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Sri Lanka

internally displaced persons
and safe returns



**Sri Lanka Project
The Refugee Council**

September 2003



© Sri Lanka: Internally displaced persons and safe returns

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The Refugee Council wishes to thank Dr S H Hasbullah of the University of Peradeniya, Sri Lanka for the field research carried out in Sri Lanka and his contributions to this report.

Abbreviations

AGA	Assistant Government Agent
AHRC	Asian Human Rights Commission
DES	Department of Essential Services
DMI	Directorate of Military Intelligence
DSD	District Secretariat Division
EPDP	Eelam People's Democratic Party
EPRLF	Eelam People's Revolutionary Liberation Front
GSD	Grama Sevaka (Village Headman) Division
GA	Government Agent
HRC	Human Rights Commission of Sri Lanka
HSZ	High Security Zone
IBA	International Bar Association
IDP	Internally displaced person
IPKF	Indian Peace Keeping Force
LRRP	Long-Range Reconnaissance Patrol
LTTE	Liberation Tigers of Tamil Eelam
NGO	Non-governmental organisation
OfERR	Organisation for Eelam Refugees Rehabilitation
PTA	Prevention of Terrorism Act
RRR	Relief, Rehabilitation and Reconstruction
SDN	Sub-Committee on De-escalation and Normalization
SIHRN	Sub-Committee on Immediate Humanitarian and Rehabilitation Needs
SLMM	Sri Lanka Monitoring Mission
STF	Special Task Force (Police)
TELO	Tamil Eelam Liberation Organisation
UAS	Unified Assistance Scheme
UK	United Kingdom
UN	United Nations
UNICEF	United Nations Children's Fund
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UXO	Unexploded Ordnance
WFP	World Food Programme

Sri Lanka: Internally displaced persons and safe returns

Executive summary

This report examines the current conditions of the internally displaced persons (IDP) due to ethnic conflict and war in Sri Lanka. By the end of June 2003, some 311,000 IDPs had returned to their home areas since a ceasefire agreement was signed between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) in February 2002. The report assesses the needs and challenges of return of IDPs and resettlement.¹ As IDPs return, other nations are taking measures for the return of Sri Lankan asylum seekers. The report deals briefly with the return of Sri Lankan refugees in India and provides an analysis of the human rights situation in Sri Lanka. It also makes recommendations for facilitation of the return of the IDPs and refugees to their places of origin.

Summary

Sri Lanka is a multi-religious, multi-ethnic land with a rich social and cultural diversity. The last two decades have witnessed immense hardship and suffering of the people in the country due to lack of trust, mutual understanding and respect among communities. An ethnic conflict resulting from discrimination against the minorities by successive Sinhalese-dominated governments since independence and failure to adopt a nations building policy, became more acute in recent decades. The civil war since 1983 has led to disastrous developments. More than 70,000 people lost their lives, hundreds of families were shattered and thousands of properties destroyed. Thousands of people were displaced within the country and many fled abroad.

Peace negotiations in 1985, 1989 and 1994 ended in failure. But at this time the ceasefire agreement between the Sri Lankan government led by Prime Minister Ranil Wickremasinghe and the Liberation Tigers of Tamil Eelam (LTTE) led by Velupillai Prabhakaran in February 2002 looks promising. On this occasion, there is greater involvement of the international community. Norway has accepted the role of facilitator and an international ceasefire monitoring team - the Sri Lanka Monitoring Mission (SLMM) - composed of representatives from Nordic countries, has been appointed. The international community has also pledged aid for rehabilitation and reconstruction.

Most people are relieved that the war has been halted at least temporarily. It is evident that some measure of normalcy is returning to war-affected areas. Attempts are being made to rekindle the lives of the people, rebuild the war-torn areas, find a political solution to the festering war and establish ethnic harmony and peace in the country within the framework of a federal structure. Peace talks were suspended in April 2003, but this may hopefully only be a temporary setback. The people of Sri Lanka have suffered terrible experiences during the period of the ethnic conflict and return to war would be disastrous for the economy and the social fabric of the island nation.

¹ Resettlement in this context means relief, rehabilitation and reintegration of returning IDPs in a safe environment in their places of origin.

A positive change during the ceasefire period is the gradual return of displaced people to their home areas. Around a third of the internally displaced persons (IDP) have returned. It appears that all those able to go home since the ceasefire agreement have in fact returned. Others express hope that they too will be able to return home as soon as possible.

There are, however, a number of impediments for other IDPs and Sri Lankan refugees outside the country to return home in the near future. Many displaced people are unable to return because their houses and surrounding areas are occupied by armed forces or paramilitary groups or by other displaced persons or because their homes are partially or fully destroyed. Many areas are contaminated by landmines and unexploded ordnances. Lack of humanitarian assistance and continuing human rights violations are major factors affecting returns. Some of the prevailing situations affect minorities and vulnerable segments of the displaced population, preventing their early return. In brief, the present situation of the war-affected areas is not yet conducive for large-scale return of IDPs and refugees.²

The breakdown in peace negotiations has engendered uncertainty in the whole peace process and a sense of insecurity among the IDPs. The people who have already returned face many serious problems, which range from lack of shelter, as a large number of houses have been completely destroyed, to lack of means to re-establish livelihoods.

It is essential that measures are taken to improve the living conditions of returnees as well as for the existing population of the war-affected areas in the north-east region. There is a pressing need to restore damaged or destroyed infrastructure of these areas.

The human rights situation in the region and the lack of remedies against abuses are major causes for concern. There are continuing reports of human rights violations and the Sri Lankan human rights institutions are unable or unwilling to take the necessary steps to prevent abuses or have no access to large areas. There is also a need for measures to prevent ethnic and other type of violence that might trigger new waves of displacement.

Above all, peace talks must be resumed and the momentum maintained and a permanent solution to the protracted conflict found. This alone will demonstrate the commitment of the parties to peace and open the way for the safe and dignified return of displaced persons and refugees.

Key issues

- The two decade-long violent ethnic conflict in Sri Lanka has cost the lives of more than 70,000 people. This apart, thousands of people have been injured, handicapped, widowed, orphaned or have otherwise suffered serious physical or mental incapacity. Some two million people were displaced by war and conflict over this period. The overwhelming majority of these affected people are residents of the Northern and Eastern Provinces or the border areas of these two provinces.

² *More than 100,000 Sri Lankans return home amid truce* - AFP report of 9 August 2002 - www.unhcr.ch,
UN agency rules out mass return of refugees to Sri Lanka - AFP report of 19 April 2002 - www.unhcr.ch

- When a ceasefire agreement was signed between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) on 22 February 2002, around 800,000 IDPs were receiving assistance from the government although some agencies estimated the total number of IDPs at one million. According to an UNHCR estimate, a further 917,000 Sri Lankans had sought asylum in 50 countries. This included 115,000 people in India (65,000 in Tamil Nadu refugee camps and another 50,000 living on their own without Indian government assistance).
- Since the ceasefire, a total of 311,000 IDPs and 1,500 refugees (mainly from India) have returned to their home areas. The largest number returned to the southern Thenmaratchy region of the Jaffna peninsula and to areas along the Vavuniya-Jaffna A9 Road, which runs across Mullaitivu, Vavuniya and Kilinochchi districts.
- The majority of the remaining IDPs have expressed willingness to return home. But they are unable to do so immediately because their homes and surrounding areas are affected by one or more of the following: They are (a) in the High Security Zones (HSZ) of the Sri Lankan armed forces where civilians are not permitted to enter; (b) occupied by the Sri Lankan armed forces or paramilitary groups or by other displaced persons; (c) contaminated by an estimated 2 million landmines and unexploded ordnances; (d) partially or fully destroyed or overgrown by jungle and populated by wild animals; (e) the main places for the presence and activities of the armed forces or the LTTE or other militant groups, resulting in insecurity.
- Most recent returnees face many problems in re-integrating in the places of origin because a) they have not been assisted financially or otherwise; b) they cannot regain assets and properties; or c) they are unable to resume economic livelihoods.
- The planned immediate humanitarian and rehabilitation work has been terminated because of the suspension of the peace talks and is affecting the returnees and IDPs who wish to return.
- Following the signing of the ceasefire agreement, large-scale killings and destruction have stopped. However, killings, abduction, harassment, recruitment of children, illegal taxing, extortion and other forms of human rights violations and violations of fundamental rights have continued. These violations are widespread especially in the north-east in the areas where the displaced have returned.
- Those who have not yet returned face continuing problems of displacement and uncertainty about their future. There is a discernible lack of interest in their situation from the state and other agencies. They also continue to experience hostility from host communities.
- Ethnic violence, which erupted in the Eastern Province during the ceasefire period, resulted in the displacement of nearly 40,000 people belonging to Tamil and Muslim communities and the ethnic tensions continue to affect the normal lives of the people in these areas.

- The Sri Lankan government has declared that its priority is the resettlement of IDPs and then the return of Sri Lankan refugees from India. The government has also stated that once peace is established it expects the economy to boom and that the resultant large-scale development in the infrastructure will lead to the return of Sri Lankan refugees from abroad through voluntary assisted return programmes.
- The present situation and current conditions of the country warrant planned and managed movement of the return of IDPs and refugees to their places of origin. Mass, sudden and unplanned returns will bring great pressure on the available infrastructure, such as schools and hospitals, and will in turn affect local communities, particularly in view of the lack of capital, personnel and expertise needed to revitalize local economies. The resulting tensions may have an impact on the peace process itself.

Recommendations

The Sri Lankan authorities and other governments and agencies assisting the Sri Lankan government should give priority to plans and activities directed at creating durable solutions to displacement. The preferred option to end displacement is the safe, dignified and voluntary return of IDPs and refugees to their former or habitual places of origin. If the displaced people wish to settle in other places, such a desire should be met by proper assistance. The interest of host communities in such other places should be taken into consideration in order to promote integration.

The protection of the returnees should be seen as the most important aspect when considering returns, aimed at obtaining full respect for the fundamental rights to life, liberty and security. This includes access to protection under the law and all basic necessities for livelihood.

Political Commitment

There must be political commitment by the two parties, the Sri Lankan government and the LTTE, not to return to war and find a political solution to the problems through peaceful means by negotiations. There must also be further international involvement in the facilitation of the peace negotiations and the monitoring of the ceasefire.

As constitutional changes seem impossible without cooperation between the two major political parties, the ruling United National Front (UNF) should strive to bring about an understanding and agreement with its main opposition People's Alliance (PA) with regard to finding a lasting political solution to the festering problem.

Safety of IDPs and refugees is of paramount importance and the parties must consider interim and constitutional assurances for the safety, security and welfare of all returnees. All parties involved, including the government, the LTTE and the international community, must agree to allocate sufficient funds for relief, rehabilitation and reconstruction (RRR).

The LTTE have shown a ruthless attitude towards those who oppose them politically. The LTTE should change to respect pluralism and democratic dissent and permit other groups which are opposed to its views to continue to operate.

Creating conduciveness in the place of origin

The Sri Lankan government and the LTTE must take steps to review the extent and number of High Security Zones (HSZs) to keep them to a minimum and to ensure that the displaced people are permitted to return to homes located within the HSZs.

The LTTE must ensure that steps are taken to return houses and properties taken from the members of the Muslim community after they were driven out of the Northern Province in October 1990.

It is essential to increase the resources and manpower for the rapid and efficient removal of landmines and unexploded ordnance. Steps must be taken to minimize the presence of armed forces and armed cadres of militant groups in the areas of resettlement. The Sri Lankan government and the LTTE must remove restrictions on the free movement of civilians and returnees in their respective areas.

Protection procedures must be in place with special assurances for the IDPs and refugees who feel insecure on return because of the human rights violations against them by the armed forces and the LTTE. The armed forces and the LTTE are occupying a large number of houses, government and other public buildings, agricultural land and properties for their own military and administrative structures. These must be vacated to facilitate the return of IDPs and refugees.

The present protection network that includes national and international humanitarian institutions and agencies, judiciary corps and civil society from both state and non-state actors should be further strengthened and broadened in scope to include capacity building for institutions that promote and provide advocacy and protection of human rights for all people. It is necessary to establish an up-to-date information and monitoring system concerning human rights violations and the current protection mechanisms.

Preparing for IDP and refugee return

Steps must be taken to stabilize the life of displaced people where they are now through relief and rehabilitation programmes and respect must be shown to options chosen by the displaced about their immediate and long-term return.

Specialized programmes for children separated from their families should be provided, and child labour, sexual and gender-based violence and the exploitation of women must be addressed, and there must be assistance for people with disabilities, single-headed households and the elderly.

The return of refugees from the south Indian state of Tamil Nadu should be monitored and activities should be initiated to create conditions more conducive for the eventual voluntary return of Sri Lankan refugees from other countries.

There are a number of legal impediments to resettlement such as the operation of the laws of prescription. Suitable legal and institutional provisions must be introduced to facilitate resettlement without problems.

Special legal provisions or procedures must be introduced to ensure that returnees are able to obtain identity cards, passports, certificates of births, deaths, marriages and other necessary documents. Where such documents have been issued in another country, provision must be made for acceptance or use until Sri Lankan documents can be issued.

Appropriate RRR

In view of the complete destruction of certain towns such as Chavakachcheri in Jaffna, it would be appropriate to consider the development of model new towns planned in consultation with local communities.

Relief support for people seeking durable solutions to their displacement should also be provided, some of which may be in the form of financial and material assistance from national authorities and national and international agencies. Special attention should be given to rehabilitation of the vulnerable segment of the displaced population such as women, children, the elderly and those affected by physical or mental disability.

Engaging the Sri Lankan diaspora

The Sri Lankan diaspora is often well established in host countries and a vital resource in reconstruction and is already engaged in providing assistance in Sri Lanka. At the Oslo aid conference on 25 November 2002, the European Union agreed to strengthen its role in the peace process in Sri Lanka and in this context engage the Tamil diaspora.

