
by

Intellectuals for Human Rights (IHR)
Introduction

The Intellectuals for Human Rights (IHR) is a non-governmental and non-profit earning organization committed to promote and protect human rights in and outside Sri Lanka. IHR commenced its functions on the 10th December International Human Rights Day in 2005. The main objectives of IHR are to redefine the concept of human rights to be in line with the indigenous value system, to promote human rights in and outside Sri Lanka, to document the violation of human rights and to help developing of national policies relating to the protection of human rights in both locally and internationally.

1. Objectives of the Report

This is the second annual report of IHR which deals with the prevailing human rights status of Sri Lanka. The primary objective of documenting the violation of human rights is to bring them to the notice of the national authorities, so that effective measures could be taken to improve the deteriorating status of human rights in the country. IHR also intends to initiate a dialogue with international human rights organisations through this report.

IHR firmly believe that the recommendations contained in the report would help to improve the worsening condition of human rights in Sri Lanka.

1.1 Scope of the Report

The period under review in this report span over 12 months from 10, December 2006 to 10th December 2007. The report consists of two parts. Part I documents the violation of human rights that are recognized by Sri Lankan Constitution and the international treaties which Sri Lanka has already ratified.

Part II of the report deals with the violation of rights of people as a community. Those violations are usually committed by political authorities and
high-ranking State officials by way of corruptions and frauds of national revenue which in return would indirectly deprive the society from its right to collective development and equal share of national resources etc. However those violations are not traditionally looked as violations of human rights.

Nevertheless, IHR wishes to give a new dimension to the concept of human rights by analysing those frauds and abuses from the human rights violation perspective. This is also in par with IHR’s 2007 international human rights day celebrations theme: ‘Individual Rights Vs Community Rights’.

Accordingly, the report analyses the violation of human rights in respect of the following specific areas under **Part I**.

- Abductions, disappearances and killings
- Deliberate attacks on civilians as a result of the ongoing internal armed conflict
- Arbitrary detention, arrests, and murdering of suspects by the law enforcement authorities
- Violation of right to information and freedom of expression
- Suppression of collective activism of lawful trade unions
- Deprival of people’s right to free education
- Right to free movement in and outside Sri Lanka

Part II of the report examines the scenario of Large-scale frauds of national funds and other resources by politicians and high ranking State officials from the perspective of violation of human rights even though the existing Sri Lankan legal framework does not recognise it.
Part I

2. Abductions, disappearances and killings

The cardinal principles and core norms of human rights are centered on the protection of human life and civil liberty. The international human rights instruments such as United Nation’s Charter\(^1\), Universal Declaration of Human Rights (UDHR)\(^2\), International Covenant on Civil and Political Rights (ICCPR)\(^3\), Geneva Conventions of International Humanitarian Law\(^4\) etc. deal with substantively the protection of human life and civil liberties.

In the domestic realm, the Sri Lankan Constitution guarantees to the citizens of Sri Lanka certain human rights known as ‘fundamental rights’.\(^5\)

The major incidents discussed below relate to the abductions, disappearances and killings of persons, which took place during the reporting period. These incidents explain the magnitude and gravity of such violation. The violators responsible for these gruesome acts are manifold.

(a) On 15\(^{th}\) December 2006, Prof. Sivasubramaniam Raveendranath, Vice Chancellor of the Eastern University was reported to have been abducted by an armed-group. The abduction took place on his way from a scientific conference held in Colombo. The authorities yet, have failed to find the whereabouts of him, to conduct a proper investigation or to bring the person(s) responsible for this abduction to book.

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\(^1\) Articles 2(3), 55( c), 62(2),
\(^2\) UDHR recognizes two broad categories of human rights viz. civil and political rights And economic, social and cultural rights
\(^3\) In addition to all types of human rights contained UDHR, ICCPR recognized some specific rights such as rights of ethnic groups, freedom from imprisonment for debt, right of every child to acquire “nationality” etc.
\(^4\) Common Article 3 to four Geneva Conventions
\(^5\) Chapter III
On 1st January 2007, a civilian identified as M. Bandara and his wife P.J Mallika, were shot dead by LTTE at Mantotta in the Ampara district. Similarly, another civilian, named Sudubanda Rathnayaka and his wife Somawathi Rathnayaka at Bakmittyawa of Ampara district; was shot dead by LTTE gunfire.

On 3rd January 2007 unidentified gunmen, fired a young woman namely Kamalini Kanapathippillai, was shot dead at Point Pedro in Jaffna.

On 01st February, President of the Jaffna Multi Purpose Co-Operative Society S. T. Gananathan, was shot dead allegedly by armed forces at Ariyalai, Jaffna.

