

# **SRI LANKA'S RETURN TO WAR: LIMITING THE DAMAGE**

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## SRI LANKA'S RETURN TO WAR: LIMITING THE DAMAGE

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

Sri Lanka is in civil war again, and there are no prospects of a peace process resuming soon. On 2 January 2008, the government announced its withdrawal from a ceasefire agreement with the Liberation Tigers of Tamil Eelam (LTTE). This formalised a return to conflict that has been underway since 2006 but also presaged worse to come. The humanitarian crisis is deepening, abuses of human rights by both sides are increasing, and those calling for peace are being silenced. There is no present chance of a new ceasefire or negotiations since the government, despite pro forma statements in favour of a political solution, is dependent on hardliners and appears intent on a military decision. International actors must concentrate for now on damage limitation: protecting civilians from the war's worst effects and supporting those working to preserve Sri Lanka's democratic institutions.

In addition to heavy fighting in the north, the first weeks of 2008 have seen the assassinations of a government minister and a Tamil opposition member of parliament, multiple bombings in Colombo, a wave of deadly attacks on civilians in the majority Sinhalese south, and widespread disappearances and killings of non-combatants in the north and east. More than 5,000 combatants and civilians are estimated to have been killed over the past two years. At least 140,000 have fled intensified fighting in the north, and more are likely to be forced out if the military continues its push into Tiger-controlled territory. If the government's military approach in the east is a precedent for its conduct of the northern campaign, civilians and their property are at grave risk.

Much of the blame for the resumption in violence lies with the LTTE; its ceasefire violations and abuses of the population under its control pushed the government towards war. The Tiger strategy was to shore up internal support by provoking a Sinhala nationalist reaction; it worked, although the insurgents may come to regret their approach. President Mahinda Rajapaksa has also overplayed his hand. Relying on support from Sinhala extremists, he has let them set an agenda that allows only for a military approach.

The military and much of the government leadership believe they can defeat or permanently weaken the Tigers by the end of 2008. The LTTE has been badly hurt over the past

eighteen months: it has lost the areas it controlled in the Eastern Province; its arms routes have been disrupted; hundreds, perhaps thousands, of its fighters have been killed; and senior commanders are now vulnerable to targeted elimination, either from air force bombs or special forces. But the Tigers remain a formidable fighting force. While the army has been inching forward in the north, they are fighting back from well-defended positions. Even assuming the Tigers can be defeated militarily, it remains unclear how the government would pacify and control the large Tamil-speaking areas in the north that have been under LTTE domination for a decade or more.

The government argues its military campaign will clear the way for a political solution. Vowing to "eradicate terrorism", it says it aims to destroy the Tigers or force them to disarm and enter democratic politics and negotiations alongside other Tamil and Muslim parties. But after promising for more than a year to undertake substantial constitutional reforms once the All-Party Representative Committee (APRC) recommended them, it now proposes only to "fully implement" the constitution's long-existing Thirteenth Amendment. The limited devolved powers for the north and east that this would represent are unlikely even in the best case to be sufficient to win over many Tamils or Muslims, though they could be a useful start if implemented sincerely. Since President Rajapaksa has chosen to depend on strongly Sinhala nationalist parties for his government's survival, however, this seems unlikely.

Meanwhile, ethnic divisions are deepening. The humanitarian costs of the war are concentrated in Tamil-speaking areas. In Colombo, security forces have conducted large, often indiscriminate arrests of Tamils under emergency regulations. But Muslims are under pressure from both the Tamil Makkal Viduthalai Puligal (TMVP), a paramilitary group which broke from the Tigers and operates with the government's blessing, and government-sponsored land and administrative changes. The much touted "liberation" of the Eastern Province has failed to bring development or democracy; instead it has been characterised by military rule and rising ethnic tensions. The government will lose an opportunity to set up a democratic alternative to the LTTE in the east if it

fails to rein in the TMVP ahead of a series of elections scheduled to begin in March 2008.

The human rights and governance crisis continues unabated, with paralysis of the institutions empowered to investigate and prosecute, and consequent impunity for abusers. The many ad hoc commissions of inquiry of the past two years have accomplished nothing, while disappearances and political killings continue, especially in Jaffna and other parts of the north. Both the Tigers and the TMVP continue to recruit and make use of child soldiers, despite repeated pledges to UN agencies and others not to.

The current conflict is worse than what preceded the 2002 ceasefire. The government's counter-insurgency campaign is more brutal and indiscriminate, the terror and criminal activities of its Tamil proxy forces more extensive and blatant, and the role of chauvinistic Sinhala ideologues in government more pronounced. The suspected involvement of pro-government forces in the assassinations of Tamil politicians is particularly disturbing. The Tigers have fully militarised life in areas under their control and returned to brutal attacks on Sinhalese civilians, intent on provoking even worse retaliation.

As unpromising as present circumstances are, the government should be alert to any opportunities that arise to promote a new peace process. Meanwhile, the international community needs to use its limited leverage for the time being to prevent further deterioration, while developing strategies to strengthen the moderate, non-violent forces still committed to a peaceful and just settlement and to build the middle ground – significantly beyond the unitary state but far short of a separate Tamil state – that will be necessary if a lasting political solution is to gain traction once political conditions are better. This will require pressing the Tigers and their supporters to abandon terrorism and separatism, while simultaneously encouraging a new consensus in the south in support of constitutional and state reforms.

## **RECOMMENDATIONS**

### **To the Government of Sri Lanka:**

1. Meet basic humanitarian needs and protect civilians from the effects of war by:

- (a) conducting all military operations in strict accordance with international law;
- (b) guaranteeing full and prompt access for UN agencies and humanitarian organisations, with adequate medical supplies, to LTTE-controlled areas; and
- (c) defending UN agencies and international humanitarian organisations against unfounded

allegations by hardline politicians and parties and guaranteeing the safety of all humanitarian workers, Sri Lankan and foreign.

2. Take all necessary steps to protect the fundamental human rights of all citizens, including:
  - (a) conducting anti-terrorist operations in accordance with both domestic constitutional guarantees and international human rights and humanitarian law;
  - (b) investigating fully all allegations of disappearances and killings carried out by state forces or militant groups aligned with the state and prosecuting when credible evidence is available;
  - (c) passing through parliament a witness protection law that takes into account suggestions from civil society organisations and the International Independent Group of Eminent Persons (IIGEP);
  - (d) accepting the proposed UN High Commissioner for Human Rights (UNHCHR) office in Sri Lanka with adequate powers to monitor and report on human rights violations throughout the country; and
  - (e) guaranteeing the protection of media personnel and investigating fully recent attacks on journalists.
3. Develop the Eastern Province equitably, transparently, inclusively and effectively by:
  - (a) delaying local and provincial elections until the illegal activities of all armed groups, including the TMVP, are curtailed and adequate security for all political parties is guaranteed by the police and legitimate security forces;
  - (b) ending de facto military rule over large parts of the Eastern Province and ensuring that politicians and civil servants of all ethnicities have a major role in planning and decision making; and
  - (c) guaranteeing full access for UN agencies and humanitarian organisations in the newly cleared areas.
4. Pursue vigorously political reforms that address the legitimate rights and needs of all citizens and ethnic communities in a united and democratic Sri Lanka by:
  - (a) granting the Eastern Provincial Council, once constituted, all allowable powers under the

- Thirteenth Amendment, including for police, finance, land and education;
- (b) publicly committing to pursue in the near future more substantial constitutional reforms, including power-sharing at the centre; and
  - (c) requesting the APRC to publish its proposals for constitutional reforms by the Sinhala and Tamil New Year (mid-April 2008), even if full consensus has not been reached.

**To the President:**

5. Establish immediately the Constitutional Council and request it to nominate new members to all independent commissions.

**To all Political Parties:**

6. Monitor closely implementation of the Thirteenth Amendment, work to ensure that maximum powers are granted to the Eastern Provincial Council once it is established after free and fair elections, and press the government to keep constitutional reform high on the agenda.

**To the Constituent Parties of the All-Party Representative Committee (APRC):**

7. Submit final proposals for constitutional reforms, including power sharing, by mid-April 2008, if necessary with majority and minority reports.

**To the United National Party:**

8. State publicly willingness to support in parliament reasonable devolution and power-sharing proposals that go beyond the limits of the unitary state, once these are submitted by the APRC.

**To the Liberation Tigers of Tamil Eelam (LTTE):**

9. Cease all attacks on civilians, suicide bombings, forced recruitment and repression of media freedom and political dissent and respect fully international human rights and humanitarian law.
10. Abandon publicly the demand for an independent Tamil state (Eelam) and announce willingness to negotiate within the framework of a united Sri Lanka.

**To the International Community, in particular Japan, Norway, the EU, the U.S., India, Australia, South Korea and Other Asian States, as well as the United Nations:**

11. Recognise that the 2002 peace process having now run its course:

- (a) the Co-Chairs of the Tokyo Donors Conference (Norway, Japan, the U.S. and the EU) no longer have, as such, a clear peacemaking role; and
  - (b) there needs to be deepened cooperation between India, the EU and the U.S., with the goal of eventually developing a more politically powerful contact group.
12. Strengthen efforts to convince the government to accept a fully staffed UNHCHR office, able to monitor and report on rights violations throughout the country.
  13. Continue support for constitutional power-sharing reform to address legitimate minority grievances, monitor Thirteenth Amendment implementation and urge the APRC to submit its proposals by mid-April 2008.
  14. Strengthen efforts to close down the LTTE's global financing and supply networks.
  15. Cooperate with UK authorities in gathering evidence for possible prosecution of former TMVP leader Karuna on war crimes and human rights violations charges.
  16. Speak out more regularly in defence of UN agencies and international humanitarian organisations and for the safety of all humanitarian workers, Sri Lankan and foreign.

**To Donor Governments and International Financial Institutions:**

17. Promote respect for the Guiding Principles for Humanitarian and Development Assistance agreed by donors and the Sri Lankan government in 2007 by forming a donor task force to investigate political and conflict dynamics in the Eastern Province and report publicly on the best way to ensure equity, inclusiveness and transparency.

**To the United Nations Security Council Working Group on Children and Armed Conflict:**

18. Recommend that the Security Council impose targeted sanctions on both the Tigers and the TMVP for continued recruitment and use of child soldiers.

**Colombo/Brussels, 20 February 2008**

## SRI LANKA'S RETURN TO WAR: LIMITING THE DAMAGE

### I. INTRODUCTION

Even before Sri Lanka's government withdrew in January 2008 from the ceasefire agreement (CFA), the Norwegian-led peace process and ceasefire on which it was built had ceased to be relevant.<sup>1</sup> Plagued by violations, primarily by the insurgent Liberation Tigers of Tamil Eelam (LTTE), the ceasefire collapsed in July 2006. From then, both sides engaged in the full range of offensive military actions, including artillery and ground assaults, air and naval raids, ambushes and use of mines, and committed many human rights violations against civilians. The war intensified in 2007, and the government is now pressing its advantage in the north, hoping for a knock-out blow. The rebels are fighting back, increasingly with brutal attacks on civilians in government-controlled areas.

In addition to the conflict's humanitarian costs, Sri Lanka is experiencing growing ethnic tensions, violence against journalists and dissenting politicians, and extensive human rights abuses: disappearances, forcible child recruitment, political killings and abductions. Democratic institutions are under assault across the country, and dangerous trends are emerging of more centralised power, military autonomy and radicalisation of Muslims in the east.

This report, based on interviews with politicians, civil servants, diplomats, aid workers, human rights activists and military analysts, explores the costs and likely course of the war.<sup>2</sup> While the Tigers are under intense military pressure, a decisive government victory remains very difficult to achieve; moreover, were it to be achieved, the conflict would likely continue in a new form, especially so long as there was no genuine devolution of power to the north and east. The report analyses the government's recent proposals for limited devolution and argues that much more is needed, both to address the legitimate grievances

of minorities and to support the transformation or defeat of the insurgency.

Neither side is interested in compromise, and there appears to be no room in the near term for peace initiatives or a ceasefire. But the government and the international community can do much to mitigate the damage. This report sketches an agenda for urgent humanitarian and human rights measures, equitable, democratic development in the Eastern Province and constitutional reforms. It urges greater international pressure on the LTTE's financial and arms networks and argues that it must undergo a major transformation prior to any involvement in new negotiations. Finally, it suggests the need to move beyond the 2002 peace process and establish a new architecture of international support for peace.

<sup>1</sup> See Crisis Group Asia Reports N°124, *The Failure of the Peace Process*, 28 November 2006; N°134, *Sri Lanka's Muslims: Caught in the Crossfire*, 29 May 2007; N°135, *Sri Lanka's Human Rights Crisis*, 14 June 2007; and N°141, *Sri Lanka: Sinhala Nationalism and the Elusive Southern Consensus*, 7 November 2007.

<sup>2</sup> For fear of retribution from the government, the LTTE or other armed groups, few sources would speak on the record.

## II. THE RETURN TO WAR

### A. THE END OF THE CEASEFIRE

The return to conflict began soon after Mahinda Rajapaksa's election as president in November 2005.<sup>3</sup> Almost immediately the Tigers, in the guise of independent "people's militias", began attacks on security forces with the clear intention of provoking war. The government initially reacted with restraint.<sup>4</sup> A major military response – air attacks on suspected LTTE camps in the Eastern Province – came only after a failed suicide bombing against the army commander, Sarath Fonseka, in April 2006. Full-scale fighting began in late July 2006 in the Eastern Province when the army's effort to reopen an irrigation canal closed by the LTTE sparked a counter-attack that led to a major campaign to retake the large areas of the east under LTTE control. After almost a year of fighting, in which hundreds of thousands of civilians were displaced and tens of thousands of homes damaged, destroyed and looted, the government declared the east liberated in mid-July 2007.

Fighting intensified at the end of 2007 as the military sought to retake areas in the north. Since September, Gotabhaya Rajapaksa, the defence secretary and brother of the president, has repeatedly said the government is committed to defeating the Tigers militarily and seeks to kill their leader, Vellipulai Prabhakaran,<sup>5</sup> who, in turn, used his annual "Heroes Day" speech in November 2007 to declare that negotiations were pointless and call on Tamils to support a renewed military struggle for independence.<sup>6</sup>

Troops have been pressing the Tigers from all sides – north east of Mannar, near Vavuniya, in the north east region of Weli Oya and in the Jaffna peninsula – probing

for weak spots. While they have yet to win back large areas, the shelling and aerial bombing have killed hundreds of rebels.<sup>7</sup> The government downplays its own casualties, but most analysts suspect they are higher than reported.<sup>8</sup>

The LTTE claims to have made a "strategic withdrawal" from the Eastern Province, but, though not a spent force, it is under severe pressure. It has held most of its positions in the north and attacked in government areas. The most damaging was the 22 October 2007 combined land and air assault against an airbase in the north central town of Anuradhapura, in which 21 suicide troops destroyed at least a dozen aircraft and damaged many others.<sup>9</sup> As it was underway, two of the Tigers' small fleet of propeller aircraft dropped bombs. Though none of the four attacks by the "Air Tigers" have produced significant damage to date, their propaganda value – especially the 21 April 2007 attack on Colombo that provoked uncoordinated anti-aircraft fire across the city – has been considerable.

In late 2007 the Tigers began brutal bus bombings across the country, beginning with an attack in the north central Anuradhapura district on 5 December. With the end of the CFA came a 16 January 2008 attack on a civilian bus in the remote south central town of Buttala, which killed 32 and injured more than 60; a 2 February attack on a bus in the central town of Dambulla, which killed eighteen and injured scores; and a 4 February attack in the north eastern area of Weli Oya, which killed more than a dozen and injured as many.<sup>10</sup>

The Tigers showed they can strike in and around Colombo, with a suicide bombing at the main rail station on 3 February 2008 that killed twelve and wounded nearly 100. Other recent attacks included the assassination of Minister D.M. Dassanayake on 8 January, a claymore bomb used against a military bus on 1 January and a failed suicide bombing against their old Tamil rival, Minister Douglas

<sup>3</sup> Almost from its beginning the ceasefire was marred by violence, with the Tigers slowly but systematically assassinating hundreds of Tamil political rivals and government intelligence operatives and forcibly recruiting children. Eventually their violence began to be matched by their former commander, Karuna, who broke with the Tigers in April 2004. By 2005 there were regular clashes between the two groups, with Karuna receiving assistance from government elements.

<sup>4</sup> A counter-insurgency campaign by government forces and/or armed Tamil groups with government ties against Tamil civilians suspected of LTTE links had already begun by December 2005. Early examples were the murder of Tamil National Alliance parliamentarian Joseph Pararajasingham in Batticaloa, 24 December 2005, and the murder of five Tamil students in Trincomalee in January.

<sup>5</sup> "Government's aim to weaken Tigers – Gotabhaya", *Daily News*, 28 November 2007.

<sup>6</sup> The full text of Prabhakaran's speech is available at [www.san-gam.org/2007/11/HeroesDay\\_Speech\\_2007.php?uid=2646](http://www.san-gam.org/2007/11/HeroesDay_Speech_2007.php?uid=2646).

<sup>7</sup> The military claims large numbers of Tiger fighters killed almost daily. According to its spokesperson, more than 4,800 were killed in 2006-2007, against just over 1,200 government personnel, Crisis Group interview, Colombo, January 2008.

