



1 August 2011

A commentary on the March 2011 Sri Lanka Operational Guidance Note

This commentary identifies what the 'Still Human Still Here' coalition considers to be the main inconsistencies and omissions between the currently available country of origin information (COI) and case law on Sri Lanka and the conclusions reached in the March 2011 Sri Lanka OGN. Where we believe inconsistencies have been identified, the relevant section of the OGN is highlighted in blue.

An index of full sources of the COI referred to in this commentary is also provided at the end of the document.

This commentary is a guide for legal practitioners and decision-makers in respect of the relevant COI, by reference to the sections of the Operational Guidance Note on Sri Lanka issued in March 2011. To access the complete OGN on Sri Lanka go to:

<http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylum/policyogns/>

The document should be used as a tool to help to identify relevant COI and the COI referred to can be considered by decision makers in assessing asylum applications and appeals. This document should not be submitted as evidence to the UK Border Agency, the Tribunal or other decision makers in asylum applications or appeals. However, legal representatives are welcome to submit the COI referred to in this document to decision makers (including judges) to help in the accurate determination of an asylum claim or appeal.

The COI provided in this commentary is not exhaustive and should always be complemented by case-specific COI research.

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3.7 Fear of persecution by the Sri Lankan authorities

Excerpt from the March 2011 OGN

Tamil ethnicity

3.7.3 Tamils maintain that they suffer longstanding systematic discrimination by the government. Minority Rights Group International (MRGI) reported in January 2011 that, following the end of the war, grievances remain. Both Tamil and Muslim groups living in the north and east describe harsh material conditions, economic and political marginalisation and militarism. Many are displaced and have inadequate housing, land issues and limited livelihood opportunities. There are concerns about 'Sinhalisation' and the resulting erosion of the right to express their cultural, religious and linguistic identity. Some members of minority communities living in army-controlled areas interviewed for the MRGI report spoke of intimidation and harassment at the hands of the military, including sexual harassment and rape. The report notes that perpetrators were able to act with impunity and victims are denied access to justice.²⁰³

This is the only paragraph that specifically addresses the treatment of Tamils on the basis of their ethnicity in Sri Lanka. Only one source of COI, an excerpt from the January 2011 Minority Rights Group report, is included in this section. It is considered that this excerpt of COI fails to document the range of abuses that Tamils experience as are reported both in the original source and elsewhere in the public domain. The inclusion of such limited COI may also give the false impression that the situation for Tamils as described by Minority Rights Group is not corroborated by other sources which, as the following COI demonstrates, is not the case. This COI is particularly relevant given that the conclusion of this section of the OGN relies heavily on the findings of [TK \(Tamils – LP updated\) Sri Lanka CG \[2009\] UKAIT 00049](#) which was promulgated back in December 2009.

➤ [International Crisis Group, Reconciliation in Sri Lanka: Harder Than Ever, 18/07/2011](#)

[...] B. TAMILS

[...] The government's policies and Tamil suspicions are also increasing the vulnerability of certain members of the Tamil community, especially former or suspected LTTE cadres. Many of those caught up in the government's "rehabilitation" camps were not hardcore fighters. Some were forcibly recruited in the final days of the war; others had lived under Tiger rule for decades and had to cooperate with their orders to survive. Nonetheless, when detainees are released and returned to their communities, they are treated with suspicion. Some are more deserving than others of this reaction – those who helped to abduct children are often on the receiving end of mothers' anger. But those forcibly recruited have little to atone for. Still, when they are visited by the military and intelligence agents it creates problems, especially for women, who are vulnerable to sexual abuse, but also for their families and villages. "Society sees these people as those who brought bad things on the community", said a priest in the north. The resulting ostracism is dangerous. But instead of trying to build trust between people who have been associated with the LTTE (rightly or wrongly) and those who have not, the government is undermining those relationships. This is true of the military's widespread use of former detainees as informants, but also of the government's development policy. The PTF has an implicit policy of giving preference to people not associated with the LTTE. A government official told an international aid worker in the north: "If I have a widow of an LTTE cadre and a widow who is clearly just Tamil, I'll pick the latter". This approach will only increase levels of distrust that already are high. [...]

➤ [International Crisis Group, India and Sri Lanka After the LTTE, 23/06/2011](#)

[...] Deepening militarisation and Sinhalisation in the northern province have increased the insecurity and political marginalisation of Tamils and are undermining prospects for inter-ethnic reconciliation. The government continues to resist any investigation or accounting for mass atrocities in the final months of the war. Democratic governance is under sustained assault throughout the country, as power is concentrated in the president's family and the military; attacks on independent media and political opponents continue with impunity. [...]

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Indian assistance to the north and east is being delivered in a highly politicised, militarised and ethnically-charged environment. Restrictions on humanitarian and development work and close government and military control over distribution have contributed to a painfully slow recovery.

Most of those resettled still lack adequate resources or facilities. "They lost everything", says one activist who works in the north. "They do not have water, safety, the basics The army is using informants, giving them favours. Nothing is transparent, especially regarding the militarisation. It breeds suspicion Now, the people are begging for everything, buckets, food, etc. They need to feel there is no conspiracy against them"

Virtually all decisions about what happens in the north and east are taken by the military, controlled by Defence Secretary Gotabaya Rajapaksa, often with the involvement of the Presidential Task Force for Resettlement, Development and Security in the Northern Province (PTF). The military not only decides policies for the north, but controls all aspects of everyday life – from monitoring who visits individual homes and which community groups meet where and with whom, to how land is used and which individuals and ethnic groups can enjoy the new economic opportunities in the post-war north and east. "Intelligence is omnipresent", explains an aid worker. "You have [Tamil] informers everywhere, especially in Kilinochchi and Mullaitivu The civilian and military structures in the north are being blended. There is absolutely no trust of government servants". Political and military influence in choosing beneficiaries is widespread.

The PTF, headed by another of the president's brothers, Minister of Economic Development Basil Rajapaksa, routinely requires NGOs to consult the local army brigade commander when selecting volunteers and beneficiaries for its projects.

The PTF has also made it clear to development actors that they should be giving priority to families who were not associated with the Tigers. In this context, ensuring that Indian assistance is used effectively and not in ways that could increase tensions in the Tamil community, will require extensive monitoring and coordinated advocacy with other donors. Local government, senior Tamil bureaucrats posted in the north and elected Tamil members of parliament have no decision-making power, nor is there an elected Northern Provincial Council.⁷⁵ Mahinda Chintana, Rajapaksa's 2010 presidential election manifesto, promised to re-establish the council "with immediate effect", in line with the requirements of the Thirteenth Amendment.

But with the TNA having done well in parliamentary and local government elections in the north, it would almost certainly control the Northern Provincial Council. Many believe the government would prefer to avoid or delay dealing with a TNA-majority council.

Such extensive military control has deep political implications in a post-conflict environment. Faced with physical insecurity, lack of basic amenities and economic opportunities, no control over the use and distribution of land, and virtually no role for minority representatives in administering the north, "young Tamils are angry", says one resident of Jaffna. "Soon the uprising will come again.

We have no future, no opportunity. No more respect for us. We are the minority, we don't have any power". Explains another northern Tamil, "They are arresting and harassing people again. It is not over. The guns are silent now, but still we are full of fear. We are not at peace. The government is trying to trick the international community".

According to one member of the TNA involved in the talks, M.A. Sumanthiran, "On the immediate issues, we placed three matters – long-term detainees, resettlement in 'high security zones' and illegal armed groups". Despite positive words from government officials, little progress has been made on any of these issues.

"What is agreed in the meetings is not being followed", says one person close to the negotiations.

Of particular concern is the government's repeated failure to make available a list of names and locations of the thousands of Tamils suspected of involvement with the LTTE, who are being detained in various facilities, including "rehabilitation" centres. Families throughout the north are desperate to know whether their missing family members are among them. "We wish that the government too would show more sincerity and purpose in this matter", said Sumanthiran. [...]

- [US Department of State, Sri Lanka Country Report on Human Rights Practices 2010, 08/04/2011](#)
[...] d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons
The law grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to the country." In practice, however, the government restricted this right on multiple occasions.

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The additional police and military checkpoints on travelers from the north and the east and on movement to and in Colombo remained in effect. The number of formal, stationary checkpoints declined from the previous year, in particular in Colombo. Many observers noted an increase in temporary, roving checkpoints, however, especially at night in Colombo.

Ethnic Tamils' national identification cards were the only cards printed in both Sinhala and Tamil.

Security forces at army checkpoints in Colombo frequently harassed Tamils. Both the government and the TMVP continued to operate checkpoints in the east that impeded the free movement of residents, especially Tamils. [...]

Limited access continued near military bases and the HSZs where civilians could not enter. The HSZs extended in an approximately 2.5-mile radius from the fences of most military camps. Some observers claimed that the HSZs were excessive and unfairly affected Tamil agricultural lands, particularly in Jaffna. There were allegations after the war ended that the government was allowing non-Tamil businesses to locate inside HSZs, taking over valuable land before local citizens were allowed to return. [...]

e. Denial of Fair Public Trial [...]

The law requires court proceedings and other legislation to be available in English, Sinhala, and Tamil. In practice most courts outside of Jaffna and the northern parts of the country conducted business in English or Sinhala. A shortage of court-appointed interpreters restricted the ability of Tamil-speaking defendants to receive a fair hearing in many locations, but trials and hearings in the north were in Tamil and English. Few legal textbooks existed in Tamil. [...]

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law provides for the right to privacy; however, the government infringed on these rights, particularly when conducting cordon and search operations in Tamil neighborhoods. The Emergency Regulations allowed security forces to conduct searches of property and to engage in wiretapping and surveillance of private citizens with little judicial oversight. [...]

National/Racial/Ethnic Minorities

Both local and Indian-origin Tamils maintained that they suffered long-standing, systematic discrimination in university education, government employment, and other matters controlled by the government. According to the SLHRC, Tamils also experienced discrimination in housing. Landlords were required to register any Tamil tenants and to report their presence to the police, although in practice many landlords did not comply.

Tamils throughout the country, but especially in the conflict-affected north and east, reported frequent harassment of young and middle-age Tamil men by security forces and paramilitary groups. [...]

➤ [UK Foreign and Commonwealth Office: Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Section VII: Human Rights in Countries of Concern, 31/03/2011](#)

[...] Minorities and other discriminated groups

Throughout the conflict, minorities suffered disproportionately – including at the hands of the now defeated Liberation Tigers of Tamil Eelam. The political rights of minorities, a key driver of the conflict, continued to be restricted in 2010. Tamil representatives continued to report discrimination from the government and security forces. Tamil civilians in Colombo were asked to register their presence with their local police station in July, and throughout 2010 arrests under the Emergency Regulations and Prevention of Terrorism Act primarily affected Tamils. There was also no further progress towards establishing a political package to respond to key minority concerns. However, in late 2010 the government began talks with the main Tamil party, the Tamil National Alliance, to address minority grievances.

Following the end of the military conflict in 2009, economic development has been a key Sri Lankan government priority. The government has said this will benefit all communities. In 2010, Tamil representatives alleged that Sinhalese companies from the south had been favoured in carrying out some reconstruction projects in the north and east. They also complained that minorities' right to own land is not being honoured. Some Tamils and Muslim groups accused the government of "Sinhala colonisation" of the minority-dominated areas of the north and east during 2010 and alleged that army personnel had been granted land and moved their families to settle in the north. They also complained that land belonging to Tamil and Muslim civilians had been designated as "High Security Zones" and the owners were not allowed access to it. The return of approximately 70,000 Muslims forcibly displaced from the north by the Liberation Tigers of Tamil Eelam in 1990 has been an additional challenge.

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Language rights remained unequal in 2010. Tamil, spoken by Tamils and most Muslims, is an official language of Sri Lanka. The media reported in December that the Cabinet had endorsed a proposal requiring the national anthem to be sung in Sinhala only and prohibiting the use of the Tamil version. The government later clarified that there had been no change in the status of the national anthem but civil society groups in the north reported that the military had imposed the Sinhala version on Tamil communities. Tamil representatives reported that Tamil-speaking Sri Lankans in rural areas have struggled to access state services since they are required to communicate with state officials, including police, in Sinhala. The Sri Lankan government has recognised this issue and is seeking to ensure more state officials are able to speak Tamil. During 2010 the police force launched recruitment drives to attract 1,500 Tamil civilians into the police force. [...]

➤ [Amnesty International, Forgotten Prisoners Sri Lanka Uses Anti-Terrorism Laws to Detain Thousands, 08/03/2011](#)

[...] Arrests of Members of the Tamil Community

Each year, hundreds of Tamil people, including scores of possible prisoners of conscience, are arrested, particularly in the north and east of the country and in the capital, Colombo, on suspicion of being members or sympathizers of the Liberation Tigers of Tamil Eelam (LTTE). The LTTE, the main armed opposition group, had been fighting since 1983 for an independent state in the north and east of Sri Lanka and were defeated in May 2009.

The arrests are carried out under the emergency regulations or Prevention of Terrorism Act. Detention orders are supposed to be issued for those held beyond the initial period. Several safeguards have been introduced to guarantee the welfare of detainees, including, for instance, that a detention order can only be issued if the officer in charge of the nearest police station has been notified within 24 hours of the arrest. Breach of this provision is an offence. However, in practice, legal safeguards are ignored and many of those arrested and detained are tortured in custody. [...]

➤ [UN Human Rights Council, Written statement* submitted by PaxRomana \(International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students\), a nongovernmental organization in special consultative status, 22/02/2011](#)

[...] Killings, threats and intimidation of human rights defenders

On 26th December 2010, a Tamil Deputy Director of Education in Jaffna was shot dead, after he had opposed the singing of the National Anthem of Sri Lanka in the majority language of Sinhalese.⁵ [...]