On 2nd February, Rev. Nallathamby Gnanaseelan, the pastor of Mission Church Jaffna and father of four children was shot dead in Jaffna.

On 7th February 2007, Rev. Selliah Parameswaran Kurukkal; Head Priest of the Santhiveli Pilleyar Kovil (father of three kids) who garlanded President Mahinda Rajapaksa during his visit to Vakarai was forcibly dragged out of his residence and shot dead by LTTE gunmen.

On 1st April 2007, six workmen who engaged in the construction work at the "Village of Hope"; a housing scheme built for orphan children in Eravur of Batticaloa district were shot dead by LTTE at Mailambaveli. Two others were injured from the incident.

On 5th April 2007, four farmers were killed and two others sustained injuries when LTTE gunmen opened indiscriminate
fire at the farmers who were tilling at paddy fields at Aralaganwila of Polonnaruwa district.

(i) On 3rd June, a group of men who were dressed in civilian clothes and claimed to be policemen abducted two staff members of Sri Lanka Red Cross namely Shanmuganathan and Chandramohan in Colombo. Their bodies were later found in Ratnapura district.

(j) On 4th June 2007, three civilians were shot dead by LTTE gunmen at Nallur in Jaffna.

(k) On June 8th 2007, police found highly decomposed nine bodies in a garbage dump at Dummaladeniya of Puttalam district. These persons had been killed after being severely tortured as was evidenced by the manner how their hands were tied behind after being blindfolded.

(l) On 29th June, four civilians who had gone inside the forest in search of their missing cattle at Serunuwara area of Trincomalee district were shot dead by LTTE gunmen.

(m) On 16th July, the chief secretary of the Eastern Provincial Council, Mr. Herath Abeyweera was shot dead by LTTE gunmen. It was found that LTTE gunmen had fired at the chief secretary while he was in his office.

(n) On 23rd July, a local employee attached to the Danish Refugee Council (an INGO) namely, Mariyanayagam Aloysius was shot dead by LTTE at Annaikottai in Jaffna.

(o) On 25th September, a lecturer attached to the Jaffna University namely Sharadha Maransodhi, and a government technical officer namely Kandan Nishandan were killed and three
soldiers injured by a claymore blast operated by LTTE in Jaffna.

(p) On 06\(^{th}\) November, Dr. P. Makinan, Head of the Department of Mathematics in Jaffna University was found dead after he went missing at Wellawatta, Colombo.

(q) On 8\(^{th}\) November, two farmers namely R.M. Abeywardhena and G.M. Padmasiri were found killed at Tissamaharama, Hambantota

(r) On 26\(^{th}\) November, four civilians including a woman were killed by LTTE gunmen at Mahawilachchiya, Anuradhapura

(s) On 27\(^{th}\) November, eleven school-children and two others were reported to have been killed when the roadside bomb exploded near the car in which they were traveling in Killinochchi district.

3. Deliberate attacks on civilians as a result of the ongoing internal armed conflict

The incidents discussed below are directly related to the ongoing internal armed conflict between Government of Sri Lanka (GOSL) and Liberation Tigers of Tamil Elam (LTTE). The Four Geneva Conventions and its Additional Protocols\(^6\) extensively deal with the protection of human rights in times of wars and internal armed conflicts. Accordingly, all parties; be it State armed forces or other armed groups are bound by those international treaties to protect innocent unarmed civilians, surrendered combatants, religious personnel etc. in times of conflicts.

\(^6\) Vide note 4 supra
Therefore, IHR would like to reiterate the dire need of enforcing all those international laws strictly as it is seen in the incidents given below that killing of innocent civilians is taking place unabatedly in particular in “un-cleared” areas and around the country in general.

Although the State armed forces now seem to act with care and due adherence to those international laws, it is regrettable that the main party to the internal armed conflict viz. LTTE arrogantly and blatantly transgress those laws at the cost of civilian’s lives. Therefore, we urge that all international non-governmental organisations which have been given lawful access; to monitor the violation of human rights impartially and independently.

(a) On 5th January 2007, six passengers were killed and 63 were injured in a bomb blast inside a bus bound for Giriulla from Nittambuwa in the Gampaha district. The Government blamed LTTE for the attack.

(b) On 7th January, LTTE exploded another bomb on a Sri Lankan passenger bus at Hikkaduwa which killed at least 20 people and injuring dozens more.

(c) On 2nd April, at least 16 civilians were killed and 25 others were injured when LTTE attacked a bus in front of a military checkpoint at Ampara.

