

Suffering of IDPs and conflict-affected people in Sri Lanka: A case of war crime

Dr. Paul Newman

THE CONTEXT

The civil war between the Sri Lankan armed forces and the Liberation Tigers of Tamil Eelam (LTTE) started in July 1983 and ended on the 19th of May 2009 with the defeat of the LTTE. A “growing and grave humanitarian crisis” developed during the last phase of the civil war between Sri Lankan government forces and the LTTE¹. Large numbers of civilians became trapped with the remnants of the LTTE forces in a shrinking pocket that ended along a coastal strip of land in northeastern Sri Lanka. President Barack Obama pointed out on May 13, 2009, that these people have “little access to food, water, shelter and medicine. This has led to widespread suffering and the loss of hundreds if not thousands of lives.”²

The sufferings of the civilians were unparalleled in recent history as more than 280,000 civilians were displaced from their places of origin. These displaced are pre-dominantly from Tamil districts of Jaffna, Mannar, Vavuniya, Killinochchi, Mullaithivu, Trincomalee and Batticaloa. The entire districts of Killinochchi and Mullaithivu are totally destroyed and the entire populace held in detention as they were forced to comply with the LTTE dictum of at least one cadre to be enlisted in the movement.

The suffering of the civilians still continues as this ‘war on terrorism’ has led to deaths, injuries and loss of livelihood of a large number of them. While the overall damage is still being assessed, about 300,000 Internally Displaced People (IDPs) who have lost their homes or have fled the conflict zones were living in closed camps till recently. The unfolding scenario marks one of the most serious, though grossly underreported, humanitarian crises of recent times.

¹ “Statement by Ambassador Susan Rice, U.S. Permanent Representative to the United Nations,” *Federal News Service*, April 30, 2009.

² “Statement by the President on the Situation in Sri Lanka,” Office of the Press Secretary, The White House, May 13, 2009.

Though the GoSL euphemistically called the barbed wire camps of the IDPs ‘welfare centers’, humanitarian agencies have pointed out that they evoke rather grim images of detention centres associated with great wars of the last century. On ground, the people in these camps were denied of their most basic human rights – movement, livelihood, speech, assembly and grievance redressal. NGOs had only limited access to these camps and conflict zones in general. So they had only limited success in reducing the suffering of IDPs and other war-affected people.

The issue of whether or not alleged war crimes will be pursued is a potential area of friction between the government of Sri Lanka and elements in the international community. The Office of the U.N. High Commissioner for Human Rights, Navi Pillay, called for a war crimes inquiry in Sri Lanka. Many in the international community were appalled by reports of both the use of civilians as human shields by the LTTE and the indiscriminate shelling of civilians in LTTE held areas by government forces in the closing phase of the war. Ms. Pillay stated “independent and credible international investigation into recent events should be dispatched to ascertain the occurrence, nature and scale of violations of international human rights and international humanitarian law.”³

The U.N Human Rights Council passed a resolution on May 27 that was in the view of Human Rights Watch “deeply flawed” because it ignored calls for an international inquiry into alleged abuses of human rights. Human Rights Watch Advocacy Director Juliette de Rivero stated “The Human Rights Council did not even express its concern for the hundreds of thousands of people facing indefinite detention in government camps.”⁴

HUMAN AUDIT

A human audit in the Tamil areas shows the following:

Loss of life: 100,000

Internally Displaced People: 600,000

³ “Inquiry into Alleged Abuses Crucial for Sri Lanka’s Recovery – UN Rights Chief,” *States News Service*, May 26, 2009.

⁴ “Sri Lanka: UN Rights Council Fails Victims: Member States Ignore Need for Inquiry into Wartime Violations,” *Human Rights Watch*, May 27, 2009.

Refugees: 200,000 in western countries and 100,000 in India, out of which 74,000 live in refugee camps.

War Widows : 45,000 (20,000 in Jaffna district alone)

Disappeared: 20,000 officially (reported cases). Human Rights groups claim more than 40,000 unregistered disappearances.

Mass Graves: Chemmani, Alfred Duraiappa Stadium

Restriction of movement:

Pass system for Tamils in North:

The GoSL and the security forces had perfected a pass regime that was suffocatingly restraining the movement of Tamils. In the name of restricting “terrorists’ entry into the Capital Colombo” sick people, old people, and students wishing to pursue higher education were discriminated against in the pass system.

The following information gathered from a cross section of the Government officials who enforce the pass system showed a systematic denial of the right to movement inside Sri Lanka for the Tamils. The Tamils too shared their experience of their travel within the island.

The pass system was first introduced in Vavuniya in 1992, a 3-months open pass was issued to all residents in Vavuniya. In 1993 all residents, whose names were on the 1989 voters list were issued a permanent pass. In 1995, a restricted 3-month pass was introduced in an effort to control movement of people from the North to the South for security reasons. In July 2000 the 4-hours pass for welfare center residents was replaced by a 3-month restricted⁵

Fearful of "Tiger sleepers", the government implemented a draconian pass system in the town comparable to apartheid. Tamils had to get passes from the police to leave camps or go to work. Anyone without the permit could be jailed for 18 months without charges. Even influential Tamils with emergencies failed to get passes in time. Curbs on movement and inadequate food rations turned Vavuniya into "a vast open-air prison." Visiting presspersons had to apply for a "white pass" to enter this jail⁶.

⁵ UNHCR September 2000, p. 26

⁶ Nirupama Subramanian. *Sri Lanka: Voices From a War Zone* by Penguin Books, New Delhi, 2005.pg 44

This pass system was to restrict the Tamil entry to the South. Vavuniya is the border town that separated the Cleared (army controlled) and the “Uncleared” (militant controlled) zones. The suffering people from the conflict zones need to enter this town if they want to move to any other place.

The government had perfected a pass system by which people were divided into various “pass categories.” One needed to possess this slip of paper and the national identity card to have a better chance of saving oneself from arbitrary arrests and disappearances.

The pass system was a clear demonstration that IDPs living in prison like conditions could, as an organised group, be a threat and an embarrassment to the authorities, which can only be prevented by isolating them as much as possible from each other and the people outside⁷.

*Kinds of passes for the Tamils*⁸

- Seven day pass
- Paper pass
- One month card pass (Restricted pass)
- Three months card pass
- Three months open pass
- One year pass (Restricted pass)
- One year open pass
- Temporary pass issued for emergency traveling
- Elders pass
- Travel pass
- Pass issued to stay outside the camp
- Passes issued in camp for school children
- Pass valid for 14 days
- Pass which is issued to government servants who are in welfare centers
- Permanent pass (Issued by the SLA)

⁷ J.T. Tissainayagam, Open prisons of Vavuniya and Mannar, Courtesy: Sunday Leader - May 6, 2001

⁸ Source – Briefing note 2001, UNHCR

Travel to the South - an ordeal

No Colombo pass was given to daily pass holders. Those who wished to travel to the south but did not have a permanent pass were required to have a permanent pass holder as a security. Till the return of the temporary pass holder, the sponsor's permanent pass would be kept in the Kacheri (Local government Office) and would be given a temporary 5 day pass. Once the person for whom she/he had stood as guarantor returns from the south her/his permanent pass would be returned. In the south the traveller had to report to the nearest police station at the time of arrival and departure. Even with all these there were incidents of Tamils being picked up for questioning. Those below the age of 10 could travel without a pass with their parents. Normally those who were above the age of 12 and below 35 were denied passes to the south unless there was a clearance from the CID. Those who had family relatives who were ex militants were also denied a pass.

THE TRAUMA OF WAR ON CHILDREN

Medicines Sans Frontiers did a survey on Nov. 17th 2000 amongst the inhabitants of the government-controlled IDP camps or 'welfare centers,' in Vavuniya, who are Tamils from the north who have fled the war, yet are not allowed to leave Vavuniya. Approximately 175,000 people were in these camps at the time, approximately 50% of whom were children⁹. Some of these people have been in IDP camps for over 15 years, according to Dr. Jayawardene, the then Sri Lankan Minister of Rehabilitation.

MSF reported that, "It would be difficult to imagine a group of people suffering more from the psychological trauma of war. They have been the direct victims and witnesses of war and human rights abuses, they have been cut off from employment and the hope of self-reliance, and remain confined to squalid conditions that amplify the psychological trauma of the past and exacerbate mental health problems."

The suicide rate in the centers is 103 per 10,000, three times the national average. 12% of the people in the survey had been attacked, 28% had been arrested or kidnapped, 17% had been taken hostage or detained, 17% had been maltreated by police or army personnel and 11% tortured. 7% of those in the welfare centers had lost a partner, 9% a child, 12%

⁹ MSF, 'Sri Lanka's health service is a casualty of 20 years of war,' Feb. 9, 2002

parents, 18% a sibling, 10% a grandparent. Almost 50% were separated from family members and a quarter had family members who had attempted suicide. On average the people had been displaced 3 times before reaching the centers¹⁰.

In the civil war children have been traumatised by common experiences such as shelling, helicopter strafing, round ups, cordon and search operations, deaths, injury, destruction, mass arrests, detention, shooting, grenade explosions, and landmines¹¹. An estimated 300,000 children have been displaced due to the war¹², most having moved multiple times. 270,000 of these are Tamil children¹³.