Governments of host countries and institutions should also actively engage with refugee community organisations to ensure meaningful dialogue about voluntary returns of refugees. Voluntary returns need to find ways of ensuring the contribution of the diaspora in other ways than through actual permanent return. The expatriate community could assist through financial assistance, skills audits, training and exploration and preparation.

Preventing displacement in the future

While diversity must be encouraged, ethnic harmony is vital to peace and development. Programmes for integration and ethnic harmony should be planned and implemented for mixed ethnic localities. Introduction of early warning systems to prevent the escalation of ethnic violence and effective law and order mechanisms are important.

Improving human rights

The problem of internal displacement will continue as long as human rights violations continue and impunity is not dealt with, particularly by bringing offenders to book. There must be sustained pressure from civil society and the international community on the Sri Lankan government and the LTTE to undertake a comprehensive discussion on human

rights to ensure that legal and institutional framework are included in any proposed constitutional changes to promote human rights.

The Human Rights Commission should be given adequate legal and financial muscle to deal with complaints and the Supreme Court should consider making rules under the Human Rights Commission Act to enable the Commission to exercise its powers to take legal action against perpetrators.

Proper measures must be taken to end torture in custody, particularly steps to bring to justice those identified by the Supreme Court as involved in torture and the security force personnel identified by four Presidential Commissions as being implicated in 21,115 cases of disappearance, many of who continue in their positions.

The ceasefire agreement provides that the Prevention of Terrorism Act (PTA), which has facilitated human rights abuses, will not be used. But the possibility remains that it will be used in the future. The PTA should be repealed or amended to bring it in line with international standards as recommended by the UN.

Sri Lanka: Internally displaced persons and safe returns

Chapter 1 Introduction

1.1 Background

A ceasefire agreement between the Sri Lankan government led by Prime Minister Ranil Wickremasinghe and the Liberation Tigers of Tamil Eelam (LTTE) led by its leader Velupillai Prabhakaran was signed on 22 February 2002 and peace talks commenced in Thailand on 16 September.³ Since the agreement, the emphasis has been on the return of refugees - both internally displaced persons (IDP) and those Sri Lankans who have fled to other countries.

Agreement was reached for the appointment of a joint Sub-Committee on Immediate Humanitarian and Rehabilitation Needs (SIHRN) during the second round of peace talks, responsible for identifying needs, implementing agencies and allocation of funds for projects. The Sri Lankan government has said that the immediate humanitarian needs relate to IDPs. The government has also stated that it expects the economy to boom when peace is achieved and anticipates large-scale infrastructure development, which would lead towards the return of Sri Lankans abroad through voluntary return programmes.⁴

In this light, a study of the conditions and needs of the IDPs is important. Such study may not only help in the formulation of reasonable policies as regards refugee returns from abroad, but also assist international NGOs with projects in Sri Lanka in their work.

1.2 Study on return of IDPs

The study is to assess the prospects and challenges of the return of displaced persons due to ethnic conflict and war in Sri Lanka. The number of IDPs who returned to home areas since the ceasefire agreement in February 2002 reached 311,000 at the end of June 2003.

It was the IDPs who formed the largest number of returnees while around 1,400 Sri Lankans from India and a small number from other countries also returned home during this period. Jaffna District was the largest recipient of the returnees while Mannar, Mullaitivu and Kilinochchi districts of the Northern Province also received significant numbers. The majority of the IDPs who returned had been displaced within these districts and less than 5% come from outside the north-east region. The total number of IDPs yet to return home is said to be around 500,000 although experts believe that this is an under-estimate and the number may be as high as 650,000. Meanwhile, ethnic disturbances in Trincomalee District in April 2003 have added another 40,000 newly displaced people into the fold of the total IDPs who are waiting to return home and have grave doubts over physical, material and social security.

³ See *Sri Lanka peace talks and related events – Timeline*, for agreement and other documents, Refugee Council publication, April 2003.

⁴ Statement of Bradman Weerakoon, Secretary to the Sri Lankan Prime Minister, at the 53rd session of the Executive Committee of UNHCR on 1 October 2002.

Movement of people to and within the conflict-affected areas of the north-east is expected to continue but at a much slower rate in the near future for a number of reasons. Many villages where IDPs are expected to return are contaminated with landmines. Many other villages lie within military High Security Zones (HSZ) and are no-go areas for civilians. A large number of areas, which were formally inhabited, are overgrown and lack even the minimum of community infrastructures. Recent physical needs assessments by various development agencies indicate that most of the physical infrastructure such as roads, hospitals and schools in the areas of returnees has been destroyed. Much of these structures have to be rebuilt to facilitate the return of displaced people. But the necessary funds are yet to be allocated for rebuilding war-torn areas. Certain populations of potential returnees (e.g., Muslim IDPs) have particularly strong concerns about the conditions of security.

1.3 Objectives

The objectives of the study are to:

1. Study the current situation of the IDPs in Sri Lanka.
2. Study current needs of the IDPs in relation to basic needs, particularly food, clothing, shelter, fuel, health and education in the context of re-settlement.
3. Assess the needs of IDPs in relation to physical security, human rights, psychological well-being, economic activity and development.
4. Assess the impact of returning refugees from other countries on re-settlement, security and the peace process.
5. Assess the situation for returning refugees in relation to physical security, basic needs and whether they can return in safety and dignity.

1.4 Methodology and data collection

In order to find out the prospects and challenges of the return of IDPs and refugees, the study collected information from various sources. The data about the trends of displacement in Sri Lanka were mainly collected from the Department of Essential Services (DES) of the Ministry of Social Services in Sri Lanka. The DES provided dry food rations and other essential needs to IDPs registered as displaced persons with the government. Data on return was obtained mainly from the Ministry of Rehabilitation and Reconstruction.

Information on the present conditions in the geographical location of returnees has been obtained from two main sources. First, needs assessment reports about the conflict affected areas prepared by various agencies including the SIHRN. Secondly, from field visits to conflict affected districts as well as the border districts by the researcher. This field observation provided opportunity to assess the physical, psychological, social and human rights related conditions of the returnees.

Field research was carried out in all three districts of the Eastern Province and selected locations and IDP and returnee communities in government-controlled and LTTE-held areas of the Northern Province. Research was also done in selected locations in Puttalam, Anuradhapura and Weli-oja areas which are outside the conflict zone.

Chapter 2 Ethnic conflict, war and displacement

2.1 Introduction

A brief history of the ethnic problem in Sri Lanka, culminating in armed conflict is included in this chapter. It also deals with the causes of displacement since 1983, large-scale displacement since 1990 and highlights the impact of displacement.

2.2 Ethnic conflict

After independence in 1948, ethnic relations deteriorated as a result of discrimination and violence against the minorities, and in the last two decades Sri Lanka has faced a serious threat to its stability as a united country.⁵ Deepening mistrust and tension between the Sinhalese majority and the Tamil minority, mainly over political power-sharing, has further aggravated the problem. The struggle for sharing of power has remained the dominant feature of the ethnic conflict. There are, however, social, economic, political and regional dimensions as well. The regional dimension to the crisis is that Tamils are predominant in the northern and eastern parts of the country for which they have been demanding greater autonomy. In 1961, the government commenced deploying military and other forces in the Tamil and Muslim-dominated north-east, which increased dramatically after 1983. The government armed forces did not contain more than 1% of Tamils although the minorities composed more than 25% of the population.

2.3 Armed Conflict

Since the mid 1970s, Tamil youth have resorted to an armed struggle against the Sri Lankan state to create a separate Tamil state in the north-east region of the country. The demands of the Tamils for power sharing arrangements were met by the successive governments with brutal violence and suppression. This has caused a civil war-like situation in the northern and eastern parts of the country. The armed conflict became more ferocious over the years, resulting in immense suffering.

The war between the armed forces of the Sri Lanka government and powerfully armed guerrilla forces of the Tamil community, the Liberation Tigers of Tamil Eelam (LTTE), was the main cause of suffering for the people in the conflict areas. Indiscriminate aerial bombing, shelling, massacres, rape, search operations, arbitrary arrest, illegal detention and disappearances by the armed forces in predominantly Tamil areas created panic among the Tamils and led to large-scale displacement. The Sri Lankan government, in addition, passed the Prevention of Terrorism Act, 1979 and introduced Emergency Regulations in 1991⁶, banning or restricting essential goods such as food, medicines, fertilisers, agricultural implements and fuel, into the north-east, resulting in deprivation and large-scale displacement and escalated mortality rate amongst the population, particularly children.

⁵ For discussions on the ethnic conflict see *Ethnic fratricide and dismantling of democracy* by Stanley J. Tambiah, 1986 and *Sri Lanka: A bitter harvest* by Elizabeth Nissan, Minority Rights Group, 1996.

⁶ Emergency (Restriction of Transport of Articles) Regulations No 1 of 1991.

2.4 LTTE attacks

The LTTE targeted sections of different communities, including Tamils, for assassination, harassment, intimidation, and extortion. In retaliation for armed force atrocities and for other reasons the LTTE have carried out massacres of Muslims and Sinhalese, causing more displacement. In addition, the LTTE issued a short ultimatum in October 1990 and evicted all the Muslims, numbering some 75,000, from the Northern Province.

2.5 Conflict induced displacement

Displacement due to ethnic tensions is not a recent phenomenon. It occurred during the Sinhalese-Muslim ethnic violence of 1915. The ethnic killings of 1958 also led to displacement of Tamils living in predominantly Sinhalese areas. This also caused the displacement of Sinhalese people living in predominantly Tamil areas.

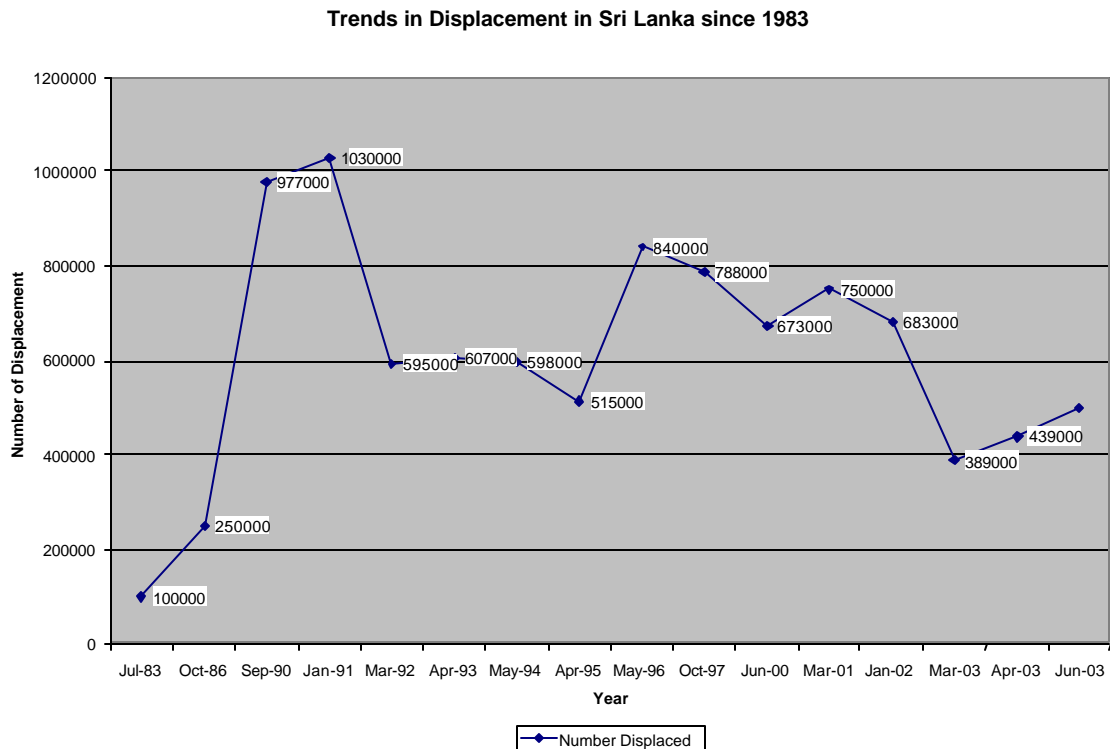
Displacement occurred during major ethnic violence in 1977 and 1981. The volume of displacement radically changed during the post-1980 period, when ethnic tensions became more acute. The major violence against the Tamil community in July 1983 was the beginning of large-scale displacement. Tamils living in the southern provinces, including the Hill Country, were victims and more than 100,000 sought refuge in India and in the north-east parts of Sri Lanka. Table 1 shows displacement figures between 1983 and 2002.

Table 1 Trends in displacement in Sri Lanka – 1983 to 2002

Month and Year	Number Displaced
July 1983	100,000
October 1986	250,000
July 1990	480,000
August 1990	840,000
September 1990	977,000
January 1991	1,030,000
May 1991	540,000
October 1991	780,000
March 1992	595,000
April 1993	607,000
May 1994	598,000
April 1995	515,000
January 1996	787,000
May 1996	840,000
October 1997	788,000
June 2000	673,000
March 2001	750,000
January 2002	683,000

Source: Ministry of Rehabilitation, Resettlement and Refugees, Sri Lanka

Figure 1



Source: Ministry of Rehabilitation, Resettlement and Refugees

The war since 1983 was mainly confined to the north and east, but ethnic tension and other forms of threats against minorities existed in all areas of the country. War-related displacement originated mainly from the north-east and the movement of displaced people was within and outside these areas.

2.6 Causes of displacement since 1983

The main cause of displacement after 1983 is the armed conflict involving the Sri Lankan armed forces and the LTTE. The immediate causes may be categorized broadly as follows:

1. North-east Tamils fleeing in fear of advancing government security forces during battles.
2. Arrest, detention, torture and disappearance of civilians carried out by security forces.
3. Establishment of army camps in or close to populated areas.
4. Take over of land and houses by armed forces for military camps.
5. People living near army camps fleeing to avoid being caught in crossfire.
6. Need to escape from sea and air attacks by the security forces.
7. Sinhalese people moving out of areas under LTTE control.
8. Reluctance of many Tamil people to be subject to LTTE control.
9. Forcible expulsion of Sinhalese, Tamils and Muslims by the LTTE.
10. Conflict between Muslims and Tamils leading to displacement of both communities.
11. Violence by Sinhalese against Tamils/Muslims in predominantly Sinhalese areas.

