

SRI LANKA'S NORTH I: THE DENIAL OF MINORITY RIGHTS

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SRI LANKA'S NORTH I: THE DENIAL OF MINORITY RIGHTS

EXECUTIVE SUMMARY

Deepening militarisation and the lack of accountable governance in Sri Lanka's Northern Province are preventing a return to normal life and threaten future violence. Scene of the most bitter fighting in the civil war, the Tamil-majority north remains under de facto military occupation, with all important policies set by Sinhala officials in Colombo. The slow but undeniable movement of Sinhala settlers into the fringes of the north and other forms of government-supported "Sinhalisation" are reigniting a sense of grievance and weakening chances for a real settlement with Tamil and other minority parties to devolve power. The international community, especially those governments and aid agencies supporting the reconstruction of the area, should demand a fundamental change of course and should structure their assistance so as to encourage the demilitarisation and democratisation of the former war zone and full respect for minority rights.

With the massive number of troops in the north have come various forms of Sinhalisation. The almost entirely Tamil-speaking north is now dotted with Sinhala signboards, streets newly renamed in Sinhala, monuments to Sinhala war heroes, and even a war museum and battlefields that are open only to Sinhalese. Sinhala fishermen and businessmen are regularly given advantages not accorded to Tamils. The slow but steady movement of Sinhala settlers along the southern edges of the province, often with military and central government support and sometimes onto land previously farmed or occupied by Tamils, is particularly worrying. These developments are consistent with a strategy – known to be supported by important officials and advisers to the president – to change "the facts on the ground", as has already happened in the east, and make it impossible to claim the north as a Tamil-majority area deserving of self-governance.

The Northern Province has been at the centre of a half-century of ethnic conflict. Comprising the Jaffna peninsula and the Vanni region, the latter largely controlled by the Liberation Tigers of Tamil Eelam (LTTE) from the 1990s until 2009, the province bore the brunt of the 25 years of war that came to a bloody end in May 2009, with up to 40,000 civilians killed and the military defeat of the LTTE. The north constitutes the core of the homeland

claimed by Tamil nationalists and fought for by the guerrilla. Tamil demands for self-rule in the north (together with the now multi-ethnic east) have been bitterly contested by many Sinhalese; the failure to grant regional autonomy gave birth to demands for a separate state and led to civil war. While the conflict continued, large portions of the north functioned as a refuge for Tamils fleeing violence and discrimination in Sinhala-majority areas in the south, while also putting them under the control of the totalitarian LTTE. Some 75,000 Tamil-speaking Muslims expelled from the north by the movement in 1990 – now grown to as many as 200,000 – remain displaced from their homes and lands.

Deepening militarisation of the province presents a threat to long-term peace and stability. Far in excess of any legitimate need to protect against an LTTE revival, the militarisation of the north is generating widespread fear and anger among Tamils: indeed, the strategy being executed runs the risk of inadvertently resurrecting what it seeks to crush once and for all – the possibility of violent Tamil insurrection. The construction of large and permanent military cantonments, the growing involvement of the military in agricultural and commercial activities, the seizure of large amounts of private and state land, and the army's role in determining reconstruction priorities are all serious concerns. They are discussed in a companion report, *Sri Lanka's North II: Rebuilding under the Military*.

This report examines how effective military control over the civil administration as well as control and surveillance of civil society, along with government-supported Sinhalisation, has undermined many of the expected benefits from an end to the war. Enforced disappearances, violent crackdowns on protestors in various towns and extrajudicial punishments have shown the sharper edge of military policing and revealed the deep mistrust on both sides of the civil-military and Tamil-Sinhala divides.

Continued Sinhalisation and militarisation of the north threaten to render pointless the stalled negotiations on devolution between the government and the Tamil National Alliance (TNA), the clear favourite among Tamil voters in the north after victories in parliamentary and local government elections. Despite strong pressure from the Indian

and U.S. governments, the government of President Mahinda Rajapaksa shows little inclination to offer any tangible devolution of power to the north (or the multi-ethnic east); even the limited powers legally devolved to provincial councils under the current constitution are not in practice shared. In the absence of a functioning provincial council – despite repeated government promises of early elections – the north is ruled directly by the governor, a retired general and presidential appointee.

However important devolution of power ultimately will be, the longer current policies are allowed to remain in place, the harder it will be to achieve meaningful power-sharing with a Tamil-majority north. Government-TNA negotiations and international pressure should therefore focus first on the demilitarisation of the province, the reestablishment of civilian and democratic governance, and an end to any government-supported Sinhalisation. The government can begin on this agenda by implementing the many sensible recommendations of its own Lessons Learnt and Reconciliation Commission and demonstrate its commitment by presenting a concrete roadmap for reconciliation and democratisation. Donors and development agencies can support these changes by speaking out clearly about the lack of democratic conditions in the north and by insisting that their programs be developed in consultation with local communities and leaders and implemented by an autonomous civil administration.

Colombo/Brussels, 16 March 2012

SRI LANKA'S NORTH I: THE DENIAL OF MINORITY RIGHTS

I. INTRODUCTION

Sri Lanka's Northern Province has been at the centre of the country's post-independence ethnic conflicts and the quarter-century of civil war that came to an end in 2009.¹ Sri Lankan Tamil identity is rooted in the area and the city of Jaffna has for centuries been the capital of Tamil culture and politics. It was in Jaffna that Tamil militancy began in the mid-1970s and war first broke out in 1983. The north was the scene of the most sustained fighting and most destructive phases of the war, ending in the humanitarian catastrophe in the northern Vanni region in early 2009.

The north lies at the physical and emotional heart of the Tamil nationalist project of a separate state and homeland known as Tamil Eelam.² Large sections were controlled

for years by the separatist Liberation Tigers of Tamil Eelam (LTTE), which ran a de facto state, first in Jaffna, and then in the Vanni with its "capital" in Kilinochchi. Tamil Eelam – or some more modest version of it within a unified Sri Lanka – would be a place where Sri Lankan Tamils could maintain their distinct cultural identity, govern themselves, control their own resources and determine their own collective political goals, and where they would be physically safe – a place where Tamils would not be perpetually outvoted, underdeveloped or at physical risk as a permanent minority in a Sinhala Buddhist Sri Lanka.³

The end of the 26-year war created an opportunity for the Sri Lankan state to recognise the multi-ethnic and multi-religious nature of the country and to reach out across ethnic and political divides to devise a sustainable political solution acceptable to its different ethnic groups. In practical terms this required a speedy and sensitive response to the plight of the hundreds of thousands displaced by the war, beginning with a clear and inclusive resettlement and reconstruction plan for the Tamils who had been battered in the last stages of the war and then kept in closed internment camps, the Muslims who were evicted from the north by the LTTE in 1990, the Sinha-

¹ All Crisis Group reporting on Sri Lanka, starting in 2006, is available at www.crisisgroup.org. Of particular relevance to this report are Crisis Group Asia Reports N°220, *Sri Lanka's North II: Rebuilding under the Military*, 16 March 2012; N°217, *Sri Lanka: Women's Insecurity in the North and East*, 20 December 2011; N°209, *Reconciliation in Sri Lanka: Harder than Ever*, 21 July 2011; and N°191, *War Crimes in Sri Lanka*, 17 May 2010.

² The phrase "Tamil Eelam" is often mistranslated and misunderstood. Eelam, like Illankai, is one of the Tamil words for the whole island of Lanka. Tamil Eelam would then mean "Tamil Lanka", or the part of the island of Lanka where Tamils are at home. In addition to the north, Tamil Eelam would also include what is now the Eastern Province. Under the terms of the 1987 Indo-Lanka accord and the Thirteenth Amendment to the Sri Lankan constitution that followed from it, the Northern and Eastern Provinces were merged and were for a time administered as a single unit. The 2006 Supreme Court decision that once again separated the two provinces was a serious blow to Tamil nationalist goals. Its endorsement by President Mahinda Rajapaksa was an early sign of his government's determination to challenge Tamil nationalist claims head on. By focusing only on the Northern Province, however, this report is not taking a position on the desirability of a merged north and east. Despite the east being viewed by Tamil nationalists as integral to the idea of Tamil Eelam, there are longstanding frictions between the two regions. Social and caste differences, as well as significantly larger Sinhalese and Tamil-speaking Muslim populations in the east, have complicated the relationship. While conscious government policies shaped these demographics, tensions were

exacerbated by the LTTE and eventually exploited by the government during the final years of war. Jaffna Tamils, including politicians and militants, have often been accused of marginalising their eastern cousins out of a belief in their socio-cultural superiority. Deep-rooted caste consciousness has also conditioned the relationship between Tamils in Jaffna and those in the Vanni mainland. For an extended study of the Eastern Province, see Crisis Group Asia Report N°159, *Sri Lanka's Eastern Province: Land, Development, Conflict*, 15 October 2008.

³ While the north is the heartland of Tamils and Tamil nationalism, it has never been a mono-ethnic area: the presence of Muslims, especially in Jaffna and Mannar, has been an important ingredient in the culture and politics of the province. Small numbers of Sinhalese have also lived there, and for many Sinhalese the north holds its own historic, religious and cultural significance. The island of Nagadeepa, off the Jaffna peninsula, is home to an important Buddhist temple, which remained open throughout the war. There are other current and potential pilgrimage sites in the north. For a trenchant critique of the politics behind the search for and defence of "Sinhala-Buddhist heritage in the North and East", see Nirmal Ranjith Dewasiri, "History after the War: Challenges for Post War Reconciliation", *Groundviews*, 25 February 2011.

lese who had fled the north and east to avoid violence, and Tamil refugees in India and elsewhere.⁴ It also required the government to work to a clear and time-bound road map promoting a political power-sharing arrangement that responded to the insecurity and aspirations of Tamils and Muslims in the north and east. Almost three years since the end of the war, there has been little progress on any of these fronts.

This report, the product of a series of visits to the north from October 2010 through September 2011, focuses on the region's deepening levels of militarisation and the disturbing evidence of its "Sinhalisation"—through the changing of village and street names from Tamil to Sinhala and the building of war memorials and Buddhist statues, and through government and military-assisted movements of Sinhalese into previously Tamil areas.

Concerns about both militarisation and Sinhalisation have been expressed by many within and outside of Sri Lanka since the end of the war. Research for this report, based on interviews with farmers, villagers, journalists, clergy members, human rights activists, international aid workers and local and central government officials in the north and in Colombo,⁵ confirms the existence and gravity of such fears. The depth of militarisation is without doubt; the full extent of Sinhalisation remains unclear due to limitations on access in parts of the north and the lack of transparent government plans.

A companion report, *Sri Lanka's North II: Rebuilding under the Military*, focuses on growing military dominance of the economic reconstruction of the Northern Province and the failure of donors to ensure their money is used to rebuild in an accountable and transparent manner that will not increase the risk of future conflict.

This report also addresses the status of Tamil-speaking Muslims in the north – many now returning after two decades of political marginalisation and difficult lives in refugee camps following their eviction from the north by the LTTE in 1990. Gender issues and the status of women in the post-war north are not discussed here, given our December 2011 report, *Sri Lanka: Women's Insecurity in the North and East*. A future report will look at the complex dynamics within and between Tamil political parties, especially in the north. It will examine current debates over the future of Tamil nationalist politics and how likely negotiations between the government and minority po-

litical parties are to achieve constitutional changes that would produce meaningful devolution of power to the Northern and Eastern Provinces.

⁴ The 1981 census counted 35,128 Sinhalese living in the Northern Province. For more details, see note 10 below.

⁵ Due to high levels of fear, all those interviewed requested anonymity. Written questions sent to various ministries and departments of the Sri Lankan government in November 2011 received no answers.

II. A LEGACY OF WAR AND DESTRUCTION

A. THE NORTH DURING THE WAR

The first stirrings of Tamil militancy were in the early 1970s, as younger Tamils, especially in Jaffna, grew increasingly alienated and angry at the discriminatory effects of government policies on language and university admissions.⁶ 1975 saw the birth of the LTTE and its first terrorist attack – the assassination by Tiger's leader Velupillai Prabhakaran of the Sri Lanka Freedom Party (SLFP) mayor of Jaffna, Alfred Duraiappa. Other Tamil militant groups, predominantly Jaffna-based, became active around the same time, engaging in various forms of violence including bank robberies, attacks on police stations and inter-group clashes.⁷

The conflict exploded into full-scale war after the LTTE's ambush and murder of thirteen soldiers was followed by government-sanctioned anti-Tamil riots across the country in July 1983.⁸ The rest of the 1980s saw increasingly destructive rounds of warfare, punctuated by occasional ceasefires and peace talks. The 1987 introduction of the Indian Peace Keeping Force (IPKF) – stationed throughout the north and east but headquartered in Jaffna – brought temporary peace. But this was quickly shattered when the LTTE refused to lay down its weapons (unlike the other Tamil militant groups). In the last years of the 1980s, civilians in Jaffna and the north saw atrocities committed by the IPKF, the LTTE, and the pro-Indian Tamil militant group Eelam People's Revolutionary Liberation Front (EPRLF).

By early 1990, the IPKF had withdrawn and all of the competing Tamil militant groups had fallen victim to the LTTE.⁹ In October 1990, the guerrilla movement commit-

ted one of its greatest crimes: the forced and sudden expulsion of the entire population of 75,000 Muslims from Jaffna, Mannar and other parts of the north.¹⁰ For the next five years, the Jaffna peninsula and much of the Vanni was under the LTTE's control. The military recaptured Jaffna in 1995 with the assistance of the armed cadres of the former Tamil militant group, the Eelam People's Democratic Party (EPDP), and the government retained control over Jaffna for the remainder of the war.¹¹

Retreating to the Vanni in 1995, the LTTE began setting up a de facto state, with its "capital" in the town of Kilinochchi. The February 2002 Norwegian ceasefire agreement ratified the borders and gave quasi-international recognition to the Tigers' areas of control.¹² The LTTE used the four and a half years of relative peace to consolidate its control and strengthen its institutions, which included a court system, a police force, border guards, and an administration system that ran parallel to state structures.¹³ It asserted tight control over putatively independent civil

⁶ See Rajan Hoole, et al., *The Broken Palmyrah: The Tamil Crisis in Sri Lanka – An Inside Account*, Claremont CA (1990), Chapter two.

⁷ See M.R. Narayan Swamy, *Tigers of Lanka: From Boys to Guerrillas*, (Colombo, 2002).

⁸ The pogrom had the active support of powerful sections of the government and the tacit approval of President Jayawardena. See *The Broken Palmyrah*, op. cit., chapter four and Rajan Hoole, *Sri Lanka: The Arrogance of Power: Myths, Decadence and Murder* (Colombo, 2003), Chapter 9, "Sri Lanka's Black July".

⁹ These included including the EPRLF, the People's Liberation Organisation of Tamil Eelam (PLOTE), the Tamil Eelam Liberation Organisation (TELO) and the Eelam Revolutionary Organisation (EROS). With the IPKF's withdrawal in 1990, several joined the Sri Lankan government in its war against the Tigers. See Kristian Stokke and Anne Kirsti Ryntveit, "The struggle for Tamil Eelam in Sri Lanka", *Growth and Change*, vol. 31 (Spring 2000), p. 286. Many also became minor political parties, some still active today, even while maintaining armed wings.

¹⁰ This was the only large-scale act of ethnic cleansing in Sri Lanka's decades-old war and led to a virtually mono-ethnic north, as tens of thousands of Sinhalese also left over the years of fighting. Almost all of the 20,400 Sinhalese living in Jaffna in 1971 left over the course of the next two decades as the conflict intensified. The 1981 census recorded only 6,659 Sinhalese in Jaffna, and the 2001 census only 49. A total of 35,128 Sinhalese were recorded as living in the Northern Province in 1981, out of a population of more than a million. See "Population by ethnic group and district, census 1981, 2001", Department of Census and Statistics, at [www.statistics.gov.lk/abstract 2010/chapters/Chap2/AB2-11.pdf](http://www.statistics.gov.lk/abstract%2010/chapters/Chap2/AB2-11.pdf); and Statistical Information 2010, Northern Provincial Council, at www.np.gov.lk/pdf/Statistical-Information-2010.pdf. The 1991 and 2001 censuses were unable to be conducted in the Northern Province (and much of the east) due to the war. The Sinhala nationalist Jathika Hela Urumaya (National Heritage Party, JHU) party is campaigning for the return of the displaced Sinhalese to the north. "Tolerance of Sinhalese is not cowardice", *Sri Lanka Mirror*, 6 December 2011.

¹¹ Hundreds of people were forcibly disappeared in Jaffna in the wake of the army's recapture. The most famous case was the rape and murder of a teenage girl, Krishanthi Kumaraswamy, which led to the discovery of mass graves in the village of Chemmani. For more on this period, see Crisis Group Asia Report N°135, *Sri Lanka's Human Rights Crisis*, 14 June 2007, p. 5.

¹² The 2002 ceasefire agreement required government and LTTE forces to "hold their ground positions, maintaining a zone of separation of a minimum of 600 metres" and to respect "the status quo as regards the areas controlled by the GoSL and the LTTE" until "demarcation lines" could be established with the assistance of ceasefire monitors.

¹³ The years of war were notable for the fact that the government's administrative system and social services – schools, hospitals, children's services, banks and other public utilities – continued to function in the north and east, even as the LTTE had its own separate institutions while wielding significant control over how government services functioned.

society organisations, such as farmers' associations and women's groups and ruthlessly crushed all political dissent. It relied on extortion, forced conscription, including of teenagers, and tightly controlled the movements of the population under its control. Its military machine, headquartered in the jungles of Mullaitivu, remained potent.

Life in Jaffna under Sri Lankan military control was hardly more free. While some degree of dissent was allowed, there were also regular and widespread human rights violations – torture, enforced disappearances, political killings – many of them reportedly the work of cadres linked to the EPDP.¹⁴ Large-scale ballot-stuffing and intimidation – especially in 1999 and 2001 – gave this party a parliamentary presence and control of some local councils; support from the military, especially from the navy on the islands off the coast of Jaffna, gave it the ability to intimidate and influence Jaffna politics. Until 2009, EPDP's reach was always in rivalry with the LTTE, which retained its intelligence and activist networks in Jaffna and the ability to strike its opponents.¹⁵

Vavuniya and Mannar functioned as the government's other garrison towns along the southern border of LTTE-administered Vanni. Mannar on the north-western coast, long known for its smuggling links to southern India, was tightly controlled by the Sri Lankan navy, while in Vavuniya, the People's Liberation Organisation of Tamil Eelam (PLOTE), the Tamil Eelam Liberation Organisation (TELO) and other Tamil ex-militant groups were known to work closely with the army, and frequently accused of disappearances, abductions, robberies, killings and other criminal activities, for both political and private ends.¹⁶

By late 2007, having regained control of the Eastern Province, the government began its push into the Northern Province.¹⁷ In January 2008 it abrogated the ceasefire agreement and by September 2008, the LTTE was under intense military pressure throughout the north, accompanied by mass displacement and a growing humanitarian crisis. The war came to a bloody end with the fall of Kilinochchi in January 2009, the destruction of the guerrilla's military stronghold in Mullaitivu and the final massacre

of thousands of civilians and the Tiger leadership on the beaches of Mullivaykkal in April and May 2009.

B. THE FINAL TOLL IN THE NORTH

The level of destruction in the Vanni during the final two years of fighting was enormous and unprecedented in Sri Lanka's two and half decades of war. Nearly three years later, there has been no thorough and credible accounting of who and what was lost. The government's Lessons Learnt and Reconciliation Commission (LLRC), whose report was released to the public in December 2011, barely scratched the surface of people's suffering.¹⁸ The April 2011 report of the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka provided some additional detail, but concluded unequivocally that an international inquiry into the final stages of the war is necessary to have a complete and credible accounting.¹⁹ To date, the government has resisted any such inquiry and the international community has not followed through on the panel's recommendation.

1. Property damage, theft and loss

The final two years of war saw the Vanni's public infrastructure ruined and nearly three quarters of houses destroyed or made unliveable by the fighting, as well as extensive post-war looting by government forces.²⁰ As civilians fled the approaching front lines (the government advancing and the Tigers retreating), they brought with them any belongings and household items they could carry – clothes, keepsakes, livestock and vehicles. As they were displaced repeatedly and conditions grew worse, most people were

¹⁴ See the U.S. State Department's annual human rights reports for Sri Lanka, 2001, 2005, 2007, and 2008.

¹⁵ A large number of EPDP members – as well as those belonging to other former Tamil militant groups, like the EPRLF – were killed during the 2002-2006 ceasefire. See "2006 Human Rights Report: Sri Lanka", U.S. State Department, 6 March 2007.

¹⁶ See "Sri Lanka", World Report 2000, Human Rights Watch, and "Sri Lanka: Government must investigate paramilitary group violations", Amnesty International, 4 July 2001. See also "We are not paramilitary – PLOTE", Daily News, 5 March 2009.

¹⁷ These final stages of the war are described further in Crisis Group Report, *War Crimes in Sri Lanka*, op. cit.

¹⁸ "Report of the Commission of Inquiry on Lessons Learnt and Reconciliation", November 2011 (hereinafter "LLRC Report"), available at www.priu.gov.lk.

¹⁹ "Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka", 31 March 2011 (hereinafter "UN Panel of Experts Report", available at www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf).