Growing up displaced and in a heavily militarised environment can lead to psychological stress, family break-up, despair, alcoholism, violence and suicides¹⁴. Nearly 25 percent of children in conflict areas have lost one or both parents, either to death or displacement¹⁵.

Suicide among children, even those under 10, has been noticed, especially in IDP camps. In June 2003 the Needs Assessment Reports at a donors' conference in Tokyo prepared by the United Nations, the World Bank and the Asian Development Bank stressed the urgent need to rehabilitate war-traumatized children in the war zones. The report states that, "Witnessing the horrifying death of loved ones or strangers, seeing mutilated bodies, experiencing the death of all powerful parents are especially traumatizing and can cause a vacuum in the child's mind that can never be filled."¹⁶

DISAPPERANCE OF CIVILIANS:

Sri Lanka has witnessed a high number of disappearances of civilians in the last two decades. Youth between the ages of 15 to 30 are picked up from the camps regularly. Many of them were separated from their family members' long time ago. Even now youth are picked up by the security forces. It is also a fact that the splinter rebel groups who have

¹⁰ MSF, 'Psychological trauma of the civil war in Sri Lanka', *The Lancet*, April 27, 2002

¹¹ D. Somasundaram, 'Child Soldiers: Understanding the Context,' *British Medical Journal*, May 25, 2002

¹² Reuters, 'Sri Lankan children plead for peace, compassion,' April 30, 2002

¹³ D.B.S. Jeyaraj, 'War affected Tamil children of the North-East,' *The Sunday Leader*, March 24, 2002

¹⁴ UNICEF, 'Sri Lankan Children in Crisis,' July 20, 2001

¹⁵ *Times of India*, Sept. 7, 2002

¹⁶ Asia Child Rights, ACR Weekly Newsletter Vol.2, No.49 (03 December 2003)

become paramilitary groups pick up youth. If they belong to their group, they are released and if not these youth disappear. Police records of the Head Quarters revealed that 1000 civilians had been abducted during the first 8 months of 2008. The records further revealed 1229 persons were abducted during the year 2007 and 1160 persons were abducted in 2006. In 2007, 118 persons had been abducted in Jaffna. Batticaloa with 105 abductions comes next to it. Colombo with 75 abductions comes third. Further in Ratnapura there were 68 abductions, in Nugegoda there were 56 abductions, in Trincomalee there were 43 abductions, in Kegalla 42 and in Ampara 41 persons were abducted¹⁷.

Apart from the security forces, the para military groups supported by the government were the major players in the disappearance business. Moreover, some youth who land in the Colombo airport do not come out. For instance a youth who came from Switzerland on 12th August and who was to be married on the 19th landed in the airport, but never came out of the terminal [We are not revealing the name of the boy for safety reasons]. His family members are waiting for him even now. There are reports of mass arrests for screening purposes and arrest slips are not always issued.

ECONOMIC DECLINE OF THE TAMIL AREAS

The prolonged conflict has led to considerable increase in morbidity and mortality as stated above. This has had a direct impact on the economic status of the local people. In 1998 the Ministry of Rehabilitation compiled the following estimate of families in which the main breadwinner has been lost, Mullaitheevu - 55%, Batticaloa - 41%, Kilinochchi - 30%, Ampara - 27%, Jaffna - 25%, Trincomalee - 17%, Vavuniya - 5%¹⁸.

Economic embargo:

The high point of the GoSL's various attempts to subjugate the Tamils was when the government went all out to starve and isolate the people of the North and East by imposing an economic embargo from 1995-2001 and 2006-2009. The government believed that by banning essential commodities for the public it could also deprive the militants from using them and deflate their striking capabilities. But this inhuman act largely affected the innocent Tamils who were caught in between. Even during the more violent JVP insurrection period the economic embargo was not used as a war mechanism.

¹⁷ Thinakkural 01-09-2008 (Tamil daily)

¹⁸ N. Sivarajah, MD, 'Nutritional Survey of Welfare Centre in Jaffna District,' WFP, Feb./March 2001 in *Tamil Times*, May 15, 2001

This tactic of the government was seen as a weapon, which could destroy the morale of the innocents and force them to flee their country of origin. The list included 52 items which included food (including baby food), medicine, note books, education aids including maps, chocolates, petrol, kerosene, cement, construction material etc, depriving more than 600,000 people the daily essentials from 1995 to 2001 and 2006 to 2009.

Besides, the government has cut the lifelines of the local people dependent on two predominant occupations in the Tamil areas – fishing and agriculture. The government imposed a strict ban on fishing and restricted the movement of fishermen to a few hours. Further, 81.5 square kilometres of land cannot be accessed by fishermen who used it for drying the fish and nets. Fishing in these areas, the main source of protein, declined by 63% since 1982

Further, the navy established high security zones displacing civilians. In Jaffna alone, 60,000 civilians displaced have yet to be resettled. High Security zones occupy more than 18% of civilian land covering more than 190 sq kilometres, this is an area where 30,338 families lived¹⁹.

Agriculture has been severely hit. An estimated 12,259 acres cannot be used for agriculture. More than 400,000 Palmyra trees were felled by the security forces. The locals tap toddy from these palms and make jaggery or raw sugar. They also use Palmyra leaves to build and thatch shelters. It takes nearly 60 years to grow a mature Palmyra tree. Agricultural output has declined by 47% since 1982.

CHANGING DEMOGRAPHIC PATTERNS:

The Tragedy of Manal Aru.

By late 1970's, an area in the Northern Province which has a long history of settlement by Sri Lanka's Tamils became the site of exclusively Sinhalese peasant settlers. In order to establish this colony, the government evacuated more than 3,000 Tamil families from the Thannimurippu Colony and its vicinity under the Accelerated Mahaveli Development

¹⁹ Anawim, November 2009

scheme since the late 1970s. This development scheme involved augmentation of the supply of water in the Manal Aru, by transferring water from the Mahaveli Ganga via other rivers and channels.

Some of the villagers were not only driven out of the region by the military, but the security personnel were also accused of murdering 29 of those who refused to leave. The tragedy of Manal Aru did not end with the forced evacuation of Tamils, because none of the Tamils who lost their farmland was ever resettled in the area. Instead, more than 25,000 Sinhalese colonists were settled in the region when the Manal Aru scheme came into operation in 1984. The Tamil name of Manal Aru was subsequently changed to the Sinhalese name Welī-Oya and the Tamil name of Thannimurippu colony was changed to the Sinhalese name, Janakapura colony. These colonists were armed, and additional protection was furnished to the colonists by establishment of army camps in its vicinity.

Table 1. Changes in Ethnic Composition of Administrative Districts in Sri Lanka, 1881 – 1981

Year	1881			1946			1981		
	*S	*T	*M	S	T	M	S	T	M
Jaffna	0.03	98.3	1.0	1.07	96.3	1.3	0.60	95.3	1.7
Mannar	0.67	61.5	31.1	3.76	51.0	33.0	8.10	50.6	26.6
Vavuniya	7.4	80.9	7.3	16.6	69.3	9.3	16.6	56.9	6.9
Batticaloa	0.4	57.5	30.7	4.0	69.0	27.0	3.2	70.8	24.0
Amparai	18.24	30.0	50.4	16.7	28.3	54.9	37.6	20.1	41.5
Trincomalee	4.2	63.6	25.9	20.7	40.1	30.6	33.6	33.8	29.0
Puttalam	66.7	10.0	16.0	78.7	7.0	9.9	82.6	6.7	9.7
Anuradhapura	80.7	4.6	11.2	79.7	6.7	10.7	91.2	1.2	7.1
Polonnaruwa	80.7	4.6	11.2	79.7	6.7	10.7	91.2	2.2	7.1

* S- Sinhalese, * T - Tamils , * M- Ceylon Moors (Muslims) Source: Derived from census data on Ceylon (Sri Lanka) for the period 1881 - 1981 , published by the Colonial Government and the Government of Ceylon(Sri Lanka), Colombo : Government Press.

RELIGIOUS DISCRIMINATION

The north and east of Sri Lanka was once strewn with thousands of temples, churches, mosques, libraries, schools and statues of great symbolic importance. To the Hindus religion forms part and parcel of their daily life. Temples stand not only as places of worship but is also embodiment of cultural life. Music, dance, drama, education medicine and many other essential aspects of life evolve around the temples. Today many of them have been razed to the ground and others in a dilapidated condition and many important temples are rendered inaccessible as a result of army occupation in and around the temples. Buddhism in Sri Lanka at the popular level embraces the worship of Hindu Gods and Goddesses.

Thus it is the illusory fear of losing their identity and even their existence that has created this institutionalised hatred against whatever is Tamil. The statistics below do not include the hundreds of temples destroyed in Anuradhapura when it was declared as a sacred city.

Table 2.