➤ [Minority Rights Group International \(UK\), No war, no peace: the denial of minority rights and justice in Sri Lanka, 19/01/2011](#)

[...] Executive Summary

[...] Across the region, many members of the Tamil and Muslim communities remain displaced, living in IDP camps or resettled to areas where they have not been provided with adequate housing have limited livelihood opportunities in violation of international standards, and have limited livelihood opportunities. Parts of the region are still designated as High Security Zones (HSZ), meaning that people formerly resident in these areas cannot return. In other areas, land has been appropriated for hotels and other development projects, with mostly Sinhalese labour brought in from other areas of the country. Unable to return to their land and resume the income-generating activities that they practiced before the conflict, and excluded from these new employment opportunities, many Muslims and Tamils are living in poverty. Even outside the HSZs, much of the north and east of the country effectively remains under military control..

In addition to these difficult day-to-day conditions, some Tamils interviewed for this report spoke of their alarm at creeping 'Sinhalization' and the resulting erosion of their right to express their cultural, religious, and linguistic identity. The victory of government forces over the LTTE was presented, in their eyes, as a victory of the Buddhist Sinhalese majority over (mainly) Hindu Tamils and Muslims. They spoke of the erection of Buddhist statues and shrines in Hindu areas, and of place names changed from Tamil to Sinhalese. Add this to the list of grievances that prompted the conflict in the first place and remain unaddressed – lack of access to land, lack of political autonomy, and failure to implement existing legislation relating to the use of the Tamil language – and it is easy to see why those interviewed for this report spoke of their despondency, fear, and lack of hope for the future of minority rights in Sri Lanka. [...]

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The PTA remains a tool for large-scale human rights violations against the Tamil civil population in the Northern Province.²⁷⁹ Sri Lankan anti-terror legislation does not comply with international standards, leaving the minority community exposed to continuous human rights violations.²⁸⁰ This situation is further exacerbated by the weakness of both the judiciary and the government institution for the protection of human rights,²⁸¹ the National Human Rights Commission.²⁸² [...]

Although there has been a decrease in some types of violations, the human rights situation for minorities remains of concern. Among the major issues are: detention of 'surrendeers', arrests and detention under the PTA, the continuation of a state of emergency that enables the PTA to be used, restrictions on freedoms, and the general state of impunity in Sri Lanka.²⁹ [...]

[...] Discrimination against Tamil speakers

Over 20 years since constitutional recognition of Tamil as an official language, Tamil-speakers continue to experience discrimination in their access to public services and institutions. Particularly outside of the north and east, the government officers with whom Tamil-speakers interact are largely mono-lingual Sinhala-speakers. [306] Common difficulties include the lack of Tamil-speaking public officers or official interpreters in state institutions, so that communication can only take place in Sinhala or with the assistance of a bi-lingual third party. This is particularly pronounced in local government secretariats, police stations, electricity and water boards, and the health service.

➤ [Asian Human Rights Commission, SRI LANKA: The state of human rights in 2010](#)

[...] The courts are by no means minority, gender or child sensitive and discrimination and harassment are daily fares in the legal system. Even though Tamil is recognized as an official language, there is still a lack of Tamil speakers in official institutions and translators are rarely provided in police stations. [...]

Then there are those persons who have been resettled. In the media, many complaints have been heard about the conditions of such resettlements. There are particularly complaints about the housing conditions of the returnees. Some representatives of the Tamil people have complained that the conditions are often not suitable for human living. Then there are other complaints, like the damage that has been done to their former properties, some of which were occupied by the military. There are many other complaints which the people would have brought to the attention of judicial authorities if they had access to the courts. However, the access of these persons is mostly limited to the public authorities, which often means military authorities. The kind of security needed for the persons to pursue their claims does not exist. Under these circumstances, these returnees too do not have any possibilities of any kind of legal redress. [...]

➤ [BBC Monitoring South Asia – Political Supplied by BBC Worldwide Monitoring, Sri Lankan Army resumes search operations in north, 31/12/2010](#)

(accessed via subscription only www.lexisnexis.co.uk – full document reproduced here)

Text of unattributed report headlined "Army resumes house-to-house cordon, search operations in Jaffna" published by Sri Lankan newspaper Virakesari on 29 December

The sudden resumption of house-to-house cordon and search operations by the Army in Jaffna has once again sent waves of fear in the minds of the Tamil people in the entire district. People have become too scared over the prospect of even going out and doing their normal chores. Armed robberies and daylight murders have become commonplace again and are even increasing in number. It is against such a scenario that the Army has seen fit to clamp down with its cordon and search operations.

Areas such as Sangalai, Sithankerni, Thotiladi, Masiyapiti, and Alaveddi are being targeted for their operations.

The Army stops all motorcycles and small vehicles on the streets, vehicle registration numbers and identity cards are checked, and particulars are recorded. A soldier carrying out such duties told this correspondent that the searches were being carried out on orders from the top officials.

➤ [Danish Immigration Service, Human Rights and Security Issues concerning Tamils in Sri Lanka \(Report from Danish Immigration Service's fact-finding mission to Colombo, Sri Lanka\), 15/10/2010,](#)

[...] I Situation for Tamils in the North

[...] I. 1 Security

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A leading human rights defender in Sri Lanka outlined the overall security situation in Sri Lanka underlining that the level of constant security measures had gone. However, the government has declared that there will be a permanent presence of security forces in North and East. According to the source, ethnicity of Tamils still present a vulnerable group in terms of target for the implementation of the security measures although a considerable decrease in checks have taken place. [...]

I. 1. 3 Situation for LTTE members, LTTE ex-fighters, LTTE supporters, and family members to Tamils who have been affiliated with LTTE

According to UNHCR it is too early to say how the situation will develop in the future at local level for people who were members, ex-fighters and supporters of LTTE – or had family members who were – due to the unclear situation of persons suspected of being affiliated with the LTTE who are currently held in rehabilitation camps.⁷

Similarly, the spokesperson from the British High Commission said it is still unclear which situation people with a certain profile (members, ex-fighters, supporters, family members or previous affiliated with the LTTE) would be in today. In this context, the spokesperson mentioned that out of the 300,000 IDPs, approximately 12,000 detainees with suspected LTTE links had been screened out to rehabilitation camps in the North. They are at present detained without legal framework. The spokesperson further mentioned that children with LTTE links were released. [...]

According to the Co-ordinator of Law and Society Trust, the regularity of checks at checkpoints in Jaffna is not systematic and only occasionally people will be stopped. People are rarely taken into custody after checks. However, those who had been in the LTTE in the past and had left and now leading civilian lives, could be exposed to checks as well as those who are suspected of having sympathies and connections with the LTTE, including families of LTTE members. [...]

UNHCR informed the delegation that women – and especially single women in female headed households – report to UNHCR that they feel vulnerable as they are returning to an area with a military atmosphere. UNHCR explained that in general, the return areas are characterised by a fairly high number of female headed households, because husbands are either dead or missing or being detained in the rehabilitation camps.

UNHCR further explained that civilian authorities, including the police are still being established in the Vanni and are still not at full capacity. People in the Vanni have been in the heart of the conflict and would prefer to raise security issues with the police rather than the army presence. UNHCR noted that due to the limited access of NGO's in the return areas, access to seek protection is also limited. UNHCR noted that the limited access to the area also limits the information there is on the protection situation of returnees. UNHCR said that there are no significant restrictions on movements in the Vanni for the returnees, however, transport services remain inadequate. There are checkpoints, but it has not been an issue for the returnees not to have ID documents or not to be able to identify themselves.

An official attached to a local human rights organisation mentioned that there have been cases of sexual assault against women committed by the military, but most of the victims do not dare to come forward. In this connection the official mentioned that people in the newly cleared areas have been under the LTTE system for a long time, and they do not have knowledge about the legal system. The official had information on some cases related to sexual abuses made by the army against local women, but only two of these cases have gone to court. The official further mentioned that women will be the victims in the sense that they will have to move, and some parents place their daughters in convents because they are afraid they might be harassed.

The Norwegian Embassy informed the delegation that there is a huge military presence in the areas where people have recently returned. The embassy mentioned that the government's perception seems to be that the IDP's who have now returned have been LTTE-sympathisers as they have been under LTTE control for a long period.

An anonymous source found that Tamils in general and especially Tamils from the Vanni are regarded as LTTE members. The anonymous source further stated that the NGO's which are operating in the North are under the control of the Ministry of Defence.

According to the Co-ordinator of Law and Society Trust, the army in general considers the people in the Vanni to be former LTTE members and sympathizers, as they have been under LTTE rule since the 1990's. For that reason the population is closely monitored and checked. The Co-ordinator explained that the policy of the LTTE was to take one cadre per family and in the last years even more from each family, which mean that all people in the Vanni have had some kind of affiliation with the organisation. The Co-ordinator was of the opinion that very few people joined the LTTE voluntarily and in the last years

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especially it would have been 99% of the recruited people who had been forced to join. The army, however, would not make a distinction between voluntary or forcefully recruited people. According to the Co-ordinator, no mass search has taken place in the Vanni, but the army is still questioning people.

The Co-ordinator of Law and Society Trust said that the army is looking for everyone who was somehow affiliated with the LTTE, including family members and giving them warnings, threatening them, and making sexual advances on women whose husband has been known LTTE leaders. The Co-ordinator of Law and Society Trust mentioned that recently there had been only few cases of violations committed by the army reported. However, the Co-ordinator mentioned examples on violations which included sexual abuse of two women in Vishvamadu in the Vanni committed by army soldiers. Moreover, some fishermen were beaten by the Navy for having gone fishing without permission in waters controlled by the Navy. The last mentioned incident took place in Iranathivu on the western coast of the Killinochi district. [...]

II Situation for Tamils in Colombo

II. 1 Security situation in Colombo

II. 1. 1. Registration requirements for Tamils resident in Colombo

[...] According to the Executive Director of the National Peace Council, the security situation for Tamils in Colombo has much improved. However, in July the police began to register Tamil residents in some parts of Colombo where the Tamil concentration in the population is high. The police attempted to justify their actions saying that all residents, irrespective of ethnicity, were being registered. But in practice it was only Tamil who were compelled to register themselves. This was accompanied by reports of search operations also taking place.¹⁷ [...]

II. 1. 2 Tamils' risk of arrest in Colombo

UNHCR informed the delegation that there are still checkpoints in Colombo, but less than before. The scrutiny at checkpoints is less but it has not disappeared. There is a sense of easing, but the situation is not totally relaxed. After decades of monitoring, it is a progressive improvement.

UNHCR further mentioned that the number of arrests and detentions has decreased considerably. According to UNHCR, while Tamils could still be arrested in Colombo, arrests are less arbitrary and would probably be based on the person's past activities and/ or profile real or perceived. UNHCR said it was not in a position to comment on the situation for non-refugee Tamil returnees from abroad, in Colombo as it did not actively monitor this group. [...]

Most of the sources (Norwegian Embassy, a diplomatic mission, British High Commission, a local human rights organisation, the Co-ordinator of Law and Society Trust, the Director of an anonymous local NGO and a leading human rights defender) agreed that the security situation for Tamils in Colombo has improved, that the number of checkpoints has been reduced, and that cordon and search operations have been stopped.

The Norwegian Embassy informed the delegation that recently (16.6.2010) the police had closed off an area (Kirupalana) to do house to house search, which apparently was connected to alert operations for preparing for the celebration of Victory day on June 18, otherwise cordon and search operations have stopped. For the past few months there have been no reports of people who have been detained and the risk of arbitrary arrest for Tamils in Colombo was considered minimal according to the embassy. The embassy said that the profile of people at risk of being arrested today would include anti-governments views or pro-LTTE views, regardless of ethnicity but related to political opposition.

A diplomatic mission similarly stated that there are no longer "white van abductions" and only few cases of arrests. When asked about the profile of people at risk of being arrested, the diplomatic mission informed the delegation that the following groups will be at risk: Tamils who lived for some years in Colombo and abroad and returned to the North, Tamils who left the country around the time of war and applied for asylum and came back, Tamils involved in money transfer, Tamils with a LTTE profile and any journalist, human rights activist, and supporters of the opposition.

Answering the question whether the security for Tamils in Colombo has changed since the end of the conflict, the spokesman from the British High Commission stated that it has been relaxed and generally improved. There is less military on the streets, but Tamils still have a higher risk of being arrested than Sinhalese, especially if they do not have a reason to be in Colombo. Despite a relaxation of the emergency powers Tamils are still required to register with the local police, according to the source. Tamil returnees from abroad would not be at a higher risk of arrest than other Tamils in Colombo, according to the British spokesperson.

The Co-ordinator of Law and Society Trust stated that there are only few cases of arrests and detention of Tamils under the Emergency Regulations now, and that mass arrests have stopped. Asked about the

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situation in the Tamil Lodges in Colombo, the Co-ordinator mentioned that presently there is no information, which is a good sign, as there were previously daily telephone calls concerning arrests of Tamils in the lodges.

The Director of an anonymous local NGO mentioned that cordon and search operations still take place among other places also in the Tamil lodges, and that a few checkpoints still exist. Roadblocks may be put up and random checks are undertaken. However, the situation related to checks has changed and people are rarely taken in for further investigations during checks. The director further explained that there are fewer violations now than before the war ended, but that it still happens that people are harassed and sometimes picked up. The director also mentioned a case that took place in 2010 in which a female Tamil staff member was brought to the police station in connection with a check. The staff member was not questioned but kept at the police station overnight. The NGO's lawyer went to the police to complain and she was released the following day.