12. Shortage of food and other essential items in the war zone.
13. Economic blockade imposed on the north-east by the Sri Lankan government.

2.7 Large-scale displacement

2.7.1 Eelam War II⁷

After a period of peace negotiations between the government and the LTTE, which lasted for nearly 13 months, war resumed on 11 June 1990. The fighting began in Batticaloa District and quickly spread to the other districts of the north-east. The struggle was to fill the military power vacuum created by withdrawal of the Indian Peace Keeping Force (IPKF), which had been in occupation of the north-east since July 1987 under an Indo-Sri Lanka agreement. The Sri Lankan armed forces, the LTTE and other small Tamil and Muslim armed groups attempted to gain dominance and in the process destabilized the normal life of the civilian population. Thousands of people fled homes and villages seeking safety. The situation also caused ethnic tensions, especially between Tamils and Muslims in the eastern region. The fighting and intense bombing of the north-east by the Sri Lankan Airforce resulted in the displacement of a million people in a short period of time.

Table 2 Displacement during the period 20 June to 24 July 1990

Date of displacement	Number displaced
20 June 1990	122,973
21 June 1990	203,671
26 June 1990	354,971
27 June 1990	438,513
05 July 1990	522,081
09 July 1990	621,381
18 July 1990	702,826
23 July 1990	826,367
24 July 1990	935,692

Source: Ministry of Rehabilitation, Resettlement and Refugees

Table 2 shows the rapid increase of displaced people within two months of the beginning of Eelam War II. Displacement began in Batticaloa District in the Eastern Province and as fighting spread to the Northern Province, people from Jaffna, Mannar and Vavuniya districts were also displaced. In mid-July, civilians in Amparai District in the east began fleeing their homes. The majority of the displaced people in the above districts were Tamils, but in late October 1990, approximately 75,000 Muslims of the Northern Province were driven out of the province by the LTTE.

⁷ The Sri Lankan media have given names to the various stages of the war: Eelam War I – 1983 to 1989; Eelam War II – 1990 to 1994; Eelam War III – 1995 to 2002 ('Eelam' is an ancient Tamil name for Sri Lanka meaning 'gold', but has become synonymous with the north-east homeland claimed by the Tamils).

2.7.2 Eelam War III

Following the collapse of the peace talks between the People's Alliance government and the LTTE, fighting broke out again on 19 April 1995 when the Tigers broke the ceasefire by sinking two naval vessels in the Trincomalee harbour. The government commenced military operations, declaring it as a strategy of 'war for peace'. On 13 May 1997, the Sri Lankan Army launched a military assault called *Operation Jayasikuru* (Certain Victory) to reopen a land supply route to the Jaffna peninsula from Vavuniya through territory in the Vanni controlled by the LTTE. This operation lasted until December 1998. The Army also launched a number of other operations to capture territory under LTTE control in the Vanni and the LTTE launched its own operations to regain territory, the main offensive being named *Oyatha Alaigal III* (Unceasing Waves) in November 1999. These battles displaced thousands of people living in the Vanni area.

The war displaced more than 500,000 people from the Jaffna peninsula, and among them about 350,000 were forced to move to remote and distance places like Kilinochchi, Mullaitivu, Mannar and Vavuniya. Table 3 shows large-scale displacement caused by army operations in Jaffna and Kilinochchi in 1995 and 1996.

Table 3 Displacement during the period July 1995 to September 1996

Army operation	Date	Displaced from	Number displaced
<i>Leap Forward</i>	9 July 1995	Valikamam	200,000
<i>Handshake</i>	12 Sept 1995	Vadamaratchy	5,000
<i>Sunray I</i>	15 Oct 1995	Valikamam (to Jaffna town)	220,000
<i>Sunray II</i>	19 April 1996	Thenmaratchy & Vadamaratchy	250,000
<i>Truth's Victory</i>	Aug/Sept 1996	Kilinochchi	200,000

Source: Sri Lanka Monitor July 1995 – September 1996

The LTTE attacked Vavunativu Army camp in Batticaloa on 6 March 1997 and during this operation 5,200 people were displaced. Over 12,000 civilians fled their homes when the Army launched *Operation Rivi Bala* (Sun Power) on 4 December 1998 to capture Mullaitivu and in *Operation Rana Gosha* (Battle Cry), began on 4 March 1999 in Vavuniya and Mannar, more than 20,000 were displaced.

In another phase of *Operation Oyatha Alaigal III* by the LTTE in April 2000, capturing parts of Vanni and parts of Jaffna, and in Army operation *Rivi Kirana* (Sun Beam) launched on 3 September 2000, to recapture territory, more than 160,000 were displaced. Over 65,000 people fled their homes in Army's *Operation Kiniheera* (Anvil) in September 2000 and *Operation Agni Khiela* (Rod of Fire) on 25 April 2001 to capture Chavakachcheri and other areas in the Jaffna peninsula.

2.8 Displacement after the ceasefire agreement of February 2002

The ceasefire agreement in February 2002 was expected to bring normalcy to the conflict areas. It stopped major fighting between the Army and the LTTE thereby putting an end to

the heavy toll of human lives. But the agreement has failed to end the displacement of people. In spite of the ceasefire agreement, tension between Tamils and Muslims has increased, particularly in the Eastern Province, because of alleged violations committed by the LTTE against members of the Muslim community. In mid-April 2003, ethnic violence between Tamils and Muslims at Muthur in Trincomalee District led to the displacement of more than 40,000 people, majority of them Muslims.

2.9 The impact of displacement

The impact of displacement cannot be under-estimated. Many IDPs have been displaced several times, and are affected by various problems such as disability, loss of income and livelihood, damage to/loss of production and personal assets and lack of social status or in extreme cases loss of life. A large number have been living in welfare centres⁸ for several years without basic facilities, in spite of enjoying a reasonable standard of living before displacement.

It is recognized that displaced people suffer from psychological and psychiatric problems. The sudden separation from their traditional neighbourhood and their way of life has a traumatic effect on the victims of displacement. The normal daily routine of life and economic activities are disrupted, leaving people in a state of physical and psychological limbo.

The main problems faced by the displaced people are summarised as follows:

1. The inability to satisfy basic needs such as food, water, shelter, sanitation, privacy, family life and medical treatment.
2. The lack of educational facilities for children and the burden placed on the existing schools in areas where there are welfare centres.
3. Harassment and intimidation by the security forces.
4. Moral and cultural problems created in welfare centre areas where a lowering of moral and ethical standards is discernible.
5. Tension between welfare centre dwellers and local inhabitants, in areas where welfare centres are located.
6. Psychological and psychiatric problems as a result of displacement and the sudden separation from traditional neighbourhoods and the new way of life having traumatic effects.
7. The normal daily routine of life and economic activities coming to a standstill.
8. The lack of information on events and the situation in home areas and other information affecting their lives, due to lack of communication facilities.
9. Inability to obtain gainful employment competing with local residents.
10. Forced child labour and abuse of women and children.

⁸ Refugee camps run by the government and international agencies are officially known as 'welfare centres'.

2.10 A national issue

Within the last two decades, an estimated two million people, belonging to all three ethnic communities - Tamils, Sinhalese, and Muslims have been displaced in Sri Lanka. Many have been languishing in refugee camps for several years anticipating their return home.

During the early stages of the conflict, Tamils displaced in southern areas fled to the northern and eastern parts of Sri Lanka. In recent years, the Tamils have been mainly moving within the north-east. Many Tamil IDPs live in close proximity to their places of origin or live in welfare centres or with friends or relatives. A substantial number have moved to the capital to reside with friends or rent flats and other accommodation while a large number of Tamils have fled to other countries seeking asylum. The Muslims and Sinhalese, who fled from predominantly Tamil areas of Northern and Eastern provinces live in welfare centres in Puttalam, Anuradhapura and Polonnaruwa districts.

Such movement of people has affected most aspects of life within the island and has impacted developments in other nations. The plight of the displaced people has become an important human rights, humanitarian and political issue in the country.

Chapter 3 Distribution and conditions of IDPs at the time of ceasefire

3.1 Introduction

The overall situation of the war affected areas of the north and east began to change from the time of the signing of the cease-fire agreement in February 2002. An important change was the increased mobility of the people and this had a direct impact on the return of the IDPs. Though the number of returnees increased significantly, a substantial section remains reluctant to return. This chapter gives a brief account of the distribution, living conditions and expectations of the displaced people.

3.2 IDPs in early 2002

An indicator of the number of IDPs is the issue of government food rations. However, this is unreliable in determining the total number of IDPs, because the government does not take into account the displaced people who fled to areas controlled by the LTTE and even in government-controlled zones, several thousands do not register themselves with the government or with humanitarian agencies, as displaced persons.

In January 2002, displaced persons numbering 683,286 persons (187,614 families) received dry food rations from the Sri Lankan government and government recommended sources. But a survey of IDPs conducted in April 2002 recorded a total of 867,277 displaced persons. This number is higher by 183,991 than those who received food aid.⁹ (Tables 4 and 5).

3.3 Distribution of IDPs

More than 80% of the IDPs were concentrated in the Northern Province, but scattered in all five districts.¹⁰ By districts, Jaffna District had the highest number of displaced persons at the time of signing of ceasefire agreement. Notably, most IDPs originated from within the district.

Second to Jaffna peninsula, several concentrations of IDPs were found in the mainland Vanni region.¹¹ The largest segment of the IDPs came to the Vanni from the Jaffna peninsula, following the Army operation *Leap Forward* in July 1995 and LTTE's counter offensive *Puli Paichchal* (Tiger Leap) and several other military operations between 1997 and 2000. The majority of IDPs from Jaffna stayed in Kilinochchi District while others moved further south and found refuge in Mullaitivu District and on the mainland of Mannar District. The Army operation (*Jayasikuru*), launched in May 1997, aimed at capturing the Vavuniya- Jaffna A9 road displaced many thousands of residents in Mullaitivu and Kilinochchi in addition to the people already displaced from Jaffna.

⁹ The IDP survey was a joint project of the Ministry of Rehabilitation, Resettlement and Refugees and UNHCR and began in April 2002. The Ministry announced its completion in February 2003. – Press release of the Ministry, 21 February 2003.

¹⁰ The districts are Jaffna, Kilinochchi, Mullaitivu, Mannar and Vavuniya.

¹¹ The general area of Vanni consists of a part of Kilinochchi District on the mainland and Mullaitivu District, Mannar District and Vavuniya District (The Vanni Electoral District comprises Mullaitivu, Mannar and Vavuniya administrative districts).

A salient feature of the IDP distribution is that nearly 75% of the total IDPs were living with friends or relatives, although they received dry food rations from the government. More than 80% of the IDPs in both Northern and Eastern provinces were accommodated by the friends or relatives. It must also be noted that those friends and relatives themselves were suffering from the effects of war and government imposed economic blockade. Without such timely assistance, the situation of the IDPs would have been worse and the task of the government and the international agencies much more difficult.

Table 4 Distribution of displaced persons – January 2002

Regions	Number of welfare centres	In welfare centres	With friends or relatives	Total
Northern Province	190	103,355 (20%)	437,874 (80%)	547,359 (80%)
Eastern Province	19	8915 (17%)	42,638 (83%)	51,553 (8%)
Border districts	44	10,049 (84%)	1,860 (16%)	11,909 (2%)
Puttalam	81	44,386 (70%)	18,936 (30%)	63,322 (9%)
Other	12	1,415 (15%)	7,728 (85%)	9,143 (1%)
Total	346	174,250 (26%)	509,306 (74%)	683,286 (100%)

Source: Ministry of Rehabilitation, Resettlement and Refugees

(The total of 683,286 is the number of people receiving assistance from the government)

Table 5 Displacement by ethnic groups – April 2002

Regions	Number	Ethnic Groups			
		Sinhalese	Tamil	Muslim	Other
Northern Province	696,005 (80%)	1,190 (0.17%)	693,161 (99.6%)	1,563 (0.2%)	91 (0.01%)
Eastern Province	43,039 (5%)	2,456 (5.7%)	32,954 (76.6%)	6,593 (15.3%)	1,036 (2.4%)
Border districts	35,436 (4%)	23,845 (67.3%)	671 (1.9%)	10,882 (30.7%)	38 (0.01%)
Puttalam District	68,156 (8%)	1,170 (1.7%)	3,226 (4.7%)	63,607 (93.3%)	153 (0.2%)
Others	24,641 (3%)	6,220 (25.2%)	8,478 (34.4%)	9,627 (39.0%)	316 (1.3%)
Total	867,277 (100%)	34,881 (4%)	738,490 (85%)	92,272 (10.7%)	1,634 (0.2%)

Source: IDP survey - Ministry of Rehabilitation, Resettlement and Refugees and UNHCR

(The IDP survey recorded 183,991 more IDPs than those receiving assistance from the government)

Table 5 also shows the number of displaced persons on the basis of ethnicity and regions. The majority of the displaced persons belong to the Tamil community (85%) and they were mostly concentrated in the Northern and Eastern Provinces. Nearly 11% were Muslims, mostly living Puttalam District and 4% Sinhalese in the border districts of the north-east, such as Polonnaruwa and Anuradhapura.

3.4 Conditions of IDPs

Studies indicate that displaced families live in abject poverty and it is clear that the food assistance provided by the government does not reach all those in need. There are delays and shortages in distribution and the food supplied is often insufficient and of poor quality. Many displaced families, especially those in LTTE controlled areas do not receive any assistance. Further, when marriage takes place, the new IDP couple is sometimes refused registration by government officers as a separate family unit and forced to depend on rations issued to their parents.