PARTICULARS OF DAMAGES CAUSED TO HINDU TEMPLES IN THE NORTH-EAST PROVINCE (Up To December 1990) SUMMARY			
District	No. of temples Registered with the Department	No. of temples damaged	Total estimated Cost for repairs/ renovations (Rs)
AMPARAI	118	147	30,648,100
BATTICALOA	463	283	26,660,739
TRINCOMALEE	101	199	33,470,500
VAVUNIYA	155	136	15,706,000
MANNAR	61	37	6,969,000
MULLAITHIVU	57	131	39,744,000
KILINOCHCHI	25	33	2,100,000
JAFFNA	627	513	127,792,953

Total	1607	1479	283,091,292
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Courtesy: Report issued by the office of the Hindu Religious and Cultural Affairs 4.10.1993

MASS PRODUCTION OF REFUGEES

In the last 27 years of war, Sri Lanka produced more than 800,000 refugees who live around the world. At present 74,000 of them live as camp refugees in the 110 refugee camps in India and about 40,000 live outside the camps. The Sri Lankan Tamils first came in 1983, then in 1990, again in 1996 to 2001 and the final phase was from 2006 to 2009. The GoSL has not taken any suitable action to improve the conditions back home to prevent the flow of refugees into other countries and has conveniently forgotten and abdicated its sovereign duty to protect the rights of its citizens who fearing their lives flee to another country as refugees and face difficulties. In India the refugees live in cramped camp conditions where there was a ban on education of refugee children, there were restriction of movement, frequent camp shifting, harassment by the Q branch police, compulsory detaining at the quarantine on arrival at the Mandapam camp, social ostracization etc. In Europe and other parts of the world the conditions of the refugees were more pathetic.

CIVILIAN MISERY DURING THE LAST STAGES OF THE WAR

The government operations to liberate the areas in the north, held by the LTTE started in late 2007, the security forces adopted the strategy of bombing the villages, displacing the civilians before marching ahead. Often there was no safe passage given to the civilians to escape to safety. The civilians were on the run from September 2008 to May 2009, prompting humanitarian workers to call the suffering multitude as ‘walking skeletons’. Independent sources confirmed the indiscriminate use of weapons such as heavy artillery in densely populated areas; and enforced disappearances of suspected LTTE fighters by the state forces.

SAFE ZONES

In January bowing down to international pressure, the GoSL came out with a concept of setting up ‘safe zones’ for civilians escaping the war. Later these safe zones became the most frequent target of the SL forces victimizing the unarmed civilians. The UN spokesman Gordon Weiss, on January 28th 2009 said: "This is a serious crisis. Our staff were in the designated safe area and there was incoming fire from artillery shells. There were shells which killed and wounded dozens of people, the last of which was Monday

morning when 10 people were killed and many more were wounded. They have seen this first hand."

Mr Weiss said he was aware of an unconfirmed report from the regional director of health services that said 300 people had been killed.

The Red Cross said hundreds of Sri Lankans had died during the first two weeks of January, based on body counts carried out by its staff. "People are being caught in the crossfire, hospitals and ambulances have been hit by shelling, and several aid workers have been injured while evacuating the wounded," said Jacques de Maio, head of the South Asia operations. "When the dust settles, we may see countless victims and a terrible humanitarian situation."²⁰ A doctor working inside the no-fire zone in Sri Lanka today told the Guardian that more than 1,400 people were believed to have been killed in two days of air and artillery attacks²¹. Thus the safe zones became the graveyard for hundreds of civilians who trusted the government claim of protecting them in the so called 'safe zones'.

TARGETING THE HUMANITARIAN AGENCIES

In September 2008, the state issued an order to the INGOs, NGOs and other humanitarian agencies including the UN agencies to vacate the war zones of the north, thus leaving the war without a witness. The government's prohibition on the media, human rights groups and most humanitarian agencies from the conflict area blocked information on the situation. However, first-hand accounts and photographs from Sri Lankans trapped in the government-declared "no-fire zone" painted a grim picture of death from combat, malnutrition, and inadequate medical care.

WAR WITHOUT A WITNESS - ATTACKS ON FREE MEDIA

Sri Lanka ranks as the fourth most dangerous place for journalists according to the Reporters Sans Frontiers. More than 35 journalists are in exile in different parts of the world. The media was deliberately kept away from the war zones making this the first war in modern history to be unrecorded. The country's foremost journalist Mr. Lasantha Wickrematunga was shot dead in broad daylight in Colombo on January 9th 2009 for speaking against the war. Nick Patton Walsh, the Asia bureau chief of Channel 4 was

²⁰ <http://www.independent.co.uk/news/world/asia/massacre-in-the-sri-lanka-safe-zone-1517850.html>

²¹ <http://www.guardian.co.uk/world/2009/may/11/sri-lanka-civilian-deaths>

deported for his impartial visual reporting of the camp conditions in the IDP camps of Vavuniya, where he exposed the sexual harassment by security forces.

In the local elections to municipal bodies in the towns of Vavuniya and Jaffna, the government did not allow journalists to cover the elections. The only information available was from the state media sources. In September 2009, Mr. Tissanayagam, a well known International English journalist, a Tamil by birth was sentenced to 20 years of imprisonment for writing against the war during the ceasefire period. The other charge was that he was financially supported by the LTTE for running his website.

The only reports on the camp situation comes from state media.

SEPARATED FAMILIES

Even after 5 months of being in the camps, many families are not reunited with their families. This has added to the woes and worries of the people. People have registered themselves for being reunited with the families. But there is no agency or mechanism to pursue this matter. Many people whose limbs are amputated are lying all alone in the hospitals. Only one positive note is that over 6,000 people above the age of 60 are left to go out of the camps. But what has happened to them is not known to anyone.

SCREENING OF SUSPECT CADRES

It is reported that over 10,400 suspected cadres are kept separately from other IDPs. Out of this there are 1,850 girls who are kept in Pampeimedu Campus. Over 2,360 boys are kept in Gamini Vidyalayam, Vellikulam School, Kovilkulam School, Poonthotam School, College of Education, Mudalaiarkulam School and Pampaikulam Convent School. In the Summary of IDPs made public by the Government Agent of Vavuniya there is no mention of these people. There is no information about the whereabouts of others. It is reported that some of them may be kept in the so-called reform centres in Ambepusa, Pangulam and Mangulam etc. These reform centres are not really reform centres but concentration camps. **It is demanded that the names and whereabouts of these people be made public, their parents are permitted to meet them on regular basis, there be speedy and transparent screening of the suspected cadres and release of those who are innocent and trial of those who are suspected to be have been cadres.**

LAND OWNERSHIP IN THE NORTHEAST:

The GoSL has appointed a committee known as Landholding Redefinition Committee. This committee would examine the land deeds and determine the ownership. There is not a single Tamil in this committee. On 8th August, there was public announcement in Jaffna that all those who own land should re-register their land. This has created panic among people, because for ages people were owners of the land and the land got transferred to next generations and people were not too keen to get the land deeds transferred. But now if the person in whose name the land deed is and if that person is not around the land would be taken by the government. Similarly, the very fertile land of Kilinochi and Mullaithivu are also in the verge of being taken over by the government. It is stated that there was discussion in the government circle that over 85% of land in this area belonged to the government. The LTTE took over and gave it to people and now the government would take back this land.

ICRC DENIED ACCESS TO DETAINEES AND SURRENDERED PEOPLE:

ICRC was supposed to monitor the screening, detaining and initiating legal process of the surrendered people and detainees. But ICRC has no access to these people. It has been asked to leave the country. In the place of ICRC no other organization has been given the task of overseeing this process.

It is not clear for how long the screening process within camps has been going on and how long it is expected to take. Families get separated in the process. Youth hide when any census is taken, fearing that they will be detained for questioning. Parents are also scared and do not enroll their children. This is detrimental to the youth since without registration they will not be allowed to live in Sri Lanka.

The UNHCR is not provided with a list of persons separated or arrested, including children. The ILO exerted pressure and has worked out "National Framework Proposal on Reintegration of Ex-combatants into Civilian Life in Sri Lanka". This is put in back burner by the GoSL.

SPECIAL NEEDS OF VULNERABLE GROUPS:

Special needs of specific groups like women, children, mentally disturbed and amputees are not addressed at all. It is heart rendering to see that the specific needs of specific groups are not addressed at all even after 4 months of existence of many camps. For instance, there is a woman in zone 4, who has lost her husband, and taking care of her five small children on her own. When any supply comes she can not leave the children and come to collect the material. She is afraid that she might lose her children too. So she misses the relief supplies. These people's needs are not met. Or no special provisions are made for these people.

ACCESS TO EDUCATION:

One of the sectors that began to function soon after the people arrived in the camps was education. Due to the commitment of some officials in the education department this was possible. Some of the UN agencies, INGOs and NGOs contributed in this. But due to over crowding, education is affected. For instance, in zone 2, Ramanathan, there are 7,000 students and the temporary sheds are not sufficient to take care of the education of these students. What is more deplorable is that the university students from this area are not attending the university. For instance, the Office of Dean of Faculty of Engineering, University of Peradeniya issued a communication on 10th July giving the name of 6 of its students from Kilinochi district and 7 from Mullaithivu district who have been selected but not attending the classes. But the security personal refused to take up this matter and thus the future of these students and their families is in dark.