<sup>8</sup> It is impossible to verify either military or LTTE claims of killed and wounded, as no independent sources are allowed near the battle areas. It is clear, however, that each side downplays its losses and inflates those of the other side. "Both sides hide the numbers of their own men lost", said an aid worker, Crisis Group interviews, Colombo, January 2008. See also Ravi Nessman, "Warring sides in Sri Lanka give competing versions of fighting", Associated Press, 12 December 2008.

<sup>9</sup> Iqbal Athas, "Pre-dawn pounce", *Sunday Times*, 28 October 2007.

<sup>10</sup> Amal Jayasinghe, "Sri Lanka stages mass funerals after Freedom Day bloodshed", Agence France-Presse, 5 February 2008; and Eranga Jayawardena, "18 killed in Sri Lanka bus blast", Associated Press, 2 February 2008.

Devananda, on 28 November 2007. They have also launched small guerrilla raids on police, military and civilians in the Southern and Eastern Provinces.<sup>11</sup>

## B. THE POLITICS OF WAR

Since the resumption of offensive military operations against the Tigers in late July 2006, the government has framed its military actions as part of the global “war on terrorism” and thus deserving of international support.<sup>12</sup> Even as it claimed to respect the CFA and to be committed to a negotiated solution, it argued that it was engaged in a “humanitarian” campaign “to liberate the innocent and miserable masses of the north, who are in grave and imminent danger at the hands of the LTTE”.<sup>13</sup>

Recognising that international opinion supported the CFA, the government argued throughout 2007 that its military actions were defensive and did not amount to renewed war. It claimed it wanted to weaken the Tigers so they would return to negotiations ready to compromise. As late as November the president said he was willing to talk, but the Tigers were resisting.<sup>14</sup> At the same time, however, the government labelled the Tigers terrorists, vowed to eradicate their threat and regularly claimed its critics were in rebel pay. By the latter half of 2007, it was more explicit that its goal was to “defeat the LTTE militarily” and win back LTTE areas.<sup>15</sup> In November the president vowed to parliament to “eradicate” terrorism from Sri Lanka, arguing that the Tigers had “demonstrated that they will never be ready to surrender arms and agree to a democratic political settlement”.<sup>16</sup> “We have to defeat them militarily, we have to control the Wannu”, Defence Secretary Gotabhaya Rajapaksa told journalists the same month.<sup>17</sup>

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<sup>11</sup> Ruwan Weerakoon, “Tigers: Yala’s latest attraction”, *Bottom Line*, 14 November 2007. The Tigers are also reported to have begun to infiltrate the north eastern town of Trincomalee, Crisis Group interviews, diplomats and aid workers, Colombo, November 2007.

<sup>12</sup> Address by President Mahinda Rajapaksa to the 62nd Session of the UN General Assembly, 25 September 2007, at [www.un.org/webcast/ga/62/](http://www.un.org/webcast/ga/62/).

<sup>13</sup> “Rally round government to liberate Northern masses – President”, *Daily News*, 31 December 2007.

<sup>14</sup> Ranil Wijapala, “Doors open for talks – government”, *Daily News*, 1 December 2007.

<sup>15</sup> “Government aim to weaken Tigers – Gotabhaya”, *Daily News*, 28 November 2007.

<sup>16</sup> Anusha Ondaatjie and Paul Tighe, “Sri Lanka Suicide Bomber Targets Minister in Colombo”, Bloomberg, 28 November 2007.

<sup>17</sup> The Wannu is the jungle area in the Northern Province controlled by the LTTE. “Sri Lanka vows to kill Tamil Tiger leader”, Agence France-Presse, 26 November 2007.

Government and military leaders say they are confident the Tigers are on the ropes and can be beaten. In a year-end press release, the army, air force and navy chiefs “expressed confidence that 2008 would be a decisive year for ... eliminating terrorism from Sri Lanka since they were already on course towards accomplishing this task”.<sup>18</sup> At the same time, the government continues to say it is committed to a political solution that would satisfy legitimate Tamil grievances. On 23 January 2008, it announced proposals for implementing existing constitutional provisions for limited devolution of power to the Northern and Eastern Provinces and promised they were the first step toward more substantial power-sharing when political conditions allowed.

## C. INTERNATIONAL REACTION

The government’s 2 January 2008 announcement that it was formally abrogating the ceasefire agreement was greeted with dismay and criticism by most of Sri Lanka’s traditional supporters. Expressing “their strong concerns”, the four co-chairs of the peace process – Japan, the U.S., the EU and Norway – repeated their conviction that “there is no military solution to the conflict in Sri Lanka, and reiterate[d] their support for a negotiated settlement”.<sup>19</sup> The attempt to defeat the Tigers is widely seen as undermining the possibility of a political solution, but little has been done to make it harder for the government to pursue the war.<sup>20</sup>

Critics face a dilemma, and the government has taken advantage of this. Western powers, India and Japan do not believe the Tigers can be beaten and worry about the damage to ethnic relations and democracy from new fighting. However, all want to see the Tigers weakened and are constrained by knowledge that if they do not give the government military support, others – chiefly Pakistan and China – will pick up the slack. India in particular worries about growing Chinese and Pakistani military support and influence, and is widely reported to have increased military aid in response. That even the strongest critics of the renewed war and consequent human

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<sup>18</sup> “Military chiefs predict end of Tigers in 2008”, *Daily News*, 31 December 2007.

<sup>19</sup> “Joint Statement by the Co-Chairs of the Tokyo Conference”, 2 January 2008, at [www.norway.lk/press/2008.htm](http://www.norway.lk/press/2008.htm).

<sup>20</sup> The only notable reduction in military aid has been a December 2007 U.S. law prohibiting military sales, export licences or training unless the secretary of state certifies that the government has met human rights conditions. It exempts “technical data or equipment made available for the limited purposes of maritime and air surveillance and communications”, “Policy of Denial for Defense Export Licenses for Sri Lanka”, Department of State, directorate of defense trade controls, at [www.pmdtc.state.gov/suspension\\_sri\\_lanka\\_exportlicenses.htm](http://www.pmdtc.state.gov/suspension_sri_lanka_exportlicenses.htm).



rights violations continue to help the military has undercut their public statements.<sup>21</sup> U.S. and UK criticism has lost some force due to excessive use of “global war on terror” rhetoric and, at least in government eyes, some practices in the Iraq and Afghanistan conflicts.<sup>22</sup>

### III. A MILITARY PATH TO A POLITICAL SOLUTION?

#### A. WILL THE MILITARY CAMPAIGN WORK?

The government's campaign in the north is designed as a war of attrition. Having learned a lesson from earlier periods of the conflict, the government is avoiding trying to win territory quickly by frontal assault. Instead, massive artillery and aerial bombing of Tiger forward defence lines aims to weaken defences sufficiently for measured ground assaults. The military is confident the Tigers are short of ammunition and have limited capability to counter-attack.

The navy claims it sunk seven ships carrying arms and supplies to the Tigers in 2007, in some cases hundreds of miles from Sri Lanka's shores, and says this represents the bulk of the rebels' maritime supply network.<sup>23</sup> Military analysts generally agree that these successes – due in part to increased intelligence cooperation from foreign governments – have significantly degraded the LTTE's resupply ability.<sup>24</sup> The Indian navy's increased patrols of the Palk Strait, separating Sri Lanka from southern India, have also reportedly disrupted smuggling routes.<sup>25</sup>

More effective air attacks are another source of the government's increased confidence the Tigers can be beaten. It controls the skies and has improved its air support for ground operations.<sup>26</sup> Better intelligence and new weapons allow more accurate attacks. The 2 November 2007 killing of the leader of the LTTE's political wing, S.P. Thamilchelvan, resulted from a targeted strike on a bunker, and the government has since repeatedly boasted of its ability to hit rebel leaders. A number of other senior LTTE leaders have been killed recently by “deep penetration units”,<sup>27</sup> and the government claims to have

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<sup>21</sup> By far the largest suppliers of weapons and ammunition to the military are China and Pakistan, with Israel, Ukraine and the Czech Republic also making significant sales, SIPRI Arms Transfers Database; and Crisis Group interviews, diplomats and defence analysts, Colombo, December 2007. Many states critical of the return to war still supply military equipment and training. Between 2002 and 2007, the U.S. provided \$109 million in training, grants, arms sales and approved private arms sales, data compiled by the Center for Defense Information, based on published government figures. EU member states, including the UK, continue to supply weapons, training and other forms of defence cooperation. India supplies defensive equipment, notably radars, and assists in combating LTTE arms smuggling. Japan gives no military aid, but its statements opposing Sri Lanka's military actions have been mild, and it remains the government's largest source of foreign assistance, with no political conditions attached.

<sup>22</sup> In an interview with foreign journalists in June 2007, Defence Secretary Gotabhaya Rajapaksa argued that “when the U.S. does operations, they say covert operations. When something is [done] in Sri Lanka, they call it abductions. This is playing with words....When America is attacked ... every country [calls it] war against terrorism, but why are the terrorists being treated in a different way in Sri Lanka?” “Lanka being bullied by west – Gotabhaya”, *Daily Mirror*, 13 June 2007.

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<sup>23</sup> “Sri Lanka Navy: the most experienced and efficient in combating unconventional warfare at sea”, Media Centre for National Security, 9 December 2007, available at [www.nationalsecurity.lk/fullnews.php?id=9192](http://www.nationalsecurity.lk/fullnews.php?id=9192).

<sup>24</sup> Crisis Group interviews, senior diplomats and retired military commanders, Colombo, December 2007. See “World's Tamils can only watch as Sri Lanka edges closer to war”, *Sydney Morning Herald*, 12 January 2008.

<sup>25</sup> “Indian Navy continues to boost security near Sri Lanka”, *India Defence*, 2 April 2007, at [www.india-defence.com](http://www.india-defence.com).

<sup>26</sup> Crisis Group interviews, senior diplomats and retired military commanders, Colombo, December 2007.

<sup>27</sup> The ambush killing of the LTTE's chief of military intelligence, Charles, in Mannar on 6 January 2008 was another government success, D.B.S. Jeyaraj, “Deep penetration squads notch up successes against the LTTE”, *The Nation*, 13 January 2007. The military has also recently killed the LTTE's Batticaloa military commander, Lt. Shankar, “LTTE Batti leader killed”, *Daily Mirror*, 10 January 2008.

injured Prabhakaran with a bunker busting bomb in late November.<sup>28</sup>

According to a humanitarian worker with experience in the north, "the government's strategy is to make life more and more uncomfortable in the Wanni. While targeting Prabhakaran and the top leadership, they would like there to be an internal collapse in the north. This would allow them to avoid invasion and major casualties. The Tigers' strategy is simply to survive beyond 2008".<sup>29</sup>

Signs abound that the LTTE is under significantly greater pressure than at any recent time. It is reportedly short on fighters and forcibly and extensively recruited, including among children, throughout 2007. Many front-line casualties are thought to have been recent recruits and underage.<sup>30</sup> The government's military spokesperson says the LTTE lost more than 4,800 fighters in 2006 and 2007, as against 1,241 government military and police.<sup>31</sup> Published defence ministry figures claim more than 1,200 rebels and 100 soldiers were killed in the first six weeks of 2008.<sup>32</sup>

Nonetheless, a variety of factors could derail the government's strategy, and the military's slow but steady pace may be difficult to maintain if it fails to produce noticeable results within six to nine months. At present, the war is backed by a large majority of Sinhalese, but much support is predicated on the belief the Tigers are on the verge of defeat.<sup>33</sup> If the sense of imminent victory wanes, public willingness to accept the burdens of war could also flag.

The financial cost is already significant. The 2008 record \$1.5 billion military budget is blamed for a significant fraction of the 26 per cent annual inflation rate, as the government prints additional money to cover a large

deficit.<sup>34</sup> The war and Tiger terrorist attacks in the south have taken a toll on tourism.<sup>35</sup> If the Tigers hit economic targets in the south, as they threaten, the pressures would worsen.

Domestic support also depends on holding down casualties and limiting the ability of the Tigers to strike in the south. Because the LTTE is dug into well-fortified and heavily-mined defences, the military has been reluctant to launch large assaults, but "at some stage this year, they'll have to move forward, if only for political reasons. And at that point, government casualties could mount significantly".<sup>36</sup>

The bus bombings and other rebel attacks on civilians since the government announced its withdrawal from the ceasefire seem aimed at expanding the sense of insecurity throughout the Sinhalese south, which earlier smaller attacks in Colombo had not done. They also suggest the LTTE is less concerned with international opinion and is willing to risk increased criticism if it can weaken Sinhalese support for the war or provoke reprisals against Tamil civilians that will hurt the government's international standing.

The government will need to carefully contain or cover up the humanitarian costs if it is to retain India's de facto support for the war. Tamil Nadu opinion is unhappy with the military approach but not yet sufficiently inflamed to cause problems for the Congress-led government in Delhi. If an attempt to recapture the rebel-controlled area of Wanni produces many refugees to south India, as in the past, or if there is news of large-scale death and destruction, however, the Indian government will come under increased pressure from its Tamil Nadu political allies to act. This could result in reduced intelligence or other assistance.<sup>37</sup>

For all these reasons, a long war will be hard to sustain, both economically and politically. The Tigers need only to hold on and maintain their ability to fight. After nearly six months of intense fighting, the government has yet to

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<sup>28</sup> "We are specifically targeting their leadership", said Defence Secretary (and brother of the president) Gotabhaya Rajapaksa, "Sri Lanka vows to kill Tamil Tiger leader", Agence France-Presse, 26 November 2007.

<sup>29</sup> Crisis Group interview, Colombo, January 2008.

<sup>30</sup> Crisis Group interviews, diplomats and aid workers, Colombo, December 2007.

<sup>31</sup> Crisis Group interview, Colombo, January 2008. See also "LTTE will be defeated by year-end: Sri Lanka Army chief", *News Post India*, 12 January 2008.

<sup>32</sup> "Civilian death toll reaching 'appalling levels'", IRIN, 18 February 2008.

<sup>33</sup> A recent poll indicated Sinhalese overwhelmingly support the government's military strategy, Tamils overwhelmingly oppose and Muslims are evenly divided, "Peace Confidence Index", Centre for Policy Alternatives, November 2007, at [www.cpalanka.org/research\\_papers/PCI\\_November\\_2007\\_R\\_EPORT.pdf](http://www.cpalanka.org/research_papers/PCI_November_2007_R_EPORT.pdf).

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<sup>34</sup> Large increases in oil and other commodity prices are also a major inflation factor, "Sri Lanka inflation rockets to new record of 26.2% amid money printing", *Daily Mirror*, 22 January 2008. But see also "Sri Lanka central bank says no excessive money printing", Lanka Business Online, 23 January 2008.

<sup>35</sup> According to government figures, tourist arrivals were down nearly 12 per cent in 2007. Anecdotal evidence suggests a greater decline. "Monthly Statistical Bulletin - December 2007", Sri Lanka Tourist Board, at [www.sltbstatistics.org/msb](http://www.sltbstatistics.org/msb).

<sup>36</sup> Crisis Group interview, humanitarian aid worker, Colombo, January 2008.

<sup>37</sup> A widely held view is that India will not let the government completely defeat the Tigers so long as it has made no political proposal attractive enough to win moderate Tamils' support, Crisis Group interviews, diplomats and retired military commanders, Colombo, December 2007-January 2008.

advance more than a few kilometres. According to many analysts, the LTTE may well still be keeping its best fighters in reserve.<sup>38</sup>

In the event the Tigers were defeated on the battlefield and their de facto state in the north dismantled, the conflict would be far from over. Some form of violent resistance is almost certain. Until the underlying political grievances were addressed, the north could likely be governed only with a massive security presence and much repression. Analysts believe the military would need many more troops to keep control of the Northern and Eastern Provinces while also protecting Colombo.<sup>39</sup> There are perhaps one million Tamils in the Northern Province alone, many of whom have lived under Tiger rule for a decade or more and have received weapons training and/or fought with the rebels. Evidence from the counter-insurgency operations in Jaffna and the Eastern Province, especially formerly LTTE-controlled areas, suggests government forces have difficulty trusting such Tamils. The 600 civilians who went missing when the army captured the Jaffna peninsula in 1995-1996 suggest the scale of a potential catastrophe.<sup>40</sup>

The government's offensive, together with its attendant security measures and human rights violations, has already generated renewed support both within Sri Lanka and among the diaspora for the Tigers, whom many Tamils see as their only protectors.<sup>41</sup> A diplomat said, "the government needs to realise this war can be won only if they have Tamils on their side. But the government has done everything to push them away....The LTTE are now being seen as good boys by many Tamils".<sup>42</sup> So long as there is widespread support for separatism and militancy in the diaspora, peace in Sri Lanka will be hard to come by. Money for weapons and explosives will likely continue to reach Sri Lanka, even with tightened international controls.

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<sup>38</sup> Crisis Group interviews, Colombo, January 2008.

<sup>39</sup> A retired military commander said, "in my view you need twice the troop strength we have now....To make any impression in the north will be hard with so many troops needed in Colombo and in the east". A Western diplomat said, "the government could win it if they had double the people and more money – but this isn't going to happen", Crisis Group interviews, Colombo, November-December 2007.