According to Ms. Kishali Pinto-Jayawardene, (who is a human rights lawyer and works as a senior consultant at the Law & Society Trust), ordinary Tamils still face some risk. If they have been long standing residents of Colombo, the risk is less, but Tamils from the North and East who travel to Colombo still face some measure of risk. Ms. Kishali Pinto-Jayawardene stated that Tamils could still be "picked up" in connection with checks at checkpoints also in Colombo. In this connection Ms. Kishali Pinto-Jayawardene emphasized that the security environment has not substantially changed and there is no independent control of the police as long as the Emergency Regulations are enforced (and an independent National Police Commission is not in place). The risk is no longer as high as it used to be, but Tamils still have fear that they would be targeted.

An anonymous source informed the delegation that there had been few cordon and search operations in connection with the elections, but that checkpoints are now reduced and that there is less intimidation in connection with checks, also for Tamils. The anonymous source underlined that the security apparatus is still in place in Colombo, but that the apparatus is less visible physically.

According to the source, there is a strongly increased level of intelligence surveillance, including tapping, of certain groups. The source identified groups such as well educated Tamils from North and East who are outspoken and human rights defenders in general. The source finally explained that for the average Tamil people with no high profile, the security situation has improved. According to a leading human rights defender in Sri Lanka Tamil people still have a feeling of insecurity and a feeling of being "losers". The source said that in reality there is no evidence to support this feeling of insecurity and fear, and there are no reports of abductions and killings in Colombo. [...]

VI. 1 Conditions for and control of arrests and use of anti-terror legislation [...]

ICRC also said that the Prevention of Terrorism Act (PTA) is unaffected and still in force. This provides for administrative detention up to 18 months. Under this legislation, there is no requirement for confessions made to senior police officers to be repeated before a magistrate or judge. Confessions and statements are often taken down by the police in Sinhala, a language which many Tamils do not speak or read.

Excerpt from the March 2011 OGN

Commission on Lessons Learnt & Reconciliation (LLRC)

3.7.11 In May 2010 the President set up the Commission to examine the "lessons to be learnt from events" between February 2002 and May 2009. Human rights groups are sceptical and say the commission is aimed at deflecting calls for an international inquiry into alleged war crimes. Some have refused to cooperate with the Commission. On 22 June 2010, the UN Secretary-General also appointed a Panel of Experts to advise on violations of international human rights and humanitarian law during the final stages of the conflict. Human Rights Watch notes that "Senior government officials have repeatedly stated that no civilians were killed by Sri Lankan armed forces during the final months of the fighting, despite overwhelming evidence reported by Human Rights Watch and others that government forces frequently fired artillery into civilian areas, including the government-declared "no fire zone" and hospitals." Amnesty International also reports that "Investigations into human rights violations by the military and police stalled. Court cases did not proceed as witnesses refused to come forward for fear of reprisals".

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Since the publication of the March 2011 OGN, the UN Secretary General has published the report of his Panel of Experts on Accountability in Sri Lanka. Despite the reports' findings, the Government continues to deny that it committed any human rights violations during the end of the conflict:

➤ [Human Rights Watch, Official Report Whitewashes Military Abuses, 01/08/2011](#)

[...] A new Sri Lankan Defense Ministry report concedes for the first time that government forces caused civilian deaths in the final months of the conflict with the Tamil Tigers but takes no responsibility for laws-of-war violations, Human Rights Watch said today. The report, "Humanitarian Operation – Factual Analysis," issued on August 1, 2011, claims that government forces did not use artillery against populated areas despite considerable evidence to the contrary and ignores compelling evidence of summary executions by its soldiers.

The report states that government forces "adher[ed] to a 'Zero Civilian casualty' policy" in the final months of the war, which ended in May 2009. But it says that, "[I]t was impossible in a battle of this magnitude, against a ruthless opponent actively endangering civilians, for civilian casualties to be avoided."

"The Sri Lankan government is finally admitting that its forces caused civilians losses during the conflict's final months, but unconvincingly claims no responsibility," said Brad Adams, Asia director at Human Rights Watch. "This is just the latest and glossiest effort to whitewash mounting evidence of government atrocities during the fighting." [...]

➤ [International Crisis Group, Reconciliation in Sri Lanka: Harder Than Ever, 18/07/2011](#)

[...] 1. Introduction

[...] Post-conflict efforts to bring societies together are always fraught with difficulties, particularly in cases of deep ethnic division. In Sri Lanka the challenge is even greater, because the government denies that ethnicity was the driving factor behind the civil war. Instead it appropriated the language of the "war on terror", dehumanising its enemies and dismissing the possibility that they, or those they claimed to represent, have legitimate grievances. It has controlled the narratives of the conflict both within and outside the country, reacting furiously to any challenge to the official version. [...]

D. THE "LESSONS LEARNT AND RECONCILIATION COMMISSION"

President Rajapaksa appointed the LLRC in May 2010 in the wake of domestic and especially international pressure to address allegations that government forces and the LTTE had committed war crimes and crimes against humanity in the final stages of the war. Its mandate is to inquire into "the facts and circumstances which led to the failure of the ceasefire agreement operationalised on 21st February 2002 and the sequence of events that followed thereafter up to the 19th of May 2009".

The government made clear from the outset its expectations for what the LLRC would find, peremptorily ascribing all responsibility for "the difficulties and troubled times Sri Lanka had to undergo ... to the terrorist inspired, manoeuvred and created conflict situation in recent years".

The president's message to the commissioners at the start of their work underlined the limits of their task – "act in a forward looking manner, through focus on restorative justice" – and warned them not to embarrass the nation.

Operating in this environment, even a truly independent commission would have had difficulty gathering information that implicates government forces in atrocities or counters the government's narrative of the conflict as solely a "war on terror". But this commission is far from impartial. Its key members have deep conflicts of interest that restrict the LLRC's capacity to make meaningful contributions to accountability or reconciliation. That capacity is reduced even further by the fact that the LLRC has no power of enforcement or implementation. Regardless of what the LLRC recommends, government policy will not change unless the president and his brothers decide it has to. In these circumstances, the LLRC process promises little and risks compounding the grievances placed before it.

In April 2011, a panel of experts established by the UN Secretary-General (discussed below) found that the LLRC fails to meet international standards for an accountability process, with no mandate for prosecution, no witness protection, and lack of impartiality in the manner of its establishment and its members' conflicts of interest. Following the panel's report, the LLRC's mandate was extended a second time, with its report to the president now due by 15 November 2011. While much of the international community has decided to wait and see what the LLRC will produce, prospects are discouraging. A closer examination of the conflicts of interest at issue, along with Sri Lankans' views of the LLRC and the impact of its work to

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date, shows that the real question in coming months is not what the LLRC will do, but whether the Rajapaksas are willing to change course. [...]

➤ [Human Rights Watch, Sri Lanka: Diplomatic Offensive Won't Make Killing Fields Disappear, 30/06/2011](#)

[...] The Sri Lankan government continues its diplomatic offensive, denying and dismissing the growing evidence of war crimes during the final bloody battles between the Sri Lankan armed forces and the separatist Liberation Tigers of Tamil Eelam (LTTE) that ended in May 2009.

Last week, at a panel presentation of the Channel 4 film, the "[Killing Fields of Sri Lanka](#)," Sri Lanka's United Nations Ambassador Palitha Kohona said, "To suggest that the Sri Lankan military was so foolhardy as to deliberately target the civilians, I think is a blatant lie... We had no intention of creating martyrs, we had no intention of creating more volunteers for the LTTE."

If the killings of civilians were not deliberate, the Sri Lankan army attacks were clearly indiscriminate, which is no less a war crime. The recent findings of the panel of experts set up to advise UN Secretary General Ban Ki-moon concluded that up to 40,000 civilians were killed in the final stages of the conflict, many as the result of indiscriminate shelling by government forces. The report also concluded that both government forces and the Tigers conducted military operations "with flagrant disregard for the protection, rights, welfare and lives of civilians and failed to respect the norms of international law."

The Channel 4 film adds even more weight to the UN report, providing devastating and graphic footage of possible war crimes by Sri Lankan soldiers. It shows summary executions of prisoners by soldiers in uniform, half-naked corpses of women that raise questions about sexual abuse and includes revealing interviews with ethnic Tamils who described indiscriminate shelling that killed many civilians.

It is true that the LTTE committed horrific abuses against the civilian population by using them as human shields, forcibly conscripting children, and deploying artillery close to civilians. Human Rights Watch documented abuses by the LTTE for years.

It is also true that in the final stages of the war it was difficult to verify facts and corroborate evidence, especially when the government deliberately shut out foreign media, the United Nations, and humanitarian and human rights groups from the battle zone.

But it is wrong for the Sri Lankan government to dismiss this compelling footage as "fake." The most vehement dismissals have been directed against a clip of several executions of naked, bound and blindfolded men by men in military uniforms. But the executions footage has been authenticated by four independent experts who have no connection to Sri Lanka.

Sri Lanka's own examination of the video, by contrast, carries no credibility. All the experts commissioned by the government were either Sri Lankan military experts or Sri Lankan nationals living abroad. All of the government's objections had been addressed by the UN-commissioned experts in their recent reports. [...] After initially dismissing the footage as "fake" and "made with LTTE money," the government is now, perhaps with the growing body of evidence, asserting that it is waiting for its domestic truth mechanism, the Lessons Learnt and Reconciliation Commission, to conclude its investigations. The government now asserts that the Commission will look into some of these incidents if it deems them credible.

This is nothing but a delaying tactic. As noted by the UN panel of experts, the LLRC is not an accountability mechanism, is "deeply flawed" and its mandate is "not tailored to investigating allegations of serious violations of international humanitarian law." [...]

➤ [IRIN News, Sri Lanka slams 'fictional' UN war crimes report, 29/04/2011](#)

[...] Sri Lanka's foreign minister on Thursday denounced a UN-commissioned report on war crimes allegations as biased, malicious and tending towards sensationalist "fiction". [...]

"The report is legally, morally and substantively flawed," Foreign Minister Gamini Lakshman Peiris told a gathering of foreign diplomats in Colombo.

A press release from his ministry cited Peiris accusing the United Nations of "feeding into the political agendas" of people trying to "destabilise" Sri Lanka.

Sri Lanka has repeatedly denied any rights violations and refused to allow the three-member panel of experts who wrote the report access to the country.

Peiris was particularly critical of UN High Commissioner for Human Rights Navi Pillay who, following the report's release, had stressed the need for a full-fledged international inquiry.

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Calling Pillay's comments "most regrettable," Peiris said the report had been written in "true horror story" style, in an attempt to provoke a strong reaction. [...]

➤ [Human Rights Watch, UN Experts Submit Report: Secretary-General Should Use Findings to Press for Justice, 12/04/2011](#)

[...] Sri Lankan officials continue to insist, despite mounting evidence to the contrary, that the Sri Lankan armed forces committed no violations during the conflict's final months. In response to the release of the latest US annual human rights report on April 8, which among other allegations said that extrajudicial killings and enforced disappearances continued to be a problem in Sri Lanka, a military spokesman said that "all these allegations are baseless." Referring to the last months of the war, he continued, "The humanitarian operation was carried out under the law of war and we know that there have been no such acts committed by the armed forces." [...]

➤ [United Nations, Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka, 31/03/2011](#)

[...] EXECUTIVE SUMMARY

[...] [Allegations found credible by the Panel](#)

The Panel's determination of credible allegations reveals a very different version of the final stages of the war than that maintained to this day by the Government of Sri Lanka. The Government says it pursued a "humanitarian rescue operations" with a policy of "zero civilian casualties". In stark contrast, the Panel found credible allegations, which if proven, indicate that a wide range of serious violations of international humanitarian law and international human rights law was committed by both the Government of Sri Lanka and the LTTE, some of which would amount to war crimes and crimes against humanity. Indeed, the conduct for the war represented a grave assault on the entire regime of international law designed to protect individual dignity during both war and peace.

Specifically the Panel found credible allegations associated with the final stages of the war. Between September 2008 and 19 May 2009, the Sri Lanka Army advanced its military campaign into the Vanni using large-scale and widespread shelling, causing large numbers of civilian deaths. This campaign constituted persecution of the population of the Vanni. Around 330,000 civilians were trapped into an ever decreasing area, fleeing the shelling but kept hostage by the LTTE. The Government sought to intimidate and silence the media and other critics of the war through a variety of threats and actions, including the use of white vans to abduct and to make people disappear. [...]

Thus, in conclusion, the Panel found credible allegations that comprise five core categories of potential serious violations committed by the Government of Sri Lanka (i) killing of civilians through widespread shelling, (ii) shelling of hospitals and humanitarian objects, (iii) denial of humanitarian assistance, (iv) human rights violations suffered by victims and survivors of the conflict, including both IDPs and suspected LTTE cadre, and (v) human rights violations outside the conflict zone, including against the media and other critics of the Government. [...]

The Panel has concluded that the Government's notion of accountability is not in accordance with international standards. Unless the Government genuinely addresses the allegations of violations committed by both sides and places the rights and dignity of the victims of the conflict at the centre of its approach to accountability, its measures will fall dramatically short of international expectations. [...]

The Lessons Learnt and Reconciliation Commission

[...] In sum the LLRC is deeply flawed, does not meet international standards for an effective accountability mechanism and, therefore, does not and cannot satisfy the joint commitment of the President of Sri Lanka and the Secretary-General to an accountability process. [...]