²⁰ Crisis Group interviews, residents and human rights activists, Northern Province, September 2011. See also note 22 below. In some villages in the Vanni, elephants had also destroyed houses. According to a senior aid official closely involved in housing in the north and east, the current working estimate for the total houses damaged or destroyed in the north is 172,000. The actual number of damaged or destroyed houses, however, is thought to be significantly lower, somewhere between 120,000 and 150,000 and the actual level of need is likely somewhere close to 100,000 houses. Crisis Group phone interview, January 2012. UN documents mention "a total need which exceeds 100,000 houses". "Joint Humanitarian and Early Recovery Update", No. 39, January 2012 (published 23 February 2012). For a detailed discussion of housing needs in the north, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section II.B.2.

forced to sell or abandon possessions along the way. Those who survived the final battles were then limited to five kilograms of belongings when they were screened to enter the government's massive Menik Farm internment camps, meaning many had to leave on the beaches of Mullivaikkal much of what they had struggled to hang on to.²¹ When they finally left the camps, most found their houses looted of whatever remained – from pipes and electrical wiring to roof tiles.²² Even those assets that had not been damaged in the war – like vehicles – were generally not restored to the families.²³ The population of the Vanni has had to restart their lives almost from scratch.

2. The dead and missing

The toll in lives was even more devastating. Almost three years after the end of the fighting, there is a growing demand in the north for an accounting of and for those killed and disappeared. The lack of information on the whereabouts or fate of the missing is particularly devastating for communities already reeling from the deaths of family members and friends and the physical and psychological wounds so many carry. The continued refusal of the government even to release the names of those detained – in prisons and “rehabilitation” centres – as suspected LTTE members, despite being repeatedly recommended by the LLRC, has aggravated the plight of hundreds of families.²⁴

²¹ Crisis Group interview, resident of the Northern Province, Colombo, September 2011. What little money they brought was soon spent during their internment in Menik Farm, where they had to survive for months without mobility or any opportunities to earn income.

²² For allegations by Vanni residents that roofing materials were stolen by the Sri Lankan army, see the documentary “Truth vs. Hype: Sri Lanka – Propaganda Wars”, NDTV, 17 September 2011, available at www.youtube.com/watch?v=6iawZfV9lgo.

²³ According to a fisherman in Mullaitivu, “Many of the vehicles and assets had not been damaged when we left to the other side. There were a few vehicles which were very new. But when we came back none of the good ones were left. We were among the last to leave. Most of our movable assets were lost after the war rather than during the war Though we asked, the army never gave back any vehicles.” Crisis Group interview, Mullaitivu, August-September 2011.

²⁴ As early as September 2010, in its interim report to the president, the LLRC recommended that the government publish “a list of the names of those in detention”. (The text of the interim recommendations can be found at <http://groundviews.org/2010/11/11/llrc-interim-report-to-government>.) The recommendation was repeated in the LLRC's final report, along with a criticism of the failure to implement the interim recommendations. Publishing the names of those detained has also been one of the chief demands of the TNA in its negotiations with the government. Repeated government promises to do so have not been

The exact number of civilians killed in the final stages of the war remains uncertain and will probably never be known, especially with the government unlikely ever to allow a full and independent survey. Nonetheless, there are reasonable grounds for believing the figure is in the tens of thousands. First, the UN and humanitarian staff trapped in the warzone recorded 7,721 civilians killed and 18,479 injured between August 2008 and 13 May 2009. As noted by the Secretary-General's panel of experts, these numbers are likely much too low,²⁵ and the final toll could be as many as 40,000 civilian deaths.²⁶

Other sources of information indicating civilian deaths in the tens of thousands include: information from government officials working in the north suggesting that between 60,000 and 140,000 civilians who were surveyed just before or during the final months of fighting did not make it to the government internment camps;²⁷ estimates

honoured. See Crisis Group Asia Report N°206, *India and Sri Lanka after the LTTE*, 23 June 2011, p. 12.

²⁵ This is due in part to the conservative methodology used to collect them, suspected underreporting by UN agencies (in response to pressure from the Sri Lankan government), the location of many casualties in areas inaccessible to observers, and the fact that following 13 May, many civilians likely died from their injuries, yet were unregistered. See “UN Panel of Experts Report”, op. cit., p. 40. The numbers were not estimates, but actual counts based on eyewitness sightings verified by two additional observers. The vast majority of those included in the UN count were killed between late January and late April 2009, before the final escalation in fighting in the final three weeks. Numerous eyewitnesses report that thousands were killed just in the last few days.

²⁶ Ibid, p. 41.

²⁷ At least three separate figures from government officials need to be compared against the number of civilians in government-run camps as of late May 2009, which the government reported to be approximately 290,000. First, the former district secretary for Mullaitivu and current district secretary for Jaffna, Imelda Sukumar, testified to the LLRC on 4 November 2010 that there were 360,000 people caught in the fighting in the Puttumatalan “no-fire zone”, which was established in February 2009. LLRC transcripts are available at www.llrc.lk. The UN panel of experts reported that her assistant, the former additional government agent of Mullaitivu, and his staff, who were in the “no-fire zone” counted some 330,000 people still trapped in the fighting in February 2009, when 35,000 had already escaped and were recorded to be in government camps. See “UN Panel of Experts Report”, op. cit., pp. 28, 40. Finally, population figures from the government's district secretaries in Kilinochchi and Mullaitivu districts, dated 30 September and 1 October 2008, show a total population of 429,000. These figures were cited in the LLRC testimony of the Catholic bishop of Mannar, who asked for clarification as to what happened to the more than 140,000 people apparently missing. The government has long argued that overall population figures were inflated under pressure from the LTTE, in order to exaggerate the humanitarian crisis and to generate greater quantities of humanitarian sup-

from the government and civil society that are consistent with large-scale loss of life, such as statements indicating that there are currently 40,000 “war widows” in the north,²⁸ and information that the UN has released publicly, such as a survey of 100 families in the government internment camps in early May 2009, before the worst two weeks of fighting, which found that “22 per cent of the families reported that an immediate family member had died”.²⁹

The LLRC reported that the scale of civilian casualties, especially from January to May 2009, was a key question.³⁰ Yet it accepted what the defence ministry told it, including that “an estimate of civilian deaths was not available”, while an estimate of LTTE deaths was – 22,247 for July 2006 to May 2009, with 4,264 confirmed by name for the

plies, which the Tigers could steal. While some inflation in the figures is possible, it is unlikely to have been large enough to explain all, or even most, of the discrepancy. The numbers of displaced from Kilinochchi and Mullaitivu listed in the district secretaries documents from 30 September and 1 October 2008 are almost identical to the official 2006, 2007 and 2008 estimates for the population of those two districts, figures which remain on government websites today. This would argue against any large degree of inflation. For further analysis of these numbers, see “Sri Lanka’s dead and missing: the need for an accounting”, Sri Lanka’s Search for Lasting Peace, 27 February 2012, at www.crisisgroupblogs.org/srilanka-lastingpeace.

²⁸ In September 2010, the ministry for child development and women’s affairs said it had lists of 40,000 war widows in the north, though it reduced this number inexplicably in August 2011 to only 16,936. See “Sri Lankan government says some 89,000 war widows in the north and east”, ColomboPage, 29 September 2010; and “Over 59,000 war widows in Sri Lanka’s north and east”, ColomboPage, 13 August 2011. A separate media report cites government and donors figures of 30,000 out of 110,000 households in the Vanni headed by women. Amantha Perera, “Single Women Begin to Rebuild”, Institute of Policy Studies, 25 September 2011. A survey by the Jaffna-based Center for Women and Development estimated 40,000 female-headed households in the north, half of those in Jaffna. “Battles ahead for women”, IRIN, 8 September 2011. Not all of these women would have lost their husbands in the final months of the war, nor would all those men killed have been civilians – but many would have. And to the number of non-combatant husbands killed, one would have to add the women, children and unmarried men who died in the fighting, as well as those cases where both members of a married couple – and even whole families – were killed.

²⁹ UN OCHA, “Sri Lanka: Vanni Emergency Update No. 8”, 7 May 2009. Extending this percentage to the approximately 90,000 families who ended up in camps after the end of the war, it suggests a minimum of 18,000 killed. Sample bias and other potential problems with this survey, including the inclusion of some combatants, need to be examined, yet given the time frame (prior to the deadliest weeks) and the possibility of multiple deaths in a family, it appears to be a generous minimum.

³⁰ “LLRC Report”, op. cit., pp. 137-146.

period January to May 2009.³¹ The ministry also told the LLRC that “it would be extremely difficult, if not impossible, to distinguish between LTTE and civilian casualties”.³² While the commission expressed its “regret” at the absence of any official record or post-conflict estimate of civilian casualties, and concluded that “considerable civilian casualties had in fact occurred during the final phase of the conflict”, it placed the blame primarily on unexplained “crossfire” and the LTTE.³³

The commission’s recommendation to the government – that it “conduct a professionally designed household survey covering all affected families in all parts of the island to ascertain first-hand the scale and the circumstances of death and injury to civilians, as well as damage to property during the period of the conflict”³⁴ – could go a long way to clarifying the fate of the dead and missing in the north, if done independently.

Unfortunately, the government’s “enumeration of vital events” for the Northern Province, publicly released in February 2012, can hardly be considered reliable or independent.³⁵ Conducted in July 2011 jointly by the military and the department of census and statistics, the survey indicates that nearly 7,000 people in the north died from fighting during the first five months of 2009.³⁶ Another 2,635 were reported to have gone missing during the same period.³⁷ There are reasons to question the accuracy of these numbers: there was no actual category on the census forms for deaths from military action – only the category of “other”. With the north under effective mili-

³¹ Ibid, p. 139. The defence ministry estimated security forces deaths to be 5,556 from July 2006 to May 2009. Notably, it also estimated the total number of LTTE cadres in the north to be 21,500 and acknowledged that approximately 11,700 of those had surrendered and were detained at the end of the fighting. Ibid, p. 144, note 387. This suggests that only 10,000 suspected cadres were killed in the fighting in the north, raising questions as to how the defence ministry calculated the 22,247 figure noted above.

³² Ibid, p. 142.

³³ Ibid, p. 145.

³⁴ Ibid, p. 146.

³⁵ “Enumeration of Vital Events, 2011, Northern Province, Sri Lanka”, Department of Census and Statistics, 11 November 2011, at www.priu.gov.lk/news_update/Current_Affairs/ca_201202/20120215enumeration_vital_events_north.htm.

³⁶ The census forms had no category for deaths from military action. The causes of death listed on the form were: “illness/aged”, “2004 tsunami disaster”, “other natural disaster”, “accident/homicide/suicide”, and “other”. More than 1,000 were reported as dying from “accident/homicide/suicide” from January through May 2009. The form also has no category for listing the agent or party responsible for the death. 5,836 of the dead were killed in Mullaitivu district, scene of the final battles.

³⁷ 1,679 of those listed as “untraceable” were last seen in Mullaitivu district.

tary occupation by a victorious army accused of unlawful killings, with census workers reportedly staying in army camps and being assisted by the military while conducting the survey, and with a pattern of harassment of those who have previously reported military abuses, it is also far from certain that all deaths were reported. Government officials have used these numbers in an effort to “disprove” estimates by the Secretary-General’s panel of experts and others that tens of thousands of civilians died in the final months of the war.³⁸ Nonetheless, that even the government is now admitting nearly 9,500 people were killed or went missing in just five months of fighting – after years of asserting there were no civilian deaths at all³⁹ – suggests the extreme nature of the violence and the lack of adequate civilian protection.

3. The population question

The current population of the Northern Province is uncertain and politically contested. In the last nationwide census in 1981, the northern population was 1.1 million.⁴⁰ The estimated population rose to 1.5 million in 2001 and fell to 1.2 million in 2010.⁴¹ More than half a million Tamils have emigrated from Sri Lanka since the onset of major violence in the late 1970s, accelerating radically after the island-wide anti-Tamil pogroms of July 1983. Most of these had been resident in the Northern Province. Many others fled from the north to live in the relative safety of Colombo.⁴²

The special census of the north conducted in July 2011 and released in February 2012 claims the overall northern population is 997,754.⁴³ The government is due to conduct the delayed 2011 census throughout the country in mid-March 2012 – the first fully nationwide census in 30 years.⁴⁴ Given its aggressive refusal to accept that there were significant civilian deaths in the final months of the war, the intimidating degree of military control throughout the north, and the release of the alternative, military-sponsored census of July 2011, many worry about the risk of political manipulation.

These worries have increased following the August 2011 decision of the election commissioner to reduce the number of parliamentary seats in the Jaffna electoral district from nine to six, citing a drop in registered voters from 816,000 to 486,000.⁴⁵ Tamil politicians and civil society organisations have cried foul.⁴⁶ Many argued that the decision was procedurally illegal and an attempt to punish the TNA for its decisive victory in local government elections in July 2011. According to some experts, no decision on the number of parliamentary seats is required until preparations begin for the next election, which is not due until 2015, by which point the numbers may well have increased.⁴⁷ TNA officials argue that many voters from Jaffna have been forced to flee, either to other parts of Sri Lanka or overseas, while others remain displaced or for other reasons have not been able to register in recent elections, despite the desire of many to do so.⁴⁸

³⁸ When first announcing the existence of the special census, Defence Secretary Gotabaya Rajapaksa claimed that “as a result of the census, we already know that the real number of dead and missing is far too small to provide any substance to the absurd allegations of genocide and war crimes that have been made against our military by the rump LTTE and their cronies”. “Sri Lanka today is one of the most secure and stable countries in the entire world – Secretary of Defence”, defence.lk, 24 November 2011. For a later attempt to use the new figures for political purposes, see “Darusman report should be withdrawn: Vasu”, *Daily Mirror*, 27 February 2012.

³⁹ See for instance Ben Macintyre and James Harding, “Sri Lanka never killed any civilians as such: Rajapaksa”, *The Times*, 2 December 2010.

⁴⁰ “Population by ethnic group and district, census 1981, 2001”, op. cit.

⁴¹ Jaffna district had 831,000 people in 1981; its estimated population in 2000 was 926,000, which fell dramatically to 491,000 in 2001 and rose to 611,000 in 2010. Mullaitivu had 77,000 in 1981, 113,000 in 2000, 154,000 in 2009 and 148,000 in 2010; Vavuniya had 95,000 in 1981, 129,000 in 2000 and 174,000 in 2010; Mannar had 106,000 in 1981, 140,000 in 2000, 161,000 in 2008 and then down to 104,000 in 2010; Kilinochchi had 124,000 in 2000 and 156,000 in 2010. Ibid.

⁴² Government officials are fond of claiming that Colombo is now a majority Tamil-speaking district and that the majority of Sri Lankan Tamils currently live outside of the Northern and

Eastern provinces. Based on existing census data, however, the latter claim is true only if it includes “Indian Origin” or “Up Country” Tamils, a separate community from those Tamils who traditionally live in the north and east. For details on the numbers involved, see Crisis Group Asia Report N°141, *Sinhala Nationalism and the Elusive Southern Consensus*, 7 November 2007, p. 16, note 93.

⁴³ Jaffna district is said to have 567,229 residents, Vavuniya 164,852, Kilinochchi 103,717, Mullaitivu 66,526 and Mannar 95,430. With the exception of Vavuniya, the numbers in all other districts are significantly lower relative to the estimated population figures for 2009 and 2010. See note 41.

⁴⁴ “Sri Lanka to conduct first national census in 30 years”, Xinhua, 4 January 2012.

⁴⁵ “Some 41,750 removed from voters register”, *Daily Mirror*, 15 November 2011. Jaffna electoral district combines the administrative districts of Jaffna and Kilinochchi.

⁴⁶ “Reduction of Jaffna MPs ‘erodes Tamil sovereignty’”, BBC Sinhala, 10 August 2011.

⁴⁷ Susitha R. Fernando, “Polls chief acted hastily: Ex-CJ”, *Island*, 15 August 2011.

⁴⁸ M.A. Sumanthiran, “Situation Report: North and East Sri Lanka”, paper tabled in the Sri Lankan parliament by the Tamil National Alliance, 21 October 2011, p. 28. Hereinafter cited as “TNA Situation Report”.

III. MILITARY RULE: CONTROLLING THE POPULATION

The government repeatedly claims that since the end of the war democracy has been restored in the north, arguing that it “has started the process of conducting democratic elections throughout the north and east, letting people decide who it is they want to represent them at different levels”⁴⁹ and making possible “the emergence of a democratic leadership” in the north.⁵⁰ In fact, this is far from the case: it is the military and the central government in Colombo that run the north.

More than two and a half years after the war, there is still no date set for the election of the most important elected institution in the north, the northern provincial council.⁵¹ The local government bodies in the north, which were won overwhelmingly by the TNA and its allies in July 2011, despite violence, intimidation and the misuse of state resources by government ministers and candidates from the ruling coalition,⁵² have little power even in the best of contexts.⁵³ Elected members of parliament from the north have virtually no influence over government policies. With the exception of the two government ministers from the north – Rishad Bathiudeen, from Vavuniya, and Douglas Devananda, from Jaffna – parliamentarians who represent the province can only question and criticise from outside. To date, their criticisms and appeals have had no evident impact on government policies and the course of development in the north.⁵⁴ In short, elected officials from the north at whatever level have virtually no control over resources, no opportunity to set humani-

tarian and development priorities, and little or no ability to hold the central government or the military to account for misuse of resources or abuse of power.

Senior Tamil officials in the central administration posted in the north – most notably district and divisional secretaries – have traditionally had significant power, but this is no longer the case. Their decisions and interpretation of government policies and regulations are increasingly overruled by the Presidential Task Force for Resettlement, Development and Security in the Northern Province (PTF) and local military commanders.⁵⁵ As a district-level government official put it, “We have to report not only to the line ministries and our superiors but also to the different officials in the PTF, the ministry of defence, as well as to the military commanders on the ground”.⁵⁶ In at least one case, a divisional secretary has been transferred after resisting the demands of the military.⁵⁷ The government has also reportedly begun to appoint increasing numbers of younger, Sinhalese administrators to the north. For the TNA and other Tamil observers, this is both an example and a means of better implementing the Sinhalese of the north.⁵⁸

In short, in the north, it is the military, in conjunction with the central government, which rules through its control of development priorities and resources, its physical control over the population, its establishment of numerous camps both large and small, and its increasing involvement in economic activities.⁵⁹

The Sri Lankan military also uses other more direct means to control the population.

⁴⁹ “Minister Samarasinghe addresses the 18th Session of the UN Human Rights Council in Geneva”, 12 September 2011, www.lankamission.org/content/view/2768/1.

⁵⁰ “The might of powerful nations cannot prevail against justice and fair play – President at UNGA”, 25 September 2011, at www.lankamission.org/content/view/2772/9.

⁵¹ In June 2011, the president promised that provincial council elections would be held sometime in 2012. “Provincial elections in Tamil north in 2012: Rajapaksa”, Press Trust of India, 28 June 2011.

⁵² Maryam Azwer, “Pre-Election Violence In Jaffna Creates Fear Among Voters”, *The Sunday Leader*, 17 July 2011 and Leon Berenger, “Vote buying, grabbing of poll cards mar northern elections”, *The Sunday Times*, 24 July 2011.

⁵³ Local councils have no taxation powers, very little money, and no effective powers over important issues like land policy and development projects.

⁵⁴ The Janathā Vimukthi Peramūṇa (People’s Liberation Front, JVP), long known for its Sinhala nationalist positions, has been increasingly critical of the government’s policies in the north, particularly with respect to militarisation and the absence of functioning democratic institutions. Shamindra Ferdinando, “JVP presents 13-point plan for reconciliation”, *Island*, 11 December 2011.

⁵⁵ The PTF was established in mid-May 2009 and has been chaired from the beginning by Basil Rajapaksa, one of the president’s brothers and now the minister of economic development. It is composed of senior central government officials and the heads of the police and all branches of the military. All members are Sinhalese. The north is also ruled by the provincial governor, a Sinhalese retired major general, G.A. Chandrasiri. For more on the governance of the north, see Crisis Group Report, *Sri Lanka’s North II: Rebuilding under the Military*, op. cit., Section II.B.6.

⁵⁶ Crisis Group interview, Kilinochchi, September 2011.

⁵⁷ For a brief discussion of the transfer of the divisional secretary (DS) for Karachchi, see Crisis Group Report, *Sri Lanka’s North II: Rebuilding under the Military*, op. cit., Section II.

⁵⁸ “TNA Situation Report”, p. 18.

⁵⁹ For a detailed discussion of the military’s new system of camps and bases in the north and its growing role in the northern economy, see Crisis Group Report, *Sri Lanka’s North II: Rebuilding under the Military*, op. cit.