<sup>40</sup> For a discussion of the Jaffna disappearances, see Crisis Group Report, *Sri Lanka's Human Rights Crisis*, op. cit., p. 5.

<sup>41</sup> Crisis Group interviews, London and Colombo, November-December 2007. While many Tamils in Colombo and the diaspora feel the Tigers' fight must go on, attitudes seem different in the east, where many are happy the war and displacement are over. The relief, however, is tempered by insecurity due to the activities of armed groups aligned with the government.

<sup>42</sup> Crisis Group interview, Colombo, December 2007.

What of the argument, advocated by less hawkish members of government and their supporters, that sustained military pressure can weaken the Tigers and persuade them to return to negotiations in a more reasonable frame of mind?<sup>43</sup> Such a strategy might work only if the government was prepared to implement political proposals offering Tamils a realistic chance of sharing power and administering their own affairs. Without the pressure on the Tigers that such proposals would generate from Tamils themselves, it is hard to see the rebels making real concessions, even if weakened militarily. There are no signs the government intends to make such proposals. Instead, it seems determined to extend its eastern strategy to the north. A veneer of democracy would be created by deeply flawed elections, and Tamil armed groups would be used to police the local population, while real political power would remain with the central government.<sup>44</sup>

There is also no sign the government would be willing to shift tactics and start negotiations if it felt it was making military progress. The military would not want to stop if it believed it had the Tigers on the run. There would instead be strong political and institutional pressure to "complete the job", especially from the Janatha Vikmukthi Peramuna (JVP) and the Jathika Hela Urumaya (JHU), Sinhala nationalist parties whose support the government needs to survive.<sup>45</sup> A triumphant military and its political allies are also not likely to be a force for a fair settlement of underlying grievances. If negotiations with the Tigers are to be possible again, the attempt to defeat them will likely have to fail. But the cost of the war to civilians can be expected to reinforce Tiger control over Sri Lanka and diaspora Tamils, thus making them less interested in concessions.

The government's commitment to defeating the LTTE militarily is thus a major gamble, whose limited chance of success is already being purchased at huge cost. Any battlefield successes would be sustainable only if accompanied by a credible plan for devolution and power sharing, backed by clear commitment to implement them. Despite repeated government assurances that a political solution is an essential part of its strategy, recent developments suggest that the necessary political will is still lacking.

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<sup>43</sup> Crisis Group interviews, Colombo, November-December 2007.

<sup>44</sup> Sri Lanka's ambassador to the UN in Geneva recently praised Russian counter-terrorism efforts in Chechnya, Dayan Jayatileka, "Sri Lanka at Sixty: Fighting the absolute enemy", at <http://transcurrents.com/tamiliana/archives/516>.

<sup>45</sup> For an analysis of JVP and JHU history and policies, see Crisis Group Report, *Sinhala Nationalism*, op. cit., pp. 10-20.

## B. THE APRC AND A POLITICAL SOLUTION

Since October 2006, the government has been promising the imminent release of proposals from the All-Party Representative Committee (APRC), tasked by President Rajapaksa that July with “formulating a political and constitutional framework for the resolution of the national question”. Lacking clear procedures or timetables, the APRC has been used to buy time and reduce international pressure for a political solution.<sup>46</sup> Repeatedly, as the proposals seemed about to appear, however, the government has engineered delays or put new hurdles before a consensus document.

The APRC is known to have nearly completed a plan for the full revision of the constitution, including enhanced devolution for the north and east, power sharing at the centre, a new upper house of parliament and elimination or weakening of the executive presidency.<sup>47</sup> A strong majority is said to favour a system that goes beyond the present unitary state. But members representing the president's Sri Lanka Freedom Party (SLFP), the JHU and the equally Sinhala nationalist Mahajana Eksath Peramuna (MEP) have consistently blocked finalisation.<sup>48</sup>

As the APRC neared a new promised delivery date in late January 2008, reports and government statements suggested it was being pressured to delay announcement of reforms and instead propose full implementation of the existing Thirteenth Amendment to the constitution as an interim step.<sup>49</sup> Ratified in 1987 as part of the Indo-Lanka Accord, that amendment made Tamil an official language and established the provincial council system in most of the country. Due to the war, political opposition, and the central government's reluctance to relinquish power, however, the councils have limited authority. They have never properly functioned in the north or east,

the areas they were designed to address.<sup>50</sup> The president and other officials argued it would be simpler and more realistic to begin with the amendment than with full constitutional revision, which would require two-thirds approval by parliament.<sup>51</sup>

On 23 January 2008, the APRC sent “interim” proposals to the president, recommending that “the Government should endeavour to implement the 13th Amendment to the Constitution in respect of legislative, executive and administrative powers, overcoming existing shortcomings”.<sup>52</sup> Elections to the Eastern Provincial Council should be held immediately and an “interim council” for the Northern Province appointed by the president until conditions permitted elections.<sup>53</sup> It also recommended full implementation of the constitution's official languages provisions, so all in the north and east can do business with the state in their own tongue, and said its “consensus document” on new constitutional reforms “is being finalised” and would reach the president “in the very near future”.

The Indian government called the proposals “a welcome first step ... to the extent ... [they] contribute to ... a settlement acceptable to all communities within the framework of a united Sri Lanka”.<sup>54</sup> Domestic reaction has been almost uniformly critical. The turn to the Thirteenth Amendment was widely seen, with good reason, as capitulation to the president.<sup>55</sup> The APRC admitted the interim recommendations were unrelated to the discussions on major constitutional reform which dominated its 63 meetings over eighteen months. Many commentators and politicians noted the president could

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<sup>46</sup> With the major opposition parties – JVP, UNP and TNA – not involved, it is not an all-party process. The participants are almost all from the government and so constrained from taking positions too far at odds with its Sinhala nationalist ideology (“Mahinda Chintana”). JHU and MEP representatives have blocked progress several times by appealing directly to the president, who then pressured leaders of the parties represented on the APRC.

<sup>47</sup> For discussion of the APRC deliberations, see Crisis Group Report, *Sinhala Nationalism*, op. cit., pp. 23-27.

<sup>48</sup> Since August 2007 it has been clear that President Rajapaksa and his Sinhala nationalist allies, especially in the JHU, are determined to block any reforms that would remove the unitary definition of the state. For Sinhala nationalists, that definition is a guarantee against devolution leading to separatism. For those committed to strong devolution, it is a major obstacle.

<sup>49</sup> D.B.S. Jeyaraj, “MR wants ‘APRC river’ to flow backwards”, *The Nation*, 13 January 2008, at [www.nation.lk/2008/01/13/special5.htm](http://www.nation.lk/2008/01/13/special5.htm).

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<sup>50</sup> The LTTE and the JVP fought violently against the Indo-Lanka Accord and the Thirteenth Amendment. Since 1990, the north and east have been ruled by presidentially appointed governors.

<sup>51</sup> Rajiva Wijesinghe, “The APRC, power sharing and the 13th amendment”, 14 January 2008, at [www.peaceinsrilanka.org/peace2005/Insidepage/SCOPPDaily\\_Report/SCOPP\\_report140108.asp](http://www.peaceinsrilanka.org/peace2005/Insidepage/SCOPPDaily_Report/SCOPP_report140108.asp).

<sup>52</sup> Full text of the proposals available at [www.news.lk/index.php?option=com\\_content&task=view&id=4707&Itemid=44](http://www.news.lk/index.php?option=com_content&task=view&id=4707&Itemid=44).

<sup>53</sup> Douglas Devananda, a prominent Tamil minister and head of the Eelam People's Democratic Party (EPDP), has long advocated a plan of this nature and hopes to head the northern interim council.

<sup>54</sup> “In response to a question on the recommendations of the All Party Representatives Committee in Sri Lanka”, ministry of external affairs, 24 January 2008, at [www.mea.gov.in](http://www.mea.gov.in).

<sup>55</sup> For a critique of the limitations of the Thirteenth Amendment and the APRC proposals, see Rohan Edrisinha, “The APRC process: from hope to despair”, *Groundviews*, 3 February 2008, at [www.groundviews.org](http://www.groundviews.org).

have implemented the amendment at any time without need for the APRC.<sup>56</sup>

Advocates of devolution and supporters of the APRC process consider the return to the Thirteenth Amendment a betrayal of past presidential promises to respect the APRC's deliberations and accept power sharing that goes beyond the existing constitution. Devolution supporters point out that even if fully implemented, the amendment is unlikely to satisfy longstanding Tamil demands for autonomy. The constitution's unitary state and powerful executive president make any devolution under its terms problematic, since the central government would retain authority to retake virtually all powers by presidential decree or a parliamentary majority vote. Indeed, that is why devolution proponents have argued for decades that the basic state structure must change first.<sup>57</sup>

There are widespread doubts that the government will actually implement the amendment in full. The APRC gave few specifics as to what "full" implementation involves; details were reportedly deleted at the last minute on the president's orders.<sup>58</sup> It seems unlikely that police powers and control of finances, education and land – the central points of contention under the amendment – will actually be granted to the Northern and Eastern Provinces.<sup>59</sup>

To implement the amendment at all, the government would have to counter strong opposition from the JVP, which argues that the provincial councils in the north and the east could easily become the springboard for separatism once controlled by Tamil nationalist parties.<sup>60</sup> To date the government has been unwilling to oppose the party on any conflict-related policies and has curried

support from it and the JHU in a way that gives to both power well beyond their level of popular support.

Despite the hostile political terrain, all parties with a declared commitment to meaningful devolution – the United National Party (UNP), the Tamil National Alliance (TNA) and all Tamil, Muslim and left parties – should call the government's bluff and insist that the amendment be implemented in a way that "assures provinces the fullest degree of autonomy within the constitutional framework"<sup>61</sup> by granting the financial, police, education and land powers needed for devolution to be meaningful. They should also continue to insist on the necessity of broad constitutional reforms, call on the APRC to conclude deliberations before the Sinhala and Tamil New Year (mid-April 2008), and make public its proposals for new constitutional arrangements. If the SLFP, MEP and JHU refuse consensus, the minority and left parties should publish their own preferred reforms.

The test of the government's political will will come quickly. For implementation of the Thirteenth Amendment to have positive effect, there must be free and fair elections in the east (and ultimately the north), with all parties able to campaign unhindered. Devolution can succeed only if Tamil politics in the north and east is demilitarised. Otherwise, it will merely formalise the power of armed groups.

Given the Sinhala nationalist forces the government has allied with, its determination to pursue the war at all costs and its continued reliance on Tamil armed groups, however, the prospects for devolution under the Thirteenth Amendment are hardly positive.

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<sup>56</sup> For a government defence of the return to the Thirteenth Amendment, see Rajiva Wijesinha, "Negative criticisms of the APRC proposals", SCOPP Report, 28 January 2008, at [www.peaceinsrilanka.org](http://www.peaceinsrilanka.org).

<sup>57</sup> For a critique of the limitations of the Thirteenth Amendment and the APRC proposals, see Rohan Edrisinha, "The APRC process: from hope to despair", Groundviews, 3 February 2008, at [www.groundviews.org](http://www.groundviews.org).

<sup>58</sup> Crisis Group interview, sources close to the APRC, Colombo, January 2008. See also Munza Mushtaq, "Mahinda axes APRC 'body'", *The Nation*, 27 January 2008.

<sup>59</sup> A government committee appointed on 31 January 2008 to determine how to implement the Thirteenth Amendment includes two strong opponents of devolution and excludes Tissa Vitarana, the chair of the APRC. Kelum Bandara, "PC elections to follow LG polls in East", *Daily Mirror*, 1 February 2008.

<sup>60</sup> "1987 revisited", *The Sunday Island*, 27 January 2008. See also Tisaranee Gunasekara, "The Lankan Tragicomedy", 27 January 2008, at [www.asiantribune.com/?q=node/9316](http://www.asiantribune.com/?q=node/9316). The JVP has pledged to challenge in court the proposed interim council for the Northern Province. Kelum Bandara, "JVP to take Interim Council to court", *Daily Mirror*, 12 February 2008.

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<sup>61</sup> "Statement by Mahinda Samarasinghe, MP, Minister of Disaster Management and Human Rights on the Implementation of the Thirteenth Amendment to the Constitution", 23 January 2008, at [www.dmhr.gov.lk/hr/english/news\\_08-Janu.html](http://www.dmhr.gov.lk/hr/english/news_08-Janu.html).

## IV. THE COSTS OF WAR

### A. THE HUMAN TOLL

There are no independent and reliable sources for statistics on killed and wounded since the CFA began to collapse. The figure cited most often in media reports – 5,000 troops and civilians killed – may well be too low. The military claims more than 6,000 combatants killed since the beginning of 2006. There are no accepted overall statistics for civilians over the past two years, but it is clear that hundreds have died in shelling and bombing. Many hundreds more have been deliberately targeted by the Tigers and the government's counter-insurgency campaign. A conservative estimate for total civilian deaths would be at least 1,500.

The humanitarian costs of the fighting in the north have been largely hidden from the public. Concerns among aid workers are mounting, however. Government figures as of 31 December 2007 published by the UN High Commissioner for Refugees (UNHCR) show more than 148,000 displaced by renewed fighting in the north, roughly half of whom are within the LTTE-controlled Wannai, which is increasingly difficult for humanitarian groups to access.<sup>62</sup> Hundreds of thousands are vulnerable as the military tightens its grip on the Northern Province. An aid worker with experience in the north said that:

The future in the Wannai doesn't look bright in the coming months. It's going to be difficult to respond effectively. Any form of humanitarian response is now felt to be assisting the Tigers' war strategy. There are more and more restrictions from the government's side, even on the kinds and amounts of drugs that can go to government hospitals. It's an ongoing struggle for all of us to get approval for what is required. It's going to be a very unpleasant year.<sup>63</sup>

If the campaign in the east was a precedent for war in the north, there is much to be worried about. The government is proud that the number of civilian deaths was relatively low, with best estimates of at least a few hundred.<sup>64</sup>

<sup>62</sup> Figures are for people displaced since April 2006, when ethnic violence near Trincomalee forced thousands of Tamils to flee, "IDPs by Place of Displacement and Place of Origin as of 31 December 2007", UNHCR, 17 January 2008, at [www.unhcr.org/lk/statistics/docs/SummaryofDisplacement-7Apr06-31Dec07.pdf](http://www.unhcr.org/lk/statistics/docs/SummaryofDisplacement-7Apr06-31Dec07.pdf).

<sup>63</sup> Crisis Group interview, Colombo, February 2008.

<sup>64</sup> A reliable source estimated 180 were killed in the siege of the area around Vakaraai, in Batticaloa district, "Can the east be won through human culling", University Teachers for Human Rights (UTHR), report no. 26, August 2007. The same report

However, the damage to livelihoods, homes, possessions, and sense of security and equal citizenship was huge. At the height of fighting, over 150,000 were displaced, some repeatedly over nearly a year, with large swathes of territory flattened and property systematically looted.<sup>65</sup> Thousands remain unable to work due to security restrictions. At the end of 2007, some 38,000 in the Eastern Province were still displaced.<sup>66</sup>

Women are particularly disadvantaged by displacement and the return to war. Those in conflict areas and refugee camps in the north and east have regular complaints of increased sexual violence and enforced sex work from soldiers and armed men.<sup>67</sup> There is also evidence of more domestic violence due to the highly militarised environment. The reduced economic opportunities for women living in refugee camps and conflict affected areas add to their vulnerability to abuse and violence, as many are forced to trade their bodies for money or needed commodities. Single women heading households, widows, and women caring for the disabled have gender-related needs which are not adequately recognised or addressed by the government and non-governmental organisations (NGOs). The same is true for the health needs of women and adolescent girls.

The increases in arrests and detentions under emergency regulations have brought particular dangers for women. Safeguards to protect those in custody are widely ignored; women wardens or police are not often available, and forced sex with prison guards is a common complaint.

cited a reliable figure of 147 killed in Batticaloa district in November 2006 alone. TNA leader R. Sampanthan claimed in parliament that over 300 civilians had been killed in the whole eastern operation, Kelum Bandara and Yohan Perera, "Resettle Tamils in their lands – TNA", *Daily Mirror*, 6 September 2007. Aid workers involved in the relief efforts at the time estimated a total of 400 to 500 killed, Crisis Group interviews, Colombo, February 2008. While the military initially acknowledged some civilian deaths, the president and other government officials have since claimed no civilians were killed, President Mahinda Rajapaksa, "Address to the ODA Committee of the Upper House of the Japanese Parliament", 10 December 2007, at [www.priu.gov.lk](http://www.priu.gov.lk); and "A determination to denigrate", Secretariat for Co-ordinating the Peace Process, 20 December 2007, at [www.peaceinsrilanka.org](http://www.peaceinsrilanka.org).

<sup>65</sup> Crisis Group interviews, diplomats and aid workers, Colombo, November 2007. On forced displacements and returns, and other violations of international humanitarian law, see "Conflict-Related Internal Displacement in Sri Lanka", Inter-Agency Standing Committee, Colombo, July 2007.

<sup>66</sup> "IDPs", UNHCR, op. cit.