ORPHANS AND UNACCOMPANIED MINORS

There are thousands of orphans and unaccompanied minors as the result of war and conflict. Some of them have been given to religious organizations that have no idea as to what to do with these children. Finding solutions for unaccompanied minors and separated children is hampered by the restrictions imposed by the Sri Lankan Army/ government to allow humanitarian agencies to deal with tracing and reunification matters.

DEMINING

It is not demining, but searching for the documents and wealth of LTTE seems to be the priority for the GoSL: The GoSL keeps on saying that unless demining is done, it would

not allow the people to go back. There are agencies deputed by the Indian and Japanese governments who are engaged in demining. According to reliable sources the Sri Lankan agencies are busy finding out the arms, documents and gold left behind by LTTE. It was reported that some of the gold was presented to the media while most of it has gone to the accounts of the ruling elite.

THE SITUATION OF WOMEN

The 30 year old legacy of ill treating women continues as the fundamental human rights violations especially on women and children continues unabated in the Internally Displaced Persons (IDP) camps where nearly 280,000 civilians are holed up behind barbed wires.

Out of a population of 20 lakh Tamils living in the war zone, more than one lakh of them have been killed directly and large numbers indirectly. It is sad to note here that one in every twenty Tamils was a victim of this war and a large number of them were women who had no direct or indirect role in the war.

Women and family Separation:

As the up keepers of family tradition and being the unifying factor of the family, the conflict in Sri Lanka has squeezed even the last ounce of emotional and physical strength of these women. The war has separated thousands of mothers from her beloved children - wives from husbands, young girls from her parents and siblings, aged women from the rest of their families. It has led to isolation from the rest of the society as war brings in suspicion and it is not possible to separate the good Samaritans from the informers of armed groups.

It is also not easy for a woman to part with her son or daughter to join the ranks of the militants where death snares at one many times. It required a Tamil woman to part with at least one of her beloved ones to join the militant movement as a compulsory contribution of every family towards the cause of achieving self-determination.

Women and employment

Women being the most affected, have also been compelled to dawn a new role, that of becoming the main breadwinner. There again the state forces and the other warring groups

have been a stumbling block to her. In the areas controlled by the armed forces and the paramilitary groups, she is compelled to pay 'taxes'; hitherto she had to do the same in the LTTE controlled areas. It is reported by National Fisheries Solidarity(NAFSO), Sri Lanka that women and men engaging with small-scale fisheries lost their property and income due to restriction of fishing areas and safety zones, armed groups snatching the catch of fisher women and men, increased check points affecting the smooth transportation of fish, increasing costs of living such as oil and food²².

After the tsunami of December 2004 the women-headed households were helped by aid agencies in the former militant controlled areas to set up their own Income Generation Projects with the help of micro financing. They were supported to rear cattle and other livestock's. But life came to a standstill with the fresh round of war that started in mid 2006. The entire livestock population of more than 300,000 people was wiped out by the war as people had to run with only bare minimum necessities.

Social stigma too is attached to workingwomen especially among the Muslims. A Muslim woman in Ampara has to travel 25 kilometers from her home as domestic helper of a restaurant after her husband lost his livelihood as a fisherman due to the national security measures set in force in the area which forbid him to go fishing. She has to go through four check points to go to work and come home everyday. As a Muslim woman she is blamed and harassed for traveling by herself and engaging in this kind of job. The mosque also urged her to stop doing the job. She was depressed but has to keep herself up and sustain her family²³.

Maids of the conflict

The civil war in the North and East has completely wiped out the otherwise available opportunities for women to gain meaningful employment. As the government pumped money into war which otherwise would have been used for development, job opportunities for women eroded through out the country. The most readily available job is in the armed

²² <http://www.wluml.org/english/newsfulltxt.shtml>. Retrieved on 8/06/2009

²³ <http://www.wluml.org/english/newsfulltxt.shtml>. Retrieved on 8/06/2009

forces, which very few women prefer, more so the government does not recruit Tamil women into the armed forces. The ones who are most affected are those who have not completed their schooling resulting out of poverty and war related causes.

It is easy for uneducated or moderately educated woman to get menial jobs abroad than men, apart from that the sense of sacrifice for the sake of the family comes naturally to the women in the east. These woman to help their families to stave the challenges posed by the war have been victims of the trafficking network as they aspire to travel abroad to avail employment opportunities. The most lucrative place for them is the middle east where getting a job of a housemaid is relatively easy. Here in the Middle East on arrival their passports are seized so that they do not escape. They become easy victims of the lust of their masters; they are held responsible for all the domestic mishaps involving the children in the house. Back home the hard-earned money they send is often squandered by the male members of the family in war related depression coping mechanisms like alcohol, drug abuse, gambling, womanizing etc.

Lack of commitment to implementation of policies to improve gender equality negatively affects women in terms of accessing to education, employment opportunities, social security entitlement, etc. On top of those disadvantages women have shouldered additional roles and responsibilities to cope with deteriorating living condition by taking care of sick or injured family members, taking informal waged work to cover additional expenses²⁴.

Forced marriages and compulsory abortions

As the war resumed after four years of ceasefire the LTTE forcibly recruited any able-bodied men and women to fight the war. The former policy recruiting one person per family was overlooked for want of fighters in the battlefield. This led to a situation where parents had to get their children married at a very young age, most of the time without the consent of the girls as they were seen as a burden to the family as it was the duty of the parents to safeguard and protect her. Prior to the ceasefire period the LTTE did not recruit married women, things changed as they became desperate and went all out to recruit anybody. As the war was reaching its climax, it is alleged that many young girls to save themselves became pregnant so that they would not be sent to the front to fight. To their

²⁴ Ibid

nightmare it is alleged that these innocent girls had to abort their fetus and join the frontline to see another day of the battle.

Women and Medical Aid:

In the formerly uncleared area there was only one big hospital at Akkarayan. Frequently there were complaints from the medical staff about lack of infrastructure and severe shortage of essential medicine as a result of the state imposed embargo on medicine. The plight of the pregnant women was the most miserable.

“Women do not stop getting pregnant or giving birth to their babies even when on the move or when living in camps,” Lene Christiansen, country representative for the UN Population Fund (UNFPA) said in Colombo²⁵. Christiansen expressed concern for the large proportion of high-risk pregnancies among women in displaced persons camps as well as increased teenage pregnancies. According to UNFPA, pregnancy-related disabilities and death often rise in conflict situations when reproductive health services, including pre-natal care, assisted delivery and emergency obstetric care are disrupted and often unavailable. At the same time, many women lose access to family planning services, exposing them to unwanted pregnancies²⁶.

The UN Development Assistance Framework for Sri Lanka estimates that the rate of illegal and unsafe abortions in Sri Lanka is equal to the birth rate²⁷. As movement of people from the uncleared to cleared areas was restricted to a single day in a week and further restricted to a fixed number during the course of the war and completely stopped during the last eight months, the plight of the sick was un-seeable as they were stranded in places where there was no medicine and death awaited them joyfully.

In the cleared areas, there were two hospitals, one in Mannar town where there was no gynecologist for a very long time. The other hospital is in Vavuniya, which had to cater to a very larger number of people from both the cleared and uncleared areas, but had only 60 beds with no proper X-ray facilities and soldiers most often occupied the available beds. Further they could not even travel to the south for medical help. Corruption was rampant

²⁵ see: <http://srilanka.unfpa.org/>

²⁶ SRI LANKA: Pregnant women at greater risk in conflict
<http://www.irinnews.org/Report.aspx?ReportId=83804> VAVUNIYA, 6 April 2009)

²⁷ OXFAM International. Women: Moving Toward Democracy. July 1996.
<http://www.caa.org.au/horizons/h17srilanka.html>

in these hospitals and these poor displaced women were forced to sell their jewels to save their dear ones or themselves.

The present condition of pregnant women is far more dangerous in the newly set up IDP camps at Vavuniya as at least 3,000 pregnant women have fled the fighting in northern Sri Lanka in recent days. Typically, around 15 percent of women giving birth will develop complications that require blood transfusions or emergency surgical care. There is an urgent need to have the health posts in the IDP camps where pregnant women can be routinely checked and psychosocial support and counselling provided in privacy²⁸. Here one gets a feeling that unless permanent peace dawned the commerce in tears would continue unabated.

Rape and torture:

“The Sri Lankan security forces have continued to commit serious human rights abuses, sexual violence, in the context of the 17 year armed conflict against the Liberation Tigers of Tamil Eelam. Sri Lankan Police have also repeatedly committed rape and other sexual abuse in the course of the fighting”.

- Report by UN Special Rapporteur on Violence Against Women
[22 Dec 2000]

These were some of the terror tactics adopted by the Sri Lankan armed forces. In war women are also more likely to encounter situations where someone wants to exercise power over them due to the tension and level of violence in the environment. Women particularly made mention of soldiers who respond to a ‘herd instinct’ and take chance of ‘any opportunity’ to abuse women. In war it is also easier to justify such abuse, simply as one of those “inevitable” consequences of war, as the soldiers ‘are in natural need of sexual activity’²⁹.