A. REGISTRATION AND SURVEILLANCE

The military has regularly and forcibly registered and photographed Tamils in all five districts of the north, particularly in Jaffna and Kilinochchi.⁶⁰ Objecting to the practice as discriminatory, TNA members of parliament filed suit in the Supreme Court in February 2011 to have the practice ended.⁶¹ In a hearing on 3 March, the attorney general of Sri Lanka assured the court that the army would stop the forced registration, which was conducted at the time under the authority of emergency regulations. In response, the TNA MPs withdrew their petition.⁶²

Within weeks, however, registration had restarted, and it continues today.⁶³ The TNA reportedly filed a new motion “asking the Supreme Court to reconvene their withdrawn petition and conduct a hearing”.⁶⁴ They withdrew the petition in June after the Jaffna Security Forces commander gave further assurances that the forced registration would be discontinued.⁶⁵ Since the withdrawal of emergency regulations at the end of August 2011, however, a new form of registration has begun, this time under the terms of the Police Ordinance, which requires residents to register their household information with the police.⁶⁶ This

long-standing ordinance is however not enforced in Sinhala-majority areas of the island.⁶⁷

The presence of tens of thousands of soldiers and hundreds of checkpoints and camps gives the military the ability to monitor the movements and activities of all residents. The army is aware of, and often actively involved in responding to, even the smallest of local-level problems and events.⁶⁸ In the Vanni it is still not possible to have a meeting of four or more people without the permission – and often the attendance – of local military officials.

In addition to its overt methods of surveillance, the army also maintains a large network of informers among the population in the north, some from the pool of recently released detainees.⁶⁹ “Within communities in the north you have people making use of the new power structure to tell stories about others and get favours from the military”, explains a humanitarian worker. “These are often the same people who were very subservient to the LTTE”.⁷⁰ Other Tamils, including more hard-core ex-LTTE, are working more formally, if secretly, for military intelligence and other intelligence organisations.⁷¹

⁶⁰ Susitha R. Fernando, “Registration of Tamils in north to be stopped”, *Daily Mirror*, 21 June 2011, and “Stop forced registration of people in the north – Comrade Tilvin Silva”, Janatha Vimukthi Peramuna (JVP), 18 June 2011. Similar registration procedures have been enforced off and on throughout the Eastern Province.

⁶¹ The suit argued that the practice stigmatises those residents and amounts to “a violation of the right to freedom from degrading treatment and the right to equality and equal protection of the law”.

⁶² “Registration of Tamils in North to Be Stopped”, op. cit.

⁶³ S.S. Selvanayagam, “Forcible registration continues; TNA”, *Daily Mirror Online*, 14 March 2011, and “Stop forced registration of people in the north – Comrade Tilvin Silva”, op. cit. Crisis Group phone interviews, human rights activists, March 2012.

⁶⁴ “Registration of Tamils in North to Be Stopped”, op. cit.

⁶⁵ The commander later denied that he had given the TNA any assurances, or that any such registration was ongoing. “No assurance given (re registration in Jaffna)”, *Daily Mirror Online*, 26 June 2011.

⁶⁶ “TNA Situation Report”, op. cit. The ordinance requires every householder to “furnish the officer of police of his division ... with a list of all the inmates of his house, distinguishing the members of his family from the servants or others resident therein”. Section 76 of the Police Ordinance requires people to go to the “Inspector-General of Police or Magistrate [and] report any increase or diminution, or change in the same” in the number of people in the house. The clause goes on to state that no one should allow any “stranger” to stay in their household without giving notice to the principal officer of police, with a fine “not exceeding fifty rupees” for breaking the clause. “Registering households”, Sri Lanka Campaign for Peace and Jus-

tice, 24 October 2011, at blog.srilankacampaign.org/2011/10/registering-households.html.

⁶⁷ In addition, Tamil and Muslim fishermen in the north and east required specially military-issued identification cards in order to pursue their livelihoods. The TNA has complained that this, too, is discriminatory. “TNA Situation Report”, op. cit., pp. 9 and 25.

⁶⁸ Ibid, pp. 4-5.

⁶⁹ “Former LTTE cadres are being threatened to identify those who supported the LTTE. Those indicated, rightly or wrongly, then face harassment by the Army. This has destroyed community trust/morale”. Ibid, p. 7.

⁷⁰ Crisis Group interview, researcher, October 2011. The source cites, for example, one village where the local leader of the Rural Development Society, known to have worked closely with the LTTE, is now assisting the army in choosing beneficiaries for development programs.

⁷¹ These likely include some of those reported missing after the war but whom the government has not officially acknowledged having in detention. According to one well-informed journalist, “an unknown number of LTTE surrendees or captured prisoners from the Wannu have been co-opted into the security apparatus. These persons are being used by the intelligence services to provide information about LTTE structures and personnel particularly the intelligence network in the Island. Among those involved in this exercise are former Jaffna political commissar Ilamparithy, Sports division chief Pappa, Administrative division head Thangan, prison warden Ranjith and Women division political head Thamilini. In addition to these better known persons there are a large number of ex-LTTE political and intelligence wing operatives who are working along with the state at present”. “What is happening to the ex-LTTE cadre surrendees?”, D.B.S. Jeyaraj (dbsjeyaraj.com), 30 July 2010.

The result, in the words of a humanitarian worker, is a “huge level of fear” in the north, and in particular, in the Vanni. The atmosphere “is like it was in the east in 2006 and 2007 when no one knew who was with [ex-LTTE commanders] Karuna or Pillayan or the military and everyone was looking over their shoulder all the time”.⁷²

B. MONITORING OF “REINTEGRATED” LTTE SUSPECTS AND EX-COMBATANTS

One group that is watched particularly closely, even as some are used as sources of information and control, are suspected former LTTE members who have been released from the government’s “rehabilitation” centres.

The government claims as a great success the release and “reintegration” of most of the nearly 12,000 ex-combatants and others suspected of involvement with the LTTE whom it acknowledges having detained.⁷³ It proudly states

⁷² Crisis Group interview, researcher, October 2011. Former LTTE eastern military commander Karuna (Vinayagamoorthy Muralitharan) is currently the deputy minister of resettlement and a vice-president of the ruling Sri Lanka Freedom Party; his one-time deputy, Pillayan (Sivanesathurai Chandrakanthan), is head of the Tamil Makkal Viduthalai Pulikal (TMVP) and currently the chief minister of the Eastern Province. For a detailed analysis of their deadly rivalry and political and security dynamics in the east after government forces regained control in mid-2007, see Crisis Group Report, *Sri Lanka's Eastern Province: Land, Development, Conflict*, op. cit.

⁷³ There has never been any independent verification of the total number of those who surrendered or were detained on suspicion of involvement with the LTTE in the final months of fighting in 2009, due to limited initial access by the International Committee of the Red Cross (ICRC) and the UN High Commissioner for Refugees (UNHCR) and, since July 2009, the complete absence of monitoring by any protection organisation. Sri Lankan officials have reported different numbers. In December 2009, the country’s permanent representative to the UN, Palitha Kohona, said, “over 12,700 former combatants have been identified among the IDPs so far”. “The ‘Elders’ statement on IDPs in Sri Lanka – sadly outdated and inaccurate – Dr. Kohona”, *Asian Tribune*, 5 December 2009. Since early 2010 most other official statements have cited figures close to 11,600. More than 10,000 appear now to have been released from government “protective accommodation and rehabilitation centres” (PARCs) after the completion of their “rehabilitation”, but it is unclear how many remain in camps. In early January 2012, the defence secretary was quoted as saying, “Today, less than 700 ex-LTTE cadres remain in government custody”. Atappattu Bandara, “China’s role should not be misunderstood – Defence Secretary”, *Daily News*, 5 January 2012. The following month, the defence ministry announced: “According to the Department of Rehabilitation 10,490 ex-LTTE cadres have now been rehabilitated and reintegrated into society so far. At present there are only 973 ex-cadres to be reintegrated to society”. “More ex-cadres reintegrated”, www.defence.lk, 9 February

that “a proper legal and institutional framework was set in place”,⁷⁴ and that “after exposure to programs of vocational training and counselling”,⁷⁵ “[t]hese persons have now been given the opportunity to become useful and productive citizens”.⁷⁶

In fact, there remain serious legal and humanitarian questions about the treatment of those detained – denied due process and access to independent monitoring – for their admitted or suspected involvement with the LTTE.⁷⁷ Re-

2012. In an article published ten days later in a government newspaper, the permanent representative to the UN in New York was quoted as saying that “former LTTE combatants numbering 11,954 underwent rehabilitation. Less than 1,000 still remain in custody. “Recommendations of LLRC report implemented - Dr. Kohona”, *The Sunday Observer*, 19 February 2012. According to some reports, another 866 are scheduled to face criminal charges and trials. “Release of 866 terrorists connected to many crimes, refused”, *Divaina*, 13 December 2011. It is not clear how many of this last number were detained at the end of the war or are long-term prisoners held under emergency and anti-terrorism laws. According to the head of the Sri Lanka office of the International Organisation for Migration (IOM), which runs programs for the “reintegration” of those released from PARCs, “We think there are about 700 in rehab centres, and a similar number in Boosa prison, but these are estimates as we’re waiting for the latest figures from the government. But one thing is for sure: the numbers never add up: there are some who have been sent from remand or prison who are now in the rehabilitation centres; others have gone the other direction, released from rehabilitation and then sent for further detention”. Crisis Group phone interview, Richard Danziger, March 2012. For a relatively positive portrayal of the rehabilitation process, see Michael Roberts, “Turning former LTTE personnel into Sri Lankan citizens”, *Groundviews*, 28 October 2011. For a critique of Roberts, see “Valkyrie”: “Response to Michael Roberts”, *Groundviews*, 27 November 2011.

⁷⁴ “Minister Samarasinghe addresses the 18th Session of the UN Human Rights Council in Geneva”, op. cit.

⁷⁵ “The might of powerful nations cannot prevail against justice and fair play – President at UNGA”, op. cit.

⁷⁶ “Minister Samarasinghe addresses the 18th Session of the UN Human Rights Council in Geneva”, op. cit.

⁷⁷ In addition to the lack of monitoring by any independent organisation, detainees undergoing “rehabilitation” have lacked lawyers and any right to appeal their detention. The precise legal basis for their extended detention – some now held for nearly three years without charge – also remains unclear, particularly after the lapse of the emergency regulations at the end of August 2011. Many of those held as “combatants” in need of “rehabilitation” had in fact been forced to undergo military training and serve with the LTTE or had worked in administrative or non-combatant positions. For a useful analysis of Sri Lanka’s “mass administrative detention”, see “Beyond lawful constraints: Sri Lanka’s mass detention of LTTE suspects”, International Commission of Jurists (ICJ), Briefing Note, September 2010, p. 5. See also “Locked away: Sri Lanka’s security detainees”, Amnesty International, 13 March 2012, pp. 29, 30-32, and 52-53, which provides evidence to support widespread

leased detainees describe a process of “rehabilitation” that is far from the positive picture portrayed by the government.⁷⁸

Risks and difficulties have continued upon their release and return to their home areas in the north. It has been widely reported, and confirmed by first-hand accounts, that former detainees have been welcomed home by a regime of regular and tight surveillance.⁷⁹ This has included regular required reporting to local police and military camps, restrictions on free movement, and frequent additional and intensive interrogations by various different state agencies, often in arbitrary and intrusive ways.⁸⁰ Some ex-detainees have been re-arrested;⁸¹ many more are believed to have been pressured to act as informants by the military. There is no system of independent monitoring of their treatment or protection.

More recently, the system of surveillance appears to have been relaxed, at least for those who live in the more easily accessible areas of the Vanni and have been free for an extended period of time. Released detainees report they are required to sign in at the local police station or army camp less often; those released in 2010 report they are no longer required to sign in at all. Visits from the police department's Criminal Investigation Division (CID) have reduced or stopped for many. They are expected to report to the closest army camp if they are leaving their district, but that too is no longer monitored closely.⁸² Recent re-

allegations of torture and other mistreatment of those who surrendered to the army and were detained for “rehabilitation”.

⁷⁸ Except for a few detainees, “rehabilitation” amounted merely to extended detention. The skills training was basic and limited. The norm was several rounds of interrogations followed by prolonged periods of routine activities. Released detainees complained of regular beatings, being forced to work outside even when sick, and being threatened with lengthy incarceration. Crisis Group interviews, Kilinochchi and Mullaitivu, August-September 2011.

⁷⁹ For details and valuable analysis of the treatment of former detainees as of early 2011, see: “Threats, harassments and restrictions on former detainees and their families in the Vanni”, Transcurrents, 12 May 2011.

⁸⁰ An ex-detainee reported he had been visited and interviewed by five separate intelligence agencies after his release. Crisis Group interview, Kilinochchi and Mullaitivu, August-September 2011.

⁸¹ According to the IOM, at least nine “rehabilitees” have been arrested, “but we can't say that nine is a definitive number, it's possible there have been more”. Crisis Group phone interview, Richard Danziger, March 2012.

⁸² They report there are no longer problems in travelling with a copy of their letter of release from the rehabilitation centre. Some have the telephone number of army officers or other officials whom they can call if they are stopped at checkpoints. Crisis Group interviews, Kilinochchi and Mullaitivu, August-September 2011.

leases are expected to report monthly, not weekly as they had been earlier.⁸³ Surveillance in less accessible, interior areas of the Vanni, and for more recently released detainees, however, appears to remain very tight.⁸⁴

Those interviewed, including women ex-cadres, report they feel no hostility from other community members upon their return (though some NGO workers do report that some former female detainees find it difficult to get married). “We have no problem in settling down as far as our families and villagers are concerned. There are one or two persons who have been spoken to angrily by some affected mothers, but that is only one or two in the thousands that have been released”.⁸⁵

Nonetheless, the regular questioning and visits from army intelligence and police units, and the pressure placed on

⁸³ Crisis Group interviews, sixteen suspected LTTE cadres released from detention over the previous year and a half, Kilinochchi and Mullaitivu, August-September 2011. Some ex-cadres interviewed in Kilinochchi and Mullaitivu reported being required to attend a monthly meeting with other released cadres where the local commanding officer and a few others give a pep talk and make general inquiries about how well they are settling down. They report some officers express concern about the lack of progress in finding livelihoods and offer to assist them out in some ways.

⁸⁴ Crisis Group phone and email interviews, human rights activists, February 2012. According to the head of the IOM in Sri Lanka, “It's an issue we are constantly raising with the authorities. ... We're trying to see if there are any districts where there is more monitoring. ... It seems to depend on the local commanders. Some people have to check in at bases, some are checked at home. This is the main reason for the difficult acceptance by the community, because the authorities are keeping an eye on them. It's not too surprising: after 27 years of war, you have to expect some monitoring. But we can't integrate people if there is a stigma attached to them, and the stigma is that if you associate with a released LTTE it's believed you become suspect yourself. We're not advocating that the government not check on these people at all. This isn't realistic. But a modified approach, with less frequent checking, is needed. I like to think we're moving in that direction – people tell us that the checking is less – but I wouldn't want to make a general statement”. Crisis Group phone interview, March 2012.

⁸⁵ The chief complaint from ex-combatants and other released detainees is the lack of jobs and economic opportunities. According to one, “I can clearly say that we don't feel disliked by the people in our villages or that we are being marginalised by them. It is getting a mode of income in a highly expensive environment that is most difficult”. Crisis Group interview, Kilinochchi and Mullaitivu, August-September 2011. For more on these economic difficulties, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section II.B.3.

some to become informants, has taken its toll on social relations.⁸⁶

C. CURRENT ROLE OF TAMIL PARAMILITARIES

During the war, the government relied heavily on former Tamil militants as intelligence sources and often ruthless local enforcers of its rule. The EPDP, headed by Cabinet Minister Douglas Devananda,⁸⁷ has been allowed a major share of power from its base in Jaffna since 1990. Other former militant groups, including PLOTE, and to a lesser extent TELO, were particularly active during the war in and around Vavuniya, while former LTTE leaders Karuna, Pillayan and Inyabarathy have all been given various forms of power in exchange for their help in policing the Tamil population in the east.⁸⁸

Many expected that the EPDP, and possibly Karuna, would be given an important role and even considerable autonomy to administer portions of the Northern and Eastern Provinces.⁸⁹ To date, however, the EPDP and other

Tamil parties aligned with the government during the war have been offered no real political power.⁹⁰ While still working closely in Jaffna with military intelligence to enforce government rule, the EPDP appears to have been given little space by Colombo to act independently.⁹¹

EPDP's current function seems to be to weaken the TNA and prevent the emergence of any serious political resistance to government rule. Even as Devananda and EPDP candidates were seen ostentatiously distributing government patronage in the run-up to the July 2011 local government elections, EPDP thugs were also accused of involvement in a series of physical attacks on TNA candidates during the campaign.⁹² As it was during the years of war and counter-insurgency, the party is also still regularly accused of physical attacks on other critical voices in Jaffna, including murders and disappearances; its members are widely believed to work in close coordination with the Sri Lankan military.⁹³ The EPDP is also reportedly involved

Asian Tribune, 14 October 2006. See also Aachcharya, "Taking a page from Chechnya: Sri Lanka's insincere constitutional reform and its apologists", 26 July 2009.

⁹⁰ Outside of Jaffna, where the EPDP remains active, there seems to be little paramilitary activity in the north. There are no signs that Karuna, now a senior – if marginalised – member of the SLFP, has any serious presence in the Vanni or elsewhere in the north, despite apparent efforts in 2009 and 2010 to establish a foothold. Some Tamil government officials report coming under pressure from unnamed Tamil armed groups in Vavuniya, but no details were offered. Crisis Group interviews, September 2011. PLOTE, Anadasangaree's Tamil United Liberation Front (TULF), and EPRLF have all supported the TNA in recent elections, which leaves only the EPDP, Karuna and the eastern-based TMVP as pro-government. Former head of the LTTE's international operations and arms procurement, Selavarasa Pathmanathan, known as "KP", has been working closely with the government since soon after his arrest and extrajudicial rendition from Malaysia in August 2009. He currently runs an NGO – the North East Rehabilitation and Development Organisation (NERDO) – with offices in Kilinochchi and an orphanage in Mullaitivu. This gives him a small pool of resources he can deliver to northern Tamils, but he has shown no signs of gaining political influence.

⁹¹ This distinguishes the post-war north from the Eastern Province in the two years between the military defeat of the LTTE in the east and their final destruction in the north. From 2007 to 2009 in various parts of the east, there were parallel structures of governance, with Karuna and Pillayan's operatives having their own semi-autonomous centres of power.

⁹² EPDP candidates ran under the banner of the government United People's Freedom Alliance (UPFA) coalition. See "Election time in north: EPDP's dreaded Charles resurfaces", *Sri Lanka Guardian*, 20 June 2011 and S. Ratnajeewan H. Hoole, "Pitfalls in the President's Alliance with the EPDP – A Visit to Kayts on Elections Day", *Transcurrents*, 24 July 2011.

⁹³ The EPDP was widely accused of the brutal July 2011 beating of the editor of the Jaffna daily *Uthayan*. "Suspected EPDP goons assault 59-year-old news editor of Jaffna newspaper", *Sri*

⁸⁶ According to the "TNA Situation Report", op. cit., "Former LTTE cadres are threatened by the army to reveal the identity of those who supported the LTTE. In fear or panic, these former cadres identify individuals with no links to the LTTE, merely to stop being questioned by the army. The newly identified family is then subjected to harassment by the army. Thus, people in these communities have lost trust in one another as they do not know which of their neighbours is an informer of the police or the army. This has led to deep suspicion, destroying close-knit relationships within the community". On ostracism of ex-LTTE due to fear of additional surveillance, see "Sri Lanka: Former Tamil Tigers complain of harassment", BBC News, 30 July 2011.

⁸⁷ Devananda is currently minister of traditional industries and small enterprise development.

⁸⁸ In addition to Karuna being deputy minister of resettlement and Pillayan being the eastern chief minister, another of Karuna's former deputies, Inyabarathy, is a presidential organiser for Ampara district and the recent recipient of the second highest national honour, the title of *deshamanya*. After receiving numerous complaints about Inyabarathy, the LLRC commented in its final report "There were allegations made that one Bhareti is alleged to have committed several offences of abduction, extortion, robbery etc. in the Eastern Province. This matter was brought to the notice of the relevant authorities by the Commission. The Commission regrets to note that no meaningful action has been taken against the alleged wrongdoer" "LLRC Report", op. cit., p. 300.

⁸⁹ One of the chief public proponents of this approach was Dayan Jayatilleka, formerly Sri Lanka's permanent representative to the UN in Geneva, currently ambassador to France. During the war, Jayatilleka advocated applying Russia's counter-insurgency strategy in Chechnya to Sri Lanka. See Dayan Jayatilleka, "Sri Lanka at Sixty: Fighting the absolute enemy", *Transcurrents*, 30 January 2008 and "The morning after Muhamalai",

in a range of for-profit criminal activities, including illegal sand-mining.⁹⁴ Its officials deny all such charges.⁹⁵

The EPDP has also attempted to establish itself as an effective political party working for its Tamil constituency elsewhere in the north, but to date it has little to show for its efforts. Murugesu Chandrakumar, the party's member of parliament from Kilinochchi and a close associate of Devananda, worked hard to cultivate support in the run-up to the local government polls in July 2011. His efforts to address local issues, for example the difficulties of fishermen using the Iranamadu reservoir, bore little fruit for his party in the elections.⁹⁶

Lanka Brief, 31 July 2011. The EPDP is also suspected of many other recent acts of intimidation, extortion and violence on the Jaffna peninsula, as noted in the 2010 U.S. State Department human rights report on Sri Lanka: "During the year unknown actors suspected of association with progovernment paramilitary groups committed killings and assaults of civilians. These included the Tamil Makkal Viduthalai Pulikal (TMVP), led by breakaway LTTE eastern commanders Vinayagamurthi Muralitharan, alias "Karuna", and Sivanesathurai Chandrakanthan, alias "Pillaiyan," in the east, as well as the Eelam People's Democratic Party (EPDP), led by Minister of Social Services and Social Welfare Douglas Devananda, in Jaffna. These and other progovernment paramilitaries also were active in Mannar and Vavuniya. All of these groups endeavored to operate political organizations, some with more success than others, and there were persistent reports of close, ground-level ties between paramilitaries and government security forces. Whereas these groups served more of a military function during the war, often working in coordination with security forces, the paramilitaries now took on increasingly criminal characteristics as they sought to solidify their territory and revenue sources in the postwar environment". "2010 Human Rights Report: Sri Lanka", U.S. State Department, 8 April 2011. See also Ranga Jayasuriya "Jaffna killings: Blown out of proportion?", *Lakbima News*, 8 January 2011. The final report of the LLRC highlighted the activities of the EPDP and recommended that "proper investigations should be conducted in respect of the allegations against the illegal armed groups with a view to ascertain the truth and the institution of criminal proceedings against offenders in cases where sufficient evidence can be found". "LLRC report", op. cit., pp. 174-175. Devananda reacted by threatening legal action against the commission. "Ahinsaka Kolla Douglas to take LLRC to court", *Lakbima News*, 8 January 2012.