Displaced families are in government and other welfare centres, or they have found accommodation by themselves with friends or relatives. Some have settled and built houses on unoccupied lands, often without government assistance. A large number of IDPs have lived in welfare centres for more than nine years and some for more than 15 years. Some welfare centres are in buildings, and in other centres, IDPs live in thatched-roof shelters or tents provided by international agencies. In welfare centres, the space and facilities given to each family are totally inadequate and have led to health problems. The conditions of welfare centres are unhygienic and as such there is a greater vulnerability to disease. Health needs are often not met and only basic health facilities are available.¹²

An estimated 220,000 children were displaced in the north-east and another 16,000 lived in welfare centres in Puttalam. In the centres, children suffer from malnutrition and poor health conditions.¹³ The IDP children are also unable to pursue proper education, the main reasons being poverty, lack of schools in the vicinity of welfare centres and shortage of teachers.

Around 58% of the displaced population are women. In welfare centres, women have been subject to sexual harassment, abuse and rape by the security forces and paramilitary groups as well as by other men. Women are also affected by domestic violence. These issues are not adequately addressed during or after displacement.

Lack of income is another major problem. Displaced persons have always attempted to maximize families' basic needs or to supplement the meagre rations they receive. But in finding employment, they often face competition from members of local communities. Lack of work, restriction on movement and inadequate government assistance, such as day care facilities for children, have meant that most are unable to engage fully in income generating activities.

¹² *Sri Lanka: Recapturing opportunities*, The World Bank, 16 June 2000.

¹³ *Realising rights: Children affected by armed conflict in North and East Sri Lanka* – Save the Children (UK), August 1998.

Vulnerable sections of the IDPs, such as women and single heads of households, the elderly and the disabled are unable to work or cannot find suitable employment. As a result, they are entirely dependent on the dry food rations issued by the World Food Programme (WFP) or the government. IDPs are not provided cash and are unable to purchase other basic necessities.

Apart from this, Tamil IDPs seeking safety from the northern districts during the 1990s were held by the security forces in Vavuniya welfare centres, some for more than five years, and prevented from proceeding to southern Sri Lanka. In February 2000, there were more than 22,000 people in six welfare centres in Vavuniya.¹⁴ They were denied the freedom of movement by a strict pass system, treated almost like prisoners and were subject to harassment. The Sri Lankan Supreme Court declared in September 2002 that the military pass system in Vavuniya was illegal.¹⁵

In some respects, the situation of the IDPs in the LTTE-controlled areas was worse than those in government-controlled areas. No productive employment was available to them in these areas and government assistance never reached them in full. In addition, the government and the security forces imposed an economic blockade on the north-east, denying or restricting food, medicines, medical equipment and fuel.¹⁶ Poor hospitals and transport facilities have further affected the health of civilians and IDPs in these areas. Rise of diseases such as malaria was noted due to absence of proper disease control activities.¹⁷

¹⁴ *Confined to the camp* - Sri Lanka Monitor, February 2000.

¹⁵ *Supreme Court declares pass system illegal* - Sri Lanka Monitor, September 2002.

¹⁶ Forty two items, including medicines, fertiliser and chemicals were banned into the northern areas under Emergency regulations in August 1991 (and 21 items under the PTA in August 2001). The Ministry of Defence and the security forces banned or imposed restrictions on 64 other items, which included food, clothing and medicines. For more information see *Economic blockade* by Mayan Vije (Tamil Information Centre, June 1993); *Conflict and displacement in Sri Lanka*, US Committee for Refugees (March 1997); Statement of the UN Committee on Economic, Social and Cultural Rights in May 1998; *Sri Lanka: Human rights and return of refugees*, Refugee Council (December 2001).

¹⁷ *Sri Lanka: Recapturing missed opportunities* – The World Bank, 16 June 2000; *Children affected by armed conflict in North and East Sri Lanka*, Save the Children (UK), August 1998.

Chapter 4 Return of IDPs and refugees

4.1 Introduction

As the Sri Lankan government and the LTTE took some measures to create conducive conditions after the ceasefire agreement, IDPs began returning to home areas in large numbers. This chapter looks at the trends in return, the reasons for the reluctance of IDPs to return and the assistance provided by the government.

4.2 Returns after ceasefire agreement

The silence of the guns after the signing of the ceasefire agreement created a new situation in Sri Lanka and people began to believe that the government and the LTTE were serious about achieving permanent peace in the country. The distances between home areas and places where people had taken refuge played an important role in returns and the opening of the Vavuniya-Jaffna A9 road was a vital step in stimulating the movement of people. Many other roads and ferry-ways that were closed to the public, sometimes for more than ten years, were opened. Meanwhile, following decisions at the peace talks, SIHRN was set-up to attend to the immediate needs of the IDPs. In addition, many state and NGO activities were focused on helping the returnees home.

4.3 Trends in the return of IDPs

A total of 311,202 displaced people (81,225 families) returned home between January 2002 and June 2003 (Table 6). In the first half of 2002, it was reported that about 142,000 people returned to home areas, a monthly average of around 23,000. From July 2002, the monthly average declined to about 13,000 and from April 2003, the number of returnees has been less than 10,000 per month.

Table 6 IDP returns to home areas - January 2002 to June 2003

Month	Returnees during each period	Total Returnees	%
Jan.-June 2002	142,000	142,000	46
July 2002	28,869	170,869	9
August 2002	21,051	191,920	7
September 2002	25,046	216,966	8
October 2002	19,905	236,871	6
November 2002	10,850	247,721	3
December 2002	14,915	262,636	5
January 2003	12,077	274,713	4
February 2003	9,136	283,849	3
March 2003	12,161	296,010	4
April 2003	6,514	302,524	2
May 2003	4,727	307,251	2
June 2003	3,951	311,202	1

Source: Summary of IDP returnee movement - UNHCR and Ministry of Rehabilitation, Resettlement and Refugees

A large number of IDPs who were living in close proximity to their homes, returned soon after the signing of the ceasefire agreement. Many others, who were living in miserable conditions in the refugee camps in such places as the Vanni also returned. However, the majority of the other IDPs, consider the situation in their home areas as not conducive for their return and they continue to remain as displaced people.

4.4 Return in the Jaffna peninsula

The return of IDPs within the Jaffna peninsula began before the current ceasefire, when the LTTE observed a unilateral ceasefire for four months from 24 December 2000. The rate of return increased after the ceasefire agreement of February 2002 and until October 2002, the number of returnees within the peninsula rose to more than 15,000 per month. However, since October 2002, the number has declined and from February 2003, the monthly average has fallen to less than 5,000.

4.4.1 Problems for returnees in Jaffna

The most important reason for the inability of the IDPs to return is the existence of the military HSZs. In fact, the majority of IDPs now living in refugee camps in Jaffna were originally displaced from HSZs. An IDPs information report of the Jaffna Government Agent¹⁸ on 1 June 2003 says that 94% of those IDPs who were displaced from their homes within the HSZs and currently live in welfare centres, are unable to return to home areas (Table 7). In addition, IDPs living within half a kilometre radius of a HSZ, are not permitted to engage in any economic activity within that area. The security forces are also occupying many houses belonging to IDPs outside the HSZs.

Table 7 IDPs in Jaffna welfare centres whose homes are in HSZs

District Secretariat Division	Number of welfare centres	Families in HSZs	Families in other areas	Total families
Nallur	3	30	0	30
Sandilipai	15	197	89	286
Chankanai	19	452	0	452
Uduvil	11	291	27	318
Thellipalai	5	253	0	253
Kopay	5	164	0	164
Karaveddi	1	16	0	16
Point Pedro	15	592	18	610
Maruthankerny	6	91	8	99
Total	80	2,086	142	2,228

Source: Jaffna Government Agent's report of 1 June 2003

¹⁸ The Government Agent is the highest-ranking government officer in a district.

The existence of landmines is another factor that prevents the return of IDPs within the Jaffna peninsula, an area formerly largely occupied by the people or used for economic activities. The following areas of the peninsula are contaminated by landmines:

1. Jaffna and Nallur Divisional Secretary's Division (DSD)¹⁹ - most of the Muslim areas of Jaffna Town, Ariyali and Columbuturai.
2. Uduvil DSD - concentrated around security structures erected during the fighting and mainly found in Erlalai North, Kuppilan North and Punnalaikadduvan North. Around 50% of the total area of this DSD is identified as dangerous.
3. Thellipalai DSD - out of 17 Grama Niladhari (Village Headman) Divisions (GND), 13 are known or suspected to have areas contaminated with mines.
4. Chankanai and Sandilipai DSDs - 15 GNDs of these areas are suspected to have landmines.
5. Kopai, Karaveddy, southern region of Thenmaratchi (Chavakachcheri) and other areas where military bases were established are also known to have mines.
6. In the islands west of the Jaffna peninsula, mines have been placed by both parties.
7. Point Pedro in north-eastern Vadammaratchy.

During the war and in the prevailing period of peace, it is the civilians who have been most affected by mines. While the scale of the problem of landmines is not known, it is estimated that 20 sq km in the Jaffna District are affected by over 500,000 landmines.

Apart from the above-mentioned reasons, there are other factors which prevent the return of IDPs and refugees to their homes in Jaffna. They are the following:

1. Damaged or destroyed assets and properties: In areas of intense fighting, no permanent structure has been spared. Along the A9 road and roads leading to Palaly Airport and to the sea port such as Kankesanthurai and in parts of Jaffna town facing Mandativu Island and large areas of north-eastern Vadammaratchy, most of the permanent structures (houses, schools, hospitals and factories, etc.) have suffered severe damage or destruction. People displaced from these areas cannot return for the reason that they will have no shelter.
2. Access to agricultural areas occupied by armed forces: Large tracts of agricultural land are occupied by the security forces, particularly in north-western Valikamam and southern Thenmaratchy areas.
3. Restrictions on fishing: The armed forces do not allow fishing in areas near HSZs. In March 2003, the perimeter of the Army camp at Ariyalai in Thenmaratchy was extended, affecting some 1,000 fishermen.²⁰ In almost all the areas, fishermen must obtain permits from the armed forces to go to sea for fishing. Apart from these restrictions, the LTTE have decreed that some types of fish can only be sold through middlemen appointed by them.

¹⁹ The DSD is recognized as the main unit of administration and replaced the former Assistant Government Agent Divisions. There are 14 DSDs and 444 GNDs in Jaffna District.

²⁰ *Basic needs* - Sri Lanka Monitor, March 2003.

4. No access to education, medical and other facilities on return. Because of lack of access to these basic facilities, IDPs continue to live in the areas where they have been displaced.
5. Slow process of resettlement allowance. Due to red tape and lack of funds, many returnees were not able to obtain government assistance on return. This situation has forced some people to go back to the places of displacement and has discouraged those who intend to return home.
6. Discrimination in resettlement allowance. Complaints have been made that current returnees receive a higher resettlement allowance than those who returned before February 2002.²¹ Further, many returnees have not been provided any assistance and in Jaffna those returnees from the Vanni are given the allowance while some people displaced within the Jaffna peninsula are denied. Government officers in some areas of the north-east are also not accepting letters proving residence of the IDPs, issued by *Pradeshiya Sabha* (Regional Council) secretaries outside the north-east region.²²

4.5 Return in Vanni

When the ceasefire agreement was signed, the Vanni IDPs immediately attempted to return home because of the difficult conditions. The IDP return in this region was within districts as well as between districts. IDPs who were in the Madhu welfare centre returned to Vavuniya and some returned to the LTTE-controlled area of Mannar District (mainly to Ilupaikkadavai, in north Mannar District). In Mullaitivu District, displaced people returned from other areas, some from Vavuniya District and others from Kilinochchi District. These IDPs were mainly displaced during Army's *Operation Jayasikuru* (Certain Victory) in the 1997-1998 period. Similar IDP return was also noted within Kilinochchi district. As Table 8 indicates, around 80,000 or 38% of the total returnees were within the Vanni region.

**Table 8 Returnee movements to and within districts
January 2002 to March 2003**

District	Total Returnees	
	Total	%
Jaffna	156,459	56
Kilinochchi	54,080	19
Mannar	11,220	04
Mullaitivu	32,374	12
Vavuniya	9,254	03
Trincomalee	16,931	06
Total	280,317	100

Source: *Monthly district returnee information, UNHCR, January 2002-March 2003*

²¹ Those who returned before February 2002 were paid the Rs 25,000 housing allowance in instalments and have received only a part of the total allowance and were unable to complete their houses. Returnees after February 2002 are entitled to Rs 75,000 based on current costs.

²² *Resettlement in Jaffna* – Sri Lanka Monitor, November 2002; *Returning to Jaffna* – Sri Lanka Monitor, January 2003.

4.5.1 Problems for returnees in Vanni

In an interview at a welfare centre in Vavuniya, IDPs who are originally from Kilinochchi and Mullitivu expressed grave concern about returning to their homes. In the Vanni districts, the IDPs continue to live in extremely poor conditions and proper relief assistance by the government or NGOs is still not available, exacerbating serious health and other problems. The infrastructure is damaged or destroyed and relief agencies are unable to reach them, particularly at times of emergency. Homes are destroyed or home areas are covered by jungle, populated with wild animals. Dangerous diseases including malaria are prevalent in many places of potential IDP return.

The field survey identified a number of other problems which prevent or discourage IDP return in Vanni. Similar to the HSZs of the armed forces, the LTTE maintain undeclared high security zones in territories under their control, which affect many IDPs, as everyone entering the Vanni must obtain LTTE passes. This pass system is strictly enforced by the LTTE and affects both Tamil and Muslim returnees. However, in the case of Muslim returnees the LTTE exercise stricter control. Houses and agricultural land belonging to Muslims have not been released to the original owners/occupiers by the LTTE and no reasons have been adduced. This action of LTTE has prevented the return of a large number of Muslim IDPs and has further strengthened the feeling of uncertainty over the whole peace process.