3.7.12 Paramilitary groups/rival political factions

Excerpt from the March 2011 OGN

Paramilitary groups/rival political factions

3.7.12 The main Tamil groups with paramilitary elements are the Tamil MakkalViduthalaiPullika (TMVP) - Karuna or Pillayan factions, Eelam People's Democratic Party (EPDP) or People's Liberation Organisation of Tamil Eelam (PLOTE). Some groups are formally allied to the Government. Both Karuna and the leader of the EPDP, Douglas Devananda, are members of the national parliament and have ministerial responsibilities. Pillayan is Chief Minister of the Eastern Provincial Council. Paramilitary activity has been linked to incidents of enforced disappearances and hostage-taking for ransom, criminal activities, unlawful killings, torture, recruitment of child soldiers and accusations that such groups act with impunity. In March 2010, TMVP were reported to be active in the east; PLOTE in IDP camps in Vavuniya; and the EPDP in Jaffna.³²

3.7.13 Humanitarian agencies agree the security situation with regard to paramilitaries has improved and incidents of violence have declined since the end of the war although some are still reported.³³

The UNHCR noted in its Guidelines that the security situation in Sri Lanka had significantly stabilised. However, the Minority Rights Group reported in 2011 that former members of the EPDP "have been responsible for a spate of recent extrajudicial killings, disappearances and abductions. Some are still armed, even if they do not carry weapons publicly. They also work closely with the military as informants." According to MRG, "Several hundred cases of intimidation and harassment by paramilitary groups, and an increase in detentions, were recorded in the run-up to the elections. In the aftermath, critics of successful candidates were also attacked or detained."³⁴

It is considered that the above highlighted sentence provides a vague and overly positive view of the current strength and operations of paramilitary groups which is not fully representative of the COI available on this issue as is presented further below. The fact that the TMVP, PLOTE and EPDP were only reported to be active in March 2010 may be inaccurately read to imply that they are no longer operational. Moreover it is considered misleading to include the above excerpt from UNHCR in this section which states that "the security situation had significantly stabilised", given that in the original source this is included in relation to the cessation of armed conflict:

- [UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum Seekers from Sri Lanka, 05/07/2010](#)

[...] II. Background Information

On 19 May 2009, the Government of Sri Lanka formally declared victory over the LTTE after capturing the last LTTE-controlled territories in the north of the country.³ This marked the end of a 26-year non-international armed conflict. At the time of writing, the security situation in Sri Lanka had significantly stabilized, paving the way for a lasting solution for hundreds of thousands of internally displaced persons (IDPs) in the country's north and east. [...]

Moreover, the information from the Minority Rights Group report cited above in paragraph 3.7.13 may incorrectly be assumed to contradict the UNHCR Guidelines or other sources of COI, which as the following COI demonstrates, is not the case:

- [Amnesty International, Annual Report 2011: State of the World's Human Rights, 13/05/2011](#)

[...] Violations by government-allied armed groups

Armed Tamil groups aligned with the government continued to operate in Sri Lanka and commit abuses and violations, including attacks on critics, abductions for ransom, enforced disappearances and killings. [...]

- [US Department of State, Sri Lanka Country Report on Human Rights Practices 2010, 08/04/2011](#)

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[...] a. Arbitrary or Unlawful Deprivation of Life

There were reports that the government or its agents committed arbitrary or unlawful killings, but reliable statistics on such killings by the government or its paramilitary allies were difficult to obtain because past complainants were killed and families feared reprisals if they filed complaints. [...]

The overall number of extrajudicial killings dropped significantly from the previous year. Nevertheless, during the year unknown actors suspected of association with progovernment paramilitary groups committed killings and assaults of civilians. These included the Tamil MakkalViduthalaiPulikal (TMVP), led by breakaway LTTE eastern commanders VinayagamurthiMuralitharan, alias "Karuna," and SivanesathuraiChandranathan, alias "Pillaiyan," in the east, as well as the Eelam People's Democratic Party (EPDP), led by Minister of Social Services and Social Welfare Douglas Devananda, in Jaffna. These and other progovernment paramilitaries also were active in Mannar and Vavuniya. All of these groups endeavored to operate political organizations, some with more success than others, and there were persistent reports of close, ground-level ties between paramilitaries and government security forces. Whereas these groups served more of a military function during the war, often working in coordination with security forces, the paramilitaries now took on increasingly criminal characteristics as they sought to solidify their territory and revenue sources in the postwar environment. [...]

Reports of abductions for extortion and ransom increased during the year, particularly in the north and east. Local residents blamed such abductions in the Jaffna Peninsula on armed members of the EPDP, led by government ally and Member of Parliament Douglas Devananda. In other areas of the north and east, however, it was difficult to identify the perpetrators. Whereas in the past local citizens often reported they were reasonably certain which paramilitary groups were behind abductions and killings, during the year they more often stated that they were unsure of which group was involved in a particular incident.

[...] f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

[...] Paramilitary actors were often cited as being responsible for other land seizures. While a legal process exists for private landowners to contest such seizures, in practice it proved very slow, and many victims did not take advantage of it for fear of violent reprisals by those who had seized the property in question. [...]

- [UK Foreign and Commonwealth Office: Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Section VII: Human Rights in Countries of Concern, 31/03/2011](#)

[...] Media reports suggesting that paramilitary groups remained active and that criminal activity in the Jaffna peninsula had increased at the end of the year were also a serious concern. [...]

- [Human Rights Watch, Word Report 2011: Sri Lanka, 24/01/2011](#)

[...] There were reports in 2010 of new enforced disappearances and abductions in the north and the east, some linked to political parties and others to criminal gangs. [...]

- [Danish Immigration Service, Human Rights and Security Issues concerning Tamils in Sri Lanka \(Report from Danish Immigration Service's fact-finding mission to Colombo, Sri Lanka\), 15/10/2010,](#)

[...]I. 1. 5 Situation in Jaffna

[...] The spokesperson from the British High Commission commented that a year ago the situation in Jaffna had been more relaxed, but tensions have increased over the past year. There had been an increasing number of crimes in the last year after the curfew was lifted. The police do not seem to have the capacity to deal with these crimes.

The Executive Director of the National Peace Council stated that during the period from May 2009 to May 2010 the situation improved in Jaffna. However, the situation seems to be deteriorating since April 2010 in the sense that killings and kidnappings have started again. This has been seen as more in the nature of criminal activities rather than politically motivated and has not been consistent. The Executive Director explained that although no more political killings take place in Jaffna, politically active persons still feel vulnerable.

As regards the situation in Jaffna, the Executive Director of the National Peace Council informed the delegation that the community is intact. There is a huge army with the potential for abusing their powers as there is no effective system of checks and balances, such as independent monitoring.

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Random checks are being carried out on people's cars and especially young people are targeted. An official attached to a human rights organisation similarly informed the delegation that in the period prior to the presidential (January 2010) and parliamentary (April 2010) elections, the security situation was relieved in Jaffna. However, after the elections the security level returned to the level as it was immediately after the war, including a heavy presence of the army. The authorities explained the high security apparatus by a high crime rate. However, the official pointed out that in a post war situation it ought to be the police that ensured law and order rather than the army. [...]

I. 1. 6 The role of the pro-government paramilitary groups
(EPDP8, PLOTE9, TELO10, EPRLF11)

Answering to the question of the role of para-military groups in the North, UNHCR replied that to a certain degree there is an amount of fear among the population, but that it is difficult to assess if the fear is based on rumour or actual fact. There are reports that some of the groups continue commercial extortion activities.¹²

The Norwegian Embassy explained that paramilitary groups in Jaffna in the period from 2006- 2008 split into many different groups, and that it was difficult to name them or to affiliate them with a particular party. Some of these groups joined the government under the Sri Lankan intelligence service and some remained separate. The groups were carrying weapons, and were perceived as the prolonged arm of the police and the government by the local people. Previously (2007-2008), these groups carried out political motivated abductions, so called "white vans abductions", targeting people who had been in touch with the LTTE, including family members, and it was believed that the groups to some extent were affiliated with the government. Abductions now take place at a very reduced scale. Today there are groups targeting local business people, but it is unknown which groups are behind.

A diplomatic mission informed the delegation that the crime rate in Jaffna was high in April 2010, but has since decreased. Crimes included also sexual assault. It is assumed that para-military groups are behind these crimes, and there are rumours that the groups have some backing from the security forces. Asked about the risk that paramilitary groups will be to civilians, a diplomatic mission replied that there are reports that EPDP groups are still involved in extortion activities in the North. The target for these groups could be anybody who has got money. Recent violations have included sexual assaults. Among vulnerable groups the diplomatic mission mentioned single women and that a returnee from abroad could be a suspect of having money, but the source did not have information about any incidents.

Regarding the role of the paramilitary groups in the North, the spokesperson from the British High Commission mentioned that EPDP was very evident in Jaffna. Especially in the run up to the elections in April 2010, there had been several abductions. Regarding other paramilitary groups the spokesperson from the British High Commission mentioned that there has not been information on PLOTE or other groups, lately. An anonymous source informed the delegation that the para-military groups PLOTE, TELO and EPDP are functioning in the North with the consent of the government. Their role is to keep Tamils "on the track". At the moment there are no para-military groups operating in the Vanni, but the source found that they will be ready to go in as soon as it becomes possible. In Vavuniya the groups have their official offices. According to the source, they used to do the "dirty job for the government" in the sense that they were assisting in identifying former LTTE members. The groups are now engaged in criminal activities, including kidnappings and abductions for ransom. Moreover, the paramilitary groups are forcefully recruiting young people.

A diplomatic mission commented that in the Vanni in the return areas there is a concern that the political vacuum left could be filled with para-military groups and, as a consequence, that forced recruitment and extortion may increase if elections are held in the North. The Director of an anonymous local NGO informed the delegation that the paramilitary groups are backing for the army and the police who are enjoying impunity. The paramilitary group EPDP is behind kidnappings and extortion. PLOTE is no longer as powerful in the North as they used to be, but EPDP is powerful also in Vavuniya.

A leading human rights defender in Sri Lanka informed the delegation that EPDP is the only paramilitary group operating in Jaffna but that their activities have been reduced after the security situation greatly improved in the aftermath of the elections. There is no information on forcibly conscript by the group. During the election campaign the group had targeted political opponents and people associated with other political parties. After the election, criminal activities allegedly performed by people affiliated with EPDP, including robberies, abductions and extortion activities have risen.

The Co-ordinator of Law and Society Trust said that paramilitary groups such as EPDP are operating in the North with a criminal mindset in the sense that their aim is to get money or personal revenge; primarily on

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those who had connections and had sympathies with LTTE. The Co-ordinator of Law and Society Trust further said that local people will identify someone who is affiliated with EPDP to be behind crimes. These crimes are often committed by people who are not formally a member of the organisation. Some of the activities do not have a political dimension, and the people targeted for these crimes are affluent people like businessmen and traders. For example a business man was killed in 2010.

I. 1. 7 Protection against para-military groups

As regards possibilities for seeking protection, the Executive Director of the National Peace Council said that the police (Sinhalese) are in place although they will not be able to ensure justice. Courts are functioning in the North, however, magistrates who worked independently have been transferred to positions elsewhere in the country.

The Co-ordinator of Law and Society Trust mentioned the recent case in which EPDP had been involved in abduction and killing of a boy in Jaffna. Following the arrest of a person involved, the EPDP had threatened the Magistrate which had caused a strike among the lawyers of the Bar Association in Jaffna. In June 2010, the case was still pending at the court in Jaffna, but the Magistrate has been transferred to another position elsewhere in the country. A leading human rights defender in Sri Lanka similarly referred to the recent abduction case in Jaffna, involving EPDP where the Magistrate who detained a person with links to an allegedly EPDP paramilitary group received death threats. The Bar Association in Jaffna went on strike but the Magistrate was later transferred to another position in the country. The leading human rights defender found that on one hand the case showed that people can still challenge the authorities, but on the other hand the resulting transfer of the Magistrate does not encourage the trust in the Courts/the judiciary. According to the source, the security of the people is still fragile and the country is not yet in a post conflict situation since the emergency laws are still in force and there is a high presence of the army.

When asked if it would be possible to seek protection in the North, an official attached to a human rights organization said that it would not be efficient to seek protection from the police. Although in most police stations at least one person speaks Tamil, it may take 3-4 days before the officer will be available on duty and therefore it may take 3-4 days to file a case. As regards the Human Rights Commission, the official informed the delegation that the commission is defunct and also ICRC no longer has access to all areas in the North and East. With regard to the possibility for seeking protection from the paramilitary groups in Jaffna, the Director of the anonymous local NGO said that the police would not take action if incidents were reported to them. The Director also mentioned the case related to EPDP abduction and extortion in which the mayor of Jaffna (EPDP member) had threatened an independent Magistrate who later was transferred to another position in the country. Another magistrate in Vavuniya was also transferred in connection with a case involving paramilitary groups. The case in Jaffna is still pending; however, after the transfer of the Magistrate it is uncertain how the authorities will deal with this case. According to Ms. Kishali Pinto-Jayawardene, who is a human rights lawyer and works as a senior consultant at the Law & Society Trust, there are several cases related to abductions and demand for ransom by the para-military groups in the North. The ability of the court system to deal with these cases is limited which Ms. Kishali Pinto-Jayawardene explained by referring to the same abduction case (2010) in which EPDP affiliated people had been allegedly responsible and where the Magistrate had taken strong steps resulting in his transfer to another position elsewhere in the country. [...]

III Situation for Tamils in the East [...]

III. 1. 2 Presence and role of paramilitary groups

The spokesperson from the British High Commission mentioned that TMVP20 is keeping a low profile in the East, and that the security situation has improved. According to the spokesperson, it is reported that paramilitary groups are operating and targeting business people for protection money, but these groups are not named.

A diplomatic mission commented that overall the activities of the paramilitary groups in the East have been reduced. There is considerably less in-fighting between the Karuna-group and the Pillayan groups in the area, but there are criminal movements involved in harassment and sexual abuses.