⁹⁴ "2010 Human Rights Report: Sri Lanka", U.S. State Department, 8 April 2011; S. Ratnajeevan H. Hoole, "Do Not Take The Tamils To Be Fools", *The Sunday Leader*, 31 July 2011 and "Respectful Advice To His Excellency The President, Mahinda Rajapaksa", *The Sunday Leader*, 14 August 2011.

⁹⁵ Arthur Wanaman, "Tamil politicians are to be blamed for missing opportunities: Douglas", *The Nation*, 11 December 2011. See also "Jaffna killings: Blown out of proportion?", op. cit.

⁹⁶ Contesting the 2011 local government elections as part of the UPFA, the EPDP gained control of no local bodies in Kilinochchi or Mullaitivu, though they did win three local bodies (Delft, Kayts and Velanai) in their traditional strongholds in the Jaffna

D. THE SHARP END OF MILITARY RULE: VIOLENCE, REPRESSION OF DISSENT AND HUMAN RIGHTS VIOLATIONS

The military, with the support of the police and armed cadres of the EPDP, has generally succeeded in maintaining a tight control over the north and limited any effective political resistance.⁹⁷ When challenged too directly, or otherwise threatened, they are able to strike at their opponents – all too easily labelled "terrorists" – with impunity.

A series of killings, disappearances, violent robberies and physical assaults – some targeting known opponents of the government – rocked Jaffna in late 2010 and early 2011 and generated protests from opposition political parties and promises of action by the government.⁹⁸ For most of 2011, the number fell, but the second half of the year saw an increase. There also continue to be regular physical attacks on journalists, students, politicians and other politically active Tamils in the north, despite – some would say because of – the large military presence.⁹⁹

islands. For a detailed discussion of the difficulties facing Tamil fishermen in the north, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section III.B.1.i. ⁹⁷ "2010 Human Rights Report: Sri Lanka", U.S. State Department, 8 April 2011.

⁹⁸ "Numerically, numbers of those reported as killed, disappeared, arrested and tortured have gone down in 2010-2011 compared to 2006-2009. But people continue to live in fear as killings, disappearances, sexual abuse, robberies, extortion continue to be reported from the north since the end of the war. In a three-month period from November 2010 to January 2011, 40 such incidents were reported, predominantly from Jaffna". Watchdog, "Post-war situation in northern Sri Lanka and prospects for reconciliation", Groundviews, 19 November 2011. See "SL Military will control violence in Jaffna", *US Lanka Online*, 21 January 2011. Other sources report at least 24 killings over December 2010 and January 2011, along with rapes, robberies, murders, and abductions. Jehan Perera, "The solution to Jaffna violence is within reach", *Island*, 31 January 2011.

⁹⁹ As Suresh Premachandran, TNA MP from Jaffna, noted in an interview with a Sri Lankan newspaper, "There are 40,000-50,000 soldiers in Jaffna. We can't understand why they can't stop these activities". "Jaffna killings: Blown out of proportion?", op. cit. A range of actors carry guns in Jaffna, including former members of the LTTE and other ex-militants groups, and not all of them are necessarily working with or under the direct control of the military. The government security forces have certainly failed to stop the attacks or punish anyone. The current army commander for Jaffna is Major General Mahinda Hathurisinghe, who was the commander for Colombo during the war, when there were widespread allegations the military was involved in scores of abductions and enforced disappearances. See "Govt behind abductions – Fonseka", BBC Sinhala, 20 January 2012.

On 16 October, the president of the Jaffna University student union was assaulted with iron bars and badly injured, minutes after meeting with Tamil political leaders.¹⁰⁰ A week later, another Jaffna University student activist was similarly attacked after having organised protests at the previous assault.¹⁰¹ Another student activist, reportedly detained by the military after the war, was abducted from the university campus on 28 November and released by his captors two days later.¹⁰²

Journalists in the north continue to be the target of violent attacks. On 28 July 2011, the news editor of Jaffna's only functioning newspaper, *Uthayan*, was hospitalised after being badly beaten by armed attackers.¹⁰³ Many in Jaffna blame operatives of the EPDP for this and the string of violent attacks on *Uthayan* journalists in recent years.¹⁰⁴

¹⁰⁰ "Student leader 'assaulted by military'", BBC Sinhala, 17 October 2011. The attack was near an army checkpoint, and the victim reported he had received threats for rights activism and his Tamil nationalist political positions. Student leaders continue to report they are under continual threat from military intelligence units. See for instance, "University students in Jaffna still face death threat from SLA [Sri Lankan Army] intelligence", Tamilnet, 12 November 2011. Jaffna University has long been a bastion of Tamil nationalism. The student union was tightly controlled by the LTTE through the end of the war and remains a target of military suspicion and surveillance. The EPDP is alleged to have infiltrated the union and manipulated its elections. Namini Wijedasa, "Devananda is running Jaffna exactly the way the LTTE ran Jaffna, says Prof Ratnajeevan Hoole", *Lakbima News*, 23 May 2011.

¹⁰¹ Rajavarithayan Kavirajan, an art student at Jaffna University, "was severely assaulted by members of an unknown group, who are believed to be of the country's military intelligence units" in Jaffna on 24 October 2011, resulting in his transferral to an intensive care unit. "Perpetrators of a brutal attack have not been arrested", Asian Human Rights Commission (AHRIC), 27 October 2011. See also Dasun Edirisinghe, "Military accused of attack on Jaffna Uni. Students", *Island*, 27 October 2011.

¹⁰² "Abducted university student released", Tamilnet, 30 November 2011. Tamil activists blamed the military, which rejected the charge – and reported that the victim had later explicitly denied state forces were involved in the abduction. "Allegedly abducted Jaffna undergrad Pooh-Poohs media reports", ministry of defence, 2 December 2011, at www.defence.lk/new.asp?fname=20111202_01.

¹⁰³ Dushiyanthini Kanagasabapathipillai, "'I want to continue to highlight the activities against the humanity' ~ Gnanasundaram Kuganathan", *Transcurrents*, 19 August 2011.

¹⁰⁴ On 28 May 2011, *Uthayan* staff reporter S. Kavitharan (31) was attacked by suspected EPDP thugs near Jaffna Hindu College on his way to work. Two *Uthayan* workers were killed in May 2006 when five gunmen suspected of being with the EPDP attacked the newspaper premises. The office was attacked again with grenades in March 2009. "Suspected EPDP goons assault 59-year-old editor of Jaffna newspaper", D.B.S. Jeyaraj, 30 July 2011. The newspaper is owned by E. Saravanabavan, a TNA Jaffna district MP and has been sharply critical of the EPDP.

In an unusual incident, two European journalists were attacked and robbed at gun-point in Jaffna in July 2011, a day after being questioned and intimidated in the middle of the night by a large group of police and warned to leave the north.¹⁰⁵

Political parties, in particular the TNA, have been violently repressed by the military and those linked to them. On 16 June 2011, a TNA meeting in Alaveddy in advance of local government elections was physically disrupted and cancelled by army officers and troops; TNA parliamentarians in attendance say their bodyguards were assaulted.¹⁰⁶ Despite the government's eventual promise to investigate, no one has been held accountable.¹⁰⁷ There were other forms of threats and harassment against both TNA and JVP (Janatha Vimukthi Peramuna, People's Liberation Front) activists and candidates in the run-up to the election.¹⁰⁸

Other forms of political activity are also routinely disrupted by authorities in the north. Public, including religious, commemorations for Tamil civilians killed in fighting have effectively been banned since the end of the war. On 27 November 2011, military and police reportedly attempted to restrict any commemoration of "Martyrs" or "Heroes Day", the LTTE's annual memorial for fallen fight-

There have been four murders of journalists in Sri Lanka since 2008 in which a link with the victim's work was clearly established, and a well-known cartoonist, Prageeth Eknaligoda, has been missing since January 2010. None of these cases has been solved. More than 50 journalists and press freedom activists have fled abroad in recent years because their lives were in danger. "Opposition newspaper editor badly beaten in Jaffna, left for dead", *Reporters without Borders*, 30 July 2011.

¹⁰⁵ "RNW team threatened in Sri Lanka", *Radio Netherlands Worldwide*, 21 July 2011.

¹⁰⁶ The Jaffna army commander initially denied any attack took place. Ranga Jayasuriya, "North ruled via army violence? Army denies vehemently", *Lakbima News*, 26 June 2011.

¹⁰⁷ "The attack on TNA parliamentarians in Jaffna: a timeline of outrageous denial (updated)", *Groundviews*, 5 July 2011, and Franklin R. Satyapalan, "Attack on five TNA MPs: If any soldiers found involved 'they will have to go home' – Maj. Gen. Hauthusinghe", *The Island*, 18 June 2011.

¹⁰⁸ As noted by Sobhan Somachandran, "Sri Lankan ruling party resorts to violence in northern elections", *World Socialist Website*, 21 July 2011, www.wsws.org/articles/2011/jul2011/jaff-j21.shtml: "Anonymous intimidation campaigns have been conducted against opposition candidates. The heads or bodies of dead dogs or flower wreaths have been placed at their gates, doorsteps or water wells. Drainage wastage, bottles and cemetery ashes have been thrown at their houses or offices". Although the TNA have appeared to be the main target, JVP members have also complained of the intimidation of their candidates in Jaffna. "Sri Lanka election monitors keep watch on northern poll", *Xinhua*, 15 July 2011.

ers, across the north and east.¹⁰⁹ On 10 December, they actively disrupted a public protest on international human rights day, preventing activists from Colombo from joining and photographing those who took part.¹¹⁰ Two organisers of the demonstration were abducted in Jaffna the night before.¹¹¹

Although events to mark December's 2011 Human Rights Day were allowed to go ahead throughout much of the country, in Jaffna the police and army personnel detained and harassed 42 human rights and political activists travelling to the protest from the south. They also aggressively attempted to disperse people at the main protest venue in Jaffna, supported by an unusually heavy security and military presence.¹¹² And again on 17 January 2012, they blocked a con-

voy of activists on their way to Jaffna to protest the disappearances of their two colleagues.¹¹³

Late August 2011 saw a wave of public protests across the north and east at perceived military involvement in and lack of police response to assaults on Tamil and Muslim women by supposed "grease devils", or night prowlers.¹¹⁴ In a number of cases, the demonstrations were met with violent repression by the military and police.¹¹⁵ On 22 August, in Navanthurai, Jaffna, over 100 young Tamil men were badly assaulted, arrested and detained in an early morning army raid on houses of those suspected of having participated in a violent demonstration outside the local army camp, where a group of suspected "grease devils" had been rumoured to be in hiding.¹¹⁶ Women and children were also beaten and fired upon in the army raid, suspects were dragged from their homes, and medical treatment was denied many of those injured.¹¹⁷

A day earlier, on 21 August, a similar incident took place in Pesalai, Mannar. A large crowd gathered outside a navy camp demanding alleged "grease devil" suspects be produced; the military responded with violence, leaving a dozen protestors in need of hospitalisation.¹¹⁸ In Komarasankulam, Vavuniya, police and army attacked and arrested – and reportedly beat and tortured some – protestors on the evening of 20 August. On 22 August, in Josephvaz Nagar,

¹⁰⁹ According to TNA parliamentarian C. Yogeswaran, police cancelled all public events that were to be attended by Batticaloa district TNA parliamentarians, while other public commemorations were waylaid due to warnings from police and military personnel. There were reports from Batticaloa and Jaffna of SLA soldiers instructing temples not to toll bells, not to light torches and to cease any use of loudspeakers during the Heroes Day observation week. The home of a man who reportedly spoke of the restrictions to BBC journalists was attacked. According to Tamilnet, shots were fired and petrol bombs and grenades were thrown at the house of the head of the town council of Kaarainakar and a TNA member, by unknown assailants. "Exposing SLA temple sanctions to BBC bring in attack on house in Jaffna", Tamilnet, 26 November 2011; "Heroes day torch was lit in University of Jaffna", Tamilnet, 27 November 2011. In practice, restrictions on Heroes Day celebrations have also intimidated many individual families who had nothing to do with the LTTE but only wished to engage in religious rituals to mourn the deaths of their loved ones.

¹¹⁰ "Human Rights Day in Jaffna: Heartless Treatment", Centre for Human Rights, 12 December 2011; "Two activists missing in Jaffna", BBC Sinhala, 10 December 2011. The army disrupted a protest in June 2011 in Jaffna by families of the disappeared. "North ruled via army violence? Army denies vehemently", op. cit.

¹¹¹ "Sri Lanka: The disappearances of Lalith Kumar Weeraju and Kugan Murugan", AHRC, 12 December 2011. "Disappeared activist 'received death threats'", BBC Sinhala, 14 December 2011. The military has denied accusations of involvement in the disappearances. Families' experience of disappearances has been made even harder by the absence of the ICRC, which for decades has played an important role in receiving reports of disappearances and working to locate missing persons. The ICRC was forced by the government to close its last office in the north in early 2011. "Sri Lanka: ICRC closes its offices in the north", ICRC News Release, 25 March 2011.

¹¹² "Sri Lanka: 42 human rights defenders and political activists detained to prevent them from participating in peaceful protest in Jaffna on Human Rights Day", The Observatory for the Protection of Human Rights Defenders, 15 December, 2011.

¹¹³ Ranga Jayasuriya, "Hundreds of protestors en route to Jaffna held up", *Lakbima News*, 22 January 2012, and Watchdog, "Attacks on dissent in Sri Lanka – Incidents in 2012", *Transcurrences*, 24 February 2012.

¹¹⁴ For more on the phenomenon of grease devils, see Crisis Group Report, *Sri Lanka: Women's Insecurity in the North and East*, op. cit.

¹¹⁵ For eyewitness accounts of the protests and the response by security forces, see Watchdog, "Jaffna: Brutal assault of civilians in Navanthurai", *Groundviews*, 25 August 2011 and Watchdog, "Grease Devils and Police and Army attacks on civilians in Mannar and Vavuniya", 2 October 2011.

¹¹⁶ The military maintained that the demonstrators damaged vehicles and injured four soldiers. "Mass arrest following attack on military camp", BBC Sinhala, 23 August 2011.

¹¹⁷ The men were reportedly loaded onto buses and handed over to the Jaffna police around 4am, but not produced before the Jaffna district judge until 1pm the same day. Despite their injuries, the men were held without treatment for over 8 hours, with twenty of the most seriously injured later admitted to the Jaffna General Hospital in the morning, on orders of the district judge; the rest were denied treatment until the evening. According to media reports, around 100 people were admitted for treatment to the Jaffna Hospital. The military then increased its presence in the village and conducted heavy patrols, and, with most of the men away, many women left the village, due to fear and insecurity. Watchdog, "Jaffna: Brutal assault of civilians in Navanthurai", *Groundviews*, 25 August 2011.

¹¹⁸ Watchdog, "Grease Devils and Police and Army attacks on civilians in Mannar and Vavuniya", op. cit.

Thottaveli, Mannar, the military attacked and threatened crowds, including local priests and community leaders, who had set up a vigilance committee with police permission.¹¹⁹

The military, still viewing the north through a counter-insurgency lens, was unapologetic. Military spokesman Brigadier Nihal Hapuarachchi stated: “It is wrong for civilians to attack an army camp or police station. Those who do that are terrorists. We will take action against them under the Prevention of Terrorism Act (PTA)”.¹²⁰ Gotabaya Rajapaksa reportedly told a meeting of Muslim religious leaders to “please remind your people how the military tackle with terrorists. Don’t try to make fun with the military”.¹²¹

E. THE QUIET BEFORE THE STORM?

The Sri Lankan military has thus become an army of occupation physically and psychologically, if not legally. It has long moved beyond the need to secure the north and ensure that the defeat of the LTTE was complete. Now, much like the guerrillas before it, the military manages many aspects of everyday life and is the final authority on virtually all important decisions. It controls the population in part through tight surveillance, high levels of fear and occasional strong doses of physical repression.

With many in the north having lived under the LTTE’s military rule for much of the previous two decades, it is perhaps not surprising that despite occasional protests, mostly in Jaffna, the military’s presence has yet to provoke widespread resistance or significant public expressions of hostility. While far from every interaction between northern Tamils and the military involves physical abuse, detention, or harassment – and many do report that local commanders are responsive to complaints¹²² – the

entire nature of this relationship is built on a construct of power: power enjoyed by the military and denied, in toto, to the local population.”¹²³

Nonetheless, while people have come to accept the military as long as it is not too intrusive, there is real anger when it comes into competition with people’s lives and livelihoods, through taking lands and houses or competing for business.¹²⁴ Militarisation linked to land, and especially to Sinhalisation, is generating grievances that are increasing the risk of conflict. As a regular visitor to the north explains:

People say, there’s enough government land, why do they have to take ours? Many are angry enough to speak out, protest, even risk their lives. If anyone is ultimately willing to take up arms, those who have lost lands, property, or economic opportunities are the people who would give them shelter and support.¹²⁵

¹¹⁹ According to reports from eyewitnesses, “at a meeting with the people following the attack, Mannar commander, Brigadier Maithree Dias threatened to arrest the priests and accused them of instigating the people to attack the military and threatened to shoot any person who attempted to surround a military camp or vehicle in the future. Several community leaders, ordered to apologize for the group, were recorded by military personnel. Various intimidating surveillance measures by the military have followed”. Watchdog, “Grease Devils and Police and Army attacks on civilians in Mannar and Vavuniya”, op. cit.

¹²⁰ Saroj Pathirana, “Civilians will be dealt under PTA – army”, BBC Sinhala, 4 September 2011.

¹²¹ Ibid.

¹²² This is far from what they had come to expect from the dire warnings of LTTE propaganda and a welcome change from the treatment many experienced while being interned in Menik Farm or surviving the brutality of the final months of fighting. In the words of a humanitarian activist working in the north, “like the Tigers, too, the military does not have the resources to rely on coercion all the time to control a large population in a

sustained manner and must to some degree attempt to find others ways of normalising its presence and extracting consent to its rule”. Crisis Group interview, February 2012.

¹²³ The saturation of the north with military camps and the fact that the military also controls access to needed resources such as forests and water points – the means of livelihood for many in some villages – communities have no option but to settle for a dependent relationship.

¹²⁴ For a detailed discussion of land seized for the military’s new system of camps and bases in the north and its growing role in the northern economy, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit.

¹²⁵ Crisis Group interview, senior aid worker, September 2011.

IV. SINHALISATION: POWER, CULTURE AND DEMOGRAPHY

The Sinhalisation of the north – which Tamil politicians and residents of the north frequently accuse the government of sponsoring – can refer to numerous different processes, ranging from changing the names of streets and villages from Tamil to Sinhala and the building of Buddha statues to the movement of large enough numbers of Sinhalese to the north to change the population balance in politically and socially significant ways.¹²⁶

The widespread belief that there is a deliberate government policy to Sinhalise the north expresses a deep-seated fear among many Tamils that they are losing control over their own communities, land and resources, and through this, ultimately, losing their collective identity and political presence. For Sinhala nationalists, on the other hand, “Sinhalisation” is a politically charged term they would reject, implying as it does that some parts of Sri Lanka “belong” to particular ethnic groups and should be closed to Sinhalese or at least prevented from eventually becoming Sinhala-majority like the rest of the country.¹²⁷

A. SINHALISATION AS AN EFFECT OF MILITARISATION

It is clear that various forms of Sinhalisation are in fact underway in the north. Much of it follows directly from the stationing of tens of thousands of Sinhala-speaking and largely Buddhist troops in the formerly all-Tamil north and the efforts the military has made to entrench its presence and political control.

Political decision-making: Sinhalisation begins from the fact that with the north effectively governed by the military, the PTF and other senior officials in Colombo, it is Sinhalese who decide almost all issues of importance.¹²⁸

¹²⁶ For an important analysis of the Sinhala nationalist ideology and vision of history that underpin the attitudes of many Sinhalese toward the north and east, see Nirmal Ranjith Dewasiri, “History after the War”, op. cit.