Similar to the Jaffna peninsula, a large area of the Mannar District in the Vanni region has been demarcated by the security forces as HSZs and many places have been identified as containing landmines.

4.6 Return in the Eastern Province

Compared to the Northern Province, the number of IDPs in the Eastern Province is small and their number is concentrated in the Trincomalee and Batticaloa districts. During the ceasefire period, a significant number of IDPs returned to Trincomalee and Batticaloa. Most of the returnees in Batticaloa were within the district while significant returnees to Trincomalee were from the Mullaitivu district. But the Eastern Province is now facing a serious problem of a fresh flow of displaced people due to the escalation of ethnic tensions between Muslims and Tamils in the region.

The LTTE have launched a recruitment drive in the east, and there are reports of abductions of Muslim and Tamil people for ransom. The security forces have resumed cordon and search operations and arrests in the east.

4.7 Return of Muslim and Sinhalese IDPs

About 14% of the IDPs today are Muslims and Sinhalese. They are from the north, east or the border areas of the two provinces. The majority of Muslim and Sinhalese IDPs live outside the north-east and need guarantees of safety and security for returns, as they would be returning to areas of the north-east which may fall under the proposed interim

administration which will be controlled by the LTTE.²³ In view of past violations by the Tigers against these categories of people, in addition to guarantees from the LTTE, procedures and independent institutions must be in place for effective protection.

4.8 Security and shelter

The IDP Survey conducted by the Ministry of Rehabilitation and UNHCR indicates that almost 70% of the IDPs surveyed expressed concern about security and shelter in places of return. The largest number (37%) are concerned about safety and security in their home areas and seem to believe that they are safer in their current places of residence and would not be returning unless these issues are resolved.

According to UNHCR, security issues include lack of differentiation in police and military roles, lack of control by government of large sections of the country and lack of accountability of conduct by armed groups.²⁴

4.9 Current assistance to IDPs

4.9.1 Dry food rations

The government has been providing dry food rations to the IDPs since 1983, which usually consist of rice, lentils, sugar and milk food. However, the amount of the dry rations provided is restricted to the value of not more than Rs 1,260 (\$14) per month for a family of five members. On the basis of the nutritional needs of a person (2,200 calories per day), the food is far below the requirement. The government appears constrained by the lack of funds to increase the amount of rations. However, the WFP provides food rations to around 10% of the IDPs to the value of Rs 4,000 (\$44), based on nutritional standards.

4.9.2 The Unified Assistance Scheme (UAS)

The livelihood assistance programme under the Unified Assistance Scheme (UAS) is a Rs.100,000 (\$1,110) cash grant provided to a resettling or relocating displaced family. It includes Rs. 25,000 for immediate return needs and Rs. 75,000 for the provision of permanent shelter. An initial cash payment of Rs. 25,000 will be provided to persons earning Rs. 2,500 per month or less, who have returned to

- a) the land which they legally own;
- b) the land which has been granted to them by the government; or
- c) the land legally available for the purpose of permanent settlement on or after 22 February, 2002.

²³ Under the July 2003 proposals of the Sri Lankan government, a joint administrative council (composed of members of government, LTTE and Sri Lanka Muslim Congress) will have power over most current government functions in the north-east. The LTTE will have a majority in the council.

²⁴ UNHCR's programme for internally displaced persons in Sri Lanka – Report of a joint appraisal mission by the UK Department for International Development and UNHCR, May 2002.

Entitlement requires persons not to have received any support under the 'Livelihood Assistance' or UAS programme before 22 February 2002. The criteria for selection of eligible IDPs and returning refugees for UAS assistance have been determined according to the following priority categories:

a) Vulnerable Groups:

- i. Women-headed households, including war widows;
- ii. Elders, the disabled and traumatically affected and injured persons; and
- iii. Families with large numbers of dependents.

b) Displaced persons who have returned to the land they own or have been granted by government authorities or otherwise rightfully possess on or after 22 February 2002 and have not received any UAS support (or have only received a portion of the full UAS assistance entitlement, in which case the difference to the full UAS grant will be provided).

c) Displaced persons who have returned to the land they own or have been granted by government authorities or otherwise rightfully possess before 22 February 2002 and have not received any UAS support (or have only received a portion of the full UAS assistance entitlement, in which case the difference to the full UAS grant will be provided).

As noted, the cut-off point for selection of returnees to receive assistance is a monthly income of Rs. 2,500 per month. On this basis, it is assumed that 50% of the resettled population will be entitled to the UAS livelihood assistance component of Rs.25,000 (or less after deduction) per family immediately. Further, when funds are available, they will be entitled to the grant of Rs. 75,000 per family towards the construction of a permanent house.

Chapter 5 Impediments for return of IDPs and refugees

5.1 Introduction

UNHCR recognizes that the physical, material and legal safety of the returnees must be assured for successful returns. The right to physical safety means IDPs and refugees must be able to resettle free of harassment, conflict related violence, landmines and other potential threats. The right to material safety provides that upon return, IDPs and refugees must have access to proper healthcare and housing, water and sanitation, education and employment opportunities. Rights to legal safety provide that IDPs and refugees should be protected by law. In reality, the IDPs and refugees lack these safety measures and are discouraged from returning.

Conditions conducive to physical, legal, material and social safety must be created before displaced populations can return. But there is grave concern over present conditions in conflict zones, particularly areas where the displaced people are expected to return. This Chapter examines the problem areas such as landmines, HSZs and property rights.

5.2 Landmines

During the two decades of civil war, several classes of anti-personnel mines were used as defensive weapons.²⁵ Mines have been laid around military bases as well as areas where there were populations. Landmines and unexploded ordnance pose a serious threat to the people in the north-east and are a critical issue for IDP returnees.²⁶

Estimates of the number of landmines in the north-east vary from 1 million to 3 million. According to government sources 1.3 million landmines have been purchased out of which 900,000 mines have been laid. Landmines are also a threat to humanitarian workers and as a result reconstruction work is likely to be hampered.²⁷ A number of international agencies are involved in clearing landmines in north-east Sri Lanka. On 20 March 2002, the World Bank, UNDP and the Sri Lankan government signed an agreement to strengthen capacity to survey and train de-miners under the UNDP implemented Landmine Action Project.²⁸

But according to the British agency Halo Trust, it will take four more years to clear Jaffna peninsula of landmines. LTTE's Humanitarian De-mining Bureau says five years are needed to clear the Vanni region of the estimated 1.5 million landmines in 1,570 sq.kms. Landmines also make large tracts of land unusable and affect agriculture, animal grazing and other civilian activities. Seventeen paddy fields along the A-9 Vavuniya-Jaffna road in the Vanni have been identified as containing landmines. Displaced people continue to express concern in spite of declarations by agencies that some areas have been cleared of landmines.

²⁵ The Sri Lankan Army has used Chinese Type-72s, Italian VS-50s and Pakistani P4s. The LTTE have used Claymore and Jony mines and other improvised devices.

²⁶ Landmine Monitor Report 2001 – www.icbl.org; Mission Report Sri Lanka, United Nations Mine Action Service – 4-22 June 2001, www.mineaction.org

²⁷ *Programmes in Sri Lanka* - Mines Advisory Group, www.mag.org.uk

²⁸ *Sri Lanka: World Bank supports clearing of landmines* – Press release 20 March 2002, <http://lnweb18.worldbank.org>

The UN reported in February 2003 said that since the ceasefire in February 2002, 26 civilians died and a further 100 people were injured. Since 1996, more than 900 civilians have been killed or maimed and there is no proper and accessible compensation scheme in respect of death or injury due to landmines. Around 25% of the casualties have been children hurt by unexplored ordnance.²⁹ It has been estimated that a ten-year-old child may need 25 artificial limbs during his/her lifetime and many people face difficulties in obtaining artificial limbs. Half the mine deaths or injuries have occurred in the Jaffna peninsula and spontaneous returnees are particularly vulnerable as they access their property. Over the years, many IDPs have been killed or wounded while attempting to clear their overgrown lands or cleaning gardens around their houses. It is well documented that the disabled suffer long-term physical, psychological and economic hardships.

Table 9 Landmines victims in the north-east

District	Victims	Injured	Deaths
Jaffna	577	515	62
Kilinochchi	102	89	13
Mannar	21	18	3
Vavuniya	20	8	12
Mullaitivu	95	82	13
Batticaloa	65	65	0
Ampara	5	5	0
Trincomalee	16	12	4
Total	901	794	107

Source: Sri Lankan government Needs Assessment Survey

5.3 High Security Zones

A substantial land area of the north-east, particularly the areas where the displaced are to return, is occupied by the Sri Lankan Army and the police. Mannar and Jaffna districts are most affected by this problem. The Sri Lankan security forces continue to occupy areas which are designated as High Security Zones (HSZ).³⁰ Since the ceasefire agreement, the security forces have been creating new security zones or expanding existing zones, including into areas where resettlement is taking place. In early 2003, the Sri Lankan Human Rights Commission (HRC) demanded an explanation from the Army over the declaration of HSZs in Jaffna where IDPs had to be resettled, and has not received a satisfactory answer. The people of the north-east have continued to stage demonstrations demanding the removal of HSZs.

There are 18 HSZs in the Jaffna peninsula alone, covering 160 sq.kms. or 18% of the total landmass. The LTTE have said that nearly 30,000 houses, 300 schools, 25 roads, 40

²⁹ *Landmines: The impact on civilian communities in Sri Lanka* – Rosy Cave, Landmine Action, 4 December 2002.

³⁰ *IDPs unable to resettle because of military high security zones* – Global IDP Database, Norwegian Refugee Council, March 2003, www.db.idproject.org

industries and more than 42,000 acres of cultivable land are within HSZs. Legal experts say that the establishment of the HSZs has no legal basis. Hundreds of complaints have been lodged by Jaffna citizens with the SLMM and the HRC, regarding the violation of their fundamental rights such as freedom of movement, freedom to choose the place of residence and equality before the law, by the allegedly illegal existence of HSZs.

The Sub-Committee on De-escalation and Normalization (SDN) was established following decisions at the second session of the peace talks to examine ways and means of ensuring resettlement, particularly looking at military HSZs, return of private property and resumption of economic activity. The work of SDN came to a standstill in December 2002 after Jaffna Army commander Sarath Fonseka submitted a report to the SLMM demanding that the LTTE should lay down arms before resettlement in HSZs can begin. The report speaks of the possibility of the LTTE taking cover behind resettled civilians in HSZs and moving long-range weapons into the zones.

Analysts point out that security issues are linked to the question of a final settlement to the conflict and the issue of HSZs, which the Army regards as affecting national security, could only be solved by a comprehensive solution to the substantive political issues and causes of conflict. In the circumstances, HSZs may remain for a long time and large number of IDPs may not be able to resettle. As a consequence of Army occupation, nearly 100,000 IDPs are unable to return home. Some IDPs remain in camps located a few hundred metres from their properties.

The LTTE have also restricted the movement of civilians and returnees into areas in the north-east which they consider as their high security zones. Returnees have no access to vast areas of Mullaitivu District and many other parts of Vanni. Most of the abandoned lands in the LTTE-controlled areas have been taken over by the Tigers, in particular the properties of Muslims evicted in October 1990, refugees in India and emigrants and refugees to other countries. These lands have either been given to families of LTTE cadres or used by the LTTE to host their administrative structures. Many of these activities prevent directly or indirectly the return of IDPs and refugees to the places of origin.

5.4 Freedom of movement of IDPs

The movement of IDPs in Sri Lanka has been severely restricted in the past by the Sri Lankan government, through the use of stringent pass systems and closed camps akin to detention centres.³¹ The LTTE have also imposed restrictions on the movement of people, including pass systems. The Sri Lankan government appears committed to respecting the freedom of movement of IDPs. However, the government's commitment in policy is not always applied in practice at local levels. Respect for the right of freedom of movement is vital when the peace process is in its infancy. Many IDPs who have been displaced more than once, prefer to wait for a more permanent settlement to the conflict before returning home, when restrictions on the freedom of movement are removed.

³¹ *Country report on human rights practices* – US State Department, February 2000.

5.5 Possibility of future displacement

Ethnic tensions have been noted in the Eastern Province between various communities due to mistrust and misunderstanding between these communities on a number of issues. The Tamils say that they have been discriminated against in the past on land settlement/grants and other state benefits. Minorities of the region, such as Muslims and Sinhalese, feel insecure due to the dominance of armed LTTE and the manner in which the peace process has given the LTTE the upper hand in dealing with many issues that may affect their day to day lives. Most require a permanent solution to the conflict and a guarantee of security before considering returning permanently.

5.6 Property damage and property rights

An important factor slowing down the return of IDPs is damage to the property and infrastructure in the north-east caused by a combination of fighting, looting and neglect. Some towns such as Chavakachcheri in Jaffna, and whole villages such as Thiriyai in Trincomalee District and Miravodai in Batticaloa District have suffered almost total destruction.³² While some buildings can be repaired, many must be completely reconstructed.

A UNHCR report on property issues affecting IDPs says that a number of Sri Lankan laws relating to property rights must be amended to assist returning IDPs and refugees.³³ These laws are complex and would create numerous problems for those returning. Prescription laws provide for ownership of property, if an occupier can establish uninterrupted adverse possession for a period of ten years. A returning IDP may not be able to claim possession of land where another person has occupied the land for ten years. Even those who occupy the property as tenants or lessees may be able to claim ownership by prescription, if they can establish ouster.

Returning IDPs and refugees may also find that persons are asserting new ancillary property rights, such as access to roads and water wells, which were not in existence before displacement. A common problem is the loss of documents that establish title to land, because of displacement or destruction of homes and other buildings. In some areas, the Land Registry offices and their registers have been destroyed. Fences and walls marking boundaries may have been destroyed in conflict areas and lands encroached by other persons. In the case of a large number of deaths and disappearances, death certificates have not been issued. Successors may find it difficult to institute testamentary proceedings without death certificates.