<sup>67</sup> For a valuable assessment of the gendered aspects of displacement, see "Report on the fact finding mission to the north and east of Sri Lanka to assess the state of displaced persons", South Asians for Human Rights, August 2007, pp. 11-13, 16-18.

Chronically inadequate facilities for women and girls in detention are under further stress.<sup>68</sup>

The social and political costs of the past two years of renewed warfare have also been significant. They are likely to get much worse and will make a political settlement even more difficult.

## B. ETHNIC TENSIONS

With the collapse of the ceasefire, the LTTE's return to terror attacks and the government's counter-terrorism measures, fear and inter-ethnic tension have grown significantly. Tamils increasingly see themselves, not the Tigers, as the government's target. The decision in June 2007 to evict some 375 Tamils from hotels and boarding houses in Colombo and bus them "home" to the north and east and to the central hill country was a major blow to confidence.<sup>69</sup> This was followed by mass round-ups of more than 2,500 in Colombo in early December after a series of bomb attacks blamed on the Tigers.<sup>70</sup> The arrests were disorganised and indiscriminate, affecting many long-established residents of the capital with proper identification. More than 400 were sent to detention centres in the south. Most were released within a week, but the experience was a shock.<sup>71</sup> Many felt such "security measures" were meant to send a message that all Tamils pose a security threat and are unwelcome in Colombo or Sinhalese areas. Tamils from the north and east are particularly vulnerable. A prominent Tamil professional said that:

Most of the north east Tamils in Colombo are not here in the city out of choice. They are here because there is a war in the north east, and there is no guarantee of life there. Many of them are in the city trying to find their way out of the country. For these people Colombo is the only exit point in the island. But even here they are

likely to be hounded, arrested or detained, put in buses and sent back to the north east".<sup>72</sup>

Such policies also shrink the room for manoeuvre for the few independent Tamil politicians who struggle to survive within democratic politics. Under threat from the LTTE, they necessarily depend on the state for protection; but they also need to defend the interests of average Tamils. The leaders of three anti-LTTE Tamil parties told the president in an open letter that the December 2007 mass arrests "will only strengthen the claims of the LTTE and the pro-LTTE elements all over the world that the Government is harassing the innocent Tamil people".<sup>73</sup> So long as the government imposes security measures that alienate Tamils, pursues a war that will disproportionately harm Tamils and fails to make any meaningful constitutional and state reforms, non-LTTE parties will be rendered irrelevant, other than as paramilitaries and hired killers.

## C. THE EASTERN PROVINCE

### 1. Land and displacement

Ethnic tensions are especially pronounced and dangerous in the Eastern Province, which the government promotes as a liberated area ripe for democracy and development. Home to roughly equal numbers of Tamils, Muslims and Sinhalese, it reveals the inability of the government's policies so far to provide political stability and encourage peaceful coexistence.

There have been widespread allegations since mid-2007 of plans to displace Tamils and Muslims and settle Sinhalese on their land. Many Tamils and Muslims believe there is a strategy to transform the area's demography and politics. There is little evidence of actual demographic changes but enough cases of land being acquired for development and other purposes to worry community leaders, many of whom fear repetition of the government-sponsored "colonisation" from the 1950s through the mid-1980s, which radically increased the Sinhalese percentage in the Eastern Province.<sup>74</sup> The best known example of officially-sanctioned displacement is the high security

<sup>68</sup> "Sri Lankan women and discriminatory laws, violence, detentions, and disappearances", civil society brief prepared for UN High Commissioner for Human Rights (UNHCHR), Colombo, 13 October 2007.

<sup>69</sup> The Supreme Court's prompt ruling that the evictions were invalid was welcomed across the political spectrum, but much damage had already been done. S.S. Selvanayagam, "SC stops eviction of Tamils from Colombo", *Daily Mirror*, 9 June 2007.

<sup>70</sup> "Government releases 2,352 arrested persons", government press release, 5 December 2007, at [www.priu.gov.lk/](http://www.priu.gov.lk/).

<sup>71</sup> D.B.S. Jeyaraj, "Government humiliates Tamils in deliberate move", 8 December 2007, at <http://federalidea.com/focus/archives/date/2007/12/08/>.

<sup>72</sup> Crisis Group interview, Colombo, January 2008.

<sup>73</sup> "Arrests and Detentions", Alliance of Tamil United Liberation Front (TULF), People's Liberation Organisation of Tamil Eelam (PLOTE) and Eelam People's Revolutionary Liberation Front (EPRLF - P), 3 December 2007.

<sup>74</sup> The present government and its political constituency are opposed to the idea of ethnic enclaves. Many with influence over government policies believe the possibility of a "Tamil homeland" has to be prevented by altering demographic patterns. A classic statement of this position is Malinga H. Gunaratne, *For a Sovereign State: A True Story of Sri Lanka's Separatist War* (Colombo, 1998).

zone south of Trincomalee harbour in Mutur East and Sampur, which has affected 15,000 Tamils. The Supreme Court rejected a suit alleging violation of constitutional rights filed by some of the displaced.<sup>75</sup> It overlaps a special economic zone to which the government hopes to lure foreign investors. Many Tamils and Muslims believe the major economic development and infrastructure schemes will be used to bring in Sinhalese and further dilute their proportions in the district.

Some Sinhalese settlement is already underway. According to a Tamil parliamentarian, "in Kappalhurai (Trincomalee district) forest land is being acquired for an army housing scheme, which essentially means Sinhalese of the area".<sup>76</sup> Land is also being acquired for an army housing scheme in Rottawewa village on the Trincomalee-Anuradhapura road. "About 80 families of Sinhalese fishermen have already settled in the Mankindimalai-Pulmoddai area [Trincomalee District]", the parliamentarian said.<sup>77</sup> At various places in the Eastern Province, supposedly ancient Buddhist sites have been "discovered" and land use restricted. Some Muslims fear the archeology department's decision to designate 43 sites as locations of Buddhist interest in the predominantly Muslim areas of Ampara district is a prelude to ouster of Muslims. In other cases, environmental regulations have reportedly been invoked to reclaim Muslim (and Tamil) farm land.<sup>78</sup>

There are also widespread fears of administrative and electoral gerrymandering to increase Sinhalese power in the east and prevent the province becoming part of a single north east administrative unit. Tamil and Muslim critics allege there is a plan to make the Weli Oya area a Sinhalese district with the accretion of adjacent Sinhalese-majority areas to the west.<sup>79</sup> Some allege that Thoppigala (Kudumbimalai in Tamil) is to be detached from the

Tamil-speaking Batticaloa district and joined to Sinhalese areas further west to create a Sinhalese enclave.<sup>80</sup>

## 2. Rule by the military and Colombo

Not all allegations of Sinhalese of the east can be proven, but even unfounded stories are likely to sow the seeds of communal unrest so long as the government fails to consult with local representatives and continues to sideline Tamil and Muslim civil servants in favour of Sinhalese. All decisions on eastern reconstruction and development work, for instance, are made by the nation-building ministry in Colombo, with little say for local administrators.<sup>81</sup> Since the Supreme Court ordered the north and east de-merged in October 2006, the Eastern Province administration has been ethnically transformed, with Sinhalese (many retired army officers) in top posts, especially in Trincomalee district.<sup>82</sup>

The military is directly involved in administering the large parts of the east won back from the Tigers in 2007. It and the defence ministry insist on tight control over humanitarian NGOs working with the newly resettled populations, which do not have the free access the government promised; both military and regular bureaucratic approvals are still required for the formerly LTTE areas, and NGOs are in effect prevented from doing protection work.<sup>83</sup> In Batticaloa town, the police counter-terrorist wing, the Special Task Force, dictates policy.<sup>84</sup>

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<sup>75</sup> S.S. Selvanayagam, "SC dismisses CPA's rights petition", *Daily Mirror*, 18 July 2007.

<sup>76</sup> Crisis Group interview, Colombo, January 2008; Nikhil Mustafa, "The east in retrospect", *Daily Mirror*, 15 September 2007.

<sup>77</sup> Crisis Group interview, Colombo, January 2008.

<sup>78</sup> M.I.M. Mohideen, *Eastern Province Muslim Politics, Ethnic Conflict and Discriminations* (Colombo, 2007), p. 29. Muslim leaders cite the historical precedent of Muslim displacement around the Deegavapi temple in Ampara in the 1960s, "Kirankovai paddy land (Palayadvattai) – Pottuvil", Peace Secretariat for Muslims, special report, 22 November 2007, at <http://peacemuslims.org/>.

<sup>79</sup> Crisis Group interview, Tamil parliamentarian, Colombo, January 2008. See also the parliamentary speech by TNA leader R. Sampanthan, "Current situation of the North and the East", Hansard Report of the Parliament of Sri Lanka, 5 September 2007.

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<sup>80</sup> D.B.S. Jeyaraj, "Why the SLMC quit the Rajapaksa government", *The Nation*, 16 December 2007.

<sup>81</sup> Rehabilitation and reconstruction in the east is managed by the nation-building ministry in Colombo, headed by the president but managed by his parliamentarian brother, Basil Rajapaksa. Other Colombo ministers participate in the activities under his detailed direction. Local administrators and Tamil and Muslim politicians, local and national, have no role in the process other than to carry out the decisions made in Colombo. Crisis Group interviews, government officials, Colombo, January 2008.

<sup>82</sup> The governor is Rear Admiral Mohan Wijewickrama; the Trincomalee government agent is Major General Ranjith de Silva; the rehabilitation coordinator is Rear Admiral H.R. Amaraweera; and the governor's secretary is Captain Patrick Jayasinghe; all are retired military. See Mohideen, op. cit., p. 66, who, like many Muslims and Tamils, argues that "this combination of retired administrative and security officials is well equipped to implement the Sinhalese process in the East". A shortage of senior Tamil civil servants is a complicating factor.

<sup>83</sup> Bhavani Fonseka and Mirak Raheem, "Policy brief on humanitarian issues", Centre for Policy Alternatives, December 2007, at [www.cpalanka.org/Policy\\_Brief/Brief\\_on\\_Humanitarian\\_Issues.pdf](http://www.cpalanka.org/Policy_Brief/Brief_on_Humanitarian_Issues.pdf).

<sup>84</sup> The Batticaloa government agent (GA) is Tamil, but it is widely known that "the STF dominates the civil administration.



Taken together, these developments render Tamil and Muslim local administrators and political representatives increasingly irrelevant. Sinhalese hold almost all effective political power in the predominantly Tamil-speaking Eastern Province.

### 3. Violence, insecurity and elections

The government maintains that elections, first for local authorities in areas once controlled by the Tigers, then for the entire Eastern Province, are the way to return local democratic control after years of war and terror.<sup>85</sup> The initial local elections are scheduled for Batticaloa district on 10 March 2008, but virtually all independent observers agree elections in the present context would only add a democratic veneer to the illegitimate rule of armed groups.

The Tamil Makkal Viduthalai Puligal (TMVP), which broke from the Tigers and is now led by the ex-Colonel Karuna's former deputy, Pillayan, continues to rule Batticaloa and other parts of the east through terror and crime, with tacit police, military and Colombo approval. Still seen by the government and military as useful to block a Tiger re-emergence in the east, its reign of abductions, child recruitment, robberies and repression of dissent is extensively documented.<sup>86</sup>

The TMVP is blatantly intimidating political rivals in an attempt to rig the elections. The TNA and Sri Lanka Muslim Congress (SLMC) have both complained of harassment.<sup>87</sup> "Armed men are going around telling candidates belonging to the SLMC that they should not [stand] and that after the uncontested elections, they would be given three vice chairmanships", SLMC leader Rauff Hakeem said. "They said that only the United Peoples' Freedom Alliance [UPFA] candidates could contest". Hakeem charged that the TMVP was doing the bidding

of the president's party, the UPFA.<sup>88</sup> The security forces were doing nothing to prevent the TMVP from intimidating Muslim candidates, and "the idea is to politically dominate the area", he said.<sup>89</sup> The TMVP is also widely accused of fomenting tensions with Muslims, including a December 2007 attack on a mosque in the eastern town of Kattankudy, which left three people dead.<sup>90</sup>

With the de facto backing of state and security forces and the absence of independent elections or police commissions, the TMVP faces few restraints.<sup>91</sup> On 21 January 2008, the Supreme Court turned down a TNA request to postpone the elections due to lack of security.<sup>92</sup> But no elections can be free and fair in such a context.<sup>93</sup> While election-related violence has so far been relatively low, the years of TMVP intimidation have had their desired effect.<sup>94</sup> A long-time independent political observer concluded:

The general situation in Batticaloa is not at all conducive for an election...The high level of lawlessness, consistent acts of violence and violations of rights that take place with impunity, the lack of any credible and trustworthy mechanisms to which people affected by violence can take their complaints, all combine to create an environment of terror in which no campaigning for elections will be possible for any candidates.<sup>95</sup>

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Whoever is the GA, he has to go by what the STF says", Crisis Group telephone interview, Batticaloa resident, January 2008.

<sup>85</sup> The minister for disaster management and human rights said, "in the East, we have a large area of liberated territory which demands the restoration of civil administration, rehabilitation and development as a social and political imperative. It is only fitting that a political authority mandated by the Constitution and representatives of the people of those areas be constituted to guide and inform the restoration of normalcy", "Thirteenth Amendment can help restore normalcy in the East – Samarasinghe", *Daily Mirror*, 23 January 2008.

<sup>86</sup> See, for instance, "SLMM Weekly Monitoring Report, 10-16 December 2007", at [www.slmm.lk](http://www.slmm.lk).

<sup>87</sup> "Violence in east ahead of polls", *Sunday Times*, 13 January 2008.

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<sup>88</sup> In late January 2008, the TMVP and UPFA agreed to contest some seats jointly, Easwaran Rutnam, "UPFA-TMVP to sign election MOU in Colombo this week", *Daily Mirror*, 30 January 2008.

<sup>89</sup> Press conference, Colombo, 13 January 2008.

<sup>90</sup> Yohan Perera, "Pillayan provoking communal clashes in Batticaloa", *Daily Mirror*, 14 January 2008.

<sup>91</sup> The main opposition party, the UNP, has insisted that elections in the east can only be free and fair if new elections and police commissions are in place. This requires the president first to establish the Constitutional Council. Yohan Perera, "Batti poll may be a bombshell: Ranil", *Daily Mirror*, 23 January 2008.

<sup>92</sup> S.S. Selvanayagam, "SC says it can't stop Batti polls", *Daily Mirror*, 22 January 2008.

<sup>93</sup> The EPDP, headed by Minister Douglas Devananda, attempted to negotiate a multi-party Tamil alliance including the TMVP. Since the collapse of negotiations, it has called publicly for dismantling the Pillayan-Karuna group.

<sup>94</sup> See "Fact finding visit – Batticaloa", Centre for Policy Alternatives, February 2008, at [www.cpalanka.org](http://www.cpalanka.org).

<sup>95</sup> Crisis Group email correspondence, human rights activist, Colombo, January 2008.

## D. HUMAN RIGHTS

### 1. Violations continue

The human rights crisis continues, despite rising concern and calls for action from governments, the UN and human rights groups.<sup>96</sup> Violations of civil and political rights are widespread, with the majority and worst in the north and east,<sup>97</sup> where political killings and disappearances occur daily, especially in Jaffna. Considerable circumstantial evidence indicates the involvement of the military and allied former Tamil militants. Many of those killed or abducted and later found dead are taken from home at night, during the curfew. By day unarmed civilians have frequently been murdered in the streets, often just yards from one of Jaffna's ubiquitous army checkpoints. Sri Lanka's best-known and respected human rights group, the University Teachers for Human Rights (UTHR), estimated that a minimum of 700 were killed or disappeared there in 2006 and 2007 as part of the counter-insurgency campaign.<sup>98</sup>

Killings and disappearances are also frequent in Vavuniya and Mannar districts, though they appear to have declined in Batticaloa. On 24 January 2008, two graves with sixteen bodies, all shot execution style, were discovered near the government-controlled north central town of Kebitigollawa. Many fear the victims were Tamils disappeared as part of the counter-insurgency campaign.<sup>99</sup>

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<sup>96</sup> For more on human rights and the impunity problem, see Crisis Group Report, *Sri Lanka's Human Rights Crisis*, op. cit.  
<sup>97</sup> According to Human Rights Watch, "more than 1,100 'disappearances' or abductions were reported between January 2006 and June 2007", "World Report 2008", January 2008. Data gathered by a coalition of Sri Lankan civil society groups shows at least 662 civilians killed and 540 disappeared from January through August 2007, "Second submission to the Presidential Commission of Inquiry and public on human rights violations in Sri Lanka: January-August 2007", Law and Society Trust, 31 October 2007, at [www.lawandsocietytrust.org](http://www.lawandsocietytrust.org). Officials challenged the first submission but only on small inaccuracies, which the Law and Society Trust acknowledged and corrected in its second submission.

<sup>98</sup> "Based on available figures for those killed and disappeared and making due allowance for the LTTE's share in killings, we estimate that the Government and its security forces are responsible for murdering in cold blood upwards of a base figure of 700 unarmed civilians in Jaffna during 2006 and 2007. We make a large allowance for persons listed missing, but whose status is uncertain". Many of those killed, the report argued, had no, or only a peripheral connection with the LTTE. "Slow Strangulation of Jaffna", UTHR, special report no. 28, 4 December 2007, at [www.uthr.org](http://www.uthr.org).