¹²⁷ The report of the LLRC advocates a policy that if applied strictly could find support among large portions of all communities: “Any citizen of Sri Lanka has the inalienable right to acquire land in any part of the country, in accordance with its laws and regulations, and reside in any area of his/her choice without any restrictions or limitations imposed in any manner whatsoever. The land policy of the Government should not be an instrument to effect unnatural changes in the demographic pattern of a given Province”. “LLRC Report”, op. cit., p. 234.

¹²⁸ The police and military are both almost entirely Sinhalese. According to TNA parliamentarian M.A. Sumanthiran out of an estimated 84,000 police officers, 1,143 or less than 2 per cent are Tamil; this includes nearly 700 recent recruits; fewer than

There are also numerous unconfirmed reports that Tamil civil servants in the north have begun to be replaced by Sinhalese officials.¹²⁹ The Tamil district secretary for Mannar was replaced in November 2011 by a Sinhalese official.¹³⁰

Sinhala sign-boards and renamed roads and villages:

The most noticeable effects of military-driven Sinhalisation are the Sinhala language sign-boards on shops and businesses and for roads and streets newly renamed from Tamil. At least one village has been renamed from Tamil to Sinhala.¹³¹ This is partly a matter of convenience for the troops, almost none of whom speak or read Tamil, as well as for the large numbers of Sinhala tourists now visiting the north. It is also an assertion of authority, especially as some of streets and villages have been renamed to honour the fallen “war heroes” of the victorious army.¹³²

Military monuments and museums: Major monuments celebrating the military have been built throughout the north. The largest are found at Elephant Pass and in Kili-nochchi.¹³³ Less well-known is the military’s recently con-

ten senior officers are Tamil. Speech to parliament, 6 October 2011, at <http://transcurrents.com/news-views/archives/5057>. The Sri Lankan government did not respond to multiple requests from Crisis Group for information on the number and ethnic ratios of troops and police stationed in the north. Of the nineteen known members of the PTF, all are Sinhalese. The governor of the Northern Province, G. A. Chandrasiri, is Sinhalese and a retired army general.

¹²⁹ The TNA, for instance, claimed in October 2011 that “orders have been issued by authorities to have Tamil civil servants removed or transferred from the North and to fill the vacant posts with Sinhala trainee civil servants. One hundred and forty Sinhala civil servants have been relocated to the North as part of this initiative and Tamil civil servants have been ordered to go on compulsory leave”. TNA Situation Report, p. 18. Tamilnet reported that of “the 86 SLAS officers recruited last year [2010] there was not even one Tamil or Muslim”. “Civil administration becomes Sinhalese in the country of Eezham Tamils”, Tamilnet, 5 July 2011. Crisis Group has not been able to confirm either of these reports.

¹³⁰ Crisis Group phone interview, academic researcher, February 2012. See also Mohammed Naalir, “GAs in peace-building program”, The Sunday Observer, 6 November 2011.

¹³¹ Kokachankulam village in Vavuniya district is now known as Kolobaswewa. See “165 Sinhala families settled in Tamil village Kokkachchaankulam in Vavuniya North”, D.B.S. Jayaraj (dbsjeyaraj.com), 24 June 2011.

¹³² The TNA cites “three roads close to the A9 highway in Kanakarayakulam [that] have been given Sinhala names”, two named after soldiers and one after a Buddhist monk. It also cites the renaming of the famous checkpoint along the A9 from the Tamil Omanthai to the Sinhala Omantha. “TNA Situation Report”, pp. 21-22.

¹³³ All LTTE monuments to their dead fighters – including a number of large cemeteries known as “xxx” – were destroyed by the military in the immediate aftermath of the war. No mon-

structed museum to display captured LTTE equipment and other memorabilia. Located near the town of Puthukudiyiruppu (known as PTK) on lands from which displaced Tamils are still prevented from returning, the museum is only open to Sinhalese. Sinhala tourists – but not Tamils – are also allowed to visit the underground bunker of LTTE leader Prabhakaran as well as some portions of the final battleground along the Mullaitivu coast. A long stretch of the coastal road where the A34 highway meets the A35 is also closed to former residents but open to military families or those with the military's permission.¹³⁴

Buddha statues: Since the end of the war, scores of Buddha statues and Buddhist temples have been built throughout the north, generally near military installations for the use of the troops.¹³⁵ In some cases, the statues have been built without permission on private land.¹³⁶ In other cases, the new constructions are reported to be built over destroyed Hindu temples.¹³⁷ There are also fears that the government's archaeological department, long under the influence of Sinhalese nationalists and heavily lobbied by influential Buddhist groups, would use "discovered" ancient Buddhist sites in the north around which could be

uments anywhere in the country have been built to commemorate the many thousands of civilians of all ethnicities who were killed in the war. Religious and community leaders in the north have been consistently prevented from performing ceremonies to remember civilians who died. For more on military restrictions on public grieving and commemoration of the dead in the north, see Crisis Group report, *Reconciliation in Sri Lanka: Harder than Ever*, op. cit., p. 12.

¹³⁴ Crisis Group interviews, farmers, Welī Oya, September 2011, and phone interview, human rights activist, December 2011. These areas include some of the scenes of the final battles. An Indian TV documentary aired in September 2011 shows Sinhala families strolling on the beach where some of these battles were fought. NDTV, "Truth vs. Hype", op. cit.

¹³⁵ In September 2011, Crisis Group saw new Buddha statues located in public areas in Mankulam, Kanakarayankulam, Madhu Road, Murungan Junction, Murigandi Clay Land Area, Paranthan Junction, two along the road from Vavuniya to Thandikulam, numerous ones built along the Mannar-Vavuniya road, and statues built near the Thirukethishwaram temple in Mannar and the Kurisutta Amman temple in Nedunkerni.

¹³⁶ In Kanakarayankulam, near the A9 highway in Vavuniya North, Sri Lankan army personnel are building a 25-foot Buddhist Temple on land reportedly owned by five Tamils, including a member of the local council. Crisis Group interview, lawyers and human rights activists, February 2012.

¹³⁷ According to the TNA report, a Buddhist temple was being erected on the site of the Pillayar Hindu temple in Arasadi, and a Hindu temple in Kokkilai (Mullaitivu) that was damaged in the war was being demolished and a Buddhist temple erected in its place, while also using state land. "TNA Situation Report", op. cit., p. 18.

established new Buddhist temples staffed by monks and ultimately lay workers and families.¹³⁸

Economic bias: The military's presence and political power creates opportunities for Sinhalese companies and entrepreneurs not equally available to Tamils. "Sinhalese are able to get the permission [for private sector projects] from PTF and the ministry of defence easily", explains a senior government servant posted in the north. "Many Tamils of the area do not have capital and are not well versed in systems for getting contracts, since they had been in LTTE-controlled areas and had grown used to different systems. So Sinhalese are at an advantage. But this does not mean that there are swarms of Sinhalese setting up businesses here, not many are coming this way".¹³⁹

The TNA argues that the majority of contracts for development projects in the north are going to southern-based companies who employ Sinhalese workers rather than local Tamils.¹⁴⁰ "Even when the divisional secretary entertains various bids", explains a senior official with a development organisation that works in the north, "it's the military who decides, with PTF help. They generally choose Sinhalese contractors".¹⁴¹ This is reportedly true of permits for quarrying and sand-mining for instance.¹⁴² In addition, companies owned by retired military officers have been given permission to collect the scrap metal that lies throughout the north, including stoves, generators, used munitions, and acres of rusted and damaged vehicles abandoned in the final months of fighting.¹⁴³ While it is mostly local Tamil residents who do the actual collection, they sell them on to companies that transport them south

¹³⁸ At the Kanniya hot water springs in the eastern Trincomalee district, the archaeology department has recently "discovered" the existence of a Buddhist temple supposedly dating around from around 140-123 AD. The department has built a new statue, stationed a monk to tend the site, and is soliciting funds to rebuild the temple. Crisis Group visit, December 2011.

¹³⁹ Crisis Group interview, Mullaitivu, September 2011.

¹⁴⁰ The TNA argues that "the reservoir bunds [embankments] repair and road construction of the A9 road and the secondary road [sic] have been handed over to Sinhalese contractors from the South who bring in their own labour force. Only an insignificant number of Tamil labourers are employed by them despite the fact that there are numerous Tamil youth and men who are unemployed in the Vanni". "TNA Situation Report", op. cit., p. 20. To the extent this is true, it is due in part to the lack of skilled labour among the northern, Tamil population.

¹⁴¹ Crisis Group interview, September 2012.

¹⁴² Crisis Group interview, government official, Mullaitivu, September 2011.

¹⁴³ Crisis Group interview, senior government official, northern province, September 2011. The most valuable materials, including engines and electronics items, were reportedly smuggled out at the very end of the war by those with military connections. Crisis Group interview, senior aid worker, Colombo, September 2011.

for recycling.¹⁴⁴ Economic ventures that involve working in areas of the north which can be accessed only with ministry of defence clearance are, with few or no exceptions, not open to ordinary Tamil businessmen in the north.

Fishing: Tamil fishermen along the northern coasts complain of unfair competition from India and by Sinhala fishermen from southern locations. As a fisherman from Mullaitivu explains: “There are Indian trawlers and fishermen from the south like from Negombo that come and use fishing practices that are not allowed. They damage our nets. ... The army is not bothered about these things. They don't try to control them. That is why we need the [cooperative] society and ministry to take action. ... Without a proper civil administration these things cannot be stopped. And small fishermen will continue to suffer”.¹⁴⁵ Sinhalese fishermen also benefit from the fact they have none of the additional military registration requirements that apply to Tamil fishermen.¹⁴⁶

Tamil fishermen in southern Mullaitivu also express worries about the return of Sinhala and Muslim fishermen long displaced by the fighting. Roughly 20 per cent of existing registrations in Mullaitivu district belong to Sinhala fishermen, mostly in the Kokkilai area but also further north.¹⁴⁷ Most are returning after renewing their licenses with the fisheries ministry in Colombo. Cooperative officials and fishermen interviewed are clear they “would respect the claim of original owners and their direct descendants. But problems arise if those claiming have only a remote relationship to the original owner or if any are coming with freshly issued licenses”.¹⁴⁸ In addition, ex-

plains one fisherman, “These areas had also been used by local fisherman. What will they do for their livelihood?”¹⁴⁹

Without proper mediation and guidelines the transition will likely be contentious. “When Sinhalese come”, asserts a local fisherman, “not many respect the cooperative society, they interact with the army and it is the army that gives the instructions and informs us”.¹⁵⁰ There have already been conflicts between returning fishermen and Tamils who had been fishing for the last decade. Some disputes have had an ethnic aspect, and the military has been involved in trying to settle them.¹⁵¹ The involvement of the army in such civilian problem-solving undermines civilian institutions and further weakens the rule of law.¹⁵²

B. POPULATION MOVEMENTS: CHANGING THE FACTS ON THE GROUND?

Of the various forms of Sinhalisation, the possibility of population movements into the north with central government and military support constitutes the greatest long-term concern for Tamils. Fears of deliberate population change are based in part on the experience of the Eastern Province, where state-sponsored irrigation and agricultural programs from the 1950s through the 1980s resettled tens of thousands of Sinhalese from other areas and helped transform the demographic balance of the province,¹⁵³ as

¹⁴⁴ Crisis Group interview, aid workers, Colombo, September 2011.

¹⁴⁵ Crisis Group interview, fisherman, Mullaitivu, August-September 2011. Others complain “there is a group of fishermen and divers belonging to a company from the south who are now operating in Selvanagar beach. They say the owner is related to Rajapaksa and connected to the army. They are doing illegal activity by using oxygen cylinders and focus lights to dive in the ocean for kadal attai (sea cucumber) It affects the small fishermen who are fishing near the shores – the fish catch gets greatly affected and it is not a good practice. The army allows this to happen; when we complain to the army they say that they cannot do anything about it. They claim they are Rajapaksa's friends”. Crisis Group interview, fisherman, Selvanagar and Mullaitivu, August-September 2011.

¹⁴⁶ See Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section III.B.1.i. See also “TNA Situation Report”, op. cit., p. 9, on continuing restrictions on Tamil fishermen.

¹⁴⁷ Crisis Group interviews, Mullaitivu fishing cooperative officials, September 2011.

¹⁴⁸ Ibid.

¹⁴⁹ The fishermen are also clear that “there must be some provision to redistribute and issue fresh licenses to those families who had been working on these sites for the past decade or so. The issues have been raised with the relevant authorities. We are hopeful that this will be done”. The local commander has reportedly “instructed those families that had been fishing before the war to continue to fish in the same areas; and if and when a problem comes, to report to him. So some are continuing to fish without any formal approval from the ministry but with army permission”. Crisis Group interview, Mullaitivu, September 2011.

¹⁵⁰ Crisis Group interview, Mullaitivu, August-September 2011.

¹⁵¹ Tamil fishermen cited an example in Mullaitivu where the local commander “has asked us to continue to fish and if there are any problems with the fisheries ministry to ask them to come and talk to him. He said that the Muslims had already benefited from fishing in Puttalam and they could not expect to benefit from both places”. Crisis Group interview, September 2011.

¹⁵² This is especially true when the military itself is in competition with returning Tamils and Muslims for the control and use of resources. For an analysis of the economic activities of the military in the north, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit.

¹⁵³ The percentage of Sinhalese in the east increased from 5 per cent in 1921 to 22 per cent in 2007. Over the same period, the percentage of Tamils fell from 54 to 40 while Muslims' share of the population remained about the same: 39 per cent in 1921 and 38 per cent in 2007. For details on demographic changes in the east, see Crisis Group Asia Report N°159, *Sri Lanka's Eastern Province: Land, Development, Conflict*, 15 October 2008.

well the government's settlement of Sinhalese in the Weli Oya region of Mullaitivu in the 1980s and 1990s.¹⁵⁴ The government has consistently denied it is pursuing a policy of sponsored demographic change.¹⁵⁵

Increasing numbers of Sinhalese are moving into the northern province, often with the active – but not transparent – support of the central government and military. The movements are at an initial stage and the numbers involved so far appear to be relatively small. Nonetheless, there are signs that administrative mechanisms are being put in place and infrastructure is being built that could enable more extensive population movements in the coming months and years. The difficulty of gathering evidence from the ground, the lack of any independent monitoring, and the lack of transparent government plans all make it very hard to know the full extent of what is actually happening. With the active support of the military and a huge parliamentary majority, there is little question the government could over time succeed with such a plan. Doing so, however, would leave lasting political scars and likely cause irreparable damage to the possibility of reconciliation between Sinhalese and Tamils and might sow seeds of future violence.

Many Tamils in the north assume that the large military cantonments, like that in Iranamadu, being built in the heart of the Vanni are designed to enable families to accompany the large numbers of soldiers. These fears are supported by the fact that the military is building houses rather than traditional barracks. To date, however, despite the apparent infrastructure, there is no evidence of military families moving to the Vanni.

The evidence of movement of Sinhalese into the north along the southern borders of the province is clearer. This can be seen along the road to Mannar, in the southern ar-

See also Robert Muggah, *Relocation Failures: A Short History of Internal Displacement and Resettlement* (London, 2008). There is disagreement over the intention behind the eastern settlement schemes. Where Tamil nationalists and some scholars interpret the population changes as the effect of a deliberate strategy to weaken the Tamil-speaking majority in the east, other scholars argue this was more the side effect of a program aimed at increasing rice production and giving land to the landless peasants. For contrasting views on the nature and intention of eastern settlement policies, see G.H. Peiris, "An Appraisal of the Concept of a Traditional Tamil Homeland in Sri Lanka", *Ethnic Studies Report*, vol. IX, no. 1 (January 1991) and Amita Shastri, "The Material Basis for Separatism: the Tamil Eelam Movement in Sri Lanka", *The Journal of Asian Studies*, vol. 49, no. 1 (February 1990).

¹⁵⁴ See note 168 and Section IV.B.3 below.

¹⁵⁵ Yohan Perera and Kelum Bandara, "No forced colonization by Sinhalese in North: Basil", *Daily Mirror*, 8 September 2011, and Shamindra Ferdinando, "Govt won't change ethnic ratio in Vanni", *Island*, 15 July 2009.

reas of Vavuniya, and most clearly and worryingly, in the Weli Oya area, located at the junction of the Northern, Eastern and North-Central Provinces. The latter two areas had small Sinhala populations in the past, and some of those moving in were displaced decades ago – so-called "old IDPs", displaced for a protracted period of time. Whether others are joining or will join them, and under what conditions and with whose support, is the most politically explosive question.

1. Mannar-Madhu Road

In Mannar district, along the "Madhu Road", Sinhalese have begun to move in to a newly built housing project developed with the support of the resettlement ministry in Colombo. Some of the new residents are those returning after being displaced by the war, and according to some reports, there are also new families.¹⁵⁶ Some of the houses were reportedly funded by a state bank, which also provided for a few Tamil and Muslim families.¹⁵⁷

2. Vavuniya

On the border of Vavuniya and Anuradhapura districts, in Paavatkulam and Cheddikulam, Sinhalese who left the ethnically mixed area during the war¹⁵⁸ are returning and asking for their lands back, which they often sold quickly and sometimes at less than market prices.¹⁵⁹ At best, some are offering to pay the same prices they sold it for in 1980s; others simply demand it for free.¹⁶⁰ They often have the

¹⁵⁶ Crisis Group interviews, Madhu Road, September 2011.

¹⁵⁷ According to the TNA, 45 houses have been built for Sinhalese, and only five for Tamils. "TNA Situation Report", op. cit., p. 21. The same document also claims, however, that "only two houses out of approximately 80 proposed under the project are to be given to Tamil families".

¹⁵⁸ The Paavatkulam development, for instance, has ten units; Tamils were settled here in the 1950s. There are also Sinhalese in the area, some of whom were originally from this area while others were settled later. Over the course of the war, the area fell on both sides of the shifting border of LTTE and government control.

¹⁵⁹ A Tamil resident disputes the unfairness of the original transactions. "They say that they went due to war and were forced to sell", he explains. "But we did not forcibly buy. They were the ones who wanted to sell and could not find any buyers. In some instances it was done as a favour to the Sinhalese then". Another resident explains that selling was not the only option: "There are two Sinhalese families [in the area] who did not sell. They just gave the land on lease and came and collected the rent even during war times. Now we have no problem in them coming and claiming their land back". Crisis Group interviews, Paavatkulam residents, September 2011.

¹⁶⁰ "I bought the land, and did so much development work", explains a Tamil farmer. "I spent about a lakh [Rs. 100,000], cleared jungle, built channels, bulldozed the place, put in over 300 loads of sand, etc., but once I completed the work, the war

backing of police and military, who sometimes inform Tamils that previous transactions were invalid and the land must be given back to returning Sinhalese.¹⁶¹ These forced re-sales are reported to be happening in other locations in Vavuniya district as well.¹⁶²

While the desire of the original owners to return and reclaim their land is understandable, the role of the almost-completely Sinhalese police and military raises major questions. As a Tamil villager explains, "Some of the sales were done through proper documentation, while the others were done informally based on trust. When we go to the lawyers they say we can file a case, fight it out in the courts for money, but they ask us, 'is it worth the trouble?' Now with 'them' in power, they are bound to support their people and we cannot live here by antagonising the police. We are scared".¹⁶³

Local Tamils speak repeatedly of how they are agreeing to arrangements they otherwise would reject, due to a desire not to be on the wrong side of the police. The story of a Vavuniya resident is representative:

I bought two pieces of land from two [Sinhalese] people in 1997. Now after the war they came to me with the police, and so I took their money back and gave them the land. They didn't even give the full money back, they gave most and promised will give the rest later, but it never came and I am not hopeful of getting the money back. In fact one of the two came here about two years ago and he did not ask for the land back. But now after the war recently, his sons and nephews, some of whom are in the army and police, came and told me to give the land back. Given the situation in the country I did not want to create any trouble. We are living in

this isolated area and are surrounded by army and police. Why get into unnecessary issues, you know!¹⁶⁴

Also of note is the level of encouragement and support the government is giving to the (re)settlers. In addition to offering Sinhalese the same basic resettlement supplies that Tamils received when they returned from IDP camps – dry rations, bags of cement, tin sheeting, and other materials – the government has also reportedly used bulldozers to help them clear the land and offered other forms of assistance to enable them to begin cultivating the land in order to encourage them to return. The military as well as the PTF are also seen to be actively canvassing aid agencies to direct assistance toward these areas.¹⁶⁵ It is widely believed among local Tamils that many Sinhalese are drawn to return in order to gain the government assistance, rather than out of a desire to live in the area once more.¹⁶⁶

Not all arrangements between Tamils and returning Sinhalese are coercive, and there is evidence that positive relationship across ethnic differences are possible – and could perhaps be more frequent if equitable and transparent state policies on land were established. A Tamil resident explains how he arranged to sell back land he had bought from a Sinhalese neighbour:

Yes, I gave back the land and took the money back with bank interest. We grew up together since our fields were close. We both had permit land given by the government. During the war, many Sinhalese moved and he too wanted to go and buy a small piece of land in a village near Anuradhapura. He was in need of money so he compelled – pleaded with – me to buy the land. I agreed. I did not have money so took a loan on my wife's account to pay him. After the war was over he

was also over and the former owner came and reclaimed the land. He did not even give compensation for all the trouble and expenditure". Crisis Group interview, Vavuniya district resident, September 2011.