(d) On 07th April, at least five persons including an Army soldier were killed and twenty-eight were seriously injured when LTTE gunmen triggered a claymore mine on a passenger bus at Periyamanayankulam in Mannar district.

(e) On 12th April, at least seven civilians including six women were shot dead allegedly by LTTE gunmen in Vavuniya district.
On 23rd April, a bomb exploded inside a passenger bus at Mannar road in Vavuniya district. Three civilians were killed and 35 others injured in the explosion triggered by LTTE.

On 28th November, a female suicide bomber; apparently a polio victim exploded herself in an attempt to kill a Minister. Two officials of minister’s staff were killed and several others were injured.

On 28th November, a bomb exploded at a crowded street at Nugegoda near Colombo capital killing 19 civilians including school children and injuring 20 others. It is learned that investigations conducted so far have established the evidence that it was an act of LTTE.

On 5th December, LTTE exploded a claymore mine near a public transport bus killing 16 passengers and injuring 23 persons at Abhimanapura, Kabilithigollawa, Anuradhapura.

4. Arbitrary detention, arrests and the deliberate killing of suspects by law enforcing authorities

During the reporting period Sri Lankan community experienced yet another phenomenon of killing. It is the killing of suspects who were under the police arrest. Those killings were carried out by the law enforcement authorities; mainly the police. Quite regularly reports appeared in the local press on these killings. The police very often justify those killings by saying that they were compelled to shoot at suspects in self-defense as the suspects attempted to attack the police, throw grenades or run away from police custody.
However those killings took place in very dubious circumstances when the police accompanied suspects in search of weapons to the places disclosed by the suspects themselves.

Some of the major incidents reported recently were as follows;

(a) In May 2007, the two alleged suspects of Delgoda family massacre were killed by the police. The way Mr. Nihal Samarakoon, SSP Kelaniya police division, explained the incident were as follows;

“Amaradasa and Upasena under Gampaha police custody led a police team to show the weapons used to murder the family. When the police team approached the backyard of Amaradasa’s house, he suddenly emerged with two hand grenades and attempted to attack the police team. The police shot the suspects in self defence,”7.

(b) In October, the police officers attached to Modara police station fired and the suspect who was involved in killing a young mother was shot dead. He was arrested and was taken to identify a wooden pole used for the murder. He was said to have attempted to attack the police and was then shot to death by police.

(c) In October, the police officers attached to Welligama police station killed a suspect after he was arrested, when trying to escape from the custody.

(d) In October, the police officers attached to Wadduwa police station witnessed a suspect under police arrest committing suicide by jumping to the river from the boat in which the police took him to find the hidden weapons.

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7 “Daily News”, May 24, 2007
The suspects involved in triple murder at Bollatha, Ganemulla, jewellery plunder at Ambalangoda, bank robbery at Nelumdeniya and killing of the police officers at Meetiyagoda all were killed by police using same justifications.

The practice of killing after arrest is not new in Sri Lanka. In 1971, thousands of youths were arrested and killed by the state-terror unleashed on insurgents. In the period between 1987 and 1990 at least 60,000 people were made to disappear after they were abducted by the police, military and para-military groups. Subsequently they were killed in police or military custody. This sort of summary executions has gone unabatedly in the Northern and Eastern provinces from late 70’s until very recently.

Acting on self defence has been the excuse for several police-led executions in the very recent past in Sri Lanka. It sounds that the Sri Lankan police is playing the role of the judicial institution and is cleansing the society by eradicating the suspected criminals.

IHR would like to emphasise that a suspect is not a convict in accordance with the prevalent laws of the country. In accordance with the locally and internationally accepted norms of human rights every suspect is presumed to be innocent until guilt is proved by a competent court of law. This is a fundamental right guaranteed to every citizen by the Constitution of Sri Lanka.\textsuperscript{8}

The elimination of suspected criminals in this manner may be justified by the society due to a number of reasons such as the lacunae in the existing laws and procedures, inefficiency of the policing and judicial systems, absence of death penalty in Sri Lanka and the political interventions etc.

IHR strongly condemns those arbitrary actions of the law enforcement authorities and wish to reiterate that it is just not the way a civilized society should act. Vengeance is not the answer to vengeance. Therefore IHR urges the

\textsuperscript{8} Article 13 of the Constitution
Government of Sri Lanka to investigate all allegations of crimes and abuses of human rights effectively and make sure that every suspect is dealt with in accordance to the established procedures in law.