Asked about the risk that these groups will be to civilians, a diplomatic mission replied that the target for these groups could be anybody who has got money. In that respect a returnee from abroad could potentially be a suspect of having money, but the diplomatic mission was not aware of any incidents.[...]

Concerning paramilitary groups, the director of the anonymous local NGO informed the delegation that Karuna and his cadres are very powerful and active in the East. Karuna is supported by the central

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government and in opposition to Pillaiyan's group, which is less active and not supported by the central government. During the elections there were many incidents, including extortion carried out by Karuna's cadres. The director further informed the delegation that many incidents related to the paramilitary groups are not reported as people keep quiet about them. [...]

As regards the possibility to seek protection from these groups in the East, the anonymous source stated that there is no one to address as the NHRC is not working and the police does not have any power to deal with groups supported by the government. The anonymous source stated that the police and the army are enjoying a high level of impunity in the East. In the East the situation is complicated, according to Ms. Kishali Pinto-Jayawardene, because many of the persons in power are former para-military commanders. Ms. Kishali Pinto Jayawardene explained that people are in general too scared to fight for their rights because it will expose them. The Director of the anonymous and local NGO said that it would be very difficult to seek protection from the police because they "walk hand in hand" with the paramilitary groups. As regards the possibility of seeking protection, an official attached to a human rights organisation mentioned that the courts are operating in the East, although the trials may not be fair, judges are not independent and the army is enjoying impunity.[...]

3.7.14 Treatment of failed asylum seekers

Excerpt from the March 2011 OGN

Treatment of failed asylum seekers

3.7.14 The end of the armed conflict and the significantly improved security conditions throughout the country have resulted in a reduction in the number of Sri Lankans seeking international protection in industrialised countries - a decrease of 35%.³⁵ Information about the treatment of failed asylum seekers can be found in the COI report.³⁶ Case owners should also refer to the latest UK position on returns below (Section 5) [...]

5.3 UK enforced returns were 'paused' from 18 May 2009 pending a review of the country situation following the end of the conflict, although Assisted Voluntary Returns continued throughout. Enforced returns have since resumed. BHC reported in July 2010 that in general, the situation regarding all returnees appeared to be more relaxed than was reported following the UKBA/FCO Fact Finding Mission in August 2009. No UK returnees had been held for more than 6-7 hours on arrival, none had been arrested and detained and none had complained about their treatment on arrival by the authorities.⁵²

Nevertheless, the safety of any individual return should be assessed by reviewing the risk factors outlined in 3.7.16. [...]

3.7.16 Conclusion. The latest IAC country guidance case, TK, confirms the risk categories identified in LP which were also endorsed by the ECtHR in NA and finds that the military defeat of the LTTE in 2009 has not aggravated the likely approach of the Sri Lankan authorities to returned failed asylum seekers who are Tamils; if anything, the level of interest in them has decreased. The principal focus of the authorities continues to be, not Tamils from the north (or east) as such, but persons considered to be either LTTE members, fighters or operatives or persons who have played an active role in the international procurement network responsible for financing the LTTE and ensuring it was supplied with arms. [...]

It is considered that the information provided above at paragraph 3.7.14 which relates to the number of asylum seekers seeking protection is irrelevant to the risk of ill-treatment on return. The same paragraph also directs readers to the COI report. The most recent [UKBA COI report on Sri Lanka](#), published on 4 July 2011 addresses the situation for 'Returned failed asylum seekers' from paragraphs 25.27-25.41. Only four sources of COI are included in this subsection: the [Foreign & Commonwealth Office \(FCO\), Report of the FCO information gathering visit to Colombo, Sri Lanka 23-29 August 2009, 22 October 2009](#), two letters from the British High Commission (BHC) Colombo dated 30 August 2010 and 18 March 2011, not available in the public domain, but cited as "available upon request", and the [Danish Immigration Service, Human Rights and Security Issues concerning Tamils in Sri Lanka \(Report from Danish Immigration Service's fact-finding mission to Colombo, Sri Lanka\), 15/10/2010](#). Neither the excerpts from these sources included in the UKBA COI report nor the full original source (where available in the public domain) incorporate the following relevant COI on the treatment of refused asylum seekers:

- [Amnesty International, Sri Lanka must not torture rejected asylum seekers, 17/06/2011](#)
[...] The Sri Lankan authorities must refrain from any ill-treatment of a group of rejected asylum seekers who arrived in Colombo on Friday after being forcibly returned from the UK, Amnesty International said. The 26 Sri Lankans, most of them Tamil, were reportedly taken for questioning on their arrival in the capital. Amnesty International believes that some of the returnees are at risk of torture. [...]
"The government of Sri Lanka have a history of arresting and detaining rejected Sri Lankan asylum seekers upon their return and we are aware of cases of people being tortured", said Yolanda Foster, Amnesty International's Sri Lanka researcher. [...]
- [Amnesty International, Sri Lanka urged to ensure safety of detained former asylum-seekers, 03/09/2010](#)

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[...] Amnesty International has called on the Sri Lankan government to ensure the safety of three men who have been tortured and jailed following their forced return from Australia in 2009. [...]

Sumith Mendis and Indika Mendis were detained in 2009 at the Christmas Island detention centre after the boat they were crew members on was stopped by Australian authorities and found to be carrying Sri Lankan asylum-seekers.

They were deported to Sri Lanka and promptly arrested and handed over to the Central Investigative Department (CID).

Sumith Mendis was released, but Indika Mendis was tortured in CID custody, sustaining severe ear injuries before being transferred to the notorious Negombo prison where he was held for eight months.

On 14 August 2010, the brothers were arrested again, apparently on suspicion that they were again planning to migrate to Australia. Sumith Mendis was then tortured by the CID for six days, experiencing beatings and psychological abuse.

On 22 August, the brothers were taken to Negombo prison, along with Lasantha Wijeratne, another Sri Lankan who had also been deported from Australia and tortured in custody.

Following examination by a judicial medical officer, Sumith Mendis and Lasantha Wijeratne were transferred to the hospital.

They now face the risk of abuse by both prisoners and guards when they are again taken to Negombo prison unless authorities take the necessary steps to ensure their safety. [...]

➤ [Australia Broadcasting Corporation, Sri Lanka: Returned asylum seekers killed, jailed: advocate, 19/05/2010](#)

[...] Refugee advocates say at least nine asylum seekers returned to Sri Lanka by the Howard government were killed and those sent back in past year have been held in police custody and some assaulted.

Australia has suspended its processing of Sri Lankan asylum seekers pending a review of conditions in Sri Lanka.

Immigration Minister Chris Evans says the Federal Government has a "major problem" returning asylum seekers who have been involved with the Tamil Tigers.

Phil Glendenning, the director of the Catholic Church's Edmund Rice Centre, has recently returned from Sri Lanka and says the country is in danger of becoming a police state.

"We found that of the 11 people removed to Sri Lanka over the course of the last year or so, that all of them had been arrested at the airport," he said.

"Some of them had been bashed, assaulted. One man has permanent hearing damage, another has had sight damaged."

Mr Glendenning says those arrested are asylum seekers sent home from Australia.

"[The Australian Government sent them back] and gave them a guarantee of their safety. The thing is they arrive at the airport; they're immediately handed over to the CID, which is the Sri Lankan police," he said.

"The difficulty here is that there is a view in Sri Lanka that anybody who left the country through an unauthorised manner, of unauthorised means, is an LTTE sympathiser and if they are Sinhalese people who left, then they must therefore be traitors. [...]

3.9 Prison conditions

Excerpt from the March 2011 OGN

3.9.4 Many of the protections against torture contained in domestic laws do not apply in cases of detention under the emergency legislation. Amnesty International notes that “in practice, legal safeguards are ignored and many of those arrested and detained are tortured in custody” 45. Other international reports also indicate continual and well-documented allegations of widespread torture and ill-treatment committed by State forces (police and military) particularly in situations of detention, particularly in and near conflict zones. For example, former detainees of the Terrorist Investigation Division at Boosa Prison in Galle confirmed reports of torture. A significant number of detainees, both LTTE suspects and ordinary criminal suspects are reported to have died in custody.46 [...] 3.9.6 Conclusion. Overcrowding and unsanitary conditions which amount to degrading treatment for ‘ordinary’ detainees have been recorded in some prison facilities and case owners should therefore consider carefully whether the threshold is likely to be breached in individual cases, taking into account any objective material available on potential places of detention. Those perceived to be connected to the LTTE, both men and women, and held in rehabilitation camps, prisons or detention centres may be at heightened risk of ill treatment and torture.

It is considered that the above highlighted conclusion is not fully representative of either the COI included in this section of the OGN nor with that available in the public domain. With respect to the treatment of ‘ordinary’ detainees, the above conclusion is based on overcrowding and unsanitary conditions and fails to refer to the widespread torture that is committed in detention facilities against ordinary criminal suspects or to the large number of ordinary criminal suspects that have died in custody, as documented in the OGN at paragraph 3.9.4. The following COI supports the position that ordinary criminal detainees are at risk of torture in Sri Lanka:

- [Amnesty International, Annual Report 2011: State of the World’s Human Rights, 17/05/2011](#)
[...] Police and army personnel continued to torture or otherwise ill-treat detainees. Victims included detained Tamils suspected of links to the LTTE and individuals arrested for suspected “ordinary” criminal offences. Some people died in custody after being tortured by police. [...]
- [US Department of State, Sri Lanka Country Report on Human Rights Practices 2010, 08/04/2011](#)
[...] a. Arbitrary or Unlawful Deprivation of Life
There were reports that the government or its agents committed arbitrary or unlawful killings, but reliable statistics on such killings by the government or its paramilitary allies were difficult to obtain because past complainants were killed and families feared reprisals if they filed complaints.
Among these arbitrary and unlawful killings, a number of suspects detained by police or other security forces died under questionable circumstances.
On May 23, police arrested Pattiyage Komako Lalan Peiris in what observers stated later was a case of mistaken identity. The next morning he was found dead handcuffed to a table in a police station cell. Police officials explained the cause of death as a heart attack, but an autopsy carried out later at the insistence of the family revealed signs of torture.
On August 25, Jayasekara Arachchige Roshan Jayasekara was arrested near Kiribathgoda for stealing a mobile phone. One day later his body was brought to the local hospital by police. A post mortem examination showed multiple blunt-force trauma injuries.
According to official accounts, some deaths occurred when security forces took the suspects to the scenes of their alleged crimes, shot, and killed them while they allegedly were trying to escape. On August 31, police officers attached to the Special Task Force (STF) arrested Jayakody Arachchilage Oman Perera. During the journey by jeep to Colombo, one of the officers shot Perera because he allegedly tried to escape. He died in the hospital that same day.

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On September 4, Suresh Kumar was arrested by police officers and taken to show them a hidden cache of weapons. The police claimed that he attempted to throw a hand grenade at the officers while they traveled to the location. His body later was found on the roadside.

On September 18, police shot and killed Ranmukage Ajith Prasanna as they transported him to show them the location of a hidden stash of weapons. Police claimed Prasanna attempted to grab a firearm from one of the police while being transported, but there was no explanation why he was not properly restrained. Prasanna was arrested the day before, and family members insisted he was not involved in any criminal activity.

[...] Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law makes torture a punishable offense and mandates a sentence of not less than seven years' imprisonment; however, security forces tortured and abused citizens. Human rights groups alleged that some security forces believed torture to be allowed under specific circumstances. Following a 2007 visit, UN Special Rapporteur (UNSR) on Torture Manfred Nowak concluded that "torture is widely practiced in Sri Lanka." There was no indication that such practices had subsided. No accurate, publicly released statistics on reported torture cases were available.

Civil society groups and former prisoners reported on several torture cases. For example, former detainees of the Terrorist Investigation Division (TID) at Boosa Prison in Galle confirmed reports of torture methods used there. These included beatings, often with cricket bats, iron bars, or rubber hoses filled with sand; electric shock; suspending individuals by the wrists or feet in contorted positions; abrading knees across rough cement; burning with metal objects and cigarettes; genital abuse; blows to the ears; asphyxiation with plastic bags containing chili pepper mixed with gasoline; and near-drowning. Detainees reported broken bones and other serious injuries as a result of their mistreatment. [...]

According to the Asian Human Rights Commission (AHRC), on August 23, police officers arrested Jesu Andrew in the district of Kandy for allegedly stealing jewelry from a woman's handbag and took him to the Panwila Police Station, where they tortured him. He was allegedly stripped naked, forced to lie down on a bench, and beaten severely with a pole over various parts of his body. The officers also rubbed chili powder on his genitalia. While torturing him, the officers tried to force him to confess that he had stolen the jewelry. When he refused to plead guilty, he was allegedly thrown into a police cell and beaten again.

[...] According to AHRC, on June 17, two officers from Balagolla Police Station violently arrested AlhajFarookMohomadlkram close to his home. The victim was not told the reason for his arrest. He was released on the same evening without being charged, although his eardrum was damaged in the assault and he was hospitalized for a number of days. He received no replies from the authorities regarding his requests for redress and compensation.

- [UK Foreign and Commonwealth Office: Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Section VII: Human Rights in Countries of Concern, 31/03/2011](#)

[...] The media reported a number of cases of alleged torture during 2010. These included a detailed account of the torture of Lalith Abeysuriya in an alleged attempt to extract a confession from him for theft and the police torturing of individuals at the instigation of influential individuals or families or as a result of personal grievances. [...]

- [Amnesty International, Forgotten Prisoners Sri Lanka Uses Anti-Terrorism Laws to Detain Thousands, 08/03/2011](#)

[...] Prevention of Terrorism Act

The Prevention of Terrorism Act was introduced as a temporary law in 1979, and made permanent in 1981. The act allows the suspension of certain rights of criminal procedure, including the right of individuals to be presumed innocent, as a means to prevent terrorism and other unlawful activities.