¹⁶¹ According to a local Tamil, "There is a police sub-station that has been opened, attached to the Chettikulam police station, and their sole job seems to be to facilitate this kind of work. Many Sinhalese go to them and they come with the police to ask for the land. When we show the documents that attest to the fact that these have been sold, the police say that now those laws are not valid and that according to new laws those who sold out of fear can come and get back the land. If that is the case now, can Tamils go and ask their land back in Anuradhapura, which we had to leave and come after the 1958 troubles?" Crisis Group interview, Vavuniya resident, September 2011.

¹⁶² "165 Sinhala families settled in Tamil village Kokkachchaankulam in Vavuniya North", D.B.S. Jeyaraj (dbsjeyaraj.com), 24 June 2011.

¹⁶³ Crisis Group interview, Vavuniya resident, September 2011.

¹⁶⁴ Crisis Group interview, Vavuniya resident, September 2011. Another resident explains: "The police say, now the land has to be given back. They (army) say it is the president's order to give the land back to the Sinhalese. There are two families that I know of who have complained against the Sinhalese to the police, at Vaarikkutty and Cheddikkulam, but I decided not to get into trouble so came to a compromise agreement with the original land owner. I agreed to return part of the land back but to let me have the portion with the house that I have made substantial improvements over the last seventeen years and he agreed".

¹⁶⁵ Crisis Group phone interviews, aid workers, January 2012.

¹⁶⁶ "They (Sinhalese) want to establish themselves because they want to avail of the government assistance that has been promised. They are promised houses and other resettlements assistance. Tin sheets, rations, cement, etc., were given to these families like for Tamils. But in addition the government also cleared the land for them using a big Chinese dozer, which they did not do for Tamils. Sevalanka also gave temporary housing material – but many have sold the material. Some are not interested in staying here for long time. They only want to use the paddy field and to avail themselves of any government assistance". Crisis Group interview, Vavuniya resident, September 2011.

came and asked for the land. He said that he was not doing well – he was indeed not doing too well – and he said that he might lose out on the government assistance, like houses, that are being promised by the government for those Sinhalese families who are going back to settle in previously vacated areas in the border villages. I thought it was reasonable and he was a good friend. I told him about the loan interest and showed him the bankbooks. He agreed to pay the money plus any loan interest. He did not have all the money, so we agreed to do it in instalments. I think it is a good thing if we can settle things in this manner. After all, we are not going to take anything with us when we die.¹⁶⁷

3. The resurrection of the Mahaweli scheme and renewed colonisation in Manal Aru/Weli Oya¹⁶⁸

In the village of Odhiyamalai, Tamil farmers who have recently returned after fleeing in 2006 reported they were not allowed to cultivate their paddy lands for over two seasons, despite having valid permits covering most of

their land.¹⁶⁹ Instead, their fields have been cultivated since the end of the war in 2009 by Sinhalese from the nearby Padiviya area, working with the assistance and the protection of the army. The entire area of Weli Oya is heavily militarised. A network of army camps and checkpoints limits access for outsiders and allows for movements to be controlled and closely monitored.¹⁷⁰

“This season [September 2011], I went to plough”, says a farmer in Odhiyamalai. “I took my tractor. First day they allowed, I went and marked out the area, but when I went on the second day, the army said that they cannot allow me. There were some Sinhalese who were working in the field”.¹⁷¹ Local government officials in Mullaitivu district report that the same process is underway in other nearby villages, including Maruthodai, Patti-kudiyiruppu, Thanikkallu, Oonjalkatti, and Vedivachchakal.¹⁷² Other sources

¹⁶⁷ Crisis Group interview, Paavatkulam resident, September 2011. Another Tamil resident tells a similar story: “My father came in 1958 here. He got one acre *goda* [highland] and three acres *mada* [paddy land]. We bought additional land only in 1997 from a Sinhalese family. This Sinhalese family are traditional owners and had deeds, not permits. So they formally transferred the land through deed. I paid all the tax/rates and everything. In fact they did not have to sell the land. When they had a problem they went and came back. But after some time they said they wanted to move and asked if I will buy the land. After the problems were over, not in any thuggish manner but in a nice manner they came and asked for the land back. They said we had sold it due to difficult circumstance. Not all but two of the sons came and asked for the land back. They said – you have developed it, and have taken good care, you keep two acres and give us two acres. I thought it was ok, they also are in need of some land and I did not want to face any problems”.

¹⁶⁸ The region of Weli Oya/Manal Aru has been the site of violent contestation since the 1980s. Its place in the colonisation plans of successive governments made it an integral part of the homeland narratives of both Sinhalese and Tamils and led to frequent violence. Weli Oya is the Sinhala name for the Manal Aru, the river that is the main source of water in the area. As defined by the government's Mahaweli Authority, the Weli Oya area is entirely within Mullaitivu and Vavuniya districts – the southern border of the area is formed by the Mullaitivu-Trinco border and Vavuniya-Anuradhapura border. The newly announced DS division of Weli Oya has sixteen villages, including two villages formerly in the northern section of Anuradhapura district. In popular usage, Weli Oya extends into Trincomalee and Anuradhapura districts. For a brilliant and detailed analysis of the politics of Weli Oya, see “From Manal Aru to Weli Oya and the spirit of July 1983”, University Teachers for Human Rights (Jaffna) [UTHR-J], Special Report No. 5, 15 September 1993 and “Padaviya-Weli Oya: Bearing the burden of ideology”, UTHR-J, Information Bulletin No. 4, 13 February 1995.

¹⁶⁹ Odhiyamalai village, located in Oddusuddan DS division in Mullaitivu district, has more than 100 families, but only about 40 have returned to date. The others remain in Vavuniya or elsewhere with families and friends. About 62 plots of various sizes traditionally belong to the families of this village (Odhiyamalai) in the area amounting to around 165 acres. They are irrigated by two tanks (Olumadu and Karuvaappamurippu tanks) and all of the farmers have some form of claim (mostly land development ordinance [LDO] permits) for most of the land (though not for all of it). They also engage in vegetable cultivation in part of it. These are the sources of income for the families who have returned. Odhiyamalai village was the scene of a massacre of Tamils in 1984. It lies close to the Kent and Dollar Farms, scene of a better-known massacre of Sinhalese settlers by the LTTE in 1984 and the Sinhala “garrison towns” of Gajabapura, Janakapura and Parakramapura, which constituted one of the front lines between LTTE- and army-controlled territory from the late 1980s onwards.

¹⁷⁰ A resident along the border of Oddusuddan DS division said, “You can't now go and see the land. They will stop you at the checkpoint and turn you back. If any outsiders are coming local residents have to inform the camp and let them know the reasons”. Crisis Group interview, September 2011.

¹⁷¹ Crisis Group interview, September 2011. Tamil farmers report they had been promised during the previous cultivation season that they would be allowed into their fields in the 2011 season and to allow the Sinhalese to cultivate until then. When they tried to cultivate in 2011, they were prevented again, despite presenting documents establishing their rights. At a meeting in the Sinhala area of Padiviya, farmer representatives were told by government officials, in the presence of military, that the land comes under Mahaweli Authority and that they each can cultivate two acres only, with the rest to be distributed to the Sinhalese.

¹⁷² “Major Jackson of 623 Brigade told the Maruthodai people not to go to their lands. He said he will arrange to give land for them to cultivate in the interior and to give up their land in the border areas. Maruthodai people also seem to have agreed, probably out of fear. They haven't been able to go for cultivation either. The major told the people that DS has agreed to the plan, and he told the DS that he had spoken to the people and

report that Sinhalese have begun to be settled further to the east of this region as well.¹⁷³

Under the auspices of various irrigation and development schemes, Sinhalese peasants were encouraged from the 1950s through the 1980s to move into many parts of the Eastern Province. The settlement of so many Sinhalese in districts which were at independence almost entirely Tamil-speaking was politically explosive and was one of the major grievances expressed by Tamil militant groups, including the LTTE.¹⁷⁴

The expansion in the 1980s of the ambitious Mahaweli irrigation project into the Weli Oya region in the northern reaches of the Trincomalee district was particularly controversial.¹⁷⁵ While designated as the "Mahaweli-L scheme" and coming under the jurisdiction of the Mahaweli Authority, the areas were always too remote to receive actual water from the Mahaweli river. Instead, the administrative powers of the Mahaweli Authority were used to legitimise a largely military-led project to settle a Sinhala community that could act as a buffer to the expansion of LTTE control.¹⁷⁶ Settling Sinhalese at the border of the Eastern and Northern Provinces was also designed to undermine Tamil nationalist claims on a contiguous north-eastern Tamil homeland.¹⁷⁷ The Tamil nationalists have maintained that this is an attempt at bifurcating the north from the east with a string of Sinhala settlements.

that the people have agreed to the plan". Crisis Group interview, Tamil government official, Weli Oya area, September 2011. These villages are located in Nedunkerny DS division, in Vavuniya district, and Oddusuddan DS division in Mullaitivu.¹⁷³ The Tamil media features regular stories of encroachment by Sinhalese in Kokkilai and Thennaimaravadi. See for instance "Sinhalese forcibly take over paddy lands of Tamils in Thennaimaravadi", Tamilnet, 6 November 2011. See also Bhavani Fonseka and Mirak Raheem, "Land in the Northern Province: Post-war politics, policy and practices", Centre for Policy Alternatives, December 2011, pp. 194-195. Tamil residents in southern Mullaitivu and northern Trincomalee districts also have reported that Sinhalese, often from fishing families, were being settled or allowed to cultivate in areas still closed to Tamils, but Crisis Group was unable to confirm the reports. Crisis Group interviews, September 2011.

¹⁷⁴ For more on the Mahaweli project and the controversies over Sinhalese settlement in the eastern province, see Crisis Group Report, "Sri Lanka's Eastern Province", op. cit.

¹⁷⁵ For the definitive study of the Mahaweli-L scheme and the conflicts over settlement and displacement in Weli Oya, see Robert Muggah, *Relocation failures in Sri Lanka: a short history of internal displacement and resettlement* (London: 2008), pp. 105-27. See also UTHR-J, "From Manal Aaru to Weli Oya", op. cit.

¹⁷⁶ These and other villages were later armed under the *grama-rakshaka* [village security] scheme.

¹⁷⁷ Malinga H. Gunaratne, *For a Sovereign State*, (Colombo, 1998) discusses this aspect of the project.

As Sinhalese were settled and armed villages established, thousands of Tamil families were forcibly displaced by the army from their traditional villages. Also forced out were hundreds of Tamils of Indian origin who had settled and worked on Tamil-owned farms in the area after fleeing the organised 1977 riots in the south and central highlands. Large numbers of Tamils were killed and thousands displaced, some to India.¹⁷⁸ The LTTE retaliated by killing over a hundred Sinhala civilians and the army's counter-retaliation was brutal in many parts of the north.¹⁷⁹

The process of militarised settlement in the Weli Oya region was frozen by the war, but now appears to have been revived in order to repopulate and expand previously established Sinhalese areas.¹⁸⁰ According to both Tamil and Sinhala officials, the movement of Sinhalese settlers into the area is part of the central government policy, not the entrepreneurial activities of local commanders and businessmen. "The government is committed to developing this area", says a senior official. "Under the Yali-Pipidemu scheme the economic development ministry will develop the area. We will upgrade the infrastructure completely. There will be a few kilometres of carpet road, and selected tanks [reservoirs] will be renovated".¹⁸¹

¹⁷⁸ Discussions about return and resettlement in Sri Lanka have focused mostly on those displaced in the fighting in 2008 and 2009. Less recognised is the fact that the Weli Oya area has villages from which people have been displaced since the 1980s. Some had come back after the 1987 Indo-Lanka accord and left again after the resumption of war in 1990. Resettlement and return policies therefore should take into account refugees from these and other areas now in India as well as Muslim fishermen (some of whom have begun returning to the nearby areas of Kokkilai and Alampil). Crisis Group interview, local government official, September 2011.

¹⁷⁹ The Weli Oya scheme and the resultant deaths and displacement were a significant reason given by the LTTE for the eventual killing of UNP leaders Gamini Dissanayake, Lalith Athulmudalali and Seelalankara Thero. This also provided the Tigers with a good recruitment narrative and forced many Tamils of Indian origin from the area to join them to fight to get their land back.

¹⁸⁰ The buffer that was created in the 1980s and 1990s by encroaching on land mostly occupied by Tamils, is now being consolidated in favour of the Sinhalese. If unchecked, the buffer will likely become a launching pad for further colonisation.

¹⁸¹ Crisis Group interview, official in economic development ministry, September 2011. He adds: "The Mahaweli Authority under L-scheme is the one responsible for the area here – to allocate land and to develop. We are supporting and have taken responsibility. About Rs. 200 million have been allocated to rehabilitate fourteen to fifteen tanks and to carpet a stretch of road as well as to give loans for livelihoods". At least some international donors are supporting development work in Weli Oya. The World Bank's "Community livelihoods in conflict affected areas project" includes some work in Weli Oya. Crisis

Sinhala farmers who have come back to claim the lands given to them under the scheme report they have been promised additional lands that will be made available further north as the reservoirs and lands abandoned by Tamils during the war are gradually restored.¹⁸² But in addition, there are also new settlers from the south who are being encouraged to come through promises of land. On the ground, the army plays a central role, assisting the settlement of Sinhalese, blocking access for Tamils to their lands, and acting as the ultimate arbiter of disputes and policy enforcer.

The decision to transfer formal administrative control over the area to the Mahaweli Authority means that Tamil district and divisional level officials will lose the control they have had over land in those areas where Tamils have remained the majority.¹⁸³ There are also plans to regularise the questionable status of land titles and permits held by many of the Sinhalese settlers from the 1980s and 1990s, and in the process legalise their semi-legal settlements.¹⁸⁴

Many Tamils also criticise the government's October 2011 decision to shift the Weli Oya division from the Sinhala majority district of Anuradhapura to Mullaitivu, making it the first Sinhala-majority division in the virtually all-Tamil

district.¹⁸⁵ Many see this as evidence of the government's intention to use newly introduced or re-introduced Sinhala population to change the demographic and political balance of the north.¹⁸⁶

The rapid movement of Sinhalese into Weli Oya under the auspices of the Mahaweli project and with the assistance of the army confirms long-standing fears of many Tamils. At a time when Tamils from villages in the region like Kokkuthuduvai and Kokkilai are yet to be resettled, an active settlement support program to Sinhalese has caused a lot of suspicion. The lack of consultation and transparent plans for the future of lands previously cultivated and lived on by Tamils is particularly worrying.

According to a district-level government official, "Weli Oya has always been a conspiracy. These kinds of insensitive actions might create new situations like [the massacres at] Kent and Dollar Farms. It will create frustrations. People like [LTTE leader] Baalraj get created because of these kinds of activities ... What can we do? Unless there is some other external pressure, this process is unstoppable".¹⁸⁷

Not surprisingly, many of the Sinhalese returning to the area or arriving for the first time see things very differently.¹⁸⁸ While some accept that the lands they were settled on in the 1980s had earlier been lived on and cultivated by Tamils, many believe the lands were abandoned or that Tamils had no legal claim. "These were abandoned by

Group email correspondence, World Bank project director, March 2012. A major irrigation project involving damming the waters of the nearby Yan Oya river is expected to provide water and irrigation to areas in the Northern, Eastern and North-Central provinces, including areas in or near Weli Oya. A.A.M. Nizam, "A major inter-provincial Irrigation in Sri Lanka awarded to China", *Asian Tribune*, 5 November 2011.

¹⁸² "We need more lands for all the families. The problem can be solved if new areas are cleared. There are Andarawewa, Thattamalai and four other tanks in the northern area, we don't know the names. There are cultivable lands within each lake catchment area. There were Tamils who had been cultivating ... some of them might have permits. Now we know that Mahaweli is planning to develop them ... we went with the authorities and saw them. These have not been cultivated for a long period due to war. Now we heard that Mahaweli had plans to renovate them and clear the land surrounding and the plans have been submitted to the economic development ministry". Crisis Group interview, Janakapura, Weli Oya, September 2011.

¹⁸³ Crisis Group interviews, government officials, Colombo, Weli Oya, September 2011.

¹⁸⁴ The land titles and boundaries during the previous phases of settlement frequently remained vague and fluid. Many of the settlers did not get proper title and in many instances not even land that had been promised (three and a half acres for coconut, half an acre for house and in some cases one acre for paddy for each family). This was in part because many Sinhalese settlers were being brought into areas that had been cultivated by Tamils prior to their eviction. Crisis Group interviews, Weli Oya, September 2011.

¹⁸⁵ A senior official suggests "it is possible they will annex more villages because as it stands the Weli Oya area is too small to get a separate status as a DS division". Crisis Group interview, September 2011. Formerly administered by the Anuradhapura district, and consisting of sixteen villages in Padaviya-Siripura, Weli Oya's population would normally be too small to merit a separate DS division. Many believe that eventually a few villages from adjoining DS divisions Nedunkerni, Oddusuddan and Maritim Pattu in Vavuniya and Mullaitivu districts, may therefore be annexed to Weli Oya to make it a full DS division.

¹⁸⁶ Crisis Group interviews, September 2011.

¹⁸⁷ Crisis Group interview, Mullaitivu, September 2011.

¹⁸⁸ On the Sinhala side of the former "border", the military architecture is as dense as the one found on the Tamil side, though the interaction with the villagers is much more cordial. There are three villages that are yet to be resettled on the Sinhala side of the de facto wartime "border": Gajabapura, Monarawewa and Halambawewa. Villagers who had originally been settled there but forced to flee LTTE attacks established new villages further south (Nava Gajabapura and Nava Monarawewa). Most of them wish to remain in Nava Gajabapura but when their old village is opened up for resettlement want it to be given to their sons/daughters who have started new families.

Tamils, no? The big Tamil companies left and that is the area that was marked out and given to us".¹⁸⁹

Those Sinhalese families who lived through the years of war and terror feel a particular sense of entitlement. They feel they played a part in the defence of the motherland and were in the vanguard of the fight against terrorism and hence deserve some assistance in return.¹⁹⁰ The sense of entitlement is deepened by the neglect they generally faced during the years of war¹⁹¹ and their feeling that they were an instrument which governments used – often quite callously – in the struggle against the LTTE.¹⁹²

Government promises of land and other support have encouraged not only the return of settlers who first arrived in the 1980s, but also a post-war influx of new settlers.

After the war we got information that land is being given in the Weli Oya area. So we came ... the farmer organisation and Mahaweli officer showed us the plots and identified the ones the earlier settlers had abandoned. They had left as soon as they came and the plots had not been cultivated for a long time. The officials said we could stay and cultivate the land that was allotted and if we were to stay we would be given rations and assistance. They also promised that eventu-

ally they will clear the land with a bulldozer and give us proper title.¹⁹³

Sinhala farmers report that promises of support have even come from President Rajapaksa himself.¹⁹⁴ "There is a hope that this area will develop fast," explains a farmer in Kiri-Ibbanwewa. "There will be benefits and houses. So those who wanted to take advantage of this as well as those who do not have other means – these are the ones who came here".

Nonetheless, it is unclear how the settlements are going to evolve in the future. Many prospective settlers remain undecided, aware of the government's failure to live up to its past promises and worried about the poor profitability of the agriculture sector. The involvement of civil defence force personnel in agriculture has driven down prices. Like the army they too are encouraged to cultivate and there were large farms belonging to civil defence forces and army in the area, with resultant impact on the local farmers. "The civil defence forces getting involved in agriculture is a problem. They get things for free. Their labour is paid for by the government. Whereas all the expenses like seeds, fertiliser, weedicide, harvesting for a farmer are all expenditures that you have to incur out of your hand. So the civil defence forces are able to give it for a lower price than the farmers easily".¹⁹⁵

¹⁸⁹ Crisis Group interview, Sinhala farmer, Janakapura, Weli Oya, September 2011. Explains another farmer: "These were Tamils lands in that they were cultivating under different companies ... well we don't think the Tamils will come. They did not have proper titles/documents. They had cleared the land and had been cultivating and then left the land (like what we are doing in some parts). Someone else comes and clears and cultivates it later – these were anyway not lands with deeds and titles. Now we have proper claims to the land. So we don't think they will be coming into these areas".

¹⁹⁰ "We are the ones who protected this land, during the war time", said a villager in Janakapura, Weli Oya. Crisis Group interview, September 2011.

¹⁹¹ For a discussion of the poor quality of life and social services for Weli Oya settlers in the 1980s and 1990s, see Muggah, *op. cit.*, pp. 124-125. Many first-generation settlers complain they never received the promised three and a half acres of land. "The process was not very systematic when land was distributed. Some have got more, some less ... They promised three and a half acres and that is what we are asking and properly marked out lands. Since 1995 the irrigation channels [canals] haven't been renovated" ... "Our demands now are that the promised three and a half acres of land be given with proper documentation and renovating of irrigation channels". Crisis Group interviews, Kiri-Ibbanwewa and Janakapura, Weli Oya, September 2011.

¹⁹² "Clearly the idea was to bring people from the south, as to what they would be doing and their sustainability did not seem to have been part of the calculation. Even our security was not assured. The uncertainty over the last several years has made life and recovery difficult".