5. Violation of right to free access to information and media freedom

During the period under review a large number of reports on violation of freedom of information and communication were reported. There are cases such as killings of journalists, assault on media-related workers, abduction, arrests, intimidation, closing down of media institutions and restriction on access to information etc. Most of the violence perpetrated against media is political. In most of these cases, the government security forces, police, politicians of the ruling party and opposition or senior government officials were held accused by the victimized media men or institutions.

The following incidents are self-explanatory on the gravity of this issue.

(a) In March 2007, the financial accounts of the “Standard” Newspaper Group owned by Tiran Alles were frozen along with his other business accounts. This action of GOSL led to shut down Sinhalese daily “Mawbima” and week-end English “Standard” newspapers published by the group. These papers exposed corruption of the GOSL and were the voice of People’s faction of Sri Lanka Freedom Party (SLFP (M)) led by a former minister.

(b) On 16th April editor of a Tamil monthly magazine “Nilam” Subash Chandraboas was shot dead at his residence at Thirunavatkulam, Vavuniya.

(c) On 17th April, it was reported that the editor of “Daily Mirror” Champika Liyanarachchi had been severely intimidated by the
Secretary, Ministry of Defence over the telephone. The Defence Secretary had allegedly expressed his deep displeasure over the conflict coverage by the newspaper.

(d) On 2\textsuperscript{nd} August, \textit{Nilakshan Sahapavan}; a journalist cum student of Jaffna Media Resource Training Centre (MRTC) was shot dead by gunmen at his family home at \textit{Kokuvil}, Jaffna.

(e) On 10\textsuperscript{th} August, deputy minister K.A. Faiz threatened a journalist \textit{Jafrall Askhart} of Tamil daily “\textit{Werakesari}” over a dispute regarding a story with his by-line. The minister is reported to have said to kidnap and finish him off. The Minister claimed that the story was wrong.

(f) On 15\textsuperscript{th} August, the police protection given to \textit{Iqbal Athas}; the defence correspondent and associate editor of “\textit{Sunday Times}” was removed. He was given police protection after he was repeatedly threatened allegedly by members of “security forces” angered by his exposure of arm deals.

(g) On 15\textsuperscript{th} August, \textit{K.P. Mohan}, defence reporter of Tamil language daily \textit{Thnakkural} was attacked. An unknown gang threw acid at him while he was on his way home from the national hospital in Colombo. In late June, he was assaulted twice on consecutive days (29th & 30th) allegedly by Airmen on an argument about media accreditation card. He was hospitalised and spent a week as a result of that assault.

(h) On 16\textsuperscript{th} August, police forcibly removed journalists who were covering the agitation campaign at \textit{Mayuarapura, Hambantota}. Police baton charged the peaceful demonstration of innocent peasants. \textit{Sahampathi Manage} of \textit{Sirasa TV}, Kulasingha \textit{Chaminda} of \textit{ABC radio} and \textit{Sanjeewa Mathaweea} of
Swaranawhini TV were the said journalists who were forcibly removed by the police. Although all three journalists complained to the relevant police authorities no action has been taken up to date.

(i) On 21st August, Managing Director attached to Tamil daily "Namathu Eelanadu" of Jaffana namely Sinnathamby Sivamaharajah was shot dead at his residence at Tellippalai, Jaffna. Sivamaharajah is a former parliamentarian of TULF and a senior member of Ilankai Tamil Arasu Katchi (ITAK); the main constituent party of the Tamil National Alliance (TNA).

(j) On 26th October, Ministry of Information banned the broadcasting license of the ABC radio network and ordered the station to stop broadcasting with immediate effect. Thus five channels were taken off the air viz: Hiru (Sinhala) Sha (Sinhala) Gold (English) Sun (English) and Sooriyan (Tamil). Government justified the withdrawal of the license saying that ABC had aired apparently a false news-item of an LTTE attack on Ranminitenna village at Tissamaharama in the South of Sri Lanka. The Ministry said in its communiqué to the ABC network that the licence was withdrawn as it that news-item had caused panic in the area. The communiqué accused the network of spreading false information that could lead to potential inter-ethnic disturbances. However ABC claimed that a number of other channels too have broadcast similar news items but the GOSL singled out ABC network.

(k) On 30th October, journalist Kumudu Champika Jayawardana; the news-editor of www.ethalaya.org was shot at Nawala, Rajagiriya near Colombo capital. The www.ethalaya.org is a web site of MTV Channels (PVT) Ltd.
(l) On 7th November, the security officers attached to Presidential Security Branch disallowed the photo-journalists from covering the budget-speech in Parliament. All media institutions were invited to cover the event but later photo-journalists of private and state media organisations were forced to leave the Parliament. However selected photojournalists of State-controlled media were allowed to cover the event later.