Under the act, people can be arrested without charge or trial and detained for up to 18 months while police investigate the possibility of their involvement in illegal activity. The act also allows for indefinite detention on order of a magistrate pending trial. In Sri Lanka, where the wheels of justice grind slowly, people can remain in pre-trial detention for years. The act enables security forces to systematically violate human rights. Like the emergency regulations, provisions in the act allow confessions to police officers above a certain rank as admissible evidence in court. Interrogating officers, therefore, are given an incentive to obtain confessions by any means, including torture. This is exacerbated by the fact that if a

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person has been tortured into confessing, the burden of proving this allegation rests with the alleged victim. [...]

- [UN Human Rights Council, Written statement submitted by Amnesty International, a non-governmental organization in special consultative status \[A/HRC/16/NGO/124\] 01/03/2011](#)
[...] New reports of abductions, enforced disappearances and killings in northern Sri Lanka have had a profound effect on public security in that region and people's ability to heal and rebuild. Police killings of criminal suspects in other parts of the country are also on the rise. [...]
- [Human Rights Watch, Word Report 2011: Sri Lanka, 24/01/2011](#)
[...] Sri Lanka has a long history of custodial abuse by the police forces, at times resulting in death. In a particularly shocking case in January, a video camera caught police officers brutally beating to death an escaped prisoner. [...]
- [BBC News, Inmates killed' in Sri Lanka prison shooting, 24/01/2011](#)
[...] Inmates of a jail in north-central Sri Lanka have accused the prison authorities of shooting dead protesting prisoners. An inmate at Anuradhapura prison who wished to remain anonymous told the BBC Sinhala service that he saw at least four dead bodies. Hospital authorities say one person was killed and 24 people who were injured were admitted to hospital. [...] A group of nearly 50 inmates have been staging a fast on the roof of the prison since Sunday accusing the prison authorities of ill-treating the inmates. Police spokesman Prishantha Jayakody told BBC Sinhala that he is aware of an incident but yet to get the details. [...]
- [Asian Human Rights Commission, Police Torture Cases Sri Lanka 1998-2011, undated](#)
[...] Introduction
The Asian Human Rights Commission (AHR) has compiled a report of 1500 cases of police torture in Sri Lanka between 1998 and 2011. This particular report summarizes 323 of the most serious cases of torture. The most notable finding of this report is that almost all of the victims whose cases were summarized were randomly selected by the police to be arrested and detained for a fabricated charge. Perhaps the most shocking aspect of the criminal justice system in Sri Lanka is the overwhelmingly large number of charges which are fabricated by the police on a daily basis. Torture is used to obtain a confession for these fabricated charges. [...]
- [UN Committee on Economic, Social and Cultural Rights, Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant; Concluding observations of the Committee on Economic, Social and Cultural Rights; Sri Lanka \[E/C.12/LKA/CO/2-4\] 09/12/2010](#)
[...] 32. The Committee is concerned about the acute overcrowding and the inhuman detention conditions which prevail in many of the State party's prisons. The Committee is also concerned that children are not regularly separated from adults. (arts. 10, para.3; 11 and 12) [...]
- [Danish Immigration Service, Human Rights and Security Issues concerning Tamils in Sri Lanka \(Report from Danish Immigration Service's fact-finding mission to Colombo, Sri Lanka\), 15/10/2010,](#)
[...] A diplomatic mission commented that torture in the law enforcement system is widely used and documented, but there are only rare cases of prosecution. In general, impunity for the ones who committed torture is a major issue. The diplomatic mission also commented that the poorest people are more vulnerable to (severe) torture and less likely to take successful legal action against torture. A leading human rights defender in Sri Lanka stated that torture is a fairly regular practice in Sri Lanka, which is not specifically ethnic but related to the conflict in general. In this connection, the source further referred to the reports of the UN rapporteur on torture, Manfred Novak, who has reported on the systematic use of torture in Sri Lanka. 32 [...]
When asked about the level of torture, the Director of the anonymous local NGO informed the delegation that it is well documented that confessions are very often obtained under torture also when it comes to

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minor crimes. Torture takes place in police custody as well as by TID, in Boosa detention centre and Galle Prison.

Ms. Kishali Pinto-Jayawardene said that the Emergency laws have resulted in the legal mindset of law enforcement officers in Sri Lanka being inclined towards frequent keeping of people in remand without judicial scrutiny and the use of torture to obtain confessions. Ms. Kishali Pinto- Jayawardene mentioned that the use of torture is well documented in Sri Lanka and referred to the reports of the Asian Human Rights Commission in this regard. 33

An official attached to a local Human Rights organisation similarly informed the delegation that very often torture takes place right after arrest. Torture occurs in LTTE cases as well as other cases. [...]

➤ [World Organisation Against Torture, The need of a war against torture, 26/06/2010](#)

[...] OMCT has also received credible testimonies of torture from across the country, including in cases not related to the ethnic conflict or terrorism. Such testimonies indicate that torture remains a widespread practice used by State's police forces with impunity in clear violations of Sri Lanka's national laws and obligations under international human rights law. Beating with various weapons, falaqa and suffocation, among other practices, are routinely used by law enforcement officials for interrogation purposes and as personal vendettas.

The Prevention of Terrorism Act (PTA) and the Emergency Regulations (ER), which remain in place although the armed conflict has ended, give the police and the military extensive powers in clear disregard of basic legal safeguards, including the admissibility of confessions made while in detention. Most of the documented cases of torture and ill-treatment are not promptly nor impartially investigated and when they are, the alleged perpetrators are not prosecuted. [...]

➤ [Freedom House, Countries at the Crossroads 2010 Country Report - Sri Lanka, 06/04/2010](#)

[...] The number of reports of torture involving both LTTE and criminal suspects has increased sharply under the Rajapaksa administration. In a 2007 report, the UN Special Rapporteur on Torture, Manfred Nowak, stated that "torture is widely practiced." [38] The progovernment militia groups, some of which have been given the power to detain Tamils, often work with the regular security forces to arrest and torture suspects before releasing them, killing them, or turning them over to the police for further action. Police powers in the Eastern Province, for example, have been delegated to the former LTTE fighters of the TMVP, who now arrest people at will, interrogate them, and transfer them to the police.

Torture is often used against suspected terrorists, who are held without court supervision. The 1979 Prevention of Terrorism Act allows unlimited detention of LTTE suspects without legal representation or safeguards. A significant number of detainees, both LTTE suspects and ordinary criminal suspects, have died in custody, including 26 in the first six months of 2009. [39] Due to overcrowding and a lack of basic infrastructure, prison conditions fail to meet international standards. According to Nowak's 2007 assessment, prisons with an intended capacity of 8,200 inmates held 28,000. [40] [...]

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Gay men, lesbians, bisexual and transgender persons

This main category of claim, which was previously included in OGNs on Sri Lanka, has been omitted from the current OGN. COI available in the public domain continues to report that LGBT persons face discriminatory treatment at the hands of family members and the wider community, as well as harassment and acts of violence by the authorities to whom they therefore cannot turn for effective protection. The following core sources document such practices:

➤ [ILGA, State-sponsored Homophobia, May 2011](#)

[...] Sri Lanka

Male/Male Illegal Female/Female Illegal

Penal Code of 1883 No 2 (Cap. 19) 201

Article 365 – “Voluntarily carnal intercourse with man, woman or animal against the order of nature - imprisonment for a term which may extend ten years.”

Article 365A (as introduced by the “Penal Code (Amendment) Act, No. 22 of 1995”)202

“Any person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of any act of gross indecency with another person, shall be guilty of an offence and shall be punished with imprisonment of either description for a term which may extend to two years or with a fine, or with both and where the offence is committed by a person over eighteen (18) years of age in respect of any person under sixteen (16) years of age shall be punished with rigorous imprisonment for a term not less than 10 years and not exceeding 20 years and with a fine and shall also be ordered to pay compensation of amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such a person.”

➤ [U.S. Department of State, 2010 Human Rights Report: Sri Lanka, 08/04/2011](#)

[...] Section 6 Discrimination, Societal Abuses, and Trafficking in Persons Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law criminalizes homosexual activity but was not officially enforced. Some NGOs working on LGBT problems did not register with the government. In recent years human rights organizations reported that, while not actively arresting and prosecuting those who engaged in LGBT activity, police harassed and extorted money or sexual favors from those persons and assaulted gays and lesbians in Colombo and other areas. This led to many incidents of crimes against members of the LGBT community going unreported. There were LGBT organizations, and several events were held throughout the year. In addition to pressure, harassment, and assaults by police, there remained significant societal pressure against members and organizations of the LGBT community. There were no legal safeguards to prevent discrimination based on sexual orientation or gender identity. There were reports that persons undergoing gender reassignment procedures had difficulty in amending government documents to reflect those changes. [...]

➤ [Women's Support Group \(Sri Lanka\), The Status of Lesbians, Bisexual Women and Transgendered Persons in Sri Lanka \(NGO Shadow Report to the Committee on the Elimination of All Forms of Discrimination Against Women\), 10/01/2011](#)

[...] Context and Background

As the Sri Lanka NGO Shadow Report prepared by the Women and Media Collective points out, the current trend adopted by the Ministry of Women’s Affairs has been to view women vis-a-vis their reproductive roles as daughters, mothers and wives, thereby disregarding the choices made by women in terms of their sexual orientation and gender identity and gender expression. Therefore women who do not fall within the heterosexual matrix are excluded from all women related development programmes that are undertaken by the government. Section 365A of the Penal Code (enacted in 1883) criminalises sexual activity between two consenting adults of the same sex. In 1995, the government amended the word ‘males’ in the original text to ‘persons’, thereby criminalising same-sex sexual activity between women as well.

[...]Article 1: Definition of Discrimination

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Chapter 3 of the Constitution of Sri Lanka spells out the fundamental rights of citizens. Within Article 12 (2) is enshrined the principle of Non-Discrimination. It reads as follows: "No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex political opinion, place of birth or any such grounds". Regrettably this provision does not explicitly protect persons of diverse sexual orientation or gender identities from being discriminated against. It must be noted that de facto discrimination against all women can only be eliminated when the principles of nondiscrimination and equality are guaranteed without distinction on the basis of sex, gender identity, gender expression, or sexual orientation, among other factors. Additionally, in other circumstances, aggrieved parties have recourse to the possibility of making an application before the Supreme Court, on the basis of their fundamental rights being violated. However since it has not been spelled out that sexual orientation and gender identity is a basis for the principle of non-discrimination to be upheld, LBT persons in Sri Lanka have no form of redress. The lack of protection of the right to equality and non discrimination for members of LBT communities in Sri Lanka leads to stigma and discrimination against them as well as to their being rendered invisible in the eyes of society and of the law. This factor plays a role in deterring lesbian, bisexual and transgendered people from reporting acts of discrimination, abuse and violence that they face to the relevant authorities.

Article 2: Measures to be taken to Eliminate Discrimination and General Recommendation No. 28 on Article 2

Section 365a of the Penal Code of Sri Lanka is understood as criminalizing consensual same-sex sexual activity even in private spaces. Homosexuality therefore is seen as a criminal offense. This provision discriminates against lesbian, bisexual and transgender men and women by denying them their right to life, right to equality and right to choice. To date although there have been no convictions under this provision of the Penal Code, complaints have been received by police stations citing this provision. This criminalization paves the way for police and anti-gay groups to brand all lesbian, bisexual, transgendered persons as 'perverts' and criminals. The fear of being apprehended and identified as a person of non-normative sexual behavior or practice leads to a cycle of silence by members of the LBT community, by their families and friends and by the society as a whole and makes them vulnerable to a range of abuses including extortion, intimidation, unlawful arrest and detention, harassment and torture. Homophobic and transphobic articles repeatedly appear in the media, especially the print media, including in some State owned newspapers and in newspapers that follow State policy. These articles constitute a means by which society strengthens its resistance to recognition of LBT communities and continues to isolate, ridicule and justify acts of violence on members of the LBT communities⁷. With regard to women's sports teams, there have been unofficial reports where women who are key players in the National team have lost their positions once it has been speculated that they are lesbians. In this sense, there is direct discrimination which impedes the full enjoyment of the right to equality by specific categories of women in Sri Lanka who face discrimination due to their sexual orientation and gender identity/expression. .

Article 5: Sex Roles and Stereotypes

Sex Roles and Stereotypes

Lesbians, Bisexual women and Transgendered persons often grapple with issues relating to identity. Having been socialized within a hetero-patriarchal society that only sanctions the expression of biologically dictated gender identities, non-conforming individuals often resort to suicide and self harm due to the harassment and humiliation they face. While there have been a number of newspaper reports of joint suicides by two women, at least on two occasions, suicide notes had been left behind expressing their inability to face a life of separation. In such cases, it can be concluded that the women committed suicide due to that fact that their same-sex relationship was not recognized by society⁸. In the past there have been several cases of 'impersonation' and 'misrepresentation' brought to the courts in which women who have been 'disguised' as men have been 'discovered' and their 'true sexual identity' exposed to the public. Similarly, transwomen have also been arrested for 'misleading the public.'⁹

Dress Codes

In most government institutions since there is no formal document on dress codes, on many occasions, there is an informal understanding reading dress codes which apply only to women employees. In many cases, women are expected to wear the sari and are frowned upon if they do not conform to this dress code. Women who are part of the State Security Forces are required to wear a fitting skirt and blouse as their uniform. They are not given the option of wearing trousers, and have made unofficial complaints about hindrances to movement in the job they are supposed to perform

Article 6: Trafficking and Prostitution

The Vagrancy Ordinance of 1842 remains in place and continues to give authorities the power to detain people who they consider to be loitering in public; this provision allows for arrest and

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prosecution of sex workers. The police have the power to determine and interpret the law, and many times the Vagrancy Ordinance is used to wrongfully detain transgendered people, and people of sexual minorities because they appear to look different. In most cases it is those of the lower socio economic status who are the most vulnerable to this form of harassment; women including transwomen are particularly vulnerable to sexual harassment, abuse and mistreatment while in Police custody.