¹⁹³ "These are lands that were given to Sinhala families during Janaka Perera's time. But not everyone stayed here. The very poor remained and many others deserted and left. Some gradually settled in Padaviya and other interior places. All these people had been allotted lands. Now after the war, new people have come and cleared land and started doing cultivation. For many of them, Mahaweli authorities came and demarcated plots of land about a year or so ago. These are lands that had been deserted by Sinhalese due to war". Crisis Group interview, farmer, Kiri-Ibbanwewa, September 2011. According to an official in the ministry of economic development, "Many of the people came after the war to settle. About 75-80 per cent of people have returned for settlement. Other than these there were new people as well. I saw many people who had heard that land was available also came. For some, Mahaweli authorities had shown land, but for others they just cleared land for themselves". Crisis Group interview, September 2011.

¹⁹⁴ "We had a meeting with the president. We raised all our issues. He said 'Don't worry about what is in the plans ... they may be wrong ... but [the government] will do what is needed on the ground to support you to settle down in our lands'". Another added: "In the meeting with the president too when our plight was stated, the president assured us that whatever area we need will be given to us and after annexing the required areas a DS division will be given". Crisis Group interviews, Janakapura, Weli Oya, September 2011.

¹⁹⁵ Explains another farmer: "I hear that they have been instructed to offset their expenses by engaging in some income generation activities. Competition with them is like competing with a

V. CAUGHT BETWEEN TWO WORLDS: MUSLIMS RETURN TO THE NORTH

The LTTE's October 1990 expulsion of the entire Muslim community of the Northern Province – some 75,000 people – was one of the most devastating events of the entire 26-year war.¹⁹⁶ It was Sri Lanka's only large-scale act of ethnic cleansing and badly damaged Tamil-Muslim relations, which have yet to be repaired. Most of those evicted from the north ended up in the mostly-Muslim town of Puttalam along the north-western coast. Over the past two decades, the community of displaced Muslims has grown to more than 200,000.¹⁹⁷

With the end of the war, many Muslims were excited by the prospect of returning home.¹⁹⁸ Life as refugees in Puttalam has been hard, especially for that half of the population still living in government "welfare centres". Many have struggled to earn a decent living and find acceptance from the local Muslim community. While there is a long history of cooperation between the host community and the displaced northern Muslims, there has also been much tension, largely born from competition over scarce resources, fed by rivalries between politicians.¹⁹⁹ Most of

multinational company. But the difference is that these people are also from the village and they are from many families in the village, benefiting them. If they are disbanded, without other income sources they will start engaging in theft and other illegal activities. That angle also needs to be considered". Crisis Group interviews, Janakapura, Weli Oya, September 2011.

¹⁹⁶ For an analysis of the expulsion and its effects on Muslim-Tamil relations, see Crisis Group Asia Report N°134, *Sri Lanka's Muslims: Caught in the Crossfire*, 29 May 2007, pp. 7-9.

¹⁹⁷ "The Quest for Redemption: The Story of the Northern Muslims", Final Report of the Citizens Commission on the Expulsion of Muslims from the Northern Province by the LTTE in October 1990, November 2011, p. 11.

¹⁹⁸ During the 2002-2006 ceasefire, some displaced Muslims tried to return to their homes, particularly in Jaffna, but few were able to settle down successfully.

¹⁹⁹ The abduction and murder of human rights activist Pattani Razeek, a Puttalam native, contributed to tensions between the communities. See "Statement on the abduction and murder of Pattani Razeek, managing trustee of Community Trust Fund", Commission on the Expulsion of Muslims from the Northern Province by the LTTE in October 1990, August 2011. Abducted in February 2010, Razeek's body was discovered in late July 2011. Soon after the abduction, a top aide to industries and commerce minister Rishad Bathiudeen announced publicly that Razeek was being detained by the defence ministry for alleged links with the LTTE. In July 2011, Shahadbeen Nowshaadh, a close associate of Bathiudeen was finally arrested, after months of being suspected of involvement in Razeek's abduction and murder. Another suspect was arrested days later. "Local NGO CTF, Puttalam taken over by defense ministry, Brigadier heads interim committee", *Sri Lanka Brief*, 19 June 2011. According to a report, "the crowd that attended the funeral of hu-

those displaced in 1990 have dreamed of reestablishing their old communities and returning to their lands and the opportunities they might offer.²⁰⁰

A. DIFFICULT RETURN

Since the end of the war, many Muslims have begun to return to Mannar, Jaffna and other parts of the north, but largely in an ad hoc way and without adequate assistance.²⁰¹ The focus of government and international humanitarian work since mid-2009 has been almost entirely on assisting those displaced during the final years of fighting. There has been no systematic planning or coherent policy for the return of Muslim (or other long-term) IDPs, and the government has offered little information about the different benefits – land, housing, food rations, reintegration assistance, compensation – that long-term displaced are entitled to if they return home, as opposed to remaining in

man rights activist Pattani Razeek yesterday held up placards and shouted slogans demanding that a Muslim minister representing the North be arrested for Razeek's murder. They alleged that some supporters of this minister were responsible for the abduction and murder". "Razeek laid to rest amidst calls for justice", *Daily Mirror*, 4 August 2011. Invoking concerns over allegations of corruption but without conducting any formal inquiry, the government's NGO secretariat, controlled by the defence ministry, took over administration of CTF in June 2011. The new management team is headed by an army brigadier, assisted by two central government administrative officers. Hiran Priyankara Jayasinghe, "Troubled NGO taken over", *The Sunday Times*, 19 June 2011. There has been no progress in the criminal case since the arrests in July 2011 and a number of leads reportedly remain unexplored by the police. "Who Killed Razeek? And Why? Unanswered Questions Two Years After His Abduction", Groundviews, 11 February 2012.

²⁰⁰ This is not true of all, however. "During twenty years of displacement, northern Muslims had built up lives for themselves in Puttalam. One half of the population had opted to move out of the welfare centers into more permanent housing. Their children were in schools, and a generation of them had grown up outside the north. They had strong and abiding ties of kinship and property in Puttalam as well as a history of overcoming hardship." "The Quest for Redemption", op. cit., p. 167. The Citizens Commission on the Expulsion of Muslims also reports that younger Muslims have been more reluctant to move north, expressing worries about living among Tamils, leaving local schools and losing connection to a place where they felt at home. *Ibid*, p. 168.

²⁰¹ Statistics compiled by the government's now-disbanded Secretariat for the Northern Displaced Muslims in late April 2011 show that 77,965 people have registered as returnees in the north. However, according to the Citizen's Commission on the Expulsion of Muslims, the majority of those registered in the north have in fact returned to live in Puttalam. For a comprehensive analysis of the history and current situation of the long-term Muslim displaced, see *ibid*.

Puttalam or other host communities.²⁰² As a result, many of the Muslims displaced have felt caught between two worlds: wishing to return home and end their difficult lives as refugees, but afraid of losing the limited benefits and security they have managed to gain over the past two decades.²⁰³

When they do go back north, they face serious problems, and many who have registered with the government as returnees choose not to stay.²⁰⁴ The areas they return to generally lack the infrastructure and facilities necessary for a decent life: there are few standing houses, land is often overgrown by jungle, and electricity, schools, medical services, public transportation, and livelihood opportunities are all in short supply.²⁰⁵ The lack of infrastructure, social services and non-agricultural jobs makes returning particularly hard for women unaccompanied by adult or physically-able male family members.²⁰⁶

In many cases, returnees find others living on or using their land.²⁰⁷ During the war, the LTTE-controlled administration in the north redistributed large amounts of Mus-

lim land.²⁰⁸ In other cases, Tamils have simply moved into houses abandoned when Muslims were expelled. Many of them, like displaced Tamils and Sinhalese, have since lost their deeds or other evidence of ownership, making it hard to reclaim their land and property.²⁰⁹ In yet other cases, Muslims were forced by circumstances or by the LTTE to sell their land, often at very low prices. Many now feel they deserve to get their land back.²¹⁰ Solving these conflicts is made harder by the absence of available state land that could be offered in compensation,²¹¹ and by the fact that the displaced population has in two decades nearly tripled in size. Significantly more land would be needed were the entire displaced population to return.

Many Muslims complain that the mostly Tamil local administration in the north is less than welcoming. They express frustration at the lack of assistance in regaining lost proof of land ownership or in otherwise helping resolve land issues. "There is clear discrimination against northern Muslims in getting government services", complains a Muslim activist. "Tamil administrators will openly ask me, 'why are these people coming?'"²¹² Another activist asserts that "with a few notable exceptions, most will delay things if they can".²¹³ The widespread feeling of discrimination among Muslims is in part the result of the overall lack of programs and services designed for Muslim returnees, even in the same districts and divisions

²⁰² Registered IDPs, especially those living in Puttalam, have received food rations and other modest government benefits for the past two decades. For more on government assistance programs, see *ibid*, Chapter 6. The LLRC recommended "the creation of a uniform State policy aimed at resettlement of these [Muslim] IDPs and/or integrating them into the host community. This policy needs to be communicated to the IDPs so that they could take considered decisions with regard to the resettlement options available to them either in their original places of habitat or in the host communities". "LLRC Report", *op. cit.*, pp. 195-196.

²⁰³ For a useful analysis of the dilemmas faced by Muslims wanting to return but unsure of the risks involved, see "The Quest for Redemption", *op. cit.*, Chapter 10.

²⁰⁴ According to a report, lack of shelter and basic facilities has meant that only about 30 per cent of those registered as returnees in Jaffna actually remain in the district. Confidential document for donors, September 2011.

²⁰⁵ According to a researcher, "alternative livelihoods will have to be found for many Muslim fishermen". Like their Tamil counterparts, they face serious difficulties in reestablishing their professions in the north, ranging from the loss of parking rights for their boats to competition from Sinhala fishermen and overfishing by Indian trawlers. Crisis Group phone interview, February 2012.

²⁰⁶ The hardship involved in returning north has meant that families are often separated, with the men going north to regain their land or ensure the family receives government benefits. In the process, many men are beginning to marry or live with single or widowed Tamil women. "This has begun to produce negative feelings among some Muslims towards single Tamil women. Women on both sides of the ethno-religious line are feeling exploited". Crisis Group phone interview, Muslim rights activist, January 2012.

²⁰⁷ "The Quest for Redemption", *op. cit.*, pp. 169-175.

²⁰⁸ In some cases this was also done directly by LTTE for martyrs' families who were given special deeds. More recently, the government has seized land formerly owned or used by Muslims and leased it to private companies or used it for military camps. Crisis Group interviews, Muslim rights activists, January and February 2012. For a discussion of the lack of clear and inclusive government policies on land ownership and on managing land conflicts in the north, see Section VI below.

²⁰⁹ The LTTE also reportedly burned many land records. Crisis Group phone interview, Muslim rights activist, January 2012.

²¹⁰ "The Quest for Redemption", *op. cit.*, p. 173.

²¹¹ The situation is particularly bad in Jaffna, where in many cases Muslims literally have no land, either private or state, to return to. Crisis Group phone interviews, Muslim activists, January and February 2012.

²¹² Crisis Group phone interview, January 2012. Bathiudeen has publicly accused the Jaffna divisional secretary, along with UNHCR and unnamed NGOs operating in the north, of discriminating against returning Muslims – including by preventing them from registering and receiving the assistance they are entitled to. A.A.M. Nizam, "Government Minister alleges that UNHCR and NGOs discriminate Sri Lankans in the North", *Asia Tribune*, 2 August 2011. A senior UNHCR official rejects accusations of bias, arguing that in the face of political pressure UNHCR "struggles to implement [its] assistance programs in an objective way with objective criteria and information". Crisis Group phone interview, March 2012.

²¹³ Crisis Group phone interview, Muslim activist, February 2012.

where there has been government and international assistance offered Tamils.

The Catholic church, which has a large Tamil congregation in Mannar district, is also widely seen by Muslims as unwelcoming. "The church is not sympathetic to Muslims returning, despite their public statements", says an activist. "This is very palpable and has material consequences, including with respect to land".²¹⁴ Muslim activists also express concerns about the increasing number of Catholic statues being erected in Mannar in mixed Tamil and Muslim areas – a public assertion of Tamil Catholic identity they liken to the military-supported proliferation of Buddhist statues in other parts of the north.²¹⁵

As some Muslim community leaders recognise, the behaviour of the church in part reflects "the anxiety among Tamils about their own ability to access needed land and government services once large numbers of Muslim families return".²¹⁶ The militarisation and growing Sinhalisation of the north has increased the sense of insecurity among of them, including church officials and government servants.²¹⁷

²¹⁴ Crisis Group phone interview, Muslim activist, February 2012. In a recent case, a court has ordered church officials to return land encroached from a Muslim village in Mannar.

²¹⁵ Crisis Group phone interview, Muslim activist, February 2012. Some Muslims also complain that the TNA has taken too exclusively a Tamil perspective on current political issues including in the north. They point to the TNA's October 2011 "Situation report: north and east of Sri Lanka", for instance, which mentions only a handful of cases affecting Muslims. Crisis Group phone interview, Muslim rights activist, January 2012. More encouraging has been the recent public statement signed by Tamil intellectuals and activists disavowing the LTTE's expulsion of northern Muslims, criticising the failure of the Tamil leadership to acknowledge that "the eviction represents one of the worst instances of the narrow, exclusivist thrust of the Tamil nationalist political campaign", and calling for "inter-ethnic reconciliation and dialogue" between Tamils and Muslims based on the recognition that "there is no exclusive political solution for the Tamil community, and that the question of political power sharing and equal rights confronts all minority communities". "An appeal to the Tamil community and its civil and political representatives", *Transcurrents*, 5 January 2012. Muslim community leaders have welcomed the statement in one of their own, which also discusses the LLRC report and "urge[s] politicians and civil society groups of all ethnicities to acknowledge the suffering of their ethnic others and to develop processes of engagement towards reconciliation". See "Statement on reconciliation by Muslim civil society individuals", *Transcurrents*, 17 February 2012.

²¹⁶ Crisis Group phone interview, Muslim activist, February 2012.

²¹⁷ "The Quest for Redemption", op. cit., p. 176. Tamil administrators, in turn, are also reported to complain about Muslims who return to the north and yet simultaneously "keep one foot" back in Puttalam or other areas they have been living. This is

Many Tamils also believe that Muslims benefit from the presence in government of powerful Muslim ministers – especially the industries and commerce minister, Rishad Bathiudeen – who can provide access to resources and advance the community's interests.²¹⁸

B. POLITICAL INTERFERENCE AND FORCED RETURN?

Bathiudeen's central role in resettlement issues is, however, also seen as a mixed blessing for the Muslim community. Some activists claim that he "is exploiting [inter-communal tensions] to consolidate his control over the community", allegedly putting Muslim and Sinhala people loyal to him in local-level government positions and using the military to intimidate Tamil administrators.²¹⁹ All of this keeps the divisions between Tamils and Muslims alive.²²⁰ Many Tamil government servants in the north say they resent the ability of northern Muslims to take their complaints of discrimination to Bathiudeen.²²¹

Some activists complain that despite the continued difficulties facing those who return to the north and before devising a coherent and a well-funded program for return, displaced Muslims have come under increased pressure

seen as unfair and as expressing a lack of commitment to the community. *The Quest for Redemption*, op. cit., p. 167.

²¹⁸ Some Tamils complain, for instance, that Muslims have been allowed to return to their lands around the Navy base in Mullikulam while Tamils remain displaced. Crisis Group phone interview, Muslim rights activist, January 2012. For a discussion of the experience of Tamils displaced from Mullikulam, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section III.B.1.3.

²¹⁹ Crisis Group phone interview, Muslim rights activist, January 2012.

²²⁰ Crisis Group phone interview, Muslim rights activist, January 2012. There are also worrying signs that perceived political interference into local land and administrative issues risk radicalising sections of both the Tamil and Muslim communities. In a 2011 case in Vavuniya, Bathiudeen allegedly used his political influence to purchase municipal land on which was located both a Muslim burial ground and a Tamil Hindu temple. Tamils staged a boycott against Muslim shops in the area after hearing of plans to build a supermarket and other shops and expand the Muslim burial ground amid fears that they would lose their temple. A TNA member of the municipal council reportedly later received a threatening letter. This in turn led to the TNA publicly warning about the risks of violent jihad and to others saying more quietly that Muslims aggressive and untrustworthy behaviour is why the LTTE have thrown them out of the north. Crisis Group interviews, Tamil and Muslim community activists, January 2012.

²²¹ Crisis Group interviews, government servants and community activists, September 2011 and January 2012. Bathiudeen has made some of these complaints of discrimination public. See above note 212.

from the central government to return north. As a community activist explains:

There is huge pressure on people to go back. People now can't take their pension in Puttalam though they have for twenty years. Now people who have settled down in Puttalam and have negotiated access for basic facilities – buses, hospitals, education – have been forced to go back to their old villages, where there is very little This is true of any government services that people need to get – all have been transferred back to the north.

Expressing the views and frustrations of many, the activist argues that “northern Muslims are being forced to go back to the north and register there because Rishad Bathiudeen wants Muslim voters in the north, especially in Mannar and Jaffna”.²²² Others are less critical. For example, a researcher argues that while “a lot of inflammatory things are being said in Tamil newspapers about some of what Rishad is doing, people there [in Mannar] say his actions aren't always badly-intentioned”.²²³

Still, the absence of any coherent or transparent policies to address the needs of the long-term displaced and plan their return, many argue, is part of the central government's desire to control the northern Muslim community. Community activists report that it is difficult for NGOs or even the UN to establish effective programs and services for northern Muslims. “No one else is allowed to assist northern Muslims”, says an activist. “A more inclusive and systematic approach would make it harder to control the population”.²²⁴

²²² Crisis Group phone interview, Muslim rights activist, January 2012.

²²³ Crisis Group phone interview, researcher, February 2012.

²²⁴ Bathiudeen and his party All Ceylon Muslim Congress announced in January 2012 that they are planning to file a lawsuit against UNHCR for failing to provide relief to long-term displaced Muslims while nonetheless providing relief to more recently displaced Tamils. Mandana Ismail Abeywickrema, “Legal action against UNHCR”, *The Sunday Leader*, 8 January 2012. “Suing UNHCR is a joke,” says a researcher, “but there is some truth to the accusations. UNHCR in Mannar has no Muslim staff and little contact with the Muslim community. It's no surprise they haven't been aware of how hard things are for Muslims trying to return. On the other hand, UNHCR policy is also a reaction to Bathiudeen and his undemocratic politics”. Crisis Group interview, February 2012. A UNHCR official says the agency has never been officially notified of any suit and “continues to have a constructive dialogue with politicians from the area” and to collaborate actively with Bathiudeen's ministry. The official rejects all allegations of bias, pointing out that UNHCR has Sri Lankan staff from all ethnicities and religions. Crisis Group phone interview, March 2012.

There are signs some of this may be changing. Those working on resettlement of Muslims in the north report that district and divisional secretaries have been told to expect significant increases in financial support in 2012, including for new housing.²²⁵ More generally, the PTF has informed the UN, donors and international NGOs working in the north that “in order to achieve the target of no IDPs at the end of the year”, priority will be given to “old” IDPs from all communities, particularly those displaced before 1995, as well as the few who remain displaced from 2008 and 2009.²²⁶ The PTF has appealed for increased assistance and requested humanitarian agencies “to formulate your project proposals for the year 2012” with these priorities in mind.²²⁷

If done in open and inclusive ways, a greater focus on resettling the long-term displaced of all communities would be an important step forward.²²⁸ The change in emphasis carries serious risks, however, particularly in the context of government statements – both public and private – that downplay the continuing needs of those displaced in 2008 and 2009 and present their problems as largely solved.²²⁹

²²⁵ Crisis Group phone interviews, aid workers and community activists, February 2012.

²²⁶ “Assistance of UN agencies and NGOs in resettlement activities in the north”, PTF letter to aid agencies, December 2011. According to the letter, the PTF's three priorities are 1) “families who were displaced prior to 1995”; 2) “families still living in Menik Farm as their villages are not yet demined and released” [open for resettlement] and those displaced from the same Mullaitivu Grama Niladhari [GN] divisions but living with host families; and 3) families from villages in recently released areas in Mullaitivu. The 2012 Joint Plan for Assistance for the north, negotiated between the government and the UN, carefully avoids endorsing these priorities, listing instead a wider set of “objectives” that includes both support for remaining IDPs in government camps, assisting protracted IDPs, supporting those who have recently returned and resettled, and conducting a survey of all categories of IDPs “to determine their types and levels of needs”.

²²⁷ “Assistance of UN agencies and NGOs in resettlement activities in the north”, PTF letter to aid agencies, December 2011.

²²⁸ The LLRC recommends that “a special committee should be appointed to examine durable solutions and to formulate a comprehensive State policy on the issue [of the long-term Muslim displaced], after having extensive consultations with the IDPs and the host communities”. “LLRC Report”, op. cit., p. 196.

²²⁹ The PTF's letter to the UN and NGOs states that “except for the 2002 families with 6,651 members at Menik Farm all the new IDPs are resettled and provided with necessary assistance to re-establish themselves and commence livelihood activities”. “Assistance of UN agencies and NGOs in resettlement activities in the north”, PTF letter to aid agencies, December 2011. The PTF is reportedly asking NGOs to change the programs and the location of their work in order to meet the new priorities. According to a senior humanitarian worker, “this is impacting on the ability to target the most in needs and on aid re-

Without efforts to improve communication and carefully manage land and resource disputes between Tamils and Muslims, giving priority to those displaced before 1995 will likely only further divide the communities. In addition, given the central role of the all-Sinhalese military and the lack of transparency in their operations, the shift to focusing on the long-term displaced also risks being used as cover for settling large numbers of Sinhalese in the north, particularly in the Weli Oya region. The conflict potential of the return of old IDPs is particularly high given the continuing absence of clear and inclusive policies for addressing the many sources of land conflict in the north.