(m) On 8th November, a gang of people assaulted two-member team of “Sirasa TV” namely; Wasantha Pradeep Masinghe and Waruna when they were covering the post-mortem investigations of villagers supposed to have been killed by an unidentified armed group on 7th November at Tissamaharamaya.

(n) On 17th November, the Opposition Leader vehemently criticised "Daily Mirror" correspondent Kelum Bandara for not publishing a statement on the budget. He is reported to have said that the 'Daily Mirror' is worse than 'Daily News' implying that the said newspaper is partial towards the government. IHR believes that this statement of the opposition leader clearly demonstrates the biased reporting of the government and private media as well as the political pressure on media in Sri Lanka. However, IHR respects the right of the Opposition leader to criticize the behaviour of media.

(o) On 17th November, proof-reader attached to “Uthayan” newspaper namely; Vadivel Nirmalarajan reported missing. According to reports, Vadivel Nirmalarajan was cycling on his way home when he was abducted by an unidentified group near Navalar Road railway crossing around at 7.30 a.m. He is a resident of Jaffna.
On 21st November, an armed group set fire on Leader Publication and severely damaged printing machines of “Sunday Leader” and “Irudina”. This press is located in a High Security Zone near Ratmalana Airport, Air Force base and Kotelawala Defense University. There are roadside checkpoints at every entry-point in the zone.

On 29th November, Supreme Court granted leave to proceed for fundamental rights petition filed by ‘The Sunday Leader’ journalist Arthur Wamanan against his arbitrary arrest and detention.

6. Suppression of collective activism of lawful trade unionists

The freedom of association, the right to form and join trade unions and collective bargaining are generally considered as some of the substantive rights of workers.

Although the labor regulations and laws in Sri Lanka contain provisions respecting those rights, it is seen in many times that the concerned authorities and relevant parties violate and abuse the rights of employees.

Given below are some major violations of rights of the workmen reported during the period under review in this report.

On 27th April, non-academic staff attached to all State universities struck work demanding *inter alia* rectification of salary anomalies, pay hike and monthly compensation allowance (MCA). However the relevant trade union (IUTUJC) called off the strike on May 7 as the University Grant Commission (UGC) promised to pay half of MCA. Subsequently, the UGC started taking vengeance from trade union leaders by introducing
arbitrary wage cut in particular at Colombo University. As there was no option left to the staff of Colombo University, they re-staged protest against the University administration which then suspended nine employees and transferred another eight employees in retaliation.

(b) On 20th August, the teachers who had been assigned the task of correction of answer-scripts of Advanced/Level Examination boycotted that task demanding the rectification of salary anomalies. A few days later, in consequent to a petition filed in the Supreme Court by an aggrieved party, the Supreme Court issued a ruling against those teachers. This ruling was not obeyed by the teachers on strike and as a result union leaders were remanded later. Although IHR respects the ruling given by the Supreme Court, we wish to reiterate that the education authorities have twisted the existing laws to suppress teachers’ rights involving trade union actions which are guaranteed in the Constitution and the International Labor Conventions.

(c) On 13th September, teachers attached to government schools staged a protest campaign demanding rectification of salary anomalies due since 1990s. The government treated those teachers who impart knowledge in our younger generations with police intimidations.

(d) On 05th October, the graduates attached to the Tharuna Aruna III programme (graduate training programme) staged a massive peaceful demonstration demanding jobs. The police acted quite aggressively to disperse the demonstration and they fired tear-gas too. This resulted in at least 20 protestors being hospitalized.

(e) On 1st November, over a thousand unemployed graduates staged a protest in front of Colombo Fort Railway Station demanding
jobs as promised by the GOSL in 2006. The government deployed riot-police squads to disperse that peaceful demonstration. The police brutally beat the demonstrators and injured graduates.

(f) On 3rd December, Colombo District Court issued an enjoining order against the Trade Unions of Health Sector banning the planned strike action. On 4th December two employees were taken into custody.

IHR wish to emphasise that mere acceding to international norms relating to labor rights and paying lip-services with grandiose eloquence will not benefit the multitude of workers in countries like ours unless and until the government introduce concrete measures to uplift the conditions of employees both in words and in deed.

7. **Right to free education**

The right to education has been considered as the cornerstone of development by all civilized nations since a long period of time. Sri Lanka has followed these aged-old norms in her long history in particular at the traditional Buddhist monasteries known as Pirivena.

The right to free education has now been recognised in international conventions such as International Covenant on the Rights of the Child, ICCPR etc.