<sup>99</sup> The bodies are yet to be identified, despite visits from Tamils whose relatives are missing and presumed disappeared, Norman Palahawadena and Percy Kuruneru, "Three teams probe K'gollewa killings", *Island*, 26 January 2008.

In areas the Tigers formerly held in the east, the military keeps a close eye on those suspected of involvement. Disappearances are reported occasionally, though human rights groups suspect that fear keeps many relatives from reporting cases.<sup>100</sup> As noted, the TMVP is believed to continue forcible recruitment of children, political killings and abductions, extortion and intimidation of rivals.<sup>101</sup>

The wave of abductions for ransom that swept through Colombo and other parts of the country – targeting almost exclusively Tamils and Muslims – reached its peak in the first half of 2007 and has tailed off. On 1 January 2008, however, Sri Lanka saw its third murder of a Tamil opposition parliamentarian in two years.<sup>102</sup> T. Maheswaran was shot while worshipping at a Hindu temple in Colombo. Days earlier, he had announced he would soon report to parliament on government and paramilitary involvement in Jaffna's killings and disappearances. A few weeks before and against his protest, the government had cut his official security detail from eighteen to two.

The LTTE continues to systematically violate civil and political rights. At least some of the killings in Jaffna and other parts of the north are its responsibility. The Tigers still rely on forced conscripts, some of whom are underage or work for UN agencies and humanitarian organisations in the rebel-controlled Wannu. The Tigers closely monitor or control civil society organisations, and there is no independent media or freedom of speech in their areas. They also maintain their own prisons and detention centres, only some of which are open to the Red Cross. Torture is believed to be widely practiced. Recent attacks on unarmed civilians in Colombo and the south east are flagrant violations of the right to life and war crimes under customary international law.

### 2. Impunity

Two years into the present wave of human rights violations, there have been no prosecutions. Indictments are known to

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<sup>100</sup> Crisis Group interviews, human rights activists, Colombo, January 2008. Arrests and security procedures affecting recently resettled Tamils in Eachchiilampattu, in Trincomalee district, were reported to have led many to abandon their homes again, "UNHCR concerned about security situation and incidents in eastern Sri Lanka", UNHCR, 23 November 2007. The army denied any harassment, "Army flatly refutes BBC story on Echchalanpattu exodus", 22 November 2007, at [www.army.lk](http://www.army.lk). See also "Pressure on Batti IDPs to return: SLMM", *Daily Mirror*, 3 December 2007.

<sup>101</sup> "Report of the Secretary-General on children and armed conflict in Sri Lanka", UNSC S/2007/758, 21 December 2007.

<sup>102</sup> TNA parliamentarian N. Raviraj was shot dead on a Colombo street on 10 November 2006. Another TNA parliamentarian, Joseph Pararajasingham, was assassinated in a Batticaloa church while attending mass on Christmas Eve 2005.

have been brought in one instance, but no progress has been made in any of the higher profile cases, including the murders of seventeen workers for the French NGO Action contre la faim (ACF)<sup>103</sup> and disappearances in which the government is suspected of involvement.<sup>104</sup> Four of the few suspects arrested in connection with abductions in Colombo were released in January 2008 after the police said no witnesses had come forward with evidence.<sup>105</sup>

In addition to a police force unable or unwilling to investigate the hundreds of killings, disappearances and abductions,<sup>106</sup> other government institutions have been equally ineffective. The National Human Rights Commission, whose members were appointed directly by the president, contrary to the constitution, has shown little interest in using its limited staff and resources to investigate or report on abuses. It has actively prevented its regional offices from sharing information on violations with the media or civil society organisations. Citing these and other failings, the international body charged with certifying national human rights institutions downgraded the Sri Lanka Human Rights Commission to “observer” status.<sup>107</sup>

None of the many ad hoc commissions of inquiry appointed by the president to look into disappearances and other violations have made any headway against impunity. Not one has published findings or recommended prosecutions to the attorney general. The best known, named in November 2006 to investigate sixteen high-profile cases, took more than a year to begin public hearings, and there are no signs it has uncovered new facts. The International Independent Group of Eminent Persons (IIGEP), appointed by the president to observe and comment on its work, has repeatedly pointed to

fundamental flaws in the process, including the undue influence of the attorney general's office.<sup>108</sup> The absence of a law and adequate resources for an effective witness protection system makes it unlikely that much evidence will be volunteered.<sup>109</sup>

Addressing the UN Human Rights Council two months after visiting Sri Lanka, UN High Commissioner for Human Rights (HCHR) Louise Arbour pointed to “alarming” numbers of disappearances and abductions and said:

There has yet to be an adequate investigation or public accounting for the vast majority of these cases....[overall] the various national institutions and mechanisms that could be expected to safeguard human rights have failed to deliver adequate protection....[There is] a critical need for an independent actor to gather information and publicly report on the human rights situation. For this reason, I have suggested that the Government would benefit from the support of a presence of [an office of the] HCHR in the country, with a full mandate incorporating technical assistance and public reporting.<sup>110</sup>

The government rejected the idea, arguing that it was doing its best under trying circumstances and that no country at war with a ruthless terrorist organisation like the LTTE could be expected to have a flawless record. The government is “justly proud of our national institutions”, and any failings can be addressed best through technical aid and training by the UN and other donors.<sup>111</sup> As proof of transparency, it pointed to long cooperation with UN human rights mechanisms and the recent visits by UN special rapporteurs. Nonetheless, Sri Lanka's Geneva UN ambassador said, “our negotiations with the OHCHR and international bodies will always be informed by a determination that national institutions and

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<sup>103</sup> “A bullet for a fig leaf – verbal bludgeoning to subvert international monitoring”, UTHR, special report no. 27, 17 September 2007.

<sup>104</sup> In August 2007, the foreign ministry distributed a document that claimed to show strong action by the government and the legal system, including indictments for disappearances and abductions. The indictments, however, were for crimes committed under previous governments, or insufficient information was provided to identify the crime, its circumstances or the victim.

<sup>105</sup> Susitha R. Fernando, “AG says no evidence, abduction suspects released”, *Daily Mirror*, 19 January 2008.

<sup>106</sup> The absence of an independent police commission is one reason for the systematic failure of police investigations.

<sup>107</sup> In October 2007, the accreditation subcommittee of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights ruled that the Sri Lankan Human Rights Commission was in violation of the “Paris Principles”, the widely accepted international benchmarks for national human rights commissions.

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<sup>108</sup> The IIGEP has decided to discontinue its work in Sri Lanka as of March 2008. For its statements, see [www.iigep.org/press-releases.htm](http://www.iigep.org/press-releases.htm).

<sup>109</sup> The government has been promising since early 2007 to introduce legislation to establish a victims and witness protection scheme. Independent analysts who have seen the draft witness protection bill have found it inadequate. Rosalind Sipos, “The Draft Bill for the Assistance and Protection of Victims of Crime and Witnesses: Critique and Recommendations”, Centre for Policy Alternatives, 28 September 2007, at [www.cpalanka.org/research\\_papers/Victim\\_and\\_Witness\\_Protection\\_Bill.pdf](http://www.cpalanka.org/research_papers/Victim_and_Witness_Protection_Bill.pdf).

<sup>110</sup> Statement, 10 December 2007, at [www.unog.ch/unog/web/site/news\\_media.nsf/\(httpNewsByYear\\_en\)/A923C8EE6A7D90D6C12573AE0049740A?OpenDocument](http://www.unog.ch/unog/web/site/news_media.nsf/(httpNewsByYear_en)/A923C8EE6A7D90D6C12573AE0049740A?OpenDocument).

<sup>111</sup> Ambassador Dayan Jayatilaka, “Sri Lanka is as flexible as it is firm, it is as firm as it is flexible”, remarks to the UN Human Rights Council, 11 December 2007, at [www.sundayobserver.lk/2007/12/16/fea01.asp](http://www.sundayobserver.lk/2007/12/16/fea01.asp).

national processes shall be supplemented and supported by international assistance, but shall never be supplanted or substituted by the non-national".<sup>112</sup>

## E. CONCENTRATION OF POWER AND INTOLERANCE OF DISSENT

Political power is concentrated in the hands of the president, his three brothers, a few close supporters and the military leadership. An uncompromising attitude has taken hold of many senior officials and officers. In the name of patriotism, and out of a mix of Sinhala nationalism and determination to retain power, dissent is increasingly equated with treason. Publicly questioning government policies has become dangerous.

Under the 1978 constitution, the president has extraordinary powers and is difficult to remove from office.<sup>113</sup> Rajapaksa has taken the defence, finance and nation-building portfolios. His brother, Gotabhaya, is defence secretary and runs that ministry's day-to-day operations; brother Basil, a parliamentarian and presidential adviser, manages the nation-building ministry; brother Chamal is minister for irrigation and water management and ports and aviation. Two thirds of the national budget comes under ministries controlled by the four brothers.<sup>114</sup>

The Seventeenth Amendment, approved by parliament in 2001, was meant to put some checks on presidential power by establishing the Constitutional Council, mandated to nominate members to independent commissions on elections, judicial services, police and human rights, among others and to approve presidential nominations for the Supreme Court, attorney general and other important posts. Since the middle of 2005, just before Rajapaksa took power, it has been defunct, due to political and legal disputes. Rather than push to resolve the impasse, the president used it to appoint directly those legally required to be chosen or approved by the Council.<sup>115</sup>

The last obstacle to reconstitution of the Constitutional Council was overcome in January 2008, when the name of the tenth panel member was agreed by opposition parties, given to the speaker of parliament and passed to the president. Ignoring his constitutional duty, however,

Rajapaksa has still not appointed the Council. His refusal to allow modest checks on his power from an active Constitutional Council bodes ill for any meaningful devolution.

As the war and terrorism rhetoric intensify, government and military statements labelling critics traitors have become common. In October 2007 Lakshman Hulugalle, director of the Media Centre for National Security, told a press conference: "We consider anyone who criticises the defence forces to be a traitor to the nation, as such people undermine the lives of armed forces personnel".<sup>116</sup> More recently, the army commander, General Sarath Fonseka, said, "I am not blaming all journalists. I know 99 per cent ... are patriotic and doing their job properly. But unfortunately we have [a] small number of traitors among the journalists. They are the biggest obstacle [to defeating the Tigers]. All other obstacles we can surmount".<sup>117</sup>

Verbal attacks on critical journalists and media organisations are particularly disturbing in a context where journalists are regularly assaulted and sometimes killed.<sup>118</sup> Press rights groups ranked Sri Lanka as one of the most dangerous countries in the world for journalists in 2007.<sup>119</sup> In a striking incident on 27 December 2007, Labour Minister Mervyn Silva and a band of thugs physically assaulted the news director of a state-owned television station for not airing one of his speeches. The angry staff confined the minister and some of his men for hours, demanding an apology. The incident was broadcast on live television and generated widespread revulsion against the minister and sympathy for the journalists. Despite calls for his dismissal from within the cabinet, Silva remains too politically useful to be removed.<sup>120</sup> On 25 January 2008, one of the journalists who led the resistance to him was nearly killed in a knife

<sup>112</sup> "We will cooperate with international bodies, but will not let our institutions and processes to be supplanted - Dayan Jayatileka", 13 December 2007, at [www.news.lk/index.php?option=com\\_content&task=view&id=4241&Itemid=52](http://www.news.lk/index.php?option=com_content&task=view&id=4241&Itemid=52).

<sup>113</sup> See, "The Executive Presidency", Government of Sri Lanka, at [www.president.gov.lk/about\\_presidency.asp](http://www.president.gov.lk/about_presidency.asp).

<sup>114</sup> "Rajapaksa brothers increase their wealth: UNP", *Lankanewspapers.com*, 18 May 2007.

<sup>115</sup> For a longer discussion of the Constitutional Council issue, see Crisis Group Report, *Sri Lanka's Human Rights Crisis*, op. cit.

<sup>116</sup> "Critics labelled traitors", *Daily Mirror*, 8 October 2007. For a defence ministry attack on Sri Lanka's best known and respected defence correspondent, see "Mr. Iqbal Athas, stop insulting our soldiers' sacrifices", 2 October 2007, at [www.defence.lk/new.asp?fname=20071001\\_06](http://www.defence.lk/new.asp?fname=20071001_06).

<sup>117</sup> Originally quoted in an interview in the government's Sinhala language newspaper, *Dinamina*, on 2 January 2008, "Army Commander calls journalists traitors", translation by Free Media Movement, at <http://freemediasrilanka.wordpress.com/2008/01/04/army-commander-calls-journalists-traitors/>.

<sup>118</sup> P.K. Balachandran, "Sri Lanka: Where journalists live dangerously", *Indo-Asian News Service*, 30 January 2008.

<sup>119</sup> According to one group, eleven journalists were killed in 2006 and 2007, "Media casualties 2007", Press Emblem Campaign, 17 December 2007, at [www.pressemblem.ch/10399.html](http://www.pressemblem.ch/10399.html). For a comprehensive analysis of intimidation of the media, see "Sri Lanka: Silencing Dissent", Amnesty International, February 2008.

<sup>120</sup> Sonali Samarasinghe, "Boxing Mervyn Day", *The Sunday Leader*, 6 January 2008, at [www.thesundayleader.lk/20080106/FOCUS.HTM](http://www.thesundayleader.lk/20080106/FOCUS.HTM).

attack. Others have been threatened, transferred or investigated by the police.

Journalists who question government positions have been arrested and harassed.<sup>121</sup> Newspapers and radio stations seen as critical have had licences suspended.<sup>122</sup> The printing presses of the most outspoken English-language newspaper, the *Sunday Leader*, though in a designated high security zone, were destroyed in an arson attack by masked men.

The opposition is also targeted. In late 2007, the TMVP kidnapped relatives to prevent TNA parliamentarians from voting against the government budget. They abstained and the budget passed. "The pressure and threats ... were well beyond what can be tolerated in a democratic setup", a Western diplomat said. "The government is making liberal use of death threats to keep people in line".<sup>123</sup> A Tamil parliamentarian who led the campaign against disappearances and abductions went into self-imposed exile after his police security detail was cut.<sup>124</sup>

There have been coordinated verbal attacks on the UN and other international bodies in the country. In August 2007, a minister called UN Coordinator for Humanitarian Affairs John Holmes a "terrorist" for saying Sri Lanka had one of the world's worst safety records for humanitarian workers, a documented claim.<sup>125</sup> The JVP, with government support, has led a campaign against UNICEF and other UN agencies for allegedly supporting the Tigers.<sup>126</sup> UNICEF has been accused of supplying

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<sup>121</sup> On 24 October 2007, Arthur Wamanan was arrested after calling a government minister to inquire into allegations he misused state funds. The minister filed a police complaint that he had attempted blackmail. The magistrate threw the case out, but not without resistance from the police, who claimed releasing Wamanan, a Tamil, would be taken badly by the public.

<sup>122</sup> "Killing free media: The forced closure of Mawbima and the Sunday Standard", Free Media Movement, press release, 29 March 2007, at [www.freemediasrilanka.org/index.php?action=con\\_news\\_full&id=511&section=news](http://www.freemediasrilanka.org/index.php?action=con_news_full&id=511&section=news). See also "Government suspends ABC radio licence", *Daily Mirror*, 27 October 2007.

<sup>123</sup> Crisis Group interview, Colombo, November 2007.

<sup>124</sup> Security detachments for other critical politicians have also been reduced. See above for the case of the Maheswaran case.

<sup>125</sup> Sandun A. Jayasekera, "Jeyaraj accuses Holmes of being a terrorist", *Daily Mirror*, 16 August 2007. Simon Gardner, "Sri Lanka a top danger spot for aid workers - U.N.", Reuters, 9 August 2007. The most recent available statistics show 60 humanitarian workers and religious leaders were killed, abducted or forcibly disappeared from 1 January 2006 to 22 August 2007, "Working document on humanitarian workers and religious leaders killed, disappeared and abducted", Law and Society Trust, 23 August 2007. Additional aid workers have been killed since that report was published.