Some people may have mortgaged their immovable property and because of the conflict and displacement defaulted payments. Returning IDPs and refugees may find it impossible to settle accumulated debts, the interest and capital exceeding the total market value of their property. In a number of instances, there have been forcible transfer of property. There are hundreds of orphans who are either unaware or unable to assert their rights over properties that belonged to their parents.

³² *Trinco arrests* - Sri Lanka Monitor, February 2003.

³³ *Legal analysis of property issues affecting internally displaced persons and refugees in Sri Lanka*, by S Sriskandarajah, RC Karunakaran and MA Sumanthiran, UNHCR, January 2003.

Returning IDPs and refugees may also find that the LTTE have introduced new laws, including a *Tamil Eelam Legal Code* and have amended provisions of *Thesavalamai*, the customary law applicable to Tamils of the Northern Province. The LTTE have also established their own system of courts in areas under control.

The Sri Lankan judiciary will not be able to handle the thousands of disputes that may arise relating to property rights. New mechanisms and specialized bodies are needed.

5.7 Landless IDPs

Apart from those who owned assets and property before displacement, there are many other IDPs who have no place to go and no means to begin a livelihood. They include the following:

- Hill Country Tamils who settled in the north and worked as tenant farmers prior to displacement. These Tamils originally lived in tea and rubber plantation areas but sought safety in the Vanni region following violence against them in 1977, 1981, and 1983.
- A new generation of displaced persons who reached adulthood during displacement and do not own any property.
- People who lived in rented accommodation before displacement.
- People who lived on state lands before displacement, whose properties are now occupied by others.
- Landless IDPs.

These categories of IDPs consist a significant proportion of the total number of IDPs and their problems also need to be addressed in resettlement and rehabilitation work. In some places, new housing schemes or villages have sprung up with the assistance of local and international NGOs, on state lands where permit holders were in occupation prior to displacement.³⁴

5.8 Human rights violations and protection concerns

Serious violations of human rights have been committed even after the signing of the ceasefire agreement, both by government security forces and the LTTE, mainly against civilians. Such violations are so serious that they may also hinder the peace process. Details of human rights violations are given in Chapter 8.

³⁴ 'Permit holder' means a person who has been legally authorized to be in occupation of a state land in terms of the provisions of Section 19(4) of the Land Development Ordinance.

Chapter 6 Needs for resettlement of IDPs and refugees

6.1 Introduction

In light of the massive destruction the 20-year war has caused, the needs in the north-east are considerable and pose a huge challenge to the people, government and development agencies. The Sri Lankan government, with the assistance of the Asian Development Bank, UN agencies and the World Bank, has identified the needs in the war-torn areas. A summary from the government report is given below:³⁵

6.2.1 Health

Out of 400 health institutions such as hospitals in the north-east, 55 are totally destroyed and 49 are not functioning and out of 9,542 posts in the health sector, 3,251 posts (34%) are vacant. eg. medical officers and basic specialists. The National Immunization Programme is under serious constraint because of the irregular supply of vaccines and lack of trained personnel. Hospitals are affected by the lack or shortage of essential drugs, near collapse of the health information and monitoring systems. There is malnutrition among mothers and children, anaemia among women, children and adolescent girls and increased disability mainly due to war and mines injuries. The establishment of laboratory and blood bank facilities and blood transfusion services and reproductive healthcare services are essential. The war has increased trauma related mental and physical disabilities and there are several thousand ex-combatants with disabilities.

This is exacerbated by the poor state of sanitation facilities. In most towns, piped water service is limited to one or two hours per day and in most rural areas water facilities are in a depleted state. There is pollution and typhoid and cholera in epidemic proportions have been reported. Provision of bowsers, plastic water holding tanks and dug wells are needed for immediate water supply. In the medium-term, water supply systems have to be augmented particularly in areas of IDP return. Over 40% of primary schools in the north-east have no access to water points and of the remaining 60%, many of the water points do not meet recognized standards of water quality. About 63% of schools have no sanitation facilities.

6.2.2 Education

There is a shortage of 4,650 Tamil medium teachers and 240 Sinhala medium teachers in the north-east and around 40% of the vacancies are for trained primary teachers and English teachers. There are 47% vacancies in Mullaitivu District, 40% in Mannar District and 31% in Vavuniya District, partly because of displacement of teachers. Around 15,000 classrooms in 500 schools are damaged or destroyed, requiring about 209,000 sq. metres of additional classroom space and 312,000 sq. metres of additional space for laboratories, libraries and office rooms for replacement and to absorb anticipated increase in students. Shortage of skilled and unskilled labour in the region is likely to affect reconstruction of schools.

³⁵ For details see *Sri Lanka: Assessment of needs in the conflict affected areas of the north-east* – Government of Sri Lanka, 9 June 2003.

Equipment, IT facilities, laboratories and furniture are needed for the schools. Many schools require replacement of water and sanitation facilities and provision of electricity. Special needs of children most affected by the conflict must be attended and access to literary centres and non-formal education for children, who did not enrol or dropped out because of the war, are important. Teacher training, peace building education, and capacity building for planning, management and evaluation are also needed.

6.2.3 Housing

It is estimated that nearly 326,700 houses were damaged partly or totally in the north-east, as well as damage to household assets such as furniture, fixtures and possessions. Nearly 58% of damaged houses remain totally uninhabitable and about half of these are in Jaffna and Batticaloa districts. It is estimated that nearly 84% (144,890 units) of the housing owned by IDPs is located in the north-east and that nearly 90% of these houses were damaged during the conflict, constituting 43% of the total damaged houses. It is also estimated that 12,000 to 15,000 damaged houses belong to refugees in camps in India and that 49,400 housing units are also needed for new families. Some 18,500 units are needed for vulnerable families such as the landless, families whose houses are in HSZs, single-headed families and elderly living welfare centres.

6.2.4 Infrastructure

Only 10-15% of the road surface in the north-east is still intact. With the absence of maintenance during conflict, all pavement surfaces have deteriorated and some have entirely disappeared. Road conditions are poor, vehicle-operating speeds are low and vehicle operating costs high. Road surface damage is exacerbated by the poor road drainage system. There is a need to fill a 20-year development gap between the standards of roads in the north-east and the rest of the country. Lack of capacity and poor conditions of roads are among the main constraints preventing ordinary people and returning IDPs from gaining access to economic opportunities and good quality services, such as employment, education, health and other social services. Many bridges need replacement or repair and ten new bridges have to be constructed.

Three of the four railway lines in the north-east have suffered serious damage.³⁶ Sleepers and railway lines were scavenged to form defence works and stations were destroyed. The Jaffna and Talaimannar lines need re-laying of track of 166 miles, reconstruction of 40 stations and 12 railway bridges and installation of signalling and communication systems.

The five commercial ports in the north-east - Trincomalee, Kankesanthurai, Talaimannar, Point Pedro and Oluvil – have to be cleared of wreck and improved to support international services and local commercial, industrial, fisheries and agricultural development.

The north-east will need 100,000 telephone connections in the first 18-24 months and another 600,000 in the next five years. In the north, 90% of the electricity distribution system suffered damage, Vavuniya suffering about 70% damage and Mannar 50%, and the

³⁶ Some railway tracks run through military bases of government forces or the LTTE and some railway stations have been converted to military camps.

systems in Mullaitivu and Kilinochchi were totally destroyed. In the east, a power station at Valaichenai that had been under construction was not completed. Completion and augmentation is needed for continued supply of electricity to Amparai and Batticaloa districts. About 95 miles of electricity transmission lines between Vavuniya and the north has also been destroyed and links are needed between Valaichenai and Amparai in the east. In addition to these, 43 buildings and power equipment in the whole of the north-east region have been damaged or destroyed.

6.2.5 Agriculture and fisheries

In the north-east, total crops exceeded 800,000 tonnes in 1982 but decreased to less than 450,000 tonnes in 2001, because of the conflict. Due to the war, there was substantial destruction of standing crops and those around homesteads, as well as farming equipment and infrastructures. A total of 323,700 hectares of land need irrigation in the north-east, but over 30% of the 2,398 minor irrigation tanks in the north-east require rehabilitation due to the impact of war. Before the conflict the north-east accounted for 25% of the total livestock population in the island. Between 1981 and 2000, farm animals decreased from 1,978,000 to 1,656,000 with the consequent decrease in milk, meat and egg production. Fish production is around 56,000 tonnes a year compared to 93,000 before the conflict. In the north-east, particularly in the Vanni and western parts of the east, there are severe transport problems which increase cost of agricultural inputs. Restrictions on transport of fuel and fertilisers also affect agriculture.

Around 12,000 fishermen's houses, boats fishing gear and boat engines have been destroyed. Serious damage has also been caused to supporting infrastructures such as harbours, boatyards, net production facilities, ice plants and fuel supply stations. Fishermen need loans and other aid to continue their occupation.

6.3 Immediate, medium and long-term needs

Conditions conducive to the return of IDPs and refugees must be created in the areas of return and in the country as a whole. In this respect, the immediate, short-term and long-term needs have been identified by the Sri Lankan government assessment.

The immediate needs are physical security and humanitarian needs including food, water and sanitation, shelter, non-food relief items, access to healthcare and education and other basic services, and access to funds to begin income-generating activities through livelihood support including training. The medium-term needs are to establish conditions for the safe, dignified and voluntary return of IDPs and refugees from other countries, adequate protection network such as an independent judiciary and a vibrant Human Rights Commission, support for the reconciliation processes and assistance for livelihood, particularly to the vulnerable sections of returnees.

In the long-term, proper legal instruments must be in place for the protection of IDPs based on UN principles, human rights and humanitarian aspects handled with fairness and a better co-ordination among the different agencies. The root causes of displacement must be examined and ethnic imbalance through resettlement programmes avoided. The Sri Lankan refugees in foreign countries may return home in safety and dignity only if ethnic tensions in

the country have been reduced and a permanent solution to the ethnic question, which takes into consideration the needs and aspirations of all communities, is found.

6.4 Programmes for reconstruction

Sri Lanka has suffered war and destruction for two decades and needs international assistance for reconstruction and development. Table 10 shows the areas for such funding as estimated by the Sri Lankan government. The Oslo, Washington and Tokyo aid conferences promised Sri Lanka that the international donor community will help to re-build Sri Lanka, in particular the war torn north-east.³⁷ At the Tokyo conference on *Reconstruction and Development in Sri Lanka* on 9-10 June 2003, the international community pledged \$4.5 billion assistance to Sri Lanka over a period of four years. However, the community has stated that aid is conditional on the progress of the peace process. According to the Tokyo Declaration, the conditions include, full compliance with the ceasefire agreement, effective protection of human rights and a verifiable de-escalation, demilitarisation and normalization process.³⁸

In this light, delays in the peace process will inevitably result in delays in rehabilitation and reconstruction, prolonging the agony of the displaced people. The ban on the LTTE in other countries may also have an impact on rehabilitation and reconstruction in areas under the control of the LTTE. Some countries are reported to have indicated that projects supported by them should not extend to these areas.

Table 10 Estimate of expenditure for resettlement and reconstruction of the north-east

(\$ millions)

Sector	Immediate	Medium	Beyond Medium	Total
A. Protection, resettlement of IDPs and Refugees	124.6	86.8	-	211.4
B. Health	56.5	73.5	192.1	322.1
C. Education	55.5	61.0	19.3	135.8
D. Housing	155.8	180.4	273.9	610.1
E. Infrastructure	256.4	635.2	545.0	1,436.6
F. Agriculture	76.4	59.4	135.7	271.5
G. Livelihoods - jobs, skills	37.6	59.1	-	96.7
H. Capacity development	16.9	18.7	35.6	35.6
Total	779.7	1,174.1	1166.0	3119.8

Source: Sri Lanka: Assessment of needs in the conflict affected areas of the north-east, submitted by the Sri Lankan government at the aid conference at Tokyo on 9 June 2003.

³⁷ The Oslo conference was held on 25 November 2002 and the pre-Tokyo pledging seminar in Washington on 14 April 2003.

³⁸ Durable Solutions Progress Report No 12 – United Nations Inter-Agency Working Group, 6 August 2003.

Chapter 7 Return of Sri Lankan refugees from India

7.1 Introduction

A large number of Sri Lankan Tamil refugees are currently in the southern Indian state of Tamil Nadu. The reasons for their flight and their expectations for return to Sri Lanka are dealt with briefly in this chapter.

7.2 Causes of flight

Security force operations in the north-east after 1983 led to people fleeing across the Palk Strait to the southern Indian state of Tamil Nadu. When peace negotiations between the Sri Lankan government and the LTTE collapsed and large-scale aerial bombing of the north-east began in 1990, the number of Tamils fleeing to India increased. By the beginning of 1992, there were 230,000 refugees in Tamil Nadu - 120,000 were in government camps and others living on their own without assistance from the Indian government.

7.3 Repatriation

Under a refugee repatriation agreement between the Indian and Sri Lankan governments and the UNHCR, a refugee repatriation programme began in January 1992. Between 1992 and 1996, 54,059 refugees were repatriated. Because of renewed fighting after another peace attempt in Sri Lanka failed in April 1995, the repatriation was suspended.³⁹ Many of the refugees returned from India remained in refugee camps in Sri Lanka for several years. There are currently around 65,000 refugees in government camps in Tamil Nadu and an estimated 50,000 living on their own without Indian government assistance (Table 11).