In Sri Lanka the concept of free education at primary, secondary and tertiary levels was introduced some decades ago. Prior to this, the British colonial rulers had introduced fee-levying school system by demolishing the free education network functioned through Buddhist monasteries.

According to the current data of UNICEF, the access to basic education in Sri Lanka is better with 92% of literacy rate when compared with other countries.
in the region. Nevertheless the quality of education is not very satisfactory as only 62% of teachers are reported to have received quality training.

In the same vein, high drop-out rate of children and shortage of teachers hamper the progress of children. This situation is more conspicuous in the North and East where about 5,000 and 65,000 children are out of schools respectively.

It is also reported that 182 schools have been damaged by the Tsunami waves affecting adversely the education of almost 100,000 children all over the country. After three years of Tsunami, we are yet to re-establish those schools.9

The present law10 in Sri Lanka makes primary education for children between age five and fourteen compulsory. However, there are no laws or regulations making free education a fundamental right of the people of this country.

In this context, the following facts epitomize the impending danger on the free education rights of our children.

(a) The quality of education has severely dropped due to inadequate physical infrastructure and human resources. This is seen in the data issued by the National Education Commission. Accordingly, 18% of school children in Grade 6-10 are totally illiterate and 42% of them have been identified as weak.

(b) Around March 2007, education authorities decided to review Grade-I admission criteria; in particular to change the relevant circulars used in 2006. Consequently, the matter was referred to the Supreme Court and the new guidelines were prepared which was later approved by the Supreme Court and the Cabinet. The new guidelines too have become controversial as it does not specifically address the burning issues affected by the parents

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9 Source: http://www.unicef.org/srilanka/overview_1647.htm

10 Assisted Schools and Training Colleges Act of 1961 and other related circulars
such as non-availability of equal access to schools, unnecessary competition to gain admission to the so-called popular schools etc.

(c) In addition, arbitrary modification and revision of school-syllabi, closure of schools, political intervention in school management, political appointments to school management, curtailing of practical component of some major subjects etc. can be identified as core issues affected with the school-education system in Sri Lanka. This situation would bring devastating results if remedial measures are not taken timely. All these shortcomings affect the rights of free education of the citizenry.

(d) In the case of tertiary education too, in particular the University system there is hardly any progress during the period under review. The UGC, which is the regulatory body and the grants provider to the national universities, seems to move without any direction or leadership being provided to the individual universities. The common plagues that each university is affected with are the poor management, incredible magnitude of corruptions in every sphere of university management such as academic, financial and administrative matters, substandard and low-quality education, lack of physical and human resources, reduction of duration or length of academic courses without proper need analysis, politicization of university management, mushrooming of “universities” by granting degree awarding status to private educational “institutes” etc.

(e) In the same vein, vocational, technical, pre-school/early childhood education, non-formal education, pirivena and international schools are left on their own. No national policies seem to guide those important spheres of education. For example,
there is no national level authority to regulate the pre-school/early childhood education.

8. **Right to free movement in and outside Sri Lanka**

The right to free movement within one’s own country and return to his country is one of the substantive human rights enshrined in the international human rights instruments such as International Covenant on Civil and Political Rights. The Constitution of Sri Lanka too guarantees this right to every citizen\(^{11}\).

In this section of the report, it is intended to examine how this right has been curtailed during period under review in this report.

The following incidents illustrate the gravity of violation of this right in Sri Lanka.

(a) The existing internal armed conflict between the GOSL and LTTE compelled the GOSL to introduce more stringent checks on persons at roadside security checkpoints. A number of instances have been reported where persons have been inconvenienced at checkpoints

(b) Limitation and or restriction of access to certain areas declared as High Security Zones (HSZ) continues with untold inconveniences to civilians. This practice hinders the peoples’ right to free movement.

(c) A controversial incident which drew the attention of human rights lobbyists during the period under review took place on June 7, 2007. Accordingly, the Sri Lankan police forcibly removed several hundred Tamil people residing at lodges in Colombo without any prudence.

\(^{11}\) Article 14 (1) – (h) and (i)
(d) In the same vein, it is known that the people living in the un-cleared areas are excessively pressurized and are totally denied their right to free movement. The *modus operandi* employed by LTTE in restricting peoples’ right to free movement is the imposition of illegal taxes.

8.1 Rights of Internally -Displaced Persons (IDPs)

It is also appropriate at this juncture to examine the plight of the internally displaced persons (*IDP*) which is well connected with the right of free movement and the right to have a permanent residence.

A large number of people who have lost their original place of aboard; are putting up at makeshift tents and camps. This situation has arisen due to man – made causes such as the long drawn internal armed conflict and natural disasters such as earth slips and Tsunami.