<sup>126</sup> The JVP has also attacked Crisis Group's president, Gareth Evans, for advocating the UN concept of responsibility to protect

"ready to eat" meals and a blast-proof vehicle to the LTTE.<sup>127</sup> Despite a lack of supporting evidence, the government has begun investigations and called UN officials to account. A diplomat said, "the government's attacks on the UN are a fundamental assault on the international system and codes of conduct. The UN and foreign governments must send a strong message ... that this is unacceptable".<sup>128</sup>

Reacting to the CFA's end, Louise Arbour warned both government and LTTE that violations of international human rights and humanitarian law "could entail individual criminal responsibility under international criminal law, including by those in positions of command".<sup>129</sup> Sri Lanka's Geneva UN ambassador responded that his government "will not be deterred by thinly veiled threats, attempting to undermine the morale of its military, deter its military campaigns and save separatist terrorism from elimination". Calling Arbour's warning "international terrorism", JVP leader Somawansa Amarasinghe added: "If any politician or military officer is taken before international law for taking decisions on behalf of the Motherland, they would have to take them over our dead bodies".<sup>130</sup>

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(R2P), as being part of "a new conspiracy being hatched by imperialists" to undermine Sri Lanka's sovereignty and impose sanctions to prevent the defeat of the Tigers, "New conspiracy of the imperialists to interfere in Sri Lanka should be defeated!", *Red Power*, August 2007. His 29 July 2007 Neelam Tiruchelvam Memorial Lecture to the International Centre for Ethnic Studies (ICES) in Colombo, at [www.crisisgroup.org/home/index.cfm?id=4967&l=1](http://www.crisisgroup.org/home/index.cfm?id=4967&l=1), argued that R2P could provide a useful framework for cooperation between the international community and the Sri Lankan government to prevent further escalation of the conflict and deterioration in the rule of law and ethnic relations. Evans was widely attacked by Sinhala nationalists and accused by a government minister of pressing "a case for prospective intervention, by military means if necessary, in our country ... outside the ambit of the Security Council", G.L. Peiris, "Human Rights, Sri Lanka, and the international community", *Sunday Observer*, 4 November 2007. The hosting of the lecture by the ICES and the organisation's plans to associate itself with the Global Centre for the Responsibility to Protect were later used as grounds to revoke the visa of its director, Dr Rama Mani, who was forced to leave the country in February 2008 despite strong protests from civil society.

<sup>127</sup> UNICEF's work with the LTTE-linked Tamil Rehabilitation Organisation during the peace process, which had the approval of the UNP government of the time, was also seen as evidence of its pro-Tiger agenda.

<sup>128</sup> Crisis Group interview, diplomat, Colombo, December 2007.

<sup>129</sup> "Sri Lanka ceasefire ends, top UN official urges respect for human rights", 15 January 2008, at [www.un.org/apps/news/story.asp?NewsID=25297&Cr=sri&Cr1=lanka](http://www.un.org/apps/news/story.asp?NewsID=25297&Cr=sri&Cr1=lanka).

<sup>130</sup> Tharangani Perera, "UN acts diplomatically on anti-Arbour JVP protest", *Sunday Times*, 27 January 2008, at [www.sundaytimes.lk/080127/News/news007.html](http://www.sundaytimes.lk/080127/News/news007.html).

## V. FUTURE DIRECTIONS

### A. POLITICAL DYNAMICS

On the surface, the government would appear to be built on weak foundations. President Rajapaksa's SLFP has only 54 parliamentarians. The rest of the one-member majority in a parliament of 225 comes from an ideologically incoherent mix of parties held together by a desire for power.<sup>131</sup> Many parliamentarians have either been bought or coerced into joining the government,<sup>132</sup> which has given ministerial positions and perks to virtually all its legislators.<sup>133</sup> Many have also been warned their lives will not be comfortable if they sit with the opposition.<sup>134</sup> The government looked shaky in December 2007, when its budget was in danger, but it survived, in part because the JVP abstained. Withdrawal from the CFA, a longstanding JVP demand, was seen by many as repayment.

Many government parties are opposed to or uncomfortable with the military strategy. Only the Rajapaksa brothers, the JHU, and a few other SLFP ministers and UNP dissidents are believed to be strongly behind the war agenda. Yet, it is the war that keeps the government in power, as it generates support from a public otherwise angry at rising living costs, decaying services and large-scale corruption. The war also keeps the JVP in the de facto coalition.

The Rajapaksa administration's course was set in December 2006, when it coaxed away much of the UNP's parliamentary group, thus scuttling SLFP-UNP cooperation. While many hoped the new members would moderate the government and free it from the JVP, the move also brought into government the strongly nationalist JHU, which has gained significant influence, and shifted the balance of parliamentary power in a way that allows the JVP in effect to set government policy on war, peace and ethnic issues.

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<sup>131</sup> The government includes an eclectic mix of dissident members of the centre-right UNP, two small left-wing parties, parties and factions of parties representing Muslims, Up-Country Tamils, and Northern Tamils, and two smaller Sinhala nationalist parties.

<sup>132</sup> Preceding the final budget decision in mid-December, the price of a vote reportedly rose to nearly \$2 million, Crisis Group interview, Western diplomat, Colombo, December 2007; and Dominic Chilcott, "Dudley Senanayake Memorial Lecture", 10 December 2007, at [www.britishhighcommission.gov.uk/srilanka](http://www.britishhighcommission.gov.uk/srilanka).

<sup>133</sup> 107 of the government's 113 parliamentarians are either ministers, deputy ministers or special advisers to the president.

<sup>134</sup> The security detachment of Sri Lanka Muslim Congress leader Rauff Hakeem was reduced after he left government on the eve of the final budget vote; on Thiyagarajah Maheswaran's assassination just after his security detail was reduced, see above.

The economy remains a major potential weakness of the military approach. As noted, to pay for the costly high-tech war of attrition, the government has been printing large amounts of money, producing the highest inflation in recent history – more than 26 per cent as of November 2007.<sup>135</sup> The urban working and middle classes are particularly hard hit. The war is also scaring away investors and tourists; arrivals in 2007 were down by nearly 12 per cent, with ripple effects on jobs and economic growth.<sup>136</sup> The pain has not yet been sufficient to threaten the government, but if the war drags on too long, it may not be economically or politically sustainable.

So long as the war continues to go well and the government can keep the JVP happy, it is likely to survive, but the president and his close advisers have put all their eggs in the military basket. If battlefield developments go badly, they have left themselves little room to change course. The JVP and JHU would refuse any new ceasefire or peace process and instead mobilise their supporters to oppose another betrayal. In such a situation, the president could be tempted to choose greater repression instead of a politically risky reversal requiring UNP support. That rival party would have a difficult time either rescuing the government or marshalling the votes to force a new election.

In the meantime, the government's reliance on war to weaken the Tigers is fuelling dangerous forces. Sinhala supremacists, Tamil paramilitaries and militant Muslim youth are growing stronger. Many in the international community seem to assume that when the pendulum eventually swings back from war to peace, Sri Lanka will be somewhere close to where it was in late 2001/early 2002, but that is increasingly unlikely.

### B. DANGEROUS TRENDS

The government's policies, in tandem with Tiger provocations, are not merely running counter to the kind of political settlement even the government says it wants. The return to war, and the way in which both sides are fighting it, encourages forces that may prove difficult for this or future governments to control. Three trends in particular are worth highlighting. Often at their most advanced and visible in the Eastern Province, they are at work to varying degrees throughout the country.

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<sup>135</sup> "Sri Lanka inflation rockets to new record of 26.2% amid money printing", *Daily Mirror*, 22 January 2008.

<sup>136</sup> "Sri Lanka's weak rule of law alarming for economy", Agence France-Presse, 2 November 2007.

## 1. Growing autonomy of the military

The emergency regulations that have governed the country in various forms for most of the past three decades have given the military and police extraordinary powers.<sup>137</sup> The present government's single-minded reliance on the military to do whatever is needed to "eradicate terrorism", with no questions or criticisms allowed, has given the military even greater powers and growing autonomy relative to civilian authorities.

- In Jaffna and portions of the Eastern Province, the military issues its own photo identification cards, which residents must carry, in addition to the national cards other citizens are expected to have.<sup>138</sup>
- In July 2007, the Eastern Province military commander notified local civil administrators his office had final say on which humanitarian and development NGOs could work in areas recently retaken from the LTTE, despite government statements that the region was liberated and safe for reconstruction and development.<sup>139</sup>
- The Supreme Court's rejection of a fundamental rights suit challenging displacement of Tamil families by the high security zone south of Trincomalee ratified the emergency powers of the military to determine who could resettle on their land.<sup>140</sup>
- When requested by a presidential commission of inquiry to provide information on the location of military units at the time of the murders of the seventeen ACF aid workers in August 2006, military representatives claimed not to know. The defence ministry has ignored additional requests.<sup>141</sup>

While the war and the patriotism it stimulates can be useful to politicians in the short term, the increasing autonomy of the military and police risks reducing the overall scope of civilian authority.

## 2. Ethnic violence

Fear of another "83" – shorthand for government-sanctioned attacks on Tamils in July 1983 that left hundreds dead, businesses and homes destroyed and sent hundreds of thousands into permanent exile – is high among Tamils in Colombo. It is likely exaggerated, and hopefully unfounded, but suggests the depth of the alienation and insecurity most Tamils and growing numbers of Muslim experience. The increasing influence of Sinhala supremacist forces within and outside the government, the impunity with which Tamils have been killed and disappeared by forces linked to the government and the indiscriminate ways in which emergency powers and anti-terrorism laws have been applied throughout the country have left many feeling they are without protection.

Sinhalese, too, are feeling insecure. The rash of attacks on Sinhalese civilians in Colombo and in the south east bear all the hallmarks of the LTTE and are likely designed to stir up ethnic tensions and provoke retaliatory attacks on Tamils. In contrast to the Chandrika Kumaratunga government in the 1990s, the present administration has sent no strong messages to its security forces or the general public that attacks on Tamils are not condoned, and Tamils are not responsible for Tiger atrocities. There is mostly silence, or at best pro forma appeals for calm, and JVP and JHU leaders are apt to make pronouncements that are more like warnings to Tamils.

As ethnic tensions rise, so does economic insecurity. The two are a potentially explosive combination. With the JVP actively campaigning against the high cost of living and traitors to the motherland, and in support of a war to wipe out terrorism, there is a real risk that economic discontent could be diverted into ethnic violence. December 2007 attacks by Sinhalese youth on Tamil villages near the southern town of Tissamaharama were reportedly in reaction to earlier attacks on local Sinhalese villagers blamed on the Tigers. But they were also said to be in retaliation for economic suffering caused by the Tiger attacks, which have led to the closure of the nearby Yala national park, a major source of income for local villagers. Some local military and police elements were said to condone the attacks and warn Tamil villagers of more to come.<sup>142</sup>

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<sup>137</sup> See Crisis Group Report, *Sri Lanka's Human Rights Crisis*, op. cit., pp. 13-14.

<sup>138</sup> "Report of field visit to Trincomalee and Mutur", Law and Society Trust, 14 November 2007.

<sup>139</sup> Iqbal Athas, "Security forces to control eastern development", *Sunday Times*, 29 July 2007.

<sup>140</sup> "Sampur HSZ 'sensitive' for judiciary", BBCSinhala.com, 30 July 2007.

<sup>141</sup> Crisis Group interview, sources close to the Commission of Inquiry, Colombo, December 2007.

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<sup>142</sup> Shantha Wijesuriya, "Katharagama Thanjanagar village was attacked to revenge Yala LTTE attack", 4 December 2007, at [www.lankaenews.com/English/news.php?id=4997](http://www.lankaenews.com/English/news.php?id=4997).

### 3. Radicalisation of Muslims

Frequent stories about the existence of organised Muslim armed groups have so far been unsubstantiated. "Yes, there are armed Muslims, but these are stray elements who use the gun to enforce Wahhabism in the Muslim community. Their campaigns are not directed towards the Tamils or anybody else", said a trader in Kattankudy.<sup>143</sup>

Muslim leaders nevertheless have grounds to warn that if the government and its security forces continue to turn a blind eye to TMVP aggression and criminal activities, Muslim youth might take up arms in desperation. The TMVP has driven some Muslims from their lands and given them to Tamil favourites. Its attempt to rig the Batticaloa district local elections and prevent SLMC candidates from campaigning is creating anger. A Muslim social worker pointed out: "In the 1990s, the Muslims, whether old or young, were too scared to resist the Tamil militants in word or deed, even though the Tamil militants had massacred Muslims praying in mosques. But now, the mood is different. The young are asking why Muslims should bow to the Tamil militants".<sup>144</sup>

Sri Lanka's Muslims have shown tremendous patience over decades of violent conflict and remain a rare source of political moderation. Such a valuable resource should not be lost, but M.I.M. Mohideen, head of the Muslim Rights Organisation, warned:

The Muslims can no longer be at the receiving end, losing more and more lives and properties in the most horrendous manner for no fault of theirs. The government must now clearly indicate without any hesitation that it is prepared to stand by the peaceful and unarmed Muslim community to resolve their legitimate grievances before it is too late.<sup>145</sup>

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<sup>143</sup> Islamic radicalisation in the eastern Batticaloa and Ampara districts has been developing since the late 1970s, in the wake of eastern Muslims returning from work or study in the Middle East and exposure to Wahhabist teachings. The targets of the new, Saudi-inspired return to "tradition" were local Sufi cults and their leaders, who were denounced as un-Islamic. In 2004 and 2006, Wahhabists attacked Sufists and burned their properties in the Muslim town of Kattankudy. For more on intra-Muslim disputes and the potential for radicalisation, see Crisis Group Report, *Sri Lanka's Muslims*, op. cit., pp. 22-26.

<sup>144</sup> Crisis Group telephone interview, Colombo/Kattankudy, January 2008.

<sup>145</sup> Mohideen, op. cit., p. 71.

## VI. INTERNATIONAL ACTION

Those in the international community concerned with Sri Lanka's political stability cannot afford to sit back and wait for a return to negotiations. While the CFA and the 2002 peace process are now definitively over, and there is no near-term chance of a return to peace talks, coordinated action could still help limit the damage to lives, property, social cohesion and democratic institutions.

Sri Lanka's international democratic allies, not only the four co-chairs of the old peace process – Japan, Norway, the EU and U.S. – but also India, Australia, South Korea and other Asian states, as well as the UN, must speak out even more strongly about the dangers of pursuing the war against the Tigers, especially in the absence of any serious government commitment to devolution and power sharing, and respect for basic human rights and political dissent. Governments and multilateral organisations that have traditionally supported Sri Lanka should move beyond expressions of displeasure at the abrogation of the ceasefire agreement and focus on five areas that are the necessary ingredients for damage control and, eventually, a sustainable political solution.

- ❑ Donors and UN agencies should press more vigorously for full, regular humanitarian agency access to populations in need in the north and east and respond in a more coordinated and forceful manner to the intimidation campaign waged by the JVP, the Patriotic National Movement and government elements.<sup>146</sup>
- ❑ Donors, most crucially Japan, the World Bank, the Asian Development Bank and the UN, should devote the requisite resources to ensuring that their funds support only inclusive, consultative and conflict-sensitive approaches to development and land issues in the Eastern Province.
- ❑ Donors and supporters should speak more strongly and consistently in defence of human rights and democratic freedoms inside Sri Lanka, at the UN Human Rights Council in Geneva and, when possible, at UN headquarters in New York.
- ❑ A clear message should be delivered that implementation of the Thirteenth Amendment is not an adequate response to the legitimate aspirations and rights of the Tamil and Muslim communities and that constitutional reforms are

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<sup>146</sup> On the Patriotic National Movement, see Crisis Group Report, *Sinhala Nationalism*, op. cit.



still a necessary ingredient for any sustainable political settlement.

- Stronger political and legal pressure should be applied to the LTTE outside Sri Lanka. The Tigers and diaspora supporters should be told clearly that the LTTE must change or face permanent isolation and political irrelevance.<sup>147</sup>

## A. THE INTERNATIONAL ACTORS

Sri Lanka has long relied on Japan, its largest donor, Pakistan, an important military supplier, and India, its closest neighbour and both one of its largest trading partners and a supplier of defensive military equipment. Since the renewal of hostilities in 2006 and the ensuing criticism of humanitarian and human rights problems mainly from the U.S. and Europe, the Rajapaksa administration has made a concerted effort to develop political, economic and military support from non-Western governments. Most recently, it has actively cultivated Iran, China and smaller Asian states.<sup>148</sup> To a significant degree, this has been effective in limiting foreigners' influence on policy, but there is still much that those worried at current developments can do.

### 1. India

India remains the most important of Sri Lanka's foreign supporters. It has the political, economic and military clout to influence policies and has spoken out regularly on the importance of a form of power sharing that would form the core of a political solution acceptable to all three communities. Without its statements and strong private pressure, the APRC process would not have advanced as far as it has. The weak version of potential devolution that ultimately emerged, however, suggests India's limits in the present political context.

Delhi is displeased with the mainly military approach to the conflict, especially the CFA abrogation. It wants Tamils to have equal treatment and a fair share of power and worries about the deal they might get if the LTTE was no longer in the picture. The governing coalition would collapse without the support of parliamentarians from Tamil Nadu, and that state's parties cannot afford to look weak on Sri Lanka's Tamils. In part for these reasons, the government is concerned about the possible spillover

effect of heightened violence in Sri Lanka, whether large increases in refugees entering southern India or other border security problems.

Preoccupied by coalition tensions and instability in Pakistan, Bangladesh and Nepal, and with little serious pressure yet coming from its Tamil Nadu allies, however, Delhi has resisted engaging in active peacemaking or using its strongest leverage to shift Colombo's policies.<sup>149</sup> Its caution also results from important constraints, including memory of the failed India Peace Keeping Force in the late 1980s and the LTTE's subsequent murder of Prime Minister Rajiv Gandhi. The standing indictment of LTTE leader Prabhakaran and Tiger intelligence chief Pottu Amman for Gandhi's killing and the terrorist ban on the Tigers make it difficult to engage in any process involving contact with the LTTE and help explain why it is not unhappy to see the LTTE militarily weakened and top leaders targeted.