VI. LAND POLICY AND THE LEGAL AND POLITICAL SOURCES OF CONFLICT

Many of those returning to the north, both “new” and “old” IDPs, face a range of obstacles to settling back on their land, some of which risk provoking serious conflict. Examples above reveal how both long-established High Security Zones and newly established military camps have seen private and state land seized by the military or other government departments, often without legal basis and without owners being given compensation or replacement land.²³⁰ There are also regular accusations of people being forced off or denied use of state land (for example, coastal land for fishing) after it was given to government politicians and politically connected businesses.²³¹

In addition, there are a variety of complex legal and political dynamics with respect to land use and ownership that pose serious challenges for sustainable and peaceful returns to the north.²³² These include:

- ❑ The practice, frequent throughout Sri Lanka, of settlers encroaching illegally on state land. This is often periodically “regularised” through issuing government permits.
- ❑ The LTTE granted large amounts of government land in areas they controlled to the families of activists or fighters killed in battle (so-called “heroes families”). These grants of ownerships or usage right have no legal status under Sri Lankan law, with the result that many now returning may not have the right to remain on the land they were living on earlier.
- ❑ The LTTE settled or allowed Tamils to settle in lands and houses owned by evicted Muslims. This so-called “secondary occupation” also happened in government-controlled areas in Jaffna and Mannar.
- ❑ Decades of forced displacement led to emergency or coerced sales at prices much below market prices. Many of the original owners now returning feel the prices were unfair and are pressing for sales to be nullified or reversed at prices below current market prices.

²³⁰ While the military’s seizure of private land without compensation or right of appeal has always been of questionable legality, the end of emergency regulations has removed any legal basis for continued high security zones. For a detailed analysis of the legal issues involved see Fonseka and Raheem, “Land in the Northern Province”, op. cit.

²³¹ While there are no confirmed cases of this happening in the north, there are some from the Eastern Province. See, for instance, Yohan Perera and Kelum Bandara, “Malu Malu got land at Rs. 1000 an acre: UNP”, *Daily Mirror*, 17 December 2011.

²³² See “LLRC Report”, op. cit., pp. 222-230 for a useful discussion of many of these issues.

ceived by the ‘new’ IDPs with hosts as well as resettled ‘new’ IDPs”. Crisis Group email correspondence, March 2012.

- ❑ Many of the ad hoc arrangements between friends and neighbours for the temporary use of land by friends or neighbours are now disputed.
- ❑ Disputes are often difficult to settle due to the loss of deeds or other documents of ownership or right of use (eg, permits issued under the Land Development Ordinance) and/or the destruction of public records.
- ❑ In addition, there is a long-standing practice of illegal or mistaken transactions and sales, often involving fraudulent deeds and other documentation and sometimes done with the knowledge of local administrators in a way that favours those of their own ethnicity.²³³

In the words of a researcher who has studied the land issues closely, the government “simply doesn’t have the capacity or resources to process competing land claims in an effective or timely way. It will be administrative chaos. Without major reforms, they will never be able to satisfactorily resolve these claims”.²³⁴

Regulations issued in July 2011 by the land commissioner general were ostensibly designed to respond to these and other concerns by establishing criteria and procedures for resolving land conflicts in the north and east.²³⁵ The circular temporarily suspended distribution of all state land in the north and east except for “national security and special development projects”; established procedures for dealing with lost or destroyed documents; required all persons who hold land in the north and east, including private land owners, to submit “ownership application forms” disclosing details of their land; and arranged for land disputes to

be handled by a series of district-level committees in which the military and police would have important roles.

The regulations immediately caused concern and led to a lawsuit from the TNA.²³⁶ The party and others criticised the circular for extending the power of the military into new and inappropriate areas through its role in the three district-level review committees. It challenged the circular for granting additional land for military and commercial projects while calling into question the status of private land by requiring even these owners to submit their claims to land. Worries were also expressed over the possible unfairness and conflict potential of provisions requiring any land granted “under the influence of a terrorist group” to be returned to the pre-war owner or permit-holder.²³⁷ The fact that the new regulations applied only to the north and east raised suspicions, especially given the short time period for owners or permit-holders to submit their claims or to appeal any decisions that might have gone against them, together with the lack of serious effort by the government to consult with or inform the affected population about the new rules.²³⁸

²³³ In the north, the beneficiaries would be Tamils. In the east, Sinhalese and Muslims divisional secretaries have been accused of favouring their “own” people through the same means. In the words of a donor, “People are running riot in the north. Lawyers are ‘certifying’ deeds and divisional secretaries are accepting them. Lots of fraud is happening. People are paying off lawyers to create deeds that have little connection to reality. These are then being entered into the system as accurate”. Crisis Group phone interview, February 2012.

²³⁴ Crisis Group phone interview, February 2012. A USAID funded effort to reform government land policies and improve capacity to process claims and manage land conflicts was reportedly cancelled after resistance from the PTF, land ministry and other powerful politicians. Crisis Group phone interview, February 2012.

²³⁵ “Regulating the activities regarding management of lands in the northern and eastern provinces”, Land Commissioner General, Circular No. 2011/4, 22 July 2011. The government circular was based on an unpublished cabinet paper of May 2011, which reportedly establishes that state land in the north and east can only be alienated for special economic projects and that state land cannot be alienated to “terrorists”, thus potentially rendering invalid the legal claims of many who were given land by the LTTE. Crisis Group phone interview, researcher, February 2012.

²³⁶ The lawsuit was filed in the Court of Appeal in October 2011. S.S. Selvanayagam, “Writ petition against land circular in NE”, *Daily Mirror*, 26 October 2011. See also “Position paper/ discussion draft for public debate”, Friday Forum, 24 October 2011 and Bhavani Fonseka and Mirak Raheem, “A short guide to ‘regulating the activities regarding management of lands in the northern and eastern provinces’, circular: issues and implications”, Centre for Policy Alternatives, September 2011. UNHCR announced it “welcomes the circular as a positive step towards resolving complex land/property issues facing many internally displaced and refugee families” but “considers several provisions in the circular to require further clarification and that an awareness campaign ... is needed to reach all those affected ...” “UNHCR urges Sri Lankan refugee awareness of new land regulations”, 26 September 2011.

²³⁷ See Friday Forum, “Position paper”, op. cit. Exceptions would be made in cases where a permanent house had been built or the land developed. According to a senior aid worker, “no impact analysis was done. What happens if we go forward with the circular today? Given that it fails to recognise any LTTE land grants, it could significantly alter the demographics”. Crisis Group interview, September 2011.

²³⁸ The TNA suit challenged the authority of the land commissioner general to issue the regulations and argued they violated provisions of existing statutes. The continuing non-establishment of the National Land Commission, required under the Thirteenth Amendment, also means the provincial councils were denied their constitutional role in contributing to land policy. The Friday Forum, in turn, questioned the constitutionality of the proposed regulations given how “the Provincial Land Commissioner and his staff become merely a conduit for receiving information/documents and following up on the action that it authorized by the Central government officials”. “Position paper”, op. cit.

On 19 January 2012, the government agreed to withdraw the circular and establish a committee to review it before submitting new regulations for the court's consideration.²³⁹ To date there has been no sign the committee has been formed, nor any indication of the likely content of the revised circular.²⁴⁰

Amendments the government has been planning to make to the Town and Country Planning Ordinance would further increase central control over urban and municipal lands by empowering the central government to acquire land once it has been declared necessary for economic, social, historical, environmental and religious purposes.²⁴¹

VII. THE RESPONSIBILITIES OF INTERNATIONAL ACTORS

The north needs more humanitarian and early recovery assistance from international donors and the government to end the population's ongoing suffering and to allow them to rebuild their lives in earnest.²⁴² Survivors of Sri Lanka's brutal war should not be made to suffer even greater indignities due to some donors' frustration with the government and fatigue at overcoming the many obstacles placed in the way of the effective delivery of aid. Nonetheless, continued humanitarian need is not an excuse for keeping silent about governance problems and the disturbing conflict dynamics still at work throughout the country, especially in the north. Many of the humanitarian problems faced by the northern population are a direct result of the province's militarisation and the lack of inclusive, participatory forms of governance and development. Donors need to uphold their stated principles of transparency, conflict sensitivity, and accountability to stakeholders – not only to the government, but also to civil society and ordinary people.²⁴³

The World Bank, the Asian Development Bank (ADB), Japan, India and China in particular have a lot of leverage

²³⁹ "Press Notice" issued by TNA lawyers, 19 January 2012. See also S.S. Selvanayagam, "AG informs CA: Controversial circular would be withdrawn", *Financial Times* (Sri Lanka), 21 January 2012.

²⁴⁰ An analyst who has followed government land policy closely expects the circular will likely be adjusted by the attorney general to establish more clearly the non-judicial nature of the district review committees – something of concern to the court of appeal – but is unlikely to deviate very far from underlying principles of the circular, which followed closely from the May 2011 Cabinet paper. Crisis Group phone interview, February 2012.

²⁴¹ Yohan Perera, "PCs [Provincial Councils] likely to give land powers to Govt.", *Daily Mirror*, 1 February 2012. The legislation, which amends the Town and Country Planning Ordinance Amendment, requires approval of all provincial councils, since land is formally a devolved power, though not in practice. As the only council not controlled by the ruling party and with a Tamil-speaking majority, the eastern provincial council is the only possible obstacle to the government's plans.

²⁴² As of mid-February 2012, donors had provided only \$99.9 million – or 35 per cent – of the \$289 million needed for humanitarian and early recovery projects in the 2011 Joint Plan for Assistance (JPA) agreed by the UN and government. For more on the underfunding of the JPA, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section II.B.1. Money for infrastructure projects has been easier to come by: the vast majority of the funding and planning for the northern development projects listed in the 2010 annual report of the ministry of finance is for infrastructure: roads, railroads, electricity and water supply. Of the \$1.64 billion in committed foreign funds for projects in the north in 2010, only \$70.8 million were in the form of grants, the rest were loans or credit lines. See "Annual Report", Ministry of Finance and Planning, 2010, pp. 274-275. See note 244 below.

²⁴³ Expressing frustrations shared by many aid workers, a diplomat complains that by largely agreeing to work within the militarised and undemocratic parameters of development in the north, "donors have compromised on basic principles, like most other international actors. Conflict sensitive approaches in the Banks' programming, for instance, have simply failed and remained unsubstantiated, despite claims made in board and donor coordination meetings". Crisis Group email correspondence, March 2012. For a description of the World Bank's "conflict filter", see worldbank.lk. For a discussion of the Bank's conflict filter and the challenges of respecting principles of "conflict sensitivity" in development programming in Sri Lanka's north and east, see Crisis Group Asia Report N°165, *Development Assistance and Conflict in Sri Lanka: Lessons from the Eastern Province*, 16 April 2009.

and thus responsibility for what is happening in the north.²⁴⁴ Together they, and smaller bi-lateral donors, are supporting the fundamental political, social and economic transformation of the north, yet with no concerted effort to challenge the undemocratic, inequitable and potentially conflict-producing forms of development underway. Nor has there even been any collective insistence that the government provide clear information about its political vision for the post-war Northern Province.

Indeed, central to the Sri Lankan government's style of governance – whether in dealing with its own population or its international partners – is a resistance to committing to clear and public plans to which they can be held accountable. Instead, they pursue a deliberate strategy of keeping key policies either unwritten or fluid and contradictory enough to keep critics and observers off balance.

This has been true with respect to many of the most crucial issues in north: the original “180-day rapid resettlement” plan; the return of northern Muslims and other long-term IDPs; the risk of state-sponsored demographic changes; policies to distribute land and regulate land disputes; the forced relocation of IDPs to Kombavil;²⁴⁵ the role of the military in ruling the north; the timetable for elections to the northern provincial council; and plans for devolution of power. As part of this strategy, the government actively prevents INGOs, development agencies and the UN from gathering and sharing information about what is really happening in the north.²⁴⁶

²⁴⁴ China is by far the largest source of foreign funding to Sri Lanka, providing a quarter of the \$3.26 billion in foreign financing commitments in 2010. India provided 15 per cent, Japan 13 per cent, the World Bank and the ADB each 11 per cent, Russia 9 per cent, Australia 4 per cent, and other bilaterals combining for 12 per cent. In the north, India had committed \$446.4 million, mostly for the reconstruction of railroads; the ABD \$406.3 million, mostly in loans, for a variety of projects, not all of them infrastructure-related; China \$334 million, almost all it loans for road construction; the World Bank \$94.3 million in loans; and Japan \$38.4 million. “Annual Report”, Ministry of Finance and Planning, 2010, pp. 274-275.

²⁴⁵ Many of the 6,500 IDPs who remain in the main government camp of Menik Farm, in Vavuniya, are being moved to a newly constructed “village” carved out of the jungle in Mullaitivu district, close to the areas where the IDPs have had their homes, which remain inaccessible. For a detailed discussion of the situation, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section III.B.1.2.

²⁴⁶ This is partly an effect of the high levels of surveillance and impunity in the north and the resulting reluctance of many residents – including Sri Lankan employees of local and international NGOs – to speak freely and critically. It is also an effect of explicit PTF restrictions on needs assessments and other forms of information gathering. Examples of such restrictions

To respond effectively to the dangers of current government policies in the north, what is needed is not so much traditional aid conditionality as it is an insistence on adhering to certain ground rules for devising and implementing policies – based on principles of transparency, consultation and accountability. Donors and development agencies need to make sure – through collective and coordinated efforts – that their aid to the north is planned through widespread and meaningful consultation with those populations affected and their elected leaders and implemented through the civil administration, with no involvement of the military except in matters clearly relating to security. They should also insist on being able to actively consult with affected communities and their leaders and on their beneficiaries being able to speak freely and without intimidation. This is a crucial requirement for the kind of monitoring and protection work that almost all donors say they support.

For these changes to be possible, donors and development agencies will have to insist that the overall political context and development plan being supported establish a level-playing field rather than being ones that risk producing new conflicts or aggravating old ones. To this end, they should press for clear and inclusive policies from the government – on land, demilitarisation, prompt elections to the northern provincial council, and an end to impunity for human rights violations. The publication of the LLRC report – with its long list of useful recommendations on land issues, demilitarisation, and human rights and the rule of law – has potentially created new space for donors to engage with the government and advocate for meaningful reforms.²⁴⁷ Some bilateral donors – including India, the U.S. and European countries – have already used the report to raise these concerns publicly, but to be effective, the messages will need to be echoed by multilateral donors, too.

The collective agenda for reform should not be inflexible conditions for aid but should be pressed for consistently – and when possible, collectively – at all available opportunities, including the Human Rights Council, the meetings of the Commonwealth, and other international forums, but also, crucially, in Colombo. The leverage of those donors and development agencies with stated commitments to transparent and inclusive forms of development lies not in the threat of aid cut-off – clearly undermined by the large

are discussed in Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section II.B.6.

²⁴⁷ “It is important that the Northern Province reverts to civilian administration in matters relating to the day-to-day life of the people, and in particular with regard to matters pertaining to economic activities such as agriculture, fisheries, land, etc. The military presence must progressively recede to the background to enable the people to return to normal civilian life and enjoy the benefits of peace”. “LLRC Report”, op. cit., p. 376.

amount of assistance currently provided by China²⁴⁸ – but in consistent and public defence of basic humanitarian and political principles. Under international pressure over accountability for alleged war crimes and other human rights failings, the government has relied on its ability to paint a positive picture of the north and reconciliation through development. But this picture of progress is deceptive in many ways, and it should not be allowed to stand unchallenged. Donors should speak out when reality on the ground is so starkly at odds with what the government claims and when those they fund are prevented from doing their job in accordance with international standards and their own stated principles.²⁴⁹

Donor policies need to begin from a clear assessment of the real dangers involved in current government policies in the north. For this, Colombo's active attempts to limit and control information from and about the north must be resisted. To do this, donors should:

- ❑ Form a collective monitoring and evaluation unit, working in cooperation with implementing agencies, and insist that it be allowed to travel anywhere, talk to anyone (without surveillance or retribution) and publish its findings. There should be regular and collective fact-finding trips, including to Weli Oya, Kombavil, areas around the Jaffna HSZs and in the north, in particular Mannar and Jaffna, where Muslims are returning. These should be followed up by careful studies of the impact of donor assistance, especially on ethnic tensions and land disputes;
- ❑ Press for more regular and effective information sharing, between and within UN agencies and NGOs, while insisting that clear and reliable information relevant to donor-funded projects and the political and social context in which they are being implemented be made

publicly available – by the government, by the UN and by donor-supported INGOs; and

- ❑ Encourage and take part in coordinated responses to and public statements on government policies when they are directly at odds with international standards and basic principles of conflict prevention. The government should in particular be encouraged to clarify policies with the potential to produce demographic change in the north and to commit to due process with respect to land acquisition and distribution.

The October 2011 UN-endorsed guidelines limiting the extent of cooperation and communications between humanitarian agencies and Sri Lankan military authorities was a good initiative.²⁵⁰ The policy change was, however, long overdue and simply restated established international humanitarian standards and practices. Donors, including India, Japan and the World Bank and ADB, need to lend their support to the guidelines' implementation, especially as the PTF and ministry of defence have not officially endorsed them and there continues to be resistance from field level commanders.²⁵¹ More needs to be done, however. The lack of any public criticism from the UN or donors of the de facto forced relocation of thousands to Kombavil indicates for many humanitarian workers in Sri Lanka a continued reluctance to challenge government priorities publicly even when they call into question basic principles.²⁵²

²⁴⁸ See note 244 above.

²⁴⁹ This ranges from restrictions on programming and access, overly burdensome regulations, limitations on needs assessments and other information gathering, restrictions on visas, military monitoring of staff and other forms of intimidation. These issues are explored extensively in Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., especially sections II.B.6 and III.A. Many humanitarian workers complain in particular about the government's policy of not issuing visas for foreign staff for more three years. "Three years is an impediment to institutional memory and impacts on the quality of work that an organisation can do. We have not heard of any position on this from the UN or donors". Crisis Group email correspondence, senior aid worker, March 2012. Staff from both international humanitarian organisations have in the past had their visas cancelled as punishment for speaking publicly about humanitarian problems. Others, particularly staff with national NGOs, have been threatened. In 2007-2008, one survey found that 63 humanitarian workers had been killed.

²⁵⁰ "Guidelines on humanitarian communications with military authorities", United Nations Country Team and Humanitarian Country Team, Sri Lanka, October 2011. The guidelines prohibit military authorities from being given information regarding individual beneficiaries or staff members of programs and projects, being involved in humanitarian assessments, beneficiary selection processes and project evaluations, leading humanitarian coordination or review meetings, or monitoring or observing the delivery of humanitarian and development programs. For more on the guidelines, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section III.A.

²⁵¹ Crisis Group phone interviews, UN and INGO staff, March 2012.

²⁵² For more on the situation in Kombavil and the response of donors and the UN, see Crisis Group Report, *Sri Lanka's North II: Rebuilding under the Military*, op. cit., Section III.B.1.2. In the words of a senior humanitarian worker, "rather than raising their voice the UN are giving a procedural veneer to the government's plans. Despite the military repeatedly making it very clear about their plans, the UN still maintains that they cannot criticise without the government letting them know their plans in writing, as requested. ... While most donors have taken a firm stand privately and made clear they will not be footing any bills, history indicates that the elasticity of the 'humanitarian imperative' will eventually mean that UN and NGOs will fall in line". Crisis Group interview, September 2011. An official with UNHCR explains that "the UN's policy continues to be one of

VIII. CONCLUSION

By adopting policies that will bring fundamental changes to the culture, demography and economy of the Northern Province, the government of Sri Lanka is sowing the seeds of future violence there. Approaches that exclude the local population and neglect their economic, physical and cultural security needs will only nurture grievances. While the situation is calm now – the Tamil population is exhausted by war, broken by defeat and, after decades of LTTE tight control, sadly acclimatised to authoritarian rule – it will not necessarily remain that way.

Donors who are funding the reconstruction in the north have a responsibility to do more to avoid paying for policies that may lead to violence. The situation is not irreversible and could be turned around with an approach that followed general principles of participatory and transparent development. Political processes that gave the Tamil majority in the province a democratic voice in their future would go a long way to diminishing the risks.

The UN and donors must speak out against the failings of governance in the north and the undemocratic nature of decision-making there. All have a responsibility to go the extra mile to insist they are allowed to rebuild the post-war Northern Province in a manner that does not lead to renewed violence.

Colombo/Brussels, 16 March 2012

APPENDIX A

MAP OF SRI LANKA



APPENDIX B

MAP OF SRI LANKA'S NORTHERN PROVINCE



Based on UN map No. 4172 Rev. 3 (March 2008) and OCHA map of Sri Lanka's Northern Districts Administrative Map (2006).
The boundaries, names and the designations used on this map do not imply official endorsement or acceptance by the United Nations or Crisis Group.

APPENDIX C

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by former U.S. Undersecretary of State and Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

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