(a) Surveys reveal that more than half a million Sri Lankans are displaced throughout the country and nearly 213,000 of them have become displaced during last year due to the internal armed conflict between the GOSL and LTTE\(^\text{12}\). In addition, about 11,000 families remain displaced due to Tsunami disaster\(^\text{13}\).

(b) On 15\(^{th}\) January, a huge land slide occurred at *Walapane* and *Hanguranketha* displacing 11,400 and 3,800 families respectively. They were provided with temporary shelters in 40 small camps in the *Nuwaraeliya* district. However some of them are still languishing at those places as they have not been provided with permanent alternative places to live with their family.

\(^{12}\) Project proposal for rehabilitation & re-establishment of Tsunami affected industries in Sri Lanka – Industrial Development Board of Sri Lanka

\(^{13}\) Internationally Displaced Monitoring Centre
Part II

9. Large-scale corruptions and frauds of national funds and other resources by politicians and other high ranking State officials

As of recently, general public is highly concerned with exorbitant expenses of the elected representatives on tax payer’s money. The Committee on Public Enterprise (COPE); a standing committee of the Parliament investigated some of those frauds. Yet no actions are taken against those who are responsible for the plundering of national wealth.

However voters are wondering as to why those unethical practices are not considered as violations of their collective rights to equal share of national resources, right to development etc. It is in this common perspective that IHR intends to analyze the following scenarios and the statistics;

(a) Recently, a group of opposition Members of Parliament (MPs) raised questions on the wasteful expenses of some ministers. According to a study\(^\text{14}\) the expenditure on the hired vehicles of ministers and deputy ministers are running into millions every month. In addition; payment of salaries to their staff, fuel, and office rent and telephone bills also run into several millions.

(b) Sri Lanka has 52 Cabinet Ministers, 20 Deputies and 35 Non-Cabinet Ministers. They receive the following perks and allowances.

- Refreshment allowance of Rs. 1000
- Rs. 4,000 for Parliament sittings

\(^{14}\) Source: Study cum survey carried out by a major week-end English newspaper “Sunday Times” http://sundaytimes.lk/070722/News/nws14.html
- Rs. 2,000 for hand phones
- Rs. 10,000 as staff travel allowance
- Additional allowance to ministers for overseas travelling and those who don’t have houses in Colombo are paid Rs. 100,000 monthly for accommodation.
- Fuel allowance ranging from Rs. 20,000 to 75,000 a month depending on the area they live in
- Five telephone lines and a fax machine.
- The personal staff of MPs is entitled to a monthly fuel allowance ranging from Rs. 13,200 to 19,400.
- Ministers are also paid a monthly telephone allowance ranging from Rs. 17,000 to Rs. 34,000 while some of their staff members get a telephone allowance between Rs. 4000 and Rs. 5250.

The graphic below published in the “Sunday Times” tell the tale pictorially.

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15 This allowance has now been increased
Let us now look at the other side of the story.

- According to Colombo Consumer’s Price Index, the year under review started with points 4,998 and this shot up to 5,976 at the end of November 2007. Percentage wise this is an increase of average 20% \(^{16}\).

- GOSL usually justifies the increase of cost of living over the prevailing conflict of the country and increase of crude oil-price in the world market. However COPE chairman opines that internal armed conflict accounts only for 20% of price increase while the balance 80% is due to corruptions and mismanagement of the economy by GOSL \(^{17}\).

- The biggest ever fraud in Sri Lanka and probably in South Asia; the Value Added Tax (VAT) refund scam was busted by the CID in late March 2006. The senior staff of the Inland Revenue and businessmen had been involved in this crime. \(^{18}\) The sum involved in the scandal is estimated to be around Rs. 10 billion. The fraud was first discovered by the Auditor General's Department when it detected an unaccounted sum of Rs. 3.573 billion in the VAT refund account. It had been found that names of several bogus companies had been used in obtaining VAT refunds. Parliamentary Committee on Public Accounts (PAC) held series of investigation on this scandal. The investigations proved beyond reasonable doubts the commission of the frauds and involvement of State officials. The names of those officials too were disclosed at the investigation. However, GOSL has not shown any interest to prosecute the officials who are responsible for the fraud.

- In addition, the defrauding of compensation given to farmers affected by the closure of Mavilaru sluice gates by LTTE, and Mig aircraft purchase

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\(^{16}\) The Employer’s Federation of Ceylon Circular No 66/2007

\(^{17}\) Department of Census and Statistics

deal are few other instances where large-scale frauds took place depriving the community of their rights.