India has significant economic and security interests in Sri Lanka and does not want rivals, especially China, to gain too great a foothold. It is also nervous about Pakistan's military and intelligence activities in the country. It believes the position it has taken on Myanmar opened space for Pakistan and China to gain greater influence there and wishes to avoid a repetition. Aware of this, the Sri Lankan government has skilfully used its overtures to those countries to entice India to increase both economic and military support over the past year.<sup>150</sup> Despite India's displeasure with the lack of significant movement towards a political solution, it gives significant military help, including radar and other defensive equipment, intelligence sharing and naval patrols to prevent LTTE arms smuggling.<sup>151</sup> And it carefully avoids public pressure on President Rajapaksa to do something he might refuse.

Within these limitations, Delhi still has options. Regardless of the extent to which Colombo implements the Thirteenth Amendment, India should maintain strong advocacy for meaningful devolution of power, beyond the limitations of the unitary state. In part to increase support for such reforms, it should offer strong backing for non-LTTE Tamil parties, clearly distinguishing those willing to abide by democratic norms from those, like the TMVP, which are not. It should actively encourage the growing links between Sri Lanka's minority parties, Sri Lankan Tamil, Up-Country Tamil, and Muslim, encouraging a

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<sup>147</sup> See Section VI B below for a fuller discussion of this five-point action agenda.

<sup>148</sup> Mallika Wanigasundara, "Rajapakse government turns to new directions, gets good dividends", *Asian Tribune*, 31 December 2007; and Rohan Mathes, "Iran gives \$1.5b aid for Lanka", *Daily News*, 29 November 2007.

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<sup>149</sup> There has been a marked decline in LTTE support in Tamil Nadu; no alternative voice for Sri Lankan Tamils has yet emerged.

<sup>150</sup> "India proposes to invest USD 2 bn in Sri Lanka: Ramesh", *The Hindu*, 11 February 2008.

<sup>151</sup> Sunil Jayasiri, "India joins Lanka to combat LTTE air power", *Daily Mirror*, 20 December 2007; also "Indian Navy continues to boost security near Sri Lanka", *India Defence*, 2 April 2007, at [www.india-defence.com](http://www.india-defence.com).

move away from narrow nationalism towards a broader consensus around minority rights. It would be useful for Sri Lanka to hear Indian – and not just Western – voices on human rights, and in whatever way it feels comfortable, India should endorse an expanded OHCHR office in Sri Lanka, with full monitoring and reporting capacity. In support of these goals, including ultimately a renewed peace process, it should continue to strengthen policy coordination with the EU and U.S.

Other governments and international actors need to recognise the constraints within which the Indian government is operating, while India should be more proactive in letting them know what undertakings it would support. All need to coordinate more closely.<sup>152</sup> Gaining India's backing would create increased leverage with Colombo. The January 2008 India-EU joint statement was a positive step, but without more such coordination, international policy on Sri Lanka will likely remain ineffective.

## 2. Japan

As Sri Lanka's largest single donor by far, Japan has much but mostly unused leverage. Deeply invested in the 2002 peace process, it was slow to recognise the government's determination to pursue the war against the Tigers and the damage being done to human rights and democratic institutions. Traditionally reluctant to tie aid to political conditions and also concerned about China's growing economic power in the country, it has until recently been supportive of the Rajapaksa administration. Despite expressing occasional worries about rising violence and human rights violations, it has repeatedly said it is confident the government is committed to a peaceful solution.

Since the abrogation of the CFA, however, there are signs that Japan's patience may be wearing thin. Upset at the possible "dire humanitarian consequences" of an attempted military solution, Japanese envoy Yasushi Akashi announced at the end of a two-day visit to Colombo that new aid would be under review, based on "very close monitoring and observation of the situation", and the government's actions would be "important considerations" in aid decisions.<sup>153</sup> Officials have also begun publicly expressing their concern about human rights abuses and the urgent need for a credible devolution package.<sup>154</sup>

Allies, especially the U.S., should urge Japan to take stronger steps, beginning with supporting a donor task force on the east and a donor conference on wartime aid priorities. Japan should publicly endorse a fully-staffed UN human rights mission in Sri Lanka and announce that it looks forward to the final report of the International Independent Group of Eminent Persons (IIGEP) and to Colombo taking the report's recommendations seriously.

## 3. China

Sri Lanka is courting China, which is also one of its major military suppliers, as a potential source of investment and large infrastructure projects as well as of political support. Chinese companies are involved in two of the biggest development projects: the new port in the president's home town, Hambantota, and a coal power plant in the north western town of Norochcholai. China has been quiet about the military and political situation but, as a Security Council permanent member, should communicate clearly to the government the dangers of its current policies and the importance of respecting basic international norms, including the right of UN agencies to work without undue interference.

## 4. Western governments and international financial institutions

Many Western diplomats in Colombo and capitals have begun to express their frustration at their lack of leverage over the Rajapaksa government. Conventional wisdom has begun to be that because others give most of the aid, there is little Western governments can do. Money is not everything, however. Western governments still have significant political and moral influence, if used effectively, especially given the ties of elites to Europe and the U.S., including educational institutions. Four of the most senior officials have permanent residency or passports from Western countries.<sup>155</sup> A few governments have begun to restrict the travel of Sri Lankan officials for political reasons.<sup>156</sup> Short of such punitive measures, there are a range of actions to take.

- More countries should join the U.S. and UK in speaking out for an end to impunity for human rights violations; a non-violent, inclusive,

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<sup>152</sup> UNHCHR representatives, for example, might regularly brief the Indian UN ambassadors in Geneva and New York.

<sup>153</sup> "Japan 'reviews' aid to Sri Lanka", BBC News, 15 January 2008.

<sup>154</sup> "Japan-Sri Lanka summit meeting", Japanese foreign ministry, 10 December 2007, at [www.mofa.go.jp/announce/announce/2007/12/1176846\\_840.html](http://www.mofa.go.jp/announce/announce/2007/12/1176846_840.html).

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<sup>155</sup> Foreign Secretary Palitha Kohona is an Australian citizen; Defence Secretary Gotabhaya Rajapaksa is a U.S. citizen. Another presidential brother, Basil Rajapaksa, and Army Commander Sarath Fonseka hold U.S. green cards.

<sup>156</sup> Canadian authorities chose not to issue a visa to JHU stalwart and environment minister Champika Ranawaka in September 2007 and are deporting a former police chief for abuses under his command, Stewart Bell, "Tough stand taken on Sri Lanka", *National Post*, 3 December 2007.

transparent development process in the Eastern Province; political reforms beyond the present unitary constitution; and insisting that the Tigers reform or be made irrelevant.

- ❑ The U.S. and EU, as major donors to the World Bank and the Asian Development Bank, should both invest the necessary time and resources to ensure that their money is used to support equitable, transparent and conflict-sensitive development, especially in the Eastern Province.
- ❑ All should encourage and assist the UN to respond more strongly to government, JVP and JHU intimidation and to take more consistent and principled positions on displacement and civilian protection.
- ❑ While urging larger donors to review their aid in the new war context, even smaller donors should aim to leverage theirs to support whatever limited positive initiatives local officials and civil society organisations can carry out, and develop more effective monitoring and reporting on governance and protection issues.

## 5. Norway and the other co-chairs

The architecture of the 2002 peace process is no longer appropriate to the changed nature of the conflict and needs to be cleared away so new structures can be developed. India, the EU and U.S. should deepen cooperation, with the goal of eventually forming a contact group to replace the co-chairs, who no longer have a clear role.<sup>157</sup> Despite Norway's years of hard work and good intentions, attacks from nationalist groups have taken their toll, and it is now an object of too much suspicion among too many Sinhalese for any government to be willing to use its good offices.<sup>158</sup> International supporters of a negotiated settlement should begin to seek out another party, perhaps even a private individual, who could replace Norway as facilitator, when and if the government and the LTTE become interested in negotiations again.

<sup>157</sup> As noted above, the four Co-Chairs of the Tokyo Donor Conference are Norway, Japan, the U.S. and the EU.

<sup>158</sup> The government has not allowed Norway's ambassador to travel to LTTE headquarters in Kilinochchi since July 2007.

## B. THE AGENDA

Donors and supporters of Sri Lanka, Asian as well as Western, should concentrate on five major areas.

### 1. Humanitarian concerns

Humanitarian needs in the Northern Province are increasingly urgent. The withdrawal of the Sri Lanka Monitoring Mission (SLMM) established under the ceasefire meant the loss of one of the few remaining sources of information on what is happening in areas near the fighting. Without it, the protection and information role of UN agencies and humanitarian NGOs has become even more important. Their ability to work unimpeded must be defended more strongly by governments, including Japan and India, and by the UN leadership. UN agencies must make clear they will be forced to scale down or end their non-emergency operations in Sri Lanka should harassment continue.

At the same time, UN agencies and humanitarian NGOs should improve their capacity for coordinated monitoring, reporting and advocacy on protection of children, the internally displaced and other vulnerable populations. They and bilateral donors should press in a more forceful, coordinated way for full access to populations in need and the right to deliver needed supplies without undue security and anti-terrorism restrictions. The government-controlled Consultative Committee on Humanitarian Assistance has proven to be ineffective at guaranteeing access.

### 2. Eastern Province

Local government elections are to be held in March 2008 in areas recently regained from the LTTE, and provincial elections are promised for later in the year. While the stated goal of establishing democracy is important, there is no possibility these elections can be free and fair. In addition to their criminal activities, the TMVP's threats to political opponents – both Tamil and Muslim – are systematic and well-publicised. Elections under present conditions would be rigged and possibly bloody, and donors should voice collective opposition to holding them until basic security is restored and the right of all parties to campaign freely and safely is guaranteed.<sup>159</sup>

<sup>159</sup> To date, only the U.S. has spoken up clearly: "Free and fair elections cannot be held if one party is allowed to bear arms and intimidate and threaten voters and other contestants....The United States believes that paramilitaries including the TMVP must not be allowed to carry arms, but should instead compete with the strength of their words rather than the threat of a bullet", "Remarks by U.S. ambassador Robert Blake at the opening of Marvell Sarvodaya Vocational Training Centre in

This requires the government finally cracking down on the TMVP.

If the government is truly interested in economic development of the east, it will need to rely to a large extent on donors. It has yet to forward large aid requests to the major development banks, though the World Bank, Asian Development Bank, Japan Bank for International Cooperation and bilateral donors are continuing smaller projects that were agreed before the recapture of the entire east. The World Bank and the Asian Development Bank endorse the principles of “do no harm” and “conflict-sensitive” aid. For these to be meaningful, however, both banks must devote personnel and resources to monitoring where their money goes and its political and conflict-related effects.<sup>160</sup> The U.S. and EU need to press the banks on this and encourage Japan to do the same and more generally to express publicly concern about developments in the Eastern Province.

Donors, both multilateral and bilateral, should establish a task force charged with analysing and reporting on the political and economic situation in the east and prospects for sustainable, inclusive and equitable development. Reports of human rights violations, lack of democratic governance and corruption are widespread, but donors have been content to do their own field assessments, which remain private; assistance is given without significant coordination. This makes it hard for donors to meet their responsibilities to taxpayers and Sri Lankan recipients that aid will support transparent, equitable, inclusive and sustainable forms of development. The new task force's reports should be public and lay the groundwork for a donor conference to reassess Sri Lanka's development assistance needs in light of the recapture of the Eastern Province and the return to full-scale war.

Finally, the UN and international humanitarian NGOs in the east need to be more determined in dealings with the government. The understandable desire for access to those in need has undermined attempts to use the leverage of a common front to insist on respect for basic principles of humanitarian aid.<sup>161</sup> Donor governments and UN agencies, with their NGO partners, should prioritise meaningful implementation of the Guiding Principles for Humanitarian and Development Assistance, adopted with much fanfare

in 2007 by all major donors and the government.<sup>162</sup> They have not been applied in many cases, with the result that there continue to be reports of returns to only partially demined areas, excessive security restrictions on traditional livelihoods, lack of protection against government counter-insurgency operations and continued military restrictions in supposedly secure areas.<sup>163</sup>

### 3. Human Rights

With the end of the CFA and the return to full-scale war, human rights violations and the problem of impunity are likely to worsen. India, Japan, South Korea and the rest of Sri Lanka's international supporters should join the U.S. and UK in speaking forcefully on the need for government action to curtail violations and end impunity. The Presidential Commission of Inquiry and the IIGEP have been ineffective. Donor governments and UN bodies – the Human Rights Council, OHCHR, special rapporteurs and the General Assembly – must highlight the government's clear and deliberate failure to live up to its own constitutional requirements and make the most of available legal and political tools.

Donors should consider following the U.S. Congress's example and condition military aid on government willingness to investigate and prosecute security force personnel linked to human rights violations. The government should be persuaded to stop intimidation against independent media and dissenting politicians, end ruthless counter-insurgency practices, insist that the TMVP act within the law and expedite reestablishment of the Constitutional Council, leading to appointment of new independent commissions. Government and military leaders should be told that unless they take strong action, they risk being held accountable for violations of international humanitarian and human rights law. The same message must be delivered to the LTTE as it attacks civilians.

The EU should table in the UN Human Rights Council a strengthened version of its long-postponed Sri Lanka resolution, even at the risk of its defeat. The resolution should call explicitly for a fully staffed and empowered OHCHR field presence. The U.S. needs to make clear to opponents of the resolution that its support for it and for an OHCHR mission is more than pro forma. India and Japan also need to publicly endorse an OHCHR field mission and to actively lobby the Sri Lankan government and its supporters on the Human Rights Council.

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Batticaloa”, 23 January 2008, at <http://colombo.usembassy.gov/sarvodaya.html>.

<sup>160</sup> These resources are not yet available, Crisis Group interviews, diplomats and bank representatives, Colombo, November 2007.

<sup>161</sup> Crisis Group interviews, donor representatives and aid workers, Colombo, November-December 2007.

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<sup>162</sup> “Guiding Principles for Humanitarian and Development Assistance in Sri Lanka”, at [www.dellka.ec.europa.eu/en/whats\\_new/2007/pdf/Guiding\\_Principles\\_Sri\\_Lanka.pdf](http://www.dellka.ec.europa.eu/en/whats_new/2007/pdf/Guiding_Principles_Sri_Lanka.pdf).

<sup>163</sup> Crisis Group interviews, diplomats and aid workers, Colombo, November-December 2007.

The debate should also be taken to the Security Council. Sri Lanka is already on the agenda of its Working Group on Children in Armed Conflict; the Working Group should recommend, as it has previously threatened,<sup>164</sup> and the Council should approve, tough sanctions on the LTTE for continued recruitment of child soldiers.<sup>165</sup> The Working Group should also recommend to the Council that similar strictures be placed on the TMVP for its child recruitment and note with great concern the ample evidence that the government continues to assist in its illegal activities.<sup>166</sup> It should also consider and in principle show support for the recommendation of the Secretary-General that the Security Council “refer to the International Criminal Court, for investigation, and prosecution, violations against children in armed conflict that fall within its jurisdiction”.<sup>167</sup>

The former head of the TMVP, Colonel Karuna, is now in a UK immigration detention centre. On 25 January 2008, he was sentenced to nine months' imprisonment for travelling under a false name on a diplomatic passport covertly supplied by the Sri Lankan government.<sup>168</sup> Should evidence be found to substantiate allegations of torture or other grave abuses by Karuna and his men, the UK should prosecute and advise governments it desires their help in discovery and protection of bona fide witnesses, including by offering visas to them and/or their families.

The EU should increase engagement on human rights and humanitarian issues. Senior representatives should visit Sri Lanka to raise concerns and gain a clearer analysis of the situation. This could be linked to the 2008 review of Sri Lanka's eligibility for the Generalised System of Tariff Preferences (GSP+), which grants duty free export rights to countries with good records of compliance with labour,

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<sup>164</sup> “Statement by the Chairman of the Security Council Working Group on Children and Armed Conflict”, 11 May 2007, available at [www.franceonu.org/article.php?id\\_article=1459](http://www.franceonu.org/article.php?id_article=1459).

<sup>165</sup> The Sri Lankan government has endorsed UN sanctions on the LTTE, “Resolute action key to curb deployment of child soldiers”, statement by the permanent representative of Sri Lanka to the United Nations at the Security Council debate on children and armed conflict, 12 February 2008, at [www.dailynews.lk/2008/02/16/fea05.asp](http://www.dailynews.lk/2008/02/16/fea05.asp).

<sup>166</sup> The Secretary-General noted in his most recent report that both the LTTE and TMVP warrant “consideration for targeted measures should they continue to fail to come to compliance in the next reporting period”, “Report of the Secretary-General on children and armed conflict in Sri Lanka”, UNSC S/2007/758, 21 December 2007, para. 62, at [www.un.org/Docs/sc/sgrep07.htm](http://www.un.org/Docs/sc/sgrep07.htm).