Table 11 Sri Lankan refugees in Indian camps by region of origin - 2002

Region of origin in Sri Lanka	Female Adult	Male Adult	Female Children	Male Children	Total
Northern Province	18,687	20,324	9,093	9,185	57,289
Eastern Province	1,950	2,148	1,011	1,070	6,179
Boarder Districts	03	05	01	01	10
Others	159	166	66	59	450
Unknown	92	113	27	28	260
Total	20,891	22,756	10,198	10,343	64,188

7.4 Nallayan Declaration

Refugee and development agencies attending a workshop at the Nallayan Research Centre in Tamil Nadu on 22 and 23 February 2003, issued a declaration on the return of Sri Lankan refugees in India. The workshop was arranged by the Organisation for Eelam Refugees Rehabilitation (OfERR). The Nallayan Declaration notes that child conscription and coercive taxation continues in north-east Sri Lanka. Almost all of the 502 ceasefire violations

³⁹ See *Sri Lankan refugees in the Indian state of Tamil Nadu*, Refugee Council, August 1999.

by the LTTE and 54 violations by the security forces recorded by the ceasefire monitors up to December 2002, were directed against civilians.

The Declaration records several principles that must be upheld in considering the return of refugees to the island. Lasting peace is a prerequisite and there must be agreement between the two parties for resolution of the conflict, and the restoration of democracy and the rule of law in the north-east. The peace talks must be broadened and made more transparent to enable Sri Lankan citizens to participate in the determination of their own destiny.

The agreement between the parties must guarantee human rights to all Sri Lankans, particularly Plantation Tamils, including the right to citizenship, property, franchise and self-determination. It must also guarantee the safety and security of returning refugees and their social and material well-being. Refugees themselves must be involved in the negotiating and return processes for this end. Returns must be voluntary, upholding international standards of safety and dignity, and underwritten by an accord between India and Sri Lanka. Transfer of refugees from camps in India to camps in Sri Lanka would impede peace.

Therefore returns should take place only when refugees can go to former homes or areas of habitation. Landmines should be fully cleared and internally displaced people resettled before the commencement of refugee returns. There must be a commitment to speedy reintegration through recognition of documents acquired in exile, such as refugee identity cards, certificates of births, marriages and deaths as well as qualifications acquired outside Sri Lanka.

The Nallayan Declaration says that the agreement must contain a commitment to restorative justice. Refugees who have lost property, relatives and livelihood must be compensated. Provision should also be made for a Truth Commission that promotes a healing process in all segments of society.

7.5 UNHCR meeting

At a meeting of local and international agencies on 14 January 2003 in Kilinochchi, arranged by UNHCR, to discuss the return of Sri Lankan refugees in Tamil Nadu, the need to create conditions conducive to safe and dignified voluntary repatriation in an organized manner was stressed. Participants agreed to give priority to create conditions of physical, legal and material safety. It was stated that UNHCR would hold meetings with Indian and Sri Lankan governments and other international organisations on the subject of voluntary repatriation facilitated by them.

The participants noted that there remains a need to improve conditions of physical security through addressing human rights concerns, incidents of violence against civilians and reducing risks from landmines and unexploded ordnance. They also stressed the need to improve conditions of legal security through independent judicial and policing systems, simplification of immigration procedures, citizenship and issue of identity cards, and through adequate laws for property restitution. The participants pointed at the need for material security through restoration of basic services where Sri Lankan refugees originated, such as health and education, potable water and sanitation and means of livelihood and employment.

Chapter 8 Human rights and other concerns

8.1 Introduction

This chapter gives an update on human rights issues and concerns about human rights institutions and provides context for discussion on return of Sri Lankans who have sought asylum in other countries.

8.2 Need to improve human rights

The Sri Lankan government's assessment needs document says that human rights concerns have been central to the conflict, and are an explicit element of the current search for a negotiated settlement. These include civil and political rights, rule of law, access to justice, good governance and economic, social and cultural rights such as education and language. The document further says that disregarding human rights will run the risk of perpetuating tension and that it is important to address human rights issues that allows a multi-ethnic, multi-religious, participatory and people-centred approach.⁴⁰

8.3 War preparations

While talking peace, both parties are strengthening their armed forces. The Army and the LTTE have established several new military bases in the north-east. The Army announced on 10 August 2003, for the first time since the ceasefire, that recruitment of 4,000 new soldiers would begin on 18 August. The LTTE are said to have recruited 15,000 cadres since the ceasefire. The LTTE have also been bringing arms into Mullaitivu District. *Sea Tiger* boats were intercepted by the Sri Lankan Navy several times, and on one occasion on 7 February 2003, the SLMM found weapons on board. The Sri Lankan government has also decided to acquire new arms and ammunition. Defence minister Tilak Marapane and Navy commander Daya Sandagiri visited Israel in August 2003 to buy heavy weaponry.

8.4 Clashes between armed forces and LTTE

The security forces and the LTTE have clashed on a number of occasions, particularly at sea, which threaten to destabilise the peace process. President Chandrika Kumaratunge who is commander-in-chief of the armed forces is alleged to be giving directions to the Navy without the concurrence of the government. On 14 June 2003, the Sri Lankan Navy sunk a LTTE ship with 12 Tiger members on board.

A dispute between the Army and the LTTE over a Tiger base at Kurangupanchan in Trincomalee District has not been resolved. The military has alleged that the LTTE had recently constructed the camp in an Army-controlled area in violation of the ceasefire agreement. The LTTE claim that the camp has been in existence for several years and continue to defy an order of the SLMM to dismantle the camp.⁴¹

⁴⁰ *Sri Lanka: Assessment of needs in the conflict affected areas of the North-East*, Government of Sri Lanka.

⁴¹ *Camp of contention* – Sunday Times (Colombo), 7 September 2003

8.5.1 Arrest and detention

The security forces have resumed cordon and search operations in some areas of the north-east. House-to-house search operations have been conducted in Trincomalee District. Some people were arrested in June 2003 and taken to the Harbour police station, but released after recording statements. In Batticaloa District, white vans, hallmark of security force death squads, have reappeared. Arrests are sometimes carried out by intelligence services from Colombo, who arrive in white vans. The whereabouts of ten arrested people are not known and the Batticaloa police have denied any knowledge of these arrests. Earlier, under the Prevention of Terrorism Act (PTA) and Emergency regulations, security forces were required to provide arrest receipts to relatives and inform the HRC of any arrest, but now such protection is not available. On 12 June 2003, Batticaloa MP Joseph Pararajasingham raised this issue when he met Prime Minister Ranil Wickremasinghe. But on 18 June, S Nanthakumar was abducted by persons in a white van at Madathady in Trincomalee District. The security forces have also begun cordon and search operations and arrests in Colombo.

In its 2003 annual report, Amnesty International said that at the end of 2002, 65 Tamil political prisoners were held for long periods without charge or trial under the PTA.

8.5.2 Freedom of movement

In Batticaloa District, checking of passengers to and from LTTE areas, was resumed by security forces in mid-June 2003. As was the case before the ceasefire, people must get off vehicles and walk a certain distance and undergo thorough checks, before resuming their journey.

The Army has established new checkpoints in Jaffna and in the east. Checks on civilians are carried out in the manner before the ceasefire. LTTE permits are needed to enter areas under Tiger control and this causes long delays for civilians at the checkpoints. Each person visiting the Vanni or travelling through the Vanni must pay Rs 350 to the LTTE. Foreign passport holders of Sri Lankan Tamil origin must appear for an LTTE enquiry at Puliyankulam, sign a form containing his/her personal particulars and each person must pay Rs 1,000 (\$11).

The LTTE has also introduced an arbitrary taxation system in the areas it controls and on goods brought from outside the areas, including food and medicines. In effect, people must pay a double tax - LTTE's and the government's.

8.5.3 Attacks on civilians

The security forces have killed or injured a number of civilians since the ceasefire agreement was signed on 22 February 2002. The Army fired on demonstrators at Point Pedro in Jaffna District on 10 December 2002 and injured nine people.⁴² In March 2003, the Trincomalee magistrate declared the deaths of S Konalingam, K Sasitharan and student Anthony Mayuran as homicides. It is alleged that they were killed by police grenades and shooting, during a

⁴² *Army injure nine* - Sri Lanka Monitor, December 2002

demonstration against the killing of seven civilians in Batticaloa District in October 2002 by the police Special Task Force (STF).⁴³

The STF attacked and injured two people, after losing to a civilian team at a sports meet at Kaluvanchikudy in Batticaloa District on 27 April. The STF injured eight Tamil youths at Mandur in the same district on 12 June, after they refused to carry out the work ordered.⁴⁴ On 17 May 2003, soldiers entered several houses in Jaffna, attacked people and caused damage. They are also accused of attempting to rape two women.

8.5.4 Disappearance

Three zonal Presidential Commissions inquired into 27,526 complaints of disappearance which took place between January 1988 and December 1995 and found evidence of disappearance in 16,642 cases.⁴⁵ A fourth all island Presidential Commission investigated 10,136 complaints and found evidence in 4,473.⁴⁶ At the time, there were a further 16,742 cases of disappearances in respect of which no investigations have been carried out.⁴⁷

No further action has been taken in the 21,115 cases where the commissions have recorded the names of the security force personnel responsible for the disappearances. Most of them continue to hold positions in the forces. According to complaints received by the HRC, there is no information about 42 people in Batticaloa District and four in Amparai District disappeared in 2002.⁴⁸

8.5.5 Torture

Torture in custody continues to remain a major concern in Sri Lanka. Between July 1997 and December 2000, the HRC received 6,128 cases of illegal arrest, detention and torture and in 2002, it received 142 complaints of torture. The Asian Human Rights Commission (AHRC) said that torture is routinely used by police in day-to-day criminal investigations and that hundreds of security force members accused of the crime continue to function in various ranks.⁴⁹ Analysing 718 complaints of torture in 2000 and 2001, HRC found that in 402 instances torture occurred in police stations and in 372 cases the victims identified the perpetrators. But the Police Department has not taken any meaningful steps against such police officers.⁵⁰ Amnesty International also has stated that lack of accountability for human rights violations including disappearances and torture remained a serious concern. Amnesty also said that torture, including rape, in police custody continued to be reported frequently

⁴³ *Resettlement* - Sri Lanka Monitor, March 2003

⁴⁴ *STF attack* - Sri Lanka Monitor, April 2003

⁴⁵ The three commissions were appointed on 13 November 1994 and submitted their reports in September 1997.

⁴⁶ The fourth commission was appointed on 30 April 1998 and submitted its report in May 2000.

⁴⁷ *Disappearances in Sri Lanka and the available legal remedies* by Priyadarshini Dias, Women and Media Collective, Sri Lanka, May 2003.

⁴⁸ *Secret war* - Sri Lanka Monitor, December 2002.

⁴⁹ *Special report on torture in Sri Lanka* – Asian Human Rights Commission, October 2002, www.article2.org

⁵⁰ *Final report on project monitoring and raising awareness about torture* by R C Karunakaran, HRC, Sri Lanka, May 2003

and there was little progress in many cases involving members of the security forces suspected of grave human rights violations.

The Sri Lankan Supreme Court awarded compensation of Rs 800,000 (\$8,420) and the medical costs which amounted to more than Rs 800,000 on 4 April 2003 in a case for illegal detention and torture. The court said that complaints of torture and degrading treatment whilst in police custody show no decline. The court declared that the duty imposed by the Sri Lankan constitution to secure and advance human rights, including freedom from torture, extends to all organs of government. The court viewed prolonged failure to give effective directions designed to prevent torture and to ensure proper investigation as justifying the inference of acquiescence and condonation.⁵¹ The Attorney General claims to have filed cases against some offenders but no one has been convicted for the crime of torture although a law against torture exists since 1994.⁵²

8.5.6 Killings by the LTTE

The LTTE are suspected of assassinating more than 30 Tamils belonging to Tamil parties opposed to the LTTE or the government intelligence services. Former members of other Tamil militant groups have also been targeted. The Heads of Mission of the European Union in Colombo have expressed concern over the spate of politically-motivated killings.⁵³ On 6 June, former Eelam People's Democratic Party (EPDP) member Sinniah Samuel and his two year-old daughter were killed in a grenade attack in Batticaloa. Two Tamils in the intelligence services have been killed in Colombo. Tamil Eelam Liberation Organisation (TELO) member K Ramanan was shot dead on 15 June in Batticaloa town and on 9 June, S Kirubarajah, a member of the Eelam People's Revolutionary Liberation Front (EPRLF) was gunned down in Trincomalee.

Senior member of EPRLF Thambirajah Subathiran was assassinated in Jaffna on 14 June 2003. A suspected Tamil Tiger walked into the Dehiwela police station in Colombo on 23 June 2003 and shot dead Inspector Sunil Thabrew, the head of the intelligence unit.⁵⁴ A Tamil informant who was a former member of EPRLF was shot dead on 9 August at Akkaraipatru in Amparai District. LTTE supporters say that the attacks are in retaliation for the killing of senior leaders of the LTTE by the Long Range Reconnaissance Patrols (LRRP) of the government Directorate of Military Intelligence (DMI). They allege a military conspiracy to assassinate LTTE leader Velupillai Prabhakaran.⁵⁵

This has resulted in attacks on LTTE members and supporters. LTTE's office in Batticaloa came under grenade attack on 16 May 2003. LTTE member P Koneswaran was killed in Batticaloa on 22 May and the Tigers blame the EPDP for his murder.

⁵¹ AHRC statement of 4 April 2003 – www.ahrchk.net

⁵² Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act of 1994.

⁵³ Press release 27 August 2003.

⁵⁴ *Suspected rebel double agent kills Sri Lankan cop* – Reuters, 23 June 2003.

⁵⁵ *Tigers blame the long arm of the government* - Sri Lanka Monitor, April 2003.

A statement of former US ambassador in Colombo Ashley Wills sums up the violations of the LTTE: 'Assassinations of opponents, intimidation of Muslims, taxation without representation, aggressive Sea Tiger behaviour and continued child recruitment do not build trust in the LTTE's intentions'. Offices of groups opposed to the LTTE have also come under grenade attacks. These groups complain that several of their members have been abducted by the LTTE and are being held in a Tiger military base.