Article 7: Political and Public Life

Transgendered men and women in Sri Lanka are denied the right to recognition by the State due to the fact that there is no structured system which allows transgender men or women to alter the category of 'sex' on their Birth Certificate or National Identity Card. This has been left to the discretion of the medical practitioner who in effect, risks his license if he/she performs sex altering surgery on a client whose birth certificate notes his/her sex at birth. As there is no legal provision to change one's sex, people are advised to first change their birth certificates and only then go through with sex altering surgery; in effect putting the cart before the horse. However, since there are loopholes in the system, on two occasions a transman and a transwoman managed to succeed in changing the sex noted in his/her identity card from female to male/male to female. Nevertheless, it should be noted that the overarching taboo on the subject in law, policy and practice, and the lack of State initiative to recognize the existence of LBT communities in Sri Lanka results in their exclusion from development programmes, for example. This absence and silence strengthens the vulnerability of members of LBT communities to stigma and discrimination, as well as to violence.

Article 11: Employment

While some private workplaces may have non-discrimination policies in place, very often this fails to spell out non-discrimination in terms of sexual orientation and gender identity. In the state sector, non-discrimination policies either do not exist or are very rare. For example, the University of Colombo does not have a non-discrimination policy. In the corporate sector, the enactment of a policy on Sexual Harassment is left entirely to the discretion of the companies, and as such no formal uniform policy is adopted across the board. Even in case where companies have taken steps to enact this policy the issues faced by LBT people are invisible and would have to be voiced through the position of being a woman. Transgender persons have spoken of the reluctance of employers to offer them employment. In one case reported to the WSG, a transman had been dismissed from his employment after he had been 'discovered' by his employer. Also with regard to State Security Forces, when the speculation of being lesbian is present, there has been a case where the woman has been intrusively questioned as to what sex acts she performs and consequently her due promotion has been delayed/withheld on "other grounds".

Article 12: Healthcare

Within a healthcare system that is blind to the existence of LBT communities, equality of access to healthcare remains denied to these individuals. The lack of awareness regarding the potential health needs of these communities on the side of healthcare providers as well as on the side of members of the LBT community in Sri Lanka means that the silences continue to be reinforced. In particular, the provision of reproductive and sexual health care is designed without taking the specific needs of these communities into consideration. The absence of health care which responds to the needs of persons of different gender identities and the criminalization of same sex orientations render it difficult for LBT persons to access public health services in a manner that is open and informative about their medical and personal histories and that offers them confidential and appropriate healthcare. Criminalization renders lesbian, bisexual and transgender women and men vulnerable to a range of violations of their human rights to health. There have been cases reported where members of these communities have been exploited and have faced abuse by unscrupulous health professionals who take advantage of the discriminatory laws that are in place. Although most higher level health care professionals have been trained on standards of confidentiality, there is little information available on whether lab technicians and assisting nurses and other minor staff are bound to protect the confidentiality of the patient concerned. For example, a woman whose husband tested positive to HIV/AIDS complained that lab technicians had revealed her HIV status to people in her home town who in turn destroyed her house.¹⁰ The absence of state policy towards non-discrimination was amplified in 2007, when Sri Lanka hosted the 8th ICAAP Conference (International Conference on AIDS in the Asia Pacific). At the end of the conference, the Minister of Healthcare and Nutrition, Nimal Siripala de Silva in his closing speech remarked, "I don't want people to think I brought all of these people here (for the congress) to promote lesbianism and homosexuality. There are many nice women and handsome men in Sri Lanka," he pointed out. "People in South-east Asia practice good sexual behaviour with single partners. When the western world was living in jungles, we

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were leading a civilised life.” 11 There have also been cases in which families seek assistance from mental healthcare providers to ‘cure’ persons who manifest ‘non-normative tendencies’ which results in forced institutionalization, forced psycho therapy, forced medication and even forced confinement. As the existence of transgendered persons in Sri Lankan society is not taken into consideration in designing healthcare, there is a lack of information on services such as sex reassignment operations by public health providers. In Sri Lanka, health services are provided by public hospitals free of charge or at subsidised rates. However, services on sex reassignment are not made available in these hospitals. Anand Grover, Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, has pointed to the impact of the criminalization of private, consensual sexual behaviour between adults on the enjoyment of the right to health. Grover considers the “criminalization of consensual, same-sex conduct between adults, along with criminalization based upon sexual orientation or gender identity, to infringe the enjoyment of the right to health both directly and indirectly.” He further points out that “apart from failing to meet the objectives of criminal law, criminalization encourages violence, abuse and stigmatization, and impairs upon the dignity of individuals and infringes the enjoyment of the right to the health of same-sex communities”¹² Transgender men remain a section of the population most at risk of HIV. Sri Lanka’s report to the United Nations General Assembly Special Session on HIV/AIDs (UNGASS) 2008 – 2009, estimates there to be 35,000-47,000 sex workers in the country and 24,000-37,000 men who have sex with men (MSM)¹³. Since both behaviours are criminalized, access to health care services is severely compromised. An analysis of data from a study of MSM and transgender people in Asia conducted in 2008 concluded that:

- Stigma and discrimination, particularly amongst healthcare providers, is a major disincentive to seek treatment;
- Unethical disclosure of sexuality and/or HIV status by healthcare staff perpetuates distrust in local healthcare infrastructure;
- Strong cultural norms pertaining to sexuality impedes availability of accurate treatment information, creates the fear of disclosure, and an increased chance of social isolation and loss of social support;
- Gender-based discrimination makes treatment access an additional challenge for HIV-positive transgender people¹⁴.

Article 13: Economic and Social Benefits

The inability for Lesbians, bisexual women and transgender persons to register civil partnerships or marriage prevents them from accessing a whole range of benefits that partners of heterosexual marriages enjoy. For example: a) Same-sex partners are denied the right to apply for housing loans due to the fact that their partnership is not afforded due recognition by the State; b) In cases where same sex partners have attempted to rent properties for residence, potential landlords have been reluctant to rent out their premises; c) Provident Funds (State Retirement Pension Fund) can only be accessed either on grounds of marriage or prior to retirement. This is discriminatory towards lesbian, bisexual and transgender men and women as they do not have an option for marriage; d) Adoption of children or even official guardianship is not allowed for partners of same sex relationships; e) A citizen of Sri Lanka is unable to pass on his/her citizenship to his /her same sex partner, and as a result it is not possible for LBT persons to enjoy the economic social and cultural rights that a family is entitled to. f) Recognition of partnership when one of the parties dies intestate - even though partners of same sex relationships have over the years shared common spaces and resources, it is often the case that their shared property is determined as individual possession, so when one partner dies intestate the other is unable to claim this property.

➤ [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka, 05/07/2010](#)

[...] III. Eligibility for International Protection

[...] Potential Risk Profiles

[...] 5. Lesbian, Gay, Bisexual and Transgender (LGBT) Individuals

“Homosexual conduct” is criminalized in Sri Lanka and punishable by fines and imprisonment for a maximum of 10 years for acts between adults, and ranging from 10 to 20 years for acts involving a minor below the age of 16. Although the relevant Penal Code provisions are not officially enforced, it has been reported that LGBT individuals may face harassment, extortion for money, demands for sexual favours and physical violence in Colombo and other areas. Societal stigma and discrimination against LGBT individuals is reportedly significant. NGOs working on LGBT issues do not always register with the

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Government, and it is reported that their offices and staff are sometimes targeted for reprisals. In light of the reported discrimination and acts of violence against LGBT individuals, as well as the criminalization of “homosexual conduct”, UNHCR considers that LGBT individuals may be at risk on account of their membership of a particular social group, i.e. their sexual orientation and/or gender identity, since they do not, or are perceived not to conform to prevailing legal, religious and social norms. Furthermore, the existence of significant criminal sanctions for “homosexual conduct” is likely to impede access to State protection, particularly where persecutory acts are perpetrated by non-State actors such as family or community members. [...]

➤ [International Gay and Lesbian Human Rights Commission \(IGLHRC\), Violence On the Basis of Sexual Orientation, Gender Identity and Gender Expression Against Non-Heteronormative Women in Asia: Summary Report, 26/02/2010](#)

[...] Most violence against LBT people occurs when immediate and extended family members discover the sexual orientation or gender identity. Penalties include family expulsion, forced home confinement, and denial of any communication with non-family members. Lesbians in heterosexual marriages experience violence from their husbands and in-laws, as do lesbians in same-sex relationships. In some cases, family members of lovers who object to the relationship frame LBT people for kidnapping. Outside the home, violence towards LBT people involves property destruction, harassment, monetary and sexual extortion, blackmail, and threats of physical abuse and rape, which can include public incitement to rape lesbians. Perpetrators tend to be neighbors, friends, co-workers, employers, police and military personnel. Some medical and legal professionals use confidential information about LBT patients or clients to blackmail them. Intra group conflicts sometimes lead to forced outing of other members of the group. Some lesbians enter relationships with men to conceal their identity from family and to avoid violent family objections. For others, heterosexual marriage is a way to escape family violence and continue being in (clandestine) same sex relationships. Lesbian mothers facing domestic violence in heterosexual marriages remain silent for fear of losing custody of their children in divorce. Some lesbians do flee their violent homes and seek peer support but the marginalization of lesbians and transgender (female to male) people, even by organizations working on domestic and sexual violence sends a powerful message, just as the potential for being exposed to criminal sanctions keeps LBT people from reporting to the police. Moral policing driven by increasing anti-west sentiment and nationalism and religious fundamentalism pose additional barriers to violence intervention. A huge factor that LBT people in Sri Lanka must contend with is the war and ethnic conflict that overshadows human rights work unrelated to the war, thereby restricting public (and NGO) discussions about sexual rights and women’s rights. The Prevention of Terrorism Act keeps all women from reporting custodial rape for fear of trumped up charges. [...]

➤ [European Commission Independent Experts, The Implementation of certain Human Rights Conventions in Sri Lanka, 19/10/2009](#)

[...] 5. EFFECTIVE IMPLEMENTATION AND COMPLIANCE

[...] 5.11. The rights of minorities and prohibition of discrimination

[...] 5.11.3. Other grounds for discrimination

5.11.3.2. Discrimination of LGBTIQ persons

"Equal Ground (EG) highlighted some of the major challenges that the Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning (LGBTIQ) community of Sri Lanka is currently facing in relation to their human rights, such as state sanctioned hate speech on the basis of sexual orientation, use of the legal system to harass human rights defenders working for LGBTIQ rights, impunity for crimes committed against LGBTIQ people, violence, death threats and extrajudicial killings based on sexual orientation, marginalization and wide-spread persecution of LGBTIQ individuals.⁵⁴⁹ JCSR added that LGBTIQ individuals are denied access to health services, education and employment and the ability to participate in social and public life.⁵⁵⁰, ⁵⁵¹ JCSR reported that consensual sexual activity between adults of the same sex remains a crime under Article 365 and 365A of the 1883 Penal Code. ⁷⁴ ILGA and Equality Ground (EG) raised similar concerns.⁵⁵²

➤ [Inter Press Service News Agency \(IPS\), Rights-Sri Lanka: Gay Community Takes Heart in Indian Court Ruling, 27/07/2009](#)

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[...] This month, Sri Lanka's gay and lesbian community, long struggling for acceptance and respect in a conservative, majority-Buddhist country, cheered a landmark court ruling in neighbouring India.

[...] According to Section 377 of the Indian Penal Code, homosexual acts in India are punishable by 10 years in prison. A similar jail term is applicable in Sri Lanka, although no one has been charged or jailed yet for such an offence. However, Rossana Flamer-Caldera, Executive Director of Equal Ground, a nongovernmental organisation which fights for human and political rights of the Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning (LGBTIQ) community of Sri Lanka, is cautious about the ruling.

[...] In the past six months, Flamer-Caldera and her colleagues have received death threats by phone and emails from what she describes as 'Muslim fundamentalists.' "We did a workshop in the eastern region (where there is a sizable concentration of Muslims) and one 'gentleman' accused us of trying to promote homosexual behaviour. Since then we have had some threatening calls and emails," she said. [...]

➤ [Immigration and Refugee Board of Canada, Responses to Information Requests: Sri Lanka: Laws proscribing homosexual acts and whether they are applied in practice; the treatment of homosexuals by authorities, by society at large and by the Muslim community, 17/01/2008](#)

[...] Legislation and treatment by the authorities

Homosexuality is illegal in Sri Lanka (AI July 2006; Freedom House 2006; WSGn.d.a). Under Section 365A of the country's penal code, homosexual acts are punishable by a jail term of up to ten years (*Gay Times* n.d.; see also AI July 2006). According to the website of Women's Support Group (WSG), a Sri Lankan non-governmental organization (NGO) and "the first women's group in Sri Lanka to dedicate itself to issues of lesbians, bisexual women and transgendered persons," prior to 1995, this law applied only to homosexual men (n.d.a). However, in 1995, the law was amended to be "gender-neutral," resulting in the criminalization of both male and female homosexual activity (WSG n.d.a). Sources consulted by the Research Directorate indicate that this law criminalizing homosexual behaviour is "routinely" not enforced (Freedom House 2006; Equal Ground 2005, 16; US 6 Mar. 2007, Sec. 5; *Gay Times* n.d.). In a travel review of Sri Lanka, the London-based *Gay Times* reports that there have been no prosecutions of homosexuals in Sri Lanka in 50 years (N.d.). However, despite its lack of enforcement, gay rights groups claim that the "discriminatory" law has led to the stigmatization of homosexuals (*Gay Times* n.d.; see also Equal Ground 2005, 16; WSG n.d.a). The Sri Lankan authorities have reportedly used the law "to exact bribes or to threaten gays" (Freedom House 2006; see also Equal Ground 2005, 16; GlobalGayz.com June 2007). According to *Country Reports on Human Rights Practices for 2006*, "human rights organizations reported that police harassed, extorted money or sexual favours from, and assaulted gay men in Colombo and other areas" (US 6 Mar. 2007, Sec. 5).