IHR would like to emphasize that despite the fact that those who are responsible for these crimes can be prosecuted under the Bribery and Corruption laws, it is high time now that the public be given the right to invoke the fundamental rights jurisdiction of the Supreme Court to fight against those frauds on the basis violation of the collective rights of the community for development and equal share in the national funds and resources.
Findings

The findings given below are based on the surveys conducted by the IHR on the prevailing human rights status in Sri Lanka.

- The abductions, disappearances and killings discussed in point 2 in Part I are political and directly related to the internal armed conflict. It is also seen that the allegations have been leveled against a number of actors such as LTTE, some members of security forces and other para-military groups.

- We also believe that the presence of local and international human rights organisations and other civil groups have contributed to mitigate the rigor and gravity of the violations of human rights to a certain extent. Nevertheless, it is seen that some of those organisations have acted in excess of their legitimate limits. Consequently, we observed that the reputation and credibility of those organizations have lost in the eyes of the general public.

- It is also observed that during the period under review, GOSL was under enormous pressures from the international community on the current status of human rights in Sri Lanka. In response to this international pressure, GOSL appointed several committees consisting of local and international experts to investigate into the alleged violations of human rights. However, IHR regrettably notice that those measures yield no meaningful result to help improve the human rights records of the country.

- It is also seen that an unhealthy trend has emerged in the case of police investigation into the alleged commission of crimes. Accordingly, we observed that the police violates the due procedure norms and related rights guaranteed to suspected criminals and detainees under police custody. Therefore we urge that GOSL should take meaningful efforts to curb this trend.
• As mentioned in Part II of the report, IHR analyzed the corruptions and frauds of national funds and other resources by the political authorities and state officials from the perspectives of the concept of human rights. This analysis is unique as no other human rights organizations perceive them as such. This situation has aggravated due to the absence of prudent macro and micro economic polices. Therefore IHR would like to emphasise that defrauding of national wealth by peoples’ representatives is a violation of people’s collective rights to national wealth and development.

• IHR also observed the suppression of freedom of expression and media during the reporting period. IHR perceives that this situation has arisen because the GOSL is confronted with a number of inherent political issues as such, any views which go against the GOSL is considered as unhealthy to their power project. So that the right to dissent has faced with serious challenges.

• In the same vein, IHR observed the suppression of workers rights, trade unions, and rights to free education during the period under review. Authorities misused the existing laws by twisting them to curb trade union activism. Therefore IHR believes that if this trend continues it would pose a serious danger to the rights of employees.

• IHR is also concerned with the deteriorating conditions in the education system, especially university system. We observed that there are reasonable grievances for the university community including students to voice for their rights.
Recommendations

IHR firmly believes that the recommendations given below would help improve the prevailing deteriorating condition of human rights in Sri Lanka.

1. Recommendations for GOSL

   i. Hold impartial and independent inquiries for all allegations of abductions and arbitrary arrests by the law enforcement authorities. Disclose the complete details of detainees and remand prisoners to their next of kin within 2 hours from arrests.

   ii. Release immediately all detainees who are under detention order or held under the Prevention of Terrorism Act if no substantive evidence is available against them.

   iii. Prosecute immediately all those against whom substantive evidence is available thereby bringing them under the custody of judicial officers.

   iv. Ensure that every detainee and prisoner receives adequate legal representation and other human rights guaranteed in the Constitution and international treaties.

   v. Take legal actions against all law enforcement authorities who are responsible for arbitrary arrests, abduction and violation of the rights of the people.

   vi. Ensure the freedom of people living in the East; to enjoy all human rights by re-establishing a civil administration system, so that whatever the freedom those people enjoy after the East was cleared from LTTE clutches would not be lost to the fire power of other armed groups again.
vii. Take stern legal actions against all those corrupt politicians and state officials who were found guilty by COPE for robbing the national wealth and resources by depriving multitude of innocent people of their rights.

2. **Recommendations for LTTE**

   i. Renounce perpetrating violence against innocent unarmed civilians immediately.

   ii. Respect the value of dissent and stop all violence against political opponents ensuring their civil and political rights.

   iii. Ensure all civilians the right to free movement in and outside Sri Lanka according to their choice.

   iv. Respect all international laws and customs relating to the protection of human rights at times of internal armed conflicts.

   v. Respect the rights of children, women and differently-abled by not forcibly recruiting them as combatants.

3. **Recommendations for International Community**

   i. Ensure impartiality and independence in all spheres of activities.

   ii. Limits of mandate of performance granted by the parent organization to be strictly followed.

   iii. Monitor the staff to ensure that their activities are not prejudicial both to the parent organization and the operating countries.