In a statement on 7 August 2003, Amnesty International says that 'members of Tamil political parties are being gunned down and the available evidence points to the Tamil Tigers'. Amnesty alleges that the LTTE are taking advantage of the ceasefire to murder political opponents. A Human Rights Watch report of the same date titled *Sri Lanka: Political killings during the ceasefire*, says that 'the LTTE's new political offices have become useful points from which to co-ordinate surveillance, recruitment, and extortion and, when necessary, the assault, abduction, and assassination of rivals'. Most refugees in other countries are from LTTE-held areas of the north-east or from Army-controlled areas where the Tigers have been allowed to open offices under the ceasefire agreement.

While Amnesty says that the systematic campaign by the LTTE to silence opposition voices, 'seriously threatens to undermine moves towards establishing a just system of governance', the Human Rights Watch report goes further and points out that the LTTE campaign 'constitutes both a violation of the ceasefire and systematic human rights abuse'. There is no system in place to investigate these abuses. Human rights agencies have called on the Norwegian government and the SLMM to publicly acknowledge and condemn the violations and take measures for serious investigations.

8.6 Child recruitment

Despite an agreement with the UN Representative on Children and Armed Conflict in May 1998, the LTTE continued to recruit children.⁵⁶ Since the ceasefire agreement, the LTTE have released some child recruits, but there is no proper information about 300 child recruits recorded by the Human Rights Commission. There are accusations that the LTTE continues to recruit children even after signing an agreement with UNICEF in March 2003.

8.7 The Judiciary

In August 2001, the International Bar Association (IBA) concluded that there was 'an overwhelming need for an independent credible judicial system' in Sri Lanka. It detailed instances of lack of accountability, breach of natural justice and potential for undue interference and pointed that institutions which should be protecting the rule of law, including the President, government and the Chief Justice, were acting to undermine it. The IBA said judges had been removed by the Chief Justice without enquiry and in June 2001, a parliamentary opposition impeachment motion to remove him was restrained by the Supreme Court which he heads.⁵⁷

⁵⁶ *Sri Lanka: LTTE recruitment drive for child soldiers must stop* – Amnesty International, 11 October 2001, ASA 37/013/2001; *Sri Lanka: Fear of safety/child soldiers* – Amnesty, 11 March 2002, ASA 37/007/2002.

⁵⁷ The Sunday Times, 2 December 2001

THE UN Special Rapporteur on the Independence of Judges and Lawyers, Dato Param Cumaraswamy, said in July 2003 that corruption in the judicial system is on the increase. He severely criticized the Sri Lankan Supreme Court in February 2003, for denial of justice to teacher Michael Fernando.⁵⁸

There have been a number of complaints against the Chief Justice's conduct in the past. A 2002 book titled *The unfinished struggle* by Victor Ivan has exposed extensive misconduct and abuse of authority by Mr Sarath Silva when he was Attorney-General and as Chief Justice. According to the AHRC, there have been no official denial of the allegations made in the book, nor has the author been subjected to legal action.⁵⁹

It is also pertinent to note that the LTTE have established a separate judicial system in areas under their control. Judges who dispense justice in these courts are former LTTE fighters with no formal legal training. The *Tamil Eelam Legal Code* specifically provides that the courts will function under the direction of the LTTE's national leader.⁶⁰ The LTTE have also introduced a *Tamil Eelam Penal Code*. The civilians in these areas have no option but to be subject to the jurisdiction of the LTTE courts.

8.8 Human rights institutions

The mandate of the Sri Lanka Monitoring Mission (SLMM), though inadequate, gives express authority to the SLMM to inquire into complaints of alleged violations of the terms of the Ceasefire Agreement. However, there are many cases where the SLMM has failed to take steps or act decisively as prescribed in the agreement. The Mission has not asserted legitimate and expected role under the ceasefire agreement from the very beginning and when it attempted to be firm after a considerable lapse of time, the LTTE have treated it with contempt. This is a serious issue, as under the agreement, the other law enforcement agencies are precluded from inquiring into criminal conduct which falls within the ambit of the agreement. Many violations thus go unchecked and unpunished. Furthermore, the SLMM has no presence in Kilinochchi and Mullaitivu districts.

Other institutions such as the Human Rights Commission (HRC) are weak and are unable to guarantee the needed protection. The Act establishing the HRC needs amending, in order to strengthen the HRC and given it both credibility and effective powers. This includes adequate financing, financial independence and powers to enforce the decisions of the HRC. Concerns are continuing to be raised over the suitability of members appointed to the Commission, in particular whether they accord with the spirit of the HRC Act. The HRC needs greater scrutiny to ensure integrity and independence.

⁵⁸ According to the Rapporteur, in this case, the Chief Justice violated the rules of natural justice and denied a fair hearing. The Asian Human Rights Commission (AHRC) said that the Chief Justice had also breached Sri Lanka's obligations under the International Covenant on Civil and Political Rights. - Statements of AHRC, 17 March and 1 April 2003.

⁵⁹ *Chief Justice Sarath Silva accused of injustice* - Sri Lanka Monitor, March 2003

⁶⁰ Chapter 3 Rules 2 and 3 of the *Tamil Eelam Legal Code*.

Chapter 9 Recommendations for facilitating the return of IDPs and refugees

9.1 Safe and dignified returns

The Sri Lankan authorities and other governments and agencies assisting the Sri Lankan government should give priority to plans and activities directed at creating durable solutions to displacement. Many agencies, including UN bodies, are involved in rehabilitation as well as development activities.⁶¹ UN High Commissioner for Refugees Ruud Lubbers has said, 'Returnee and reintegration assistance alone won't help Sri Lanka erase the damage wrought by years of conflict and economic stagnation'.⁶² The preferred option to end displacement is the safe, dignified and voluntary return of IDPs and refugees to their former or habitual places of origin. If the displaced people wish to settle in other places, such a desire should be met by proper assistance. The interest of host communities in such other places should be taken into consideration in order to promote integration.

The protection of the returnees should be seen as the most important aspect when considering returns, aimed at obtaining full respect for the fundamental rights to life, liberty and security. This includes access to protection under the law and all basic necessities for livelihood.

9.2 Political Commitment

- There must be political commitment by the two parties not to return to war and to find a political solution to the problems through peaceful means by negotiations.
- There must be further international involvement in the facilitation of the peace negotiations and the monitoring of the ceasefire. The SLMM should be strengthened and its mandate widened to include human rights violations.
- Safety of IDPs and refugees is of paramount importance and the Sri Lankan government and the LTTE must consider interim and constitutional assurances for safety, security and welfare of the returnees.
- All parties involved, including the government, the LTTE and the international community, must agree to allocate sufficient funds for relief, rehabilitation and reconstruction (RRR).

⁶¹ *A common UN response to Sri Lanka's development challenge – Sri Lanka: United Nations Development Assistance Framework (2002-2006)*, Colombo January 2001.

⁶² In 2002, UNHCR announced the 4R initiative - repatriation, reintegration, rehabilitation and reconstruction - to eliminate the gap between the emergency phase of refugee crisis and the subsequent need for sustained long-term development. UNHCR says Sri Lanka has been selected as one of four global regions to field test this concept and it would work closely with the World Bank, UNDP and the Asian Development Bank. - *Sri Lanka: Emerging from the ruins - The road to recovery*, Refugees Magazine, Vol. 1 No. 130, 2003.

- As constitutional changes seem impossible without cooperation between the two major political parties, the ruling United National Front (UNF) should strive to bring about an understanding and agreement with its main opposition People's Alliance (PA) with regard to finding a lasting political solution to the festering problem.
- The LTTE have shown a ruthless attitude towards those who oppose them politically. The LTTE should change to respect pluralism and democratic dissent and permit other groups which are opposed to its views to continue to operate.
- It is evident that the proportional representation electoral system currently in place is causing difficulties in finding a lasting solution under the present constitutional framework. Some concerted steps must be taken to address this issue.

9.3 Creating conduciveness in the place of origin

- Nearly 100,000 people are unable to re-settle because of the existence of military high security zones in the north-east region. The Sri Lankan government and the LTTE must take steps to review the extent and number of HSZs, in areas under their control, to keep them to a minimum and to ensure that the displaced people are permitted to return to their homes that are located within the HSZs.
- The LTTE must ensure that steps are taken to return houses and properties taken from the members of the Muslim community after they were driven out of the Northern Province in October 1990.
- It is essential to increase the resources and manpower for the rapid and efficient removal of landmines and unexploded ordnance.
- Steps must be taken to minimize the presence of armed forces and armed cadres of militant groups in the areas of resettlement.
- The Sri Lankan government and the LTTE must remove restrictions on the free movement of civilians and returnees in their respective areas.
- The Sri Lankan government must allow civilians to pursue their occupation and economic activities, particularly agriculture and fishing, without restrictions. The LTTE must remove restrictions on the Muslim and Sinhalese communities in continuing their economic activities.
- Protection procedures must be in place with special assurances for the IDPs and refugees who feel insecure on return because of the human rights violations against them by the armed forces and the LTTE.
- The armed forces and the LTTE must vacate houses, government and other public buildings, agricultural land and properties which are occupied for their own military and administrative structures to facilitate the return of IDPs and refugees.

- The present protection network that includes national and international humanitarian institutions and agencies, judiciary corps and civil society from both state and non-state actors should be further strengthened and broadened in scope to include capacity building for institutions that promote and provide advocacy and protection of human rights for all people.
- It is necessary to establish an up-to-date information and monitoring system concerning human rights violations and the current protection mechanisms.
- Programmes of peaceful co-existence and reconciliation activities are needed in the areas of returnees as well as in areas where the displaced are now living.
- It is also necessary to ensure a smooth transition between humanitarian and development needs in the war affected and returnee areas. Such benefits must reach returning populations as well as host communities.

9.4 Preparing for IDP and refugee return

The following steps must be taken to ensure that IDPs and refugees are prepared for returns:

- Stabilize the life of the displaced where they are now through relief and rehabilitation programmes.
- Provide access to information to IDPs and refugees about conditions in their places of origin.
- Respect the options chosen by the displaced about their immediate and long-term return.
- Provide specialized programmes for children separated from their families, and to address child labour, sexual and gender-based violence and the exploitation of women, and provide assistance for people with disabilities, single-headed households and the elderly.
- Monitor needs and assist voluntary return of refugees from the south Indian state of Tamil Nadu.
- Initiate activities to create conditions more conducive for the eventual voluntary return of Sri Lankan refugees from other countries.
- Introduce suitable legal and institutional provisions to overcome legal impediments to resettlement such as the operation of the laws of prescription.
- Introduce special legal provisions and procedures to ensure that returnees are able to obtain documents such as passports, certificates of births, deaths and marriages and

where documents have been issued in another country make provisions for the use or, acceptance of such documents until Sri Lankan documents can be issued.

9.5 Appropriate RRR

- In view of the complete destruction of certain towns such as Chavakachcheri in Jaffna, it would be appropriate to consider the development of model new towns in areas which have suffered heavily due to the war, in consultation local communities.
- People sometimes complain about the inappropriateness of programmes implemented in their areas by local and international agencies. Local people must be consulted in relation to their needs and aspirations and allowed to participate in RRR and community-based development activities must be promoted.
- Relief support for people seeking durable solutions to their displacement should also be provided, some of which may be in the form of financial and material assistance from national authorities and national and international agencies.
- Special attention should be given to rehabilitation of the vulnerable segment of the displaced population such as women, children, the elderly and those affected by physical or mental disability.
- Housing should be given priority, as no housing schemes have been implemented in the north-east for more than 20 years.
- Procedures and mechanisms of coordination in RRR should be improved to prevent duplication and to ensure assistance reaches the people in need.
- There must be flexibility in the implementation of RRR programmes and there should be political intervention only when necessary.

9.6 Engaging the Sri Lankan diaspora

The Sri Lankan diaspora is often well established in host countries and a vital resource in reconstruction and is already engaged in providing assistance in Sri Lanka. At the Oslo aid conference on 25 November 2002, the European Union agreed to strengthen its role in the peace process in Sri Lanka and in this context engage the Tamil diaspora.

Governments of host countries and institutions should also actively engage with refugee community organisations to ensure meaningful dialogue about voluntary returns of refugees. Voluntary returns need to find ways of ensuring the contribution of the diaspora in other ways than through actual permanent return. The expatriate community could assist through financial assistance, skills audits, training and exploration and preparation.

9.7 Preventing displacement in the future

- While diversity must be encouraged, ethnic harmony is vital to peace and development. Programmes for integration and ethnic harmony should be planned and implemented for mixed ethnic localities.
- Introduction of early warning systems to prevent escalation of ethnic and other violence and effective law and order mechanisms are important.
- The UN Guiding Principles on Internal Displacement for the protection of IDPs should be given more prominence in protection of IDPs and included in awareness programmes. In Sri Lanka many of the principles have been violated.⁶³

9.8 Improving human rights

International agencies have expressed grave concern over the human rights situation and the lack of enthusiasm to take up human rights in the peace talks. The problem of internal displacement will continue as long as human rights violations continue and impunity is not dealt with, particularly by bringing offenders to book.

- There must be sustained pressure from civil society and the international community on the Sri Lankan government and the LTTE to undertake a comprehensive discussion on human rights to ensure that legal and institutional framework are included in any proposed constitutional changes to promote human rights.
- The Human Rights Commission should be provided with adequate legal and financial muscle to deal with complaints and the Supreme Court needs to make rules under the Human Rights Commission Act to enable the Commission to exercise its powers to take legal action against perpetrators.
- Proper measures must be taken to end torture in custody, particularly steps to bring to justice those identified by the Supreme Court as involved in torture and the security force personnel identified by four Presidential Commissions as being implicated in 21,115 cases of disappearances, many of who continue in their positions.
- The ceasefire agreement provides that the Prevention of Terrorism Act (PTA), which has facilitated human rights abuses, will not be used. But the possibility remains that it will be used in the future. The PTA should be repealed or amended to bring it in line with international standards as recommended by the UN.

⁶³ *Sri Lanka: Internally displaced people and the Guiding Principles – A critique* by Edward Benson, MSc dissertation, School of Oriental and African Studies, September 2001.

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