Most soldiers often see the manifestation of male superiority in the form of rape as a show of power over the males of the victims’ community. In North and East Sri Lanka a woman’s role has been primarily defined to take care and nurture the family and home,

²⁸ <http://www.bernama.com/bernama/v5/newsindex.php?id=411028>

²⁹ War and its Impact on women in Sri Lanka – Kate de Rivero Refugee Watch, June 2000

thus the attack and disappearance of family members cripple her role and her identity as wife and mother³⁰. Disappearances are occasionally reported but that is not the case with rape, as the victims fear social ostracisation. When cases are reported families complaining rape cases also face retribution.

It was often reported that drunken soldiers enter nearby resident localities after 6pm, when people are not allowed to come out and the soldiers take away young women and girls to rape them. Neighbours do not dare to come out fearing violence against them. In the infamous Ida Carmelitta rape case³¹, five soldiers entered her house, tied the victims' mother to a lamppost, shut the other relatives in another room, raped Ida, ate her breast, and shot her through the genitals. The entire family fled Sri Lanka fearing threats from the army and the case was closed. The continuing pattern of sexual violence against Tamil women persists because of the climate of virtual impunity that prevails.

Apart from the solitary Krishanthi Kumaraswamy case, there has not been any other instance of the alleged offenders being brought to justice though there were some judicial inquiries, they were being conducted in a manner that indicates justice was never be done. Cases were transferred out of the original jurisdiction in favour of the accused. This however placed a great burden on the living victims or those giving evidence on their behalf. What happens also is that as cases get protracted the will to seek justice gets enfeebled. The system seems designed to help the alleged offenders rather than the hapless victims³².

As the soldiers are from the southern parts of Sri Lanka they fear facing the courts in the north. The former Special Rapporteur on Violence Against Women, Radhika Coomaraswamy, reported that rape was used in Sri Lanka's conflict, and that violent crimes increased against the backdrop of ongoing conflict³³.

The UN Special Rapporteur in March 2000 highlighted the case of Sarathambal Saravanbavananthakurukul, a 29-year-old Tamil woman who had been reportedly gang raped

³⁰ Ibid

³¹ Human Rights in Sri Lanka, Human Right Watch 2000 annual report

³² Jeyaraj D.B.S., Sexual Violence against Tamil Women in Sri Lanka- Sunday Times Jan 2002

³³ Brutal Gang-Rape and Murder of Young Woman by Sri Lankan Navy.

<http://www.tamilcanadian.com/eelam/hrights/html/article/su001021114204N206.html>

and then killed by navy soldiers on 28th December 1999 in Pungudutivu, near Jaffna. She observed that despite an order by the President of Sri Lanka to immediately investigate the events, it was reported that "very little [was] being done to pursue the matter".

Sarathambal Saravanbavananthakurukul had been abducted from her home, situated at about 500m from a navy camp. Four security officers dressed in black tied up her father and brother. Her dead body was found on barren land about 100m away from their home the next day. After public protest, her body was sent to Colombo for post-mortem by a senior JMO who indicated that the cause of death was "asphyxia due to gagging"; that her underpants had been stuffed inside her mouth; and that "forcible sexual intercourse" had taken place. The father and brother were allegedly threatened not to reveal the identity of the four men who came to the house.

According to the Director of the Criminal Investigation Department, who had been instructed by the President of Sri Lanka to investigate the rape and murder, the brother had "not been able to identify any of the four persons who came to the house". The criminal investigations into the rape and murder of both Ida Carmelita and Sarathambal Saravanbavananthakurukul have not proceeded beyond the initial inquiry stage. No charges have been filed against the alleged perpetrators and it is unlikely that those responsible for the rape and murder of the two women will ever be brought to justice³⁴.

The form of torture used by police and security forces in Sri Lanka against ethnic minority women in detention clearly constitutes a gender specific form of racial discrimination. It has been estimated that a Tami woman is raped by the members of the armed forces or police every two weeks and that every two months a Tamil woman is gang raped and murdered by the Sri Lankan security forces³⁵.

³⁴ Sri Lanka- Rape in Custody, Amnesty International online report ASA 37/001/2002 See Amnesty International report, Sri Lanka: Torture in custody (AI Index: ASA 37/10/99) of June 1999 for more details on key aspects of torture, including rape and deaths in custody. The paper comments on the legal, institutional and political factors that allow these human rights violations to happen and impede victims and their relatives from obtaining redress. The current report should be read in conjunction with the above-mentioned report.

³⁵ McConell Deirde Ms. Women against Rape, oral intervention by during the 57th session of the UN Commission on Human Rights, 10th April 2001

Women in Prison:

A large number of displaced Tamil women were confined to the Anuradhapura prison and the Welikade prison, which are in the Southern Sri Lanka. It was impossible for the Tamils from the north to visit these women prisoners lodged in the southern jails. Most of them were only suspects; they were made to live in common dormitories along with women who are held on charges of prostitution, robbery cheating, other immoral, anti-social activities etc.

These women faced danger to their lives, as prison riots were common and harassment by jail authorities was the order of the day. Women in jails suffered from psychological disorder, malnutrition, unhygienic sanitary conditions, and alienation from society. Though the courts acquitted more than 95% of them, they were branded as “jail returnees” and faced ostracisation from their society. They did not have a compensation mechanism where the innocents could have got their just right of getting monetary help from the state for confining them unjustfully in the jail.

Tamil women arrested and detained by police and security forces were reportedly subjected to rape and other forms of torture. The individual cases reproduced in the annex of this report, as well as information received from other sources; indicate that Sri Lankan security forces often used rape and sexual violence against women in detention as a means of forcing them to sign confessions stating that they were members of the LTTE³⁶.

Harassment by Security forces:

Women fear the movement of troops through their villages and towns, as the troops are known for their notorious behavior and herd mentality. During search operations women are separated from the men and taken apart. The conduct of random night time checks by security checks by security forces of boarding houses and other establishments where Tamil women live created a climate of insecurity of fear and women passing through security check points became particularly vulnerable to rape and other acts of sexual violence³⁷.

³⁶ See the case of Wijikala Nanthan and Sivamani Sinnathamby Weerakon (LKA 090401.VAW) in the case annex.

³⁷ . Sivarajah.N, MD, ‘Nutritional Survey of Welfare Centre in Jaffna District,’ WFP, Feb./March 2001 in *Tamil Times*, May 15, 2001

Plight of the widows:

There are an estimated 45,000 war widows in Sri Lanka. The loss of male breadwinners created a new group of women vulnerable to economic hardship. There are approximately 30,000 female-headed families in the north and east of Sri Lanka³⁸. As a result of the conflict, in Jaffna alone 2,100 children live in government welfare centers and there are 19,000 registered widows³⁹.

The young widows are very vulnerable to immoral activities; a good number of them take another husband, a few try to go abroad to earn a living and end up as maid slaves in the middle east, a few land up in the brothels of Bangkok, a few serve as concubines to the travel agents or other middle men who promise them to send abroad. Forced prostitution of migrants and displaced women and survival prostitution are said to be widespread in conflict-affected areas of Sri Lanka⁴⁰. The armed groups at times used them as informers.

The middle-aged widows tried to work, but getting employment was very difficult, they had to struggle to make both the ends meet. If there was some support from the family members who worked abroad, they survived or they were entirely dependent on charity. The plight of the old widows was the worst especially if they had lost their earning sons, also they did not see any point in living. They led a life remembering the past (the good times) and wept over that had happened⁴¹. Death is their destiny.

The life in the IDP camps has brought new miseries to these widows on whom everybody casts their eyes. In the east there are allegations that the uniformed men compel the young widows to give them company in the military camps as they are away from their families for long durations and now there is no fear of moral policing by the LTTE.

³⁸ South Asia Partnership Canada. <http://www.sapcanada.org/Cross.rtf>

³⁹ Small Arms Survey, <http://www.smallarm.smallarmssurvey.org/Ops/OP11SriLanka.pdf>

⁴⁰ International Alert. UNSC Resolution 1325. South Asian Women's Perspectives. June 2003. <http://www.international-alert.org/women/publications/Asianpaper.pdf>

⁴¹ Newman Paul, Human Rights Violations in Srilanka, Preventing Internal Flight Options –JRS South Asia Publ, Bangalore. 1999

THE LAST EIGHT MONTHS

The last eight months of the conflict virtually turned the Tamil women into horrified walking skeletons as the militants forced them at gun point to retreat into the jungles along with basic survival material which could last only for a few days. Basic necessities of women like sanitary napkins, inner garments were never heard of as the government had imposed an economic embargo into the militant controlled areas, which included food and medicine compelling women to run in unhygienic conditions. There was no medical help available and no medicine to clean the wounds. There were only three doctors to cater to all their needs during the entire period of eight months, incidentally all the three doctors available were men with whom many women among the more than 250,000 on the run could not confide their private medical problems and expose wounds in the covered parts of their body.

The situation has not improved though they are all held captive in the government run detention centres, which are ironically called ‘welfare centres’.

High rate of malnutrition about mothers and children:

Women did not get adequate food to take care of themselves. This resulted in severe pains, bleeding during delivery of the child. More than 75% of children born in the uncleared areas suffered from under weight and malnutrition.

