security grounds.

The situation goes beyond local police matters. New anti-terror laws do not call for non-violent treatment of those arrested and detained on national security grounds. He added:

"Since the authorities use this legislation disproportionately against members of the Tamil community, it is this community that has borne the brunt of the state's well-oiled torture apparatus."^x

Types of torture used includes the use of stress positions, asphyxiation using plastic bags drenched in kerosene, the extraction of fingernails, beating with sticks, water torture, suspension by thumbs for hours, and genital mutilation.

Further human rights abuses occur as a result of endless detention without trials for years on end without trial, many over ten years at the time of this writing.

6. HUMAN RIGHTS ABUSES AGAINST OTHER GROUPS

Sinhalese Buddhist Violence Against Muslim Minority:

After the end of the civil war in 2009, in which government energies had been trained on the minority Tamil people, Sinhalese leaders' focus broadened to include discriminatory and inciting rhetoric and actions toward the minority Muslim population, which makes up 9% of the country population. While Muslims had been living in Sri Lanka peacefully and safely for generations, recent economic and cultural changes have riled the fears of the Sinhalese majority. What has resulted is a steep rise in nationalism,^{xi} which in turn has created dangerous new fault lines between ethnic and religious groups. As in many surges in nationalism worldwide, fear of a changing demographic, and fear they *may* be a change to the power structure, is enough to sew discord and engender violence.

As Jehan Perera, executive director of the Colombo-based National Peace Council stated:

... "Rising anti-Muslim sentiment has much to do with "the historical insecurity of the Sinhalese who see themselves as a threatened minority".

How it possible that the Sinhalese Buddhists who control the government and represent a 75% majority in Sri Lanka see themselves as a vulnerable minority? It all has to do with the perspective that emerges when viewing the bigger picture.

Tamil separatists were seen as part of a larger Tamil community across the Palk Strait in neighbouring India's Tamil Nadu, while the Muslims are seen as "part of a larger collectivity - the global Islamic community - who may one day take over Sri Lanka", he said. xii

While these anti-Muslim riots began as early as 2014, they escalated to a new level in March of 2018. Anti-Muslim mobs, fueled by videos and leaflets distributed by leaders of ultra-national groups began to riot and use group violence against Muslims. These campaigns of vandalism and arson attacks grew so large that the government reacted by declaring a state of emergency and shutting down Social Media on the Internet. But the government has not shown resolve in stopping the increase in attacks on Muslims. Even when arrests are made, convictions are rare. As Thyagi Ruwanpathira, a Sri Lankan human rights activist, recently noted:

"If the government and law enforcement authorities were able to break this cycle of impunity and inaction in the face of violence against ethnic and religious minorities, perpetrators would not feel so emboldened," she said.^{xiii}

Violence Against Women:

Considering the treatment of women in Sri Lanka is a confusing endeavor, though women's rights are clearly substandard. The confusion results because women have been able to vote since 1931, a fact which gave the island nation gold stars in its treatment of women.

However, the reality of human rights for women is not nearly as rosy. A recent editorial in a Sri Lankan newspaper pointed out that women in Sri Lankan society have multiple issues before them, including gender inequality; conditions for women in employment; promotions in the corporate ladder; equal pay for equal work; sexual harassment and sexual exploitation are no strangers to Sri Lanka as much as they are issues around the world.

The high rate of violence against women in Sri Lanka is startling, and a blight on the country's human rights record. As the Sunday Times editorial page noted:^{xiv}

A fortnight ago, this newspaper published a detailed report by the United Nations Population Fund (formerly the UNFPA) and the Faculty of Medicine of the University of Kelaniya, which did the first ever, study on 'unnatural deaths of Sri Lankan women'.

The report came out with some startling hitherto unknown facts about a dark part of Sri Lankan society. It said that 36 percent of homicides of women were caused by husbands, lovers and ex-lovers and 21 percent by blood relatives. Eight percent of the victims had reported IPV (Intimate Partner Violence) at least once, and three percent more than thrice.

These statistics point out to most homicides of women being connected to family disputes, robbery and/or previous enmity. Suicides were also related to these issues common in Sri Lanka. Sometimes family disputes extended to matricide and even infanticide.

7. SUMMARY AND CONCLUSION

Systemic forces in Sri Lanka are at the root of its human rights abuses and challenges. These include a large military size that in some areas, such as Tamil areas, the presence of military to civilians is 1:2 – that is, one soldier for every Tamil citizen. This factor alone is traumatizing to an entire Tamil population, and it allows for the continuation of human rights abuses than began during the civil war yet never truly ended. The impunity military members and the government has experienced, even those accused of serious war crimes, and continue to enjoy allows and even encourages human rights abuses to continue.

With very few checks and balances on the system of government, and with one group holding the vast majority of power as they have since 1948 when the British ceded independence, there is little reason to expect change for the foreseeable future. Only if the US and other important allies used their will to impact Sri Lanka's government to change, is change likely to emerge.

The United States is Sri Lanka's largest export market. As such, it holds the potential to persuade Sri Lanka to correct its human rights abuses and abandon the policies that hold current social strata in place, propping up the majority Sinhalese Buddhists and harming multiple minorities including the Tamil Hindu population and the Muslim populations, both of whom experience inordinate levels of suffering at the hands or jurisdiction of government forces.

ENDNOTES

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