<sup>167</sup> “Report of the Secretary-General on children and armed conflict”, UNSC S/2007/757, 21 December 2007, para. 166, at [www.un.org/Docs/sc/sgrep07.htm](http://www.un.org/Docs/sc/sgrep07.htm)

<sup>168</sup> “Britain jails Karuna for nine months – Prosecution says Government and Gotabaya provided travel document”, *Daily Mirror*, 26 January 2008. See also “The Karuna case unplugged”, *The Sunday Leader*, 3 February 2008.

environmental and governance standards.<sup>169</sup> There is much speculation in Sri Lanka that the EU may cancel these preferences due to the serious deterioration in human rights and governance since they were awarded in 2005.<sup>170</sup> Loss of GSP+ status would risk seriously damaging the important garment industry, possibly throwing tens of thousands out of work.<sup>171</sup> Rather than an all-or-nothing decision, creative ways should be found to link continued eligibility explicitly to the effective incorporation of Sri Lanka's treaty obligations into domestic law.<sup>172</sup>

#### 4. The APRC and a political solution

President Rajapaksa's insistence that the APRC limit its long-awaited proposals to Thirteenth Amendment implementation scuttled a promising experiment in constitutional reform. It is unlikely he will shift his opposition to serious power sharing while his parliamentary control depends on the JVP and JHU. Nonetheless, there is still room for useful, if limited, international action.

- Sri Lanka's friends should stress that the twenty-year-old Thirteenth Amendment, fully implemented, is no substitute for major, sustainable reforms.<sup>173</sup> A lasting solution requires giving elected representatives from the north and east the right to make decisions, including through power sharing at the centre. While respecting that Sri Lankans must devise constitutional reform details, internationals,

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<sup>169</sup> According to the EU, “Sri Lanka is the only country in Asia and one of only 15 countries in the world that enjoys this special status with the EU. Under this facility, Sri Lanka can export more than 7200 products categories duty-free to the EU”; “Generalised System of Tariff Preferences”, European Commission Delegation to Sri Lanka and the Maldives, at [www.dellka.cec.eu.int/en/eu\\_and\\_srilanka/trade/gsp.htm](http://www.dellka.cec.eu.int/en/eu_and_srilanka/trade/gsp.htm).

<sup>170</sup> Germany's economic cooperation and development minister announced in February 2008 that her government would press for GSP+ privileges to be removed “if the Sri Lankan government continues to insist on a military option”, “Germany wants Sri Lanka to decide between war and aid”, *The Morning Leader*, 13 February 2008.

<sup>171</sup> Sri Lanka's EU exports are 28.6 per cent of its exports, those to the U.S. 31 per cent. More than half those to the EU are garments. Sri Lanka earns about \$3 billion yearly from apparel products, about 40 per cent from the EU, “Govt. to negotiate extension of GSP+”, *Daily News*, 29 October 2007; and “Trade and Economic Co-operation”, European Commission Delegation to Sri Lanka and the Maldives, at [www.dellka.ec.europa.eu/en/eu\\_and\\_srilanka/trade/index.htm](http://www.dellka.ec.europa.eu/en/eu_and_srilanka/trade/index.htm).

<sup>172</sup> See Rohan Edrisinha and Asanga Welikala, “‘GSP Plus’ privileges: the need for constitutional amendment”, Groundviews, 15 February 2008, at [www.groundviews.org](http://www.groundviews.org).

<sup>173</sup> In the present context it might worsen matters by legitimising new forms of undemocratic political power in the east and north.

especially India, should make clear it is necessary to move beyond the unitary state – the sooner the better. The president's decision to tie his government's survival to the JHU and JVP is not reason to abandon calls for constitutional reform.

- So that its creative constitutional thinking is not lost, the APRC should be encouraged to publish its power-sharing proposals soon, even as majority and minority reports. Without pressure, it is likely to deliberate endlessly, blocked from consensus by the SLFP, MEP and JHU. The international community should also urge the UNP, publicly and privately, to announce willingness to support broader power-sharing proposals, along the lines of those made public by APRC Chairman Tissa Vitarana in early 2007.<sup>174</sup>
- In the absence of government moves towards more substantial forms of power sharing, international supporters – including India – should closely monitor the implementation of the Thirteenth Amendment on the ground and press for all permissible powers to be given to the north and east, and for local politicians and civil servants to be granted effective decision-making powers.
- Sri Lanka's partners should also encourage other forms of state reform to address minority grievances, beginning with practical implementation of the formal parity of the Tamil language with Sinhala, as laid out in the 2005 report of the Official Languages Commission.<sup>175</sup> The government should be urged to make a genuine attempt to change the state's engagement with all minorities – Northern and Eastern Tamils, Up-Country Tamils and Muslims.

## 5. Pressure on the Tigers

Even as the government must be pressed to change course on numerous fronts, the LTTE should face stronger political and legal pressure around the world. Over the past few years, there has been much tougher enforcement of anti-terrorism laws against Tiger arms smugglers and front organisations in the U.S., UK, Canada, India and

Australia,<sup>176</sup> but better implementation of existing legal measures in Europe and elsewhere with significant Tamil populations and active Tiger front organisations is still needed. An anti-terrorism framework has its dangers, however. Among other problems, it has provided justification for the Sri Lankan government to implement measures that harm and alienate many Tamils and so run directly counter to the possibility of a political solution.

While LTTE arms smuggling, fundraising and intimidation should be criminalised, the Tamil diaspora as a whole should not be. Western governments' policies on Sri Lanka should consciously include attempts to open up political space within their Tamil communities for non-Tiger political voices. Those governments with significant Tamil populations should engage representative civil society groups directly, expressing sympathy for the legitimate grievances of minorities in Sri Lanka, while challenging them to reject the LTTE's destructive politics and actively guarding against any intimidation of anti-Tiger Tamil groups.

The 10 December 2007 speech by outgoing British High Commissioner Dominic Chilcott pointed part of the way. Challenging the LTTE's "fundamentally anti-democratic position" that no other group is allowed to speak for the Tamil people, he argued that "unless and until [the Tigers] embrace democratic, non-violent methods, they will exclude themselves from any future peace process".<sup>177</sup> The international community should at least say clearly the Tigers' role in any future negotiations depends upon their demonstrating readiness to respect human rights and accept the rules of democratic political competition.

Short of a complete military defeat, however, the LTTE will likely remain a major player in any talks, though it should not be the only Tamil negotiator. The international community thus should take up the challenge of pressuring and persuading it – perhaps using diaspora representatives – to renounce suicide bombings, attacks on civilians, political killings and child recruitment. The brutality of LTTE violence against all three communities has increased the resistance to constitutional compromise and negotiations among many Sinhalese and some Muslims.

Similarly the Tigers must be pressed to say unambiguously they would accept autonomy within a united Sri Lanka, not insist on a separate state. The demand for a separate state allows Sinhalese hardliners to argue that devolution would be merely a step towards separation. Renouncing

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<sup>174</sup> Rajapaksa would not likely accept an offer, which would antagonise the JHU and the JVP, but it is important to preserve the possibility of two-thirds support in parliament for real devolution and to remove UNP reluctance as an excuse for inaction.

<sup>175</sup> "Memorandum of Recommendations", Official Languages Commission, June 2005. Even Sinhala nationalists opposed to devolution accept that Tamils have genuine grievances on language policies and practices. See, for instance, Gomin Dayasiri, "A wake up call!", *The Island*, 15 November 2007.

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<sup>176</sup> "Taming the Tamil Tigers from here in the U.S.", United States Federal Bureau of Investigation, 1 January 2008, at [www.fbi.gov/page2/jan08/tamiltigers011008.html](http://www.fbi.gov/page2/jan08/tamiltigers011008.html).

<sup>177</sup> Chilcott, op. cit.

separation would make it easier for Sinhalese progressives to argue for compromise. The Tigers should also be required to take some real steps towards transformation before being accepted as a negotiation partner. Such moves, however, may well require new leaders. Peace supporters should consider setting a deadline for renunciation of a separate state, after which they would actively pursue prosecutions of current LTTE leaders for war crimes and crimes against humanity.

On the other hand, if the Tigers do indicate willingness to make significant changes in policies and behaviour, the international community should be willing to offer incentives. Countries should develop step-by-step benchmarks for progress towards revoking the terrorist designation – in part to encourage Prabhakaran's removal. However hard it is to imagine, an LTTE without him should be considered and ultimately encouraged. International security guarantees for Tiger leaders will be needed if genuine negotiations can eventually be resumed.

Finally, increased international support is desirable for track two initiatives with Sinhalese, Tamils and Muslims, inside and out of the country. The aim should be to begin to build the middle ground – significantly beyond the unitary state but far short of a separate Tamil state – required for a lasting political solution to gain traction once political conditions are better. International facilitators should aim not at strengthening the representatives of an uncompromising LTTE, but at developing support for the slow but fundamental transformation of both sides, before, during and after negotiations.

## VII. CONCLUSION

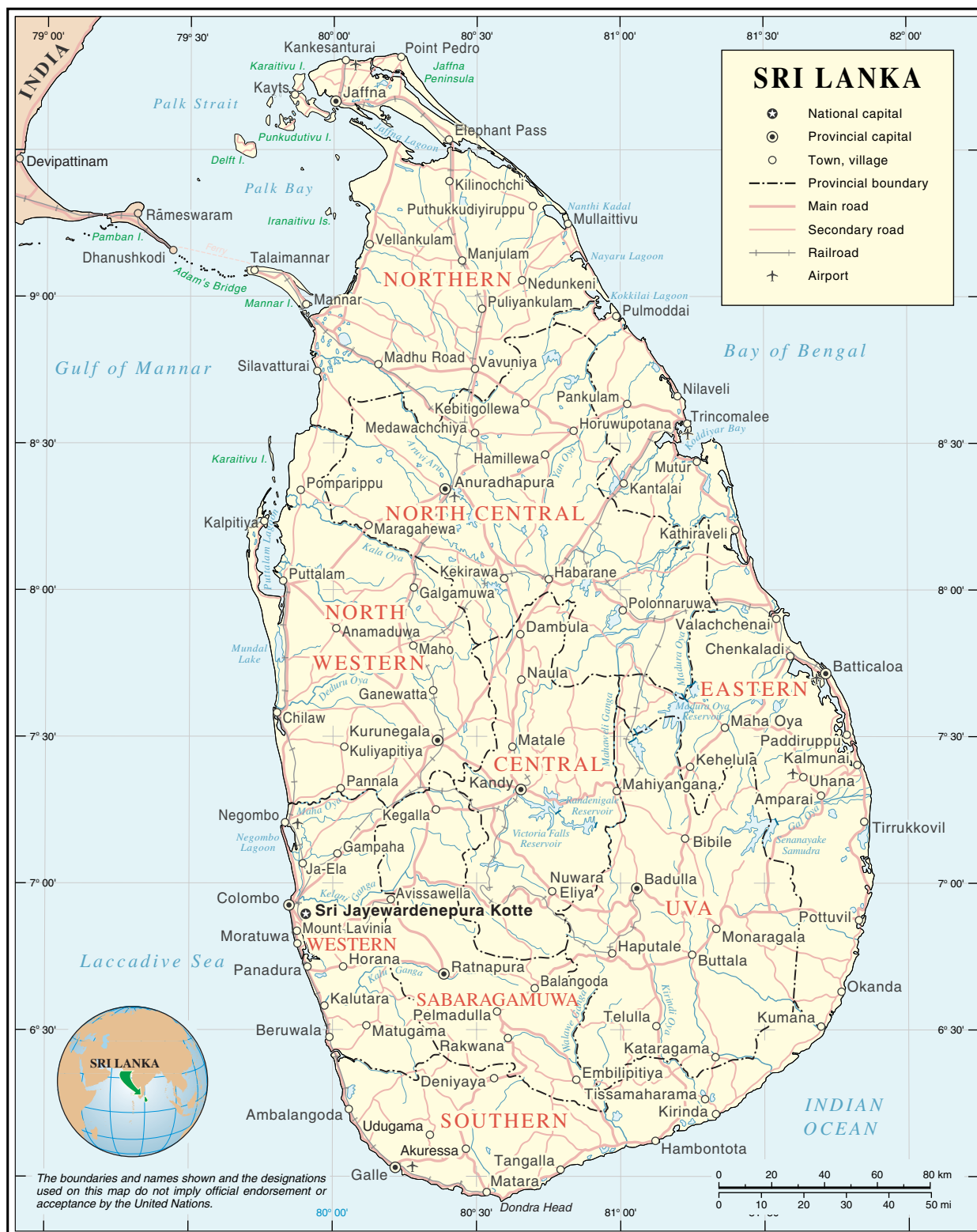
In reaction to a ceasefire agreement and peace process that granted unearned legitimacy to an unreformed LTTE, the Sri Lankan government has moved to reassert its control of the entire country by military force. The desire to beat the Tigers and end the war once and for all is understandable. In the absence of a commitment to sharing power with unarmed and moderate Tamil and Muslim political forces, however, the return to war strengthens extremists on both sides. Locked in a vicious and escalating cycle of violence, the excesses of one feed those of the other. Lost are the rights and well-being of average citizens, Tamil, Sinhalese and Muslim.

With no chance of a new ceasefire or major peace initiatives soon, the present stage of the conflict will likely continue for some time, but attempts must be made to control the damage to lives and well-being, to liberal and democratic institutions and to the possibility of future, more sustainable attempts at a just, negotiated settlement. This will not be easy: basic institutions of the international system – including the UN and the rules of war – are themselves under assault and in need of robust defence. Responsible parties in Sri Lanka and the international community must nonetheless defend those caught in the middle: human rights defenders, Sinhalese good governance activists and Muslim, Tamil and Up-Country Tamil parties still committed to peaceful political change. Though they are under intense pressure, these are the political forces on which hope for the future depends.

**Colombo/Brussels, 20 February 2008**

## APPENDIX A

### MAP OF SRI LANKA





## APPENDIX B

### GLOSSARY OF ABBREVIATIONS

- 
- APRC** All-Party Representative Committee established in July 2006 by President Rajapaksa to prepare proposals for constitutional reforms and devolution of power. The three major opposition parties – UNP, JVP and TNA – are not members.
- CFA** Ceasefire agreement, signed between the LTTE and the Sri Lankan government in February 2002, paving the way for direct peace talks. It was formally abrogated by the government in January 2008, after two years of increasing violence.
- JHU** Jathika Hela Urumaya, National Sinhala Heritage Party. Known from 2000 to 2004 as Sihala Urumaya (Sinhala Heritage), it promotes a strong Sinhala nationalist ideology and promises a new brand of corruption-free politics. Nine Buddhist monks were elected to parliament under the JHU banner in 2004, and prominent Buddhist monks are among its current leadership.
- JVP** Janatha Vimukthi Peramuna, People's Liberation Front, the largest and longest-standing Sinhala nationalist party. Originally a splinter group of the Maoist Wing of the Ceylon Communist Party in 1965, it led armed insurgencies against the state in 1971 and 1987. It is now part of the political mainstream, with 38 seats in parliament.
- LSSP** Lanka Sama Samaja Party, Lanka Equal Society Party, a Trotskyist party founded in 1935 and presently part of the ruling coalition, with one seat in parliament.
- LTTE** Liberation Tigers of Tamil Eelam, the dominant Tamil nationalist militant group founded in 1976 and led by Velupillai Prabhakaran. It claims to fight for the rights of the Tamils and seeks to establish a separate state in the north and east of the country.
- MEP** Mahajana Eksath Peramuna, People's United Front, Sinhala nationalist party founded in 1959 and now a constituent party of the UPFA, with two seats in parliament.
- PNM** Patriotic National Movement, Desha Hitaishi Jathika Viyaparaya, a Sinhala nationalist group founded in 2003, drawing its leadership from the JVP, JHU, UNP, SLFP and independent intellectuals and entrepreneurs.
- SLFP** Sri Lanka Freedom Party, centre-left party founded in 1951 by S.W.R.D. Bandaranaike after breaking with the UNP. It instituted socialist economic policies in the 1970s. In power under Bandaranaike's daughter, President Chandrika Kumaratunga, from 1994 to 2005 as the main constituent party of the People's Alliance coalition, it is now led by President Mahinda Rajapaksa.
- SLMC** Sri Lanka Muslim Congress, led by Rauff Hakeem, formerly the premier party representing Muslim interests, now split into numerous factions.
- TMVP** Tamil Makkal Viduthalai Puligal, armed group formed when the LTTE's eastern military commander, Vinayagamoorthy Muralitharan, alias "Colonel" Karuna, broke ranks in March 2004. Concentrated in the Eastern Province and now led by Karuna's former deputy, Pillayan, it is contesting elections as a registered political party with the support of the government.
- TNA** Tamil National Alliance, a coalition of smaller Tamil parties that support the LTTE, currently with 22 members of parliament.
- UNF** United National Front, a coalition led by the United National Party, with the Sri Lanka Muslim Congress, Ceylon Workers' Congress, and Western People's Front. It won elections in December 2001 and was in power until April 2004.
- UNP** United National Party, centre-right political party formed in 1946 and currently the main opposition party. It was founded by D.S. Senanayake and is at present led by Ranil Wickremasinghe, prime minister from 2001 to 2004.
- UPFA** United People's Freedom Alliance, coalition formed in January 2004 and led by the SLFP and JVP, it won the parliamentary elections in April 2004. Since December 2006, it has been in opposition, though it remains a strong supporter of the government's war.

## APPENDIX C

### ABOUT THE INTERNATIONAL CRISIS GROUP

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