Lactating mothers did not get enough to eat to feed their young ones. Baby food was unheard in the uncleared areas. Malaria, diarrhoea, cholera and typhoid were very common, women and children were the most vulnerable. A survey by the University of Jaffna of the population in IDP camps in the Jaffna peninsula - 40% of the total population of 500,000 - showed that 23% of the children under 5 are wasted, 36% are stunted and the remaining are small for their age. In 1976, before the war, only 4% of the children in the area were wasted, half the national average⁴².

Deprivation of the right to mourn the dead:

⁴² Sivarajah.N, MD, ‘Nutritional Survey of Welfare Centre in Jaffna District,’ WFP, Feb./March 2001 in *Tamil Times*, May 15, 2001

All along their journey, the displaced people had to brave the heavy shelling and aerial bombings of the armed forces resulting in the death of thousands of their kith and kin. As the jungle law of survival of the fittest was the only law applicable these women were even deprived of giving a decent burial to their loved ones or did not have time and strength to even produce tears to mourn the dead ones.

Women were not being able to perform cultural rites relates to puberty, marriage and death⁴³. In the IDP camps it is also difficult to perform the sacrament of Marriage, as the conditions are completely unfavorable, where everybody views the other suspiciously.

Fear of mass suicide among women cadre:

As the war neared its end, it is feared that hundreds of women cadre committed suicide to save their honor of not falling prey into the hands of the armed forces that have a dubious record of sexually assaulting women who surrender.

Arulmathy was 19 when she entered the LTTE training camp in 2003. In her purple-and-white check shirt and long purple skirt, she does not look much like a guerrilla. But she had signed up voluntarily, angered by a video she had watched. "It showed some fighting and cruel things done by the Sinhalese army, so I joined for the adventure," she says. "I joined for the Tamil nation." She trained for seven months. In 2006, she was injured by shrapnel. By the time her unit was surrounded the following year, she had already resolved to get out.

"We were careless and we had fallen asleep," she says. "The army were only 10 metres away when we saw them. They started to jump into the bunker. We couldn't do anything. Seventy-five committed suicide with their grenades. There were parts of them spread on all sides. I can never forget that scene. Only two of us escaped. This war has been useless." Arulmathy tried to get away, but was recaptured by the Tigers and beaten. She made two more unsuccessful attempts before making it to safety. She surrendered in January this year, as the Sri Lankan army swept north⁴⁴.

Life in the IDP camps:

⁴³ <http://www.apwld.org/>. Retrieved on 8/06/2009

⁴⁴ Sunday, 12 April 2009 Guardian News and Media 2009

Women, who were hitherto independent and managed their domestic household are now forced to spend the entire day to collect food, where in they are virtually reduced to the status of beggary as the men folk do not like to stand in long queues. The rationed food is often not enough to supplement to the needs of the family. In these circumstances it the women of the family who stand up to sacrifice their share of food.

Lack of privacy: Bathing in public is common as there is very less provision for good bathrooms and the available ones are either over crowded or water clogged compelling the women to take bath outside their tents with no clothes to change resulting in they baking themselves in the hot sun to get dried up. Most of the toilets remain with open doors with very long queues; this results in women trying to control the call of nature resulting in health problems for which there are hardly any trained doctors available. In the Eastern world women do not express their physical and material needs, the stifling conditions in the camps where privacy is totally absent deprive them of these basic needs, with nobody to voice this important need.

This life in the camps is not confined to the Tamil women alone, the Muslim women displaced since 1990 after the LTTE ordered them to vacate from Jaffna, Killinochi and Mullaithivu also face the same problems in the IDP camps spread across Puttalam in western parts of the island nation. Muslim women are expected to mourn the death of their husbands by practicing *Itha*(Exclusion from society for four months) - which is difficult to follow in congested camp settings. Women, who left t camps to stay at relatives' houses to perform the mourning rites, have been excluded from government assistance.⁴⁵

Increased domestic violence against women:

Confined camp conditions are very difficult to psychologically cope up with. It leads to frustration, especially among men of being reduced to a dependent. The restriction of movement behind the barbed wires brings in the tendency of being caged and animal behavior creeps into the minds of men, where might is right becomes the norm of the day. To over come the helplessness experienced by them, men easily becomes prey to vices in the form of alcohol and drug abuse.

⁴⁵ Ibid 22

The money to fulfill these needs comes from the savings of women in the form of jewelry saved by her as an asset, failure to part with that leads to violence against women. Incidents of domestic violence have been common along with increased rates of alcohol consumptions. Men spend cash from sale of government assistance items and non-food relief items distributed by aid agencies on alcohol. In informal discussions women living in the camps mentioned the enormous pressure by their men to have sex even if there is no privacy with children in the tents and more than one family sharing a tent.⁴⁶

Women and aid:

The war has made women doubly vulnerable as they are completely dependent on aid. As the government has imposed a strict ban on Humanitarian Aid agencies from working in the camps, it is the armed forces that are involved in distributing all forms of aid for the IDPs, and many times the sex starved soldiers who man the camps take undue advantage of the situation and physically abuse the helplessness of these women, especially young women and unmarried girls.

Conclusion

In a conflict everyone in society suffers but women bear the brunt of it. In societies, which face protracted conflicts, the social breakdown is prolonged through many years. Violence becomes part of the very fabric of society it trickles down from state, to community to family. As society struggles to cope with the everyday horrors of conflict, unfortunately, issues such as violence against women are less prioritised leaving millions of women alone and in danger. Taking over under the provisions of the Emergency Regulation Act and the Prevention of Terrorism Act, widespread impunity continues to be enjoyed by the perpetrators of rape and other forms of violence committed against women in Sri Lanka, which provides a very strong evidence of a systematic practice of discrimination. Members of the armed forces or police who are suspects in criminal cases are frequently transferred away from the area in which the crime allegedly took place.⁴⁷

The consequences of this impunity are devastating for the individual victims who are effectively denied access to criminal and civil remedies including reparations. At the community level, impunity leads to a diminution in confidence in law enforcement

⁴⁶ Ibid 22

⁴⁷ http://srilanka.ahrchk.net/legal_reform/mainfile.php. Retrieved on 8/06/2009

personnel and in the judiciary and potential perpetrators are not deterred from the commission of similar crimes. The failure of the government to send a strong signal that all forms of violence and other types of discrimination against women are unacceptable has important ramifications for women's social status as the promotion and protection of women's human rights are thereby perceived as being of little value.⁴⁸

Even if peace returns one group that would suffer the most is the women warriors. In the burgeoning peace process, female combatants have particular security and humanitarian needs.⁴⁹ They have all been identified by the security forces and separated from their families, this includes young mothers who are forced to bring up their children under confinement. For most of these women there was hardly any choice available before they decided to take up arms. They were either forcibly taken to fight or chose to fight a male dominated society. The militant movement gave them a chance to fight as equals with the men and also to avenge the humiliations faced by them against the state structure. They also used violence as a curative and defence mechanism to fight the oppressive state. All these have to be taken into consideration and a better treatment needs to be meted out to these women so that there are more sane voices in the society, which can help bring about reconciliation to the peace starved society.

NEED FOR ACCOUNTABILITY FOR WAR CRIMES:

Sri Lanka's long civil war has been characterized by a climate of impunity for perpetrators of serious human rights violations. Very few members of the security forces have been prosecuted, let alone successfully convicted, for often horrendous crimes. In response to domestic and international criticism, the Sri Lankan government has over the years established various special commissions to investigate allegations of abuses. These include, among others, eight separate presidential commissions of inquiry established between 1991 and 1998 specifically devoted to investigating enforced disappearances; a commission of inquiry into the alleged establishment and maintenance of an unlawful detention and torture facility in 1995; a commission of inquiry into the killing of 27 Tamil inmates of the Bindunuwewa Rehabilitation Centre on in October 2000; and in 2001, the

⁴⁸ Ibid 26

⁴⁹ Human Rights Watch. Sri Lanka: Human Rights and the Peace Process.
<http://hrw.org/backgrounder/asia/srilanka/index.htm>

Presidential Truth Commission on Ethnic Violence covering events of 1981-1984. The Sri Lankan Human Rights Commission also appointed a special committee to investigate reported enforced disappearances in Jaffna between 1990 and 1998.

These Commissions investigated tens of thousands of complaints. The "disappearance" commissions alone received nearly 30,000 complaints (including some duplicates) and recorded evidence in over 20,000 of these cases; another 16,305 cases remain uninvestigated. They identified thousands of alleged perpetrators and recommended legal action, along with reparations to victims and legal reforms to prevent future violations.

Reports of most of these commissions were published, and although some families received monetary compensation, most recommendations made by these commissions were never implemented. There were few prosecutions of those named in the reports, and even fewer convictions. Hundreds of security personnel indicted as result of commission findings were returned to active duty by the Inspector General of Police in 2001.

During the administration of current President Mahinda Rajapaksa there was a surge in abuses by both government security forces and the LTTE, including laws of war violations such as the murder of 17 aid workers in August 2006. This has created pressure for new investigatory bodies. Set up with much fanfare in November 2006 to examine 16 high-profile cases, the Presidential Commission of Inquiry with international participation has held public hearing in only four cases, and none of the commission's findings have been released to the public. Other special bodies set up in recent years have likewise brought few results and no prosecutions.