Treatment by society at large and by the Muslim community

Homophobia in Sri Lanka is said to be "rampant" (*Gay Times* n.d.). Homosexuals may face blackmail (WSG n.d.a; US 6 Mar. 2007, Sec. 5), may be forced to leave their homes (BBC 20 May 2005; WSG n.d.a), and may lose their jobs (ibid.). The stigma associated with homosexuality prevents many from living openly (ibid.; ILGA 3 June 2005; BBC 20 May 2005; *Gay Times* n.d.). According to GlobalGayz.com, a website that provides information on "worldwide gay life, sites and insights," in Sri Lanka, there is a "staunch but not violent homophobia in the culture" (June 2007). However, cited in a 14 June 2007 *Toronto Star* article, the founder of gay rights group Equal Ground and co-secretary-general of the International Lesbian and Gay Association (ILGA), Rosanna Flamer-Caldera, stated that persons advocating for human rights in Sri Lanka, particularly the rights of lesbians, are "at risk." The same article indicates that in certain areas of Sri Lanka, "Tamil extremists and Muslim militias impose the death penalty for homosexual crimes" (*Toronto Star* 14 June 2007). Corroborating or further information on this observation could not be found among the sources consulted by the Research Directorate. [...]

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2.8 Internal relocation

Excerpt from the March 2011 OGN

2.14 When assessing the reasonableness of an IFA/IRA in the north and east of Sri Lanka, the following elements need to be taken into account: the lack of basic infrastructure and inadequacy of essential services, such as water, sanitation, health care and education; the presence of landmines and unexploded ordnance; as well as continued economic and security restrictions, such as the presence of Special Economic Zones and High Security Zones (HSZ), which prevent civilians from accessing locations used for agriculture, fishing and cattle grazing and other livelihood activities.

2.15 In the case of a prospective IFA/IRA in Colombo, it should be borne in mind that young Tamil men originating from the north and east of the country could encounter closer scrutiny during the police registration process and may, in some cases, be denied a residence permit.¹³

The following COI provides an indication of the information available in the public domain at the time of writing this commentary in relation to those issues identified by UNHCR in the above paragraph of the OGN as relevant in forming part of an individual assessment of internal relocation. The sources are presented under the following issues:

North and East of Sri Lanka

- [Lack of basic infrastructure and essential services](#)
- [Landmines](#)
- [Economic and security restrictions](#)

Colombo

- [Police registration/denial of residence permits in Colombo](#)

Lack of basic infrastructure and essential services

➤ [Inter-Agency Standing Committee complied by OCHA, Joint Humanitarian and Early Recovery Update - Report # 33; June 2011, 20/07/2011](#)

[...]• At the end of June, 12,689 IDPs (3,830 families) displaced after April 2008 remained in camps awaiting

return to their areas of origin. An additional 8,521 IDPs (2,360 families) from the protracted or long-term caseload (displaced prior to April 2008) remained in welfare centres. Long-lasting solutions are also sought by a total 151,663 IDPs living with host families: 66,663 persons (23,281 families) displaced after April 2008,

in addition to 85,000 long-term IDPs (16,945 families).

- A total 5,612 IDPs (1,715 families) remained stranded in transit situations in the five northern districts: 1,732 recent IDPs (479 families) and 3,880 long-term displaced persons (1,236 families). [...]

Livelihoods

- Livelihood needs are varied and dynamic across the Northern Province, requiring carefully-calibrated assistance strategies on the part of agencies and flexibility to adapt to evolving situations on the ground. While in certain areas returnees have resumed their basic livelihoods and partners are working with communities to strengthen market linkages and value-production, in other areas people are just returning to the land and need urgent support for initial livelihood inputs, clearance of farmland and rehabilitation of basic economic infrastructure. [...]

Health [...]

- The lack of human resources continues to impede efforts to revive the Northern Province health system. WHO support has enabled the MoH to recruit 15 pre-intern doctors from the latest graduating class to fill some of the gaps. (Five doctors are serving in Kilinochchi District, four in Mullaitivu District, and three each in Mannar and Vavuniya Districts). Some of the nurses and midwives currently in training will also be deployed to the resettlement areas. [...]

➤ [International Crisis Group, Reconciliation in Sri Lanka: Harder Than Ever, 18/07/2011](#)

[...] 1. Resettlement and development: centralised, militarised, without consultation

It is true that the overall economies of the north and east have expanded but the government's focus has largely been on big infrastructure projects – roads, railroads, ports, power plants– to the neglect of more urgent needs, especially among the nearly 300,000 survivors of the final battle in the Vanni and the rebuilding of their lives and communities. The government regularly points to the “rapid resettlement” of the vast majority of the nearly 300,000 IDPs originally detained after the war, claiming that “95 per cent have been resettled” as of 30 May 2011. But that is misleading because over 60,000 of those displaced in the last year of the war are still in temporary settings – living with host communities or in transit situations – while over 10,000 are still in camps.

The IDPs who have remained in the camps the longest are almost entirely from Mullaitivu District, which bore the brunt of the final weeks of fighting and is where the bulk of civilians were killed and many war crimes are alleged to have been committed. Those areas are closely guarded by the military and reportedly not open to

returns because of uncleared landmines. In addition to the IDP population detained in 2009, hundreds of thousands of civilians were displaced before that – including the Muslims expelled from the north in 1990 – and have seen much slower returns. Around 100,000 such individuals are still in camps, with host families or in transit situations. Resettlement and freedom of movement for all remaining IDPs are urgent needs.

For those who have returned home, there has been some limited progress: roads have improved, landmines have been cleared from large areas, and some basic public infrastructure has begun to be rebuilt. But this progress is easily overstated, and evidence is uneven – conditions are far worse away from the highways. The starting point for the north was also exceptionally low, particularly in the Vanni. The final two years of hostilities destroyed much of the area physically and separated hundreds of thousands of people from their homes and livelihoods. “They lost everything” is a frequent refrain among the still

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limited local and international aid workers who have access to the population. Little has been rebuilt, and returnees are dependent on often insufficient assistance.

“They do not have water, safety, the basics”, says a Sri Lankan working with resettled villagers – an observation confirmed by broader assessments. Most in the Vanni are living in makeshift shelters, with little in the way of jobs, other livelihood opportunities or access to basic infrastructure. Food insecurity and poverty are particular problems in Kilinochchi district. Part of the problem is the government’s tight control over

all humanitarian and development activities in the north. Local residents, community leaders and elected Tamil representatives are excluded from nearly all decisions affecting their livelihoods. In the north, most of those decisions are made by the Presidential Task Force for Resettlement, Development and Security in the Northern Province (the PTF), headed by the president’s brother, Minister of Economic Development Basil Rajapaksa. The PTF controls what services are provided, to whom and by whom. Its reporting obligations for providers are onerous, and many say that it is difficult to get approval to do anything beyond building houses – despite the desperate need for local capacity and support to those who have lost family members.

The central government exercises similar control over development in the east, which compared to the north has received less domestic and international attention in the last two years, compounding minorities’ views that they are not consulted, and their needs are not being met. [...]

➤ [International Federation of Red Cross and Red Crescent Societies, Sri Lanka: Support for internally displaced people, 08/07/2011](#)

[...] IDP statistics and resettlement progress

According to the most recent Joint Humanitarian Update, 371, 869 persons (113,941 families) have been released from transitional camps and/or returned from host families by 20 April 2011. There are 17,758 IDPs still in Vavuniya and Jaffna camps. UNHCR estimated that a secondary movement of around 9,900 families living with host families will take place when their residential areas are announced and released as safe areas for use.

UNHCR further revealed 400 families (933 individuals) have returned to Sri Lanka from India by the end of February 2011, while another 5,000 refugees have yet to return. The discussions between the two governments continue and this number may rise in future. [...]

Income poverty and food insecurity

According to the food security assessment conducted by World Food Programme – jointly with the Ministry of Economic Development (MoED), Hector Kobbekaduwa Agrarian Research and Training Institute (HARTI) – in April 2011 of the five post conflict district of northern Sri Lanka and five flood affected districts in the east and north central parts of the country, with low income levels and high food prices, a majority of households in the Northern Province live below the poverty line.

[...]The needs and the gap of assistance

The government has identified two major areas under its Early Recovery Programme to address the needs of the returning population and the initial assessments confirm the needs are in line with these priorities.

- 1) Rehabilitation and restoration of all social, economic and community infrastructure facilities.
- 2) Assist families in the process of livelihood restoration/development.

Shelter

The government and humanitarian actors’ estimation of the total houses in need of reconstruction is around 160,000 in the north of Sri Lanka (as shown in table 2), excluding more than 100,000 families scheduled for return from India and other countries over the next couple of years.

Health

Three decades of conflict have hampered institutional knowledge about basic health care in targeted communities. The presidential task force considers health and the nutritional condition of the resettling population as one of the most important activities in the recovery programme of the government. The level of malnutrition among children is reported to be very high. Some hospitals in the affected areas are functioning, but the primary health care services are not up to the mark. There is a felt gap in access to care, prevention and health promotion. Many people require reinforced interventions and support for basic health care, first aid, clean water, and adequate sanitation.[...]

Livelihood

The Northern Province economy depends heavily on agriculture. Three decades of conflict have severely

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hampered both cultivation and infrastructure. Farm enterprise suffers from deteriorated irrigation facilities, lack of basic inputs, limited technology, post-harvest losses, neglected fields, land mine proliferation, marketing constraints, and inadequate price information. Husbandry lags far below its potential due to poor inputs, technology, awareness and experience. Non-farm enterprise has been retarded by deficient investment, capital flight, poor banking and finance access, neglected communication and transportation infrastructure, inadequate skill capacities, violence, forced recruitment, hampered mobility due to security restrictions, work disruptions, school absenteeism and human capital flight. [...]

➤ [IRIN News, Returnees struggle in post-war zone, 05/07/2011](#)

[...] More than two years after Sri Lanka's decades-long civil war officially ended, returnees to remote villages face tough times and uncertain futures, despite governmental and international efforts at reconstruction.

"Everything that we had earned in 50 years, we lost in months," Supiah Arumugam, 52, and a father of two, told IRIN. Arumugam returned to his home village of Thunukkai, deep in Mullaitivu District in the island's north and once under the control of the Liberation Tigers of Tamil Eelam (LTTE), in March 2010. He and his family had fled the violence two years previously. [...]

Before the war, Arumugam had a large farm with hundreds of livestock. Since his return, he has battled to find an income and his belongings are few: "I don't have a house, only eight chickens and a bicycle."

Like most, he says he has survived the past 15 months on the US\$230 initially given by the UN Refugee Agency (UNHCR) through the government to set up semi-permanent living quarters. Supplemental cash-for-work programmes coordinated by the government and funded by the World Bank also helped pay the bills for six months. "Life is a struggle," he said. [...]

➤ [World Food Programme, The Market Monitor Trends of staple food prices in vulnerable countries, Issue 12, July 2011](#)

[...] The Colombo Consumers' Price Index increased by 0.6 percent in May 2011 and the food CPI increased by 0.4 percent. On a yearly basis, the general CPI increased by 8.8 percent and the food index by 12.2 percent. [...]

➤ [Inter-Agency Standing Committee complied by OCHA, Joint Humanitarian and Early Recovery Update - Report # 32; May 2011, 24/06/2011](#)

[...] The recent Emergency Food Security Assessment indicated that a majority of households in the Northern Province live below the poverty line. In Kilinochchi District, more than a quarter of the population survives on less than half the amount needed to reach the poverty line. The situation is slightly better in the Eastern Province, where a small majority of the households live above the poverty line. Poverty levels are lower still in the Anuradhapura and Polonnaruwa Districts. The proportion of expenditure spent on food is a common indicator of food insecurity. The most vulnerable category, devoting more than 65% of their expenditure on food (red towers in figure 2 below), accounts for a majority of the population in several Districts: Jaffna, Kilinochchi, Mannar, Trincomalee and Batticaloa. These districts are also recipients of food assistance, without which food would account for an even larger proportion of overall expenditure. Given widespread food insecurity and deteriorating dietary intake, innovative food interventions – as part of an overall strategy to rebuild livelihoods – are critical. [...]

Livelihoods

While many families have re-established basic livelihoods and are looking at opportunities to increase their interaction with the market, there remain areas of extreme vulnerability where families have been unable to re-start their livelihoods.

Fishermen are often the worst affected, partly due to the high cost (often up to 10 times) of providing start-up assistance to a fisherman vis-à-vis a farmer. [...]

➤ [International Crisis Group, India and Sri Lanka After the LTTE, 23/06/2011](#)

[...] 3. Humanitarian assistance and reconstruction in a militarised north and east

[...] Indian assistance to the north and east is being delivered in a highly politicised, militarised and ethnically-charged environment. Restrictions on humanitarian and development work and close government and military control over distribution have contributed to a painfully slow recovery. Most of

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those resettled still lack adequate resources or facilities. "They lost everything", says one activist who works in the north. "They do not have water, safety, the basics The army is using informants, giving them favours. Nothing is transparent, especially regarding the militarisation. It breeds suspicion