Constitute a Truth and Reconciliation Committee:

The war crimes and the crimes against humanity that is committed in Sri Lanka is unprecedented. But the fact is that not only the crimes committed during war are worst but the crimes of post-war period are even more severe. **Hence, it is demanded that the GoSL should constitute a Truth and Reconciliation Committee and ensure those guilty are punished and justice be done to the affected people. If this is not done by the GoSL, the civil society around the world should constitute one.**

International Reactions

European Union - The European Council met in Brussels on 18 May 2009, during which it adopted a statement calling on "the Government of Sri Lanka urgently to proceed

towards a comprehensive political process" and "the President of Sri Lanka to outline a clear process leading to a fully inclusive political solution, based on consent, equality and the rule of law". The Council stated that such moves are the only way toward long-term security, post-conflict reconstruction and prosperity in Sri Lanka. The statement concluded: "The EU continues to call for appropriate action by the United Nations Human Rights Council."

Canada - Minister of Foreign Affairs Lawrence Cannon stated "Canadians are very concerned about the aftermath of the military action in Sri Lanka and the appalling effect it has had on civilians. This terrible, decades-long war has inflicted untold devastation and heartbreak on Sri Lankans. The Government of Canada wishes to express its concerns about civilian casualties, and to convey its condolences to the people of Sri Lanka and those around the world who have lost friends and family members in this horrific conflict. Canada urges the Government of Sri Lanka to begin to find a long-term political solution that responds to the legitimate aspirations of all the people of Sri Lanka. Canada is prepared to assist Sri Lankan efforts to find political reconciliation and a lasting peace."

Japan - The Japanese premier's office released a statement of Prime Minister Taro Aso's telephone conversation with Sri Lankan President Mahinda Rajapaksa. The statement said the Prime Minister "welcomed the end of the civil war between the Sri Lankan government and the Liberation Tigers of Tamil Eelam", and that "it is now important to help internally displaced people and their resettlement as well as to start showing improvement in the political process towards peace-building".

It also outlined that poverty was one of the factors that create fertile ground for terrorism and said he would like to see Sri Lanka build infrastructure, adding that Japan would support Sri Lanka's efforts as much as possible

Norway - Norwegian Foreign Minister Jonas Gahr Store said in a statement "our thoughts go to all who have lost relatives and loved ones in the war. We must cooperate to aid the victims. People in the refugee camps must quickly be allowed to return home."

Store also said the situation in the refugee camps for internally displaced people must be improved, in line with demands made by the United Nations.

South Africa - The South African Government released a statement through Deputy International Relations and Cooperation Minister Ebrahim Ebrahim regarding the end of military operations in Sri Lanka.

"The South African government expresses grave regret at the manner in which the military offensive was conducted and urges the United Nations Human Rights Commission to

urgently investigate possible violations of international human rights law and contraventions of the Geneva Convention.”, said Ebrahim. The statement also called for immediate humanitarian aid and international media access to the areas affected.

“The South African government has noted the conciliatory tone in the speech of President Mahinda Rajapaksa on 19 May 2009 and express our hope that the end of the military campaign will result in a peaceful dialogue with all minorities to address their long standing grievances. We will continue to support any efforts aimed at bringing about peace and reconciliation between the parties”

Switzerland - In a press statement dated 19 May 2009, Switzerland's government welcomed the end of the armed conflict. However, Switzerland "regrets that international humanitarian law has been violated and appeals to all parties to comply with and to ensure respect for international regulations and obligations in all circumstances."

"Switzerland calls on all parties to refrain from incitement to hatred and to work towards reconciliation by means of unilateral or jointly agreed measures. All parties and groupings as well as members of the diaspora should work openly and in conjunction with international institutions to initiate a reconciliation process and a sustainable solution in the framework of a political dialogue."

United Kingdom - Foreign Secretary David Miliband made the following written statement to the House of Commons on 19 May 2009: "On 19 May, the Sri Lankan President formally announced that on 18 May military forces had retaken all the territory once held by the LTTE and that they had captured or killed the senior leadership of that organisation. Many Sri Lankans of all communities, Sinhalese, Tamil and Muslim, will be relieved that the long and brutal conflict may at last be over. Sri Lanka has before it an historic opportunity to resolve the underlying causes of the conflict and ensure a lasting peace. We must continue to work with Sri Lanka's Government and all its communities to ensure that this opportunity is taken and that it leads to a sustainable end to the conflict. The continuing focus of this Government's activity over the coming days and weeks, will be to work with international partners in encouraging the Sri Lankan Government to devote as much energy to winning the peace as it did to winning the war."

USA - At a press conference in Washington, D.C. on 18 May 2009, United States Department of State spokesman Ian Kelly said: "The Department of State welcomes the fact that the fighting has ended, and we are relieved that the immense loss of life and killing of innocent civilians appears to be over. This is an opportunity for Sri Lanka to turn

the page on its past and build a Sri Lanka rooted in democracy, tolerance, and respect for human rights. Now is the time for the government to engage the Tamils, Sinhalese, and other Sri Lankans to create a political arrangement that promotes and protects the rights of all Sri Lankans.

It is also vital for the government to provide for the needs of the 280,000 civilians now living in relief camps. Providing food, water, shelter, basic health care, and sanitation, as well as expediting their return to their homes should be a top priority for the government."

Annexure:

1. Unlock the camps in Sri Lanka

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Displaced people in Menik Farm IDP camp, Vavuniya district, northern Sri Lanka, May 2009

7 August 2009

Hundreds of thousands of people displaced by the recent war in North East Sri Lanka and living in camps are being denied basic human rights including freedom of movement, said Amnesty International on Monday. The organization's Secretary General, Irene Khan, launched the Unlock the Camps campaign at the start the organization's International Council Meeting, a gathering of international delegates in Turkey.

Two months after the end of the fighting, the Sri Lankan authorities are still not addressing properly the needs of the newly displaced. The camps are overcrowded and unsanitary.

In addition, these are effectively detention camps. They are run by the military and the camp residents are prevented from leaving them; they are denied basic legal safeguards. The government's claim that it needs to hold people to carry out screening is not a justifiable reason to detain civilians including entire families, the elderly and children, for an indefinite period.

Displaced people have even been prevented from talking to aid workers. With no independent monitors able to freely visit the camps, many people are unprotected and at risk from enforced disappearances, abductions, arbitrary arrest and sexual violence.

According to government figures, the fighting between the Sri Lankan army and the Liberation Tigers of Tamil Eelam (LTTE) displaced over 409,000 people. At least 280,000 are displaced from areas previously under LTTE control. A dramatic influx of people fleeing the fighting and crossing to government controlled areas took place from March 2009.

The displaced people, including at least 50,000 children, are being accommodated in 41 camps spread over four districts. The majority of the displaced are in Vavuniya District where Manik Farm is the biggest camp.

When United Nations Secretary General Ban Ki-moon visited some of the camps in May, he said: "I have travelled around the world and visited similar places, but this is by far the most appalling scene I have seen."

While some progress had been made on providing basic needs, much still needs to be done on the right to health, food, water, family reunion and access to relatives.

Amnesty International has also called on the government of Sri Lanka to end restrictions on liberty and freedom of movement; ensure that camps are of a truly civilian nature and administered by civilian authorities, rather than under military supervisions; and give immediate and full access to national and international organizations and observers, including aid agencies, in order to monitor the situation and provide a safeguard against human rights violations.

The Sri Lankan government said on 21 May that the displaced will be resettled in 180 days. But very few have so far been allowed to return to their homes or to join friends or family elsewhere, and people remaining in the camps are not at liberty to leave camp premises.

Amnesty International is calling on the Sri Lanka government to end its policy of forcibly confining people to camps, which amounts to arbitrary detention. The Sri Lankan government must allow persons who require temporary shelter in these facilities to come and go freely.

With assistance and support from the international community and the involvement of displaced people themselves, the Sri Lankan government must set up clear benchmarks and timelines to ensure that displaced people can safely return home or find other durable solutions (such as relocation) as soon as possible.

2. Eventual Resettlement No Excuse for Holding 280,000 Displaced Tamils July 28, 2009 Human Rights Watch

Keeping several hundred thousand civilians who had been caught in the middle of a war penned in these camps is outrageous. Haven't they been through enough? They deserve their freedom, like all other Sri Lankans.

Brad Adams, Asia director (New York) – The Sri Lankan government should immediately release the more than 280,000 internally displaced Tamil civilians held in detention camps in northern Sri Lanka, Human Rights Watch said today.

The government, in violation of international law, has since March 2008 confined virtually all civilians displaced by the fighting between government forces and the separatist Liberation Tigers of Tamil Eelam (LTTE) in detention camps, euphemistically called “welfare centers” by the government. Only a small number of camp residents, mainly the elderly, have been released to host families and institutions for the elderly.

“Keeping several hundred thousand civilians who had been caught in the middle of a war penned in these camps is outrageous,” said Brad Adams, Asia director at Human Rights Watch. “Haven't they been through enough? They deserve their freedom, like all other Sri Lankans.”

The United Nations reported that as of July 17, 2009, the government was detaining 281,621 people in 30 military-guarded camps in the four northern districts of Vavuniya, Mannar, Jaffna, and Trincomalee. Camp residents are allowed to leave only for emergency medical care, and then frequently only with military escort. Inside the camps, humanitarian workers are prohibited, on threat of being barred from the camps, from

discussing with residents the fighting in the final months of the conflict or possible human rights abuses.

Premkumar, 44 years old, told Human Rights Watch that he, his wife, and their 3-year-old daughter have been confined to a camp since they escaped the war zone in mid-May. He has been allowed out only once, when he managed to obtain a referral to a hospital.

“The way I see it, we are not internally displaced persons, we are internally displaced prisoners,” Premkumar said. “We used to be in a prison controlled by [LTTE leader] Prabhakaran. Now we are in a prison controlled by the government.”

In Kalimoddai and Sirukandal camps in Mannar district, established more than a year ago, some residents have been granted permission to leave the camp for short periods during the day. In these camps, they have to register with the military twice a day. Human Rights Watch has received reports that if a person fails or is late to register, the military may apply punitive measures, such as forcing the person to stand still under the sun for a period of time or to perform manual labor.

Sri Lanka’s policy of confining the displaced to detention camps has been widely condemned. On May 15, for example, Walter Kállin, the UN secretary-general’s representative on internally displaced persons, said: “Prolonged internment of such persons would not only amount to arbitrary detention but it also aggravates the humanitarian situation needlessly.”

In response to domestic and international criticism, President Mahinda Rajapaksa has tried to justify the detention policy by claiming that anyone in the camps could be a security threat. The government has sought to play down the situation, insisting that the displaced civilians will be quickly resettled. In May, the government said it would resettle 80 percent of them by the end of this year. Now the Minister of Foreign Affairs says the goal is 60 percent. The government has not provided any concrete resettlement plans, however, and displaced persons have not received any information about when they might be allowed to return home.

The military has reportedly removed several thousand camp residents for alleged

membership or support of the LTTE, and transferred them to rehabilitation centers for LTTE fighters or to Colombo, the capital, for further interrogation. In many cases, the authorities have failed to inform relatives remaining in the camps about the fate and whereabouts of those removed, raising concerns of possible ill-treatment or enforced disappearance. The order to humanitarian workers not to talk to camp residents limits their ability to protect people from abuse.

While the Sri Lankan authorities are entitled to screen persons leaving the war zone to identify Tamil Tiger combatants, international law prohibits arbitrary detention and unnecessary restrictions on the right to freedom of movement. This means that anyone taken into custody must be promptly brought before a judge and charged with a criminal offense or released. Although human rights law permits restrictions on movement for security reasons, the restrictions must have a clear legal basis, be limited to what is necessary, and be proportionate to the threat.

“Vague promises about the future release of the people illegally locked up in detention camps are no justification for keeping them there,” said Adams. “Every day in the camp is another day that the government is violating their rights.”

The situation of camp residents is aggravated by inadequate living conditions in the camps. Many are overcrowded, some holding twice the number recommended by the UN High Commissioner for Refugees. According to the UN, there is a shortage of latrines and access to water is inconsistent, causing hygiene problems. In June alone, health officials recorded more than 8,000 cases of diarrhea, as well as hundreds of cases of hepatitis, dysentery, and chickenpox.

Numerous reports indicate that camp residents are getting increasingly frustrated with the inadequate food, overcrowding, and inability to visit relatives in adjacent camps or elsewhere. In late June, they held at least two protests in the camps, which were dispersed by the security forces.

The government has effectively sealed off the detention camps from outside scrutiny. Human rights organizations, journalists, and other independent observers are not allowed inside, and humanitarian organizations with access have been forced to sign a statement

that they will not disclose information about the conditions in the camps without government permission. On several occasions, the government expelled foreign journalists and aid workers who had collected and publicized information about camp conditions, or did not renew their visas.

On July 24, the executive board of the International Monetary Fund approved a US\$2.6 billion loan to Sri Lanka, granting the government an “exceptional level of access to Fund resources.” Several countries – including the United States, United Kingdom, France, Germany, and Argentina – abstained from the vote, reflecting concern about human rights violations during the conflict and continued abuses, including mistreatment of internally displaced persons. Installments of the loan will have to be approved every three months.

“The world recognizes that Sri Lanka needs money to rebuild the country,” said Adams. “But the government’s treatment of its Tamil population in recent months has drained much of the sympathy for the challenges it faces. The government needs to change course or expect greater international scrutiny in the future.”

3. Message of the High Commissioner for Human Rights Navi Pillay at the Human Rights Council Special Session on the human rights situation in Sri Lanka

Source: United Nations Human Rights Council; United Nations Office of the High Commissioner for Human Rights (OHCHR)

Date: 26 May 2009

I regret that I am not able to attend in person the Human Rights Council special session on the human rights situation in Sri Lanka. It is appropriate that the Human Rights Council, as the premier body for the protection of human rights, should address the tragic human rights and humanitarian consequences of the conflict in that country.

The images of terrified and emaciated women, men and children fleeing the battle zone ought to be etched in our collective memory. They must spur us into action.

Since December, during the latest phase of intense fighting, tens of thousands of civilians

have been killed, injured or displaced. They have seen their property and livelihoods shattered. Independent human rights monitors and the media should be given unfettered access to verify reports of serious violations of international human rights and international humanitarian law which have consistently surfaced in the course of the fighting.

Furthermore, the fate of thousands of civilians believed to have been in the conflict area, or in transit to displacement camps is still unknown. The plight of those who have already reached the camps must also be addressed with urgency. These people are in desperate need of food, water, medical help and other forms of basic assistance. Severe overcrowding is creating serious problems. Malnourishment is a pressing concern. There have already been outbreaks of contagious diseases.

Unrestricted humanitarian aid will make the difference between life, illness or even death to many, and yet access for the UN and NGOs to the IDP camps continues to be hampered. I call on the Government to ensure that unimpeded assistance promptly reaches the survivors.

I also urge the Government to expedite and correct flaws in the screening process implemented to separate LTTE combatants from the civilian population. Full access to independent monitors is crucial to ensure due process and humane treatment for detainees. Freedom of movement for the very large majority of displaced people who do not pose security threats should also be granted as soon as possible.

The Government claimed military victory over the LTTE and announced the death of senior LTTE commanders. For many years, the LTTE's campaign of violence had terrorized Sri Lankan people of all ethnic communities and ruthlessly eliminated independent-minded Tamils who dared to dissent. I fully recognize the Government's responsibility to protect its people against acts of this kind, but as in any comparable situation, the rules of international human rights and international humanitarian law must be upheld at all times. In no circumstances can the end justify the means employed to achieve it.

There are strong reasons to believe that both sides have grossly disregarded the

fundamental principle of the inviolability of civilians. An independent and credible international investigation into recent events should be dispatched to ascertain the occurrence, nature and scale of violations of international human rights and international humanitarian law, as well as specific responsibilities.

Allegations that the LTTE purposefully prevented civilians from leaving the conflict zone, despite their suffering and the dangers that they faced, warrant close scrutiny. The LTTE has reportedly engaged in forced conscription for military purposes and located military facilities amongst civilians, effectively using them as human shields. There were even alleged cases of the LTTE firing on civilians as they sought to flee, or targeting with suicide attacks checkpoints as the IDPs left the area.

For its part, the Government reportedly used heavy artillery on the densely populated conflict zone, despite assurances that it would take precautions to protect civilians. This and the reported shelling of a hospital clinic on several occasions in the last weeks of fighting, if verified, would be of great concern. Allegations that the army may have killed LTTE members who were trying to surrender and who thus may qualify as "hors de combat," if confirmed, would constitute serious violations of the laws of war.

Establishing the facts is crucial to set the record straight regarding the conduct of all parties in the conflict.

Victims and the survivors have a right to justice and remedies. The Government has already indicated that it may grant amnesty to lower and mid-level LTTE cadres and only prosecute senior LTTE leaders. I would like to underscore that amnesties preventing accountability of individuals who may be responsible for war crimes, genocide, crimes against humanity or gross violations of human rights are impermissible.

As I record this message on May 25, the Secretary-General has visited Sri Lanka. I wish to join the Secretary-General in his appeal to the Government of Sri Lanka to address the root causes, the longstanding human rights conditions, to ensure a comprehensive process of accountability for human rights violations by all concerned. A new future for the country, the prospect of meaningful reconciliation and lasting peace, where respect for

human rights and fundamental freedoms can become a reality for all, hinges upon such in-depth and comprehensive approach.

Clearly the challenges of recovery and reconciliation extend beyond the conflict-affected areas to the broader political and institutional life of the country. Three decades of conflict have had a corrosive effect on public life and the rule of law. Human rights defenders and journalists have continuously faced threats and even death. The independence of important institutions, such as the national human rights commission, has been compromised. As is almost invariably the case in post-conflict situations, general trust must be rebuilt by reenergizing a human rights culture in the country.

I remain convinced that an OHCHR office with a promotion and protection mandate in Sri Lanka could play an important role in supporting the Government and in building the confidence of all stakeholders in Sri Lanka's recovery. I urge the Human Rights Council to support the call for the international community's help at such a critical juncture for Sri Lanka.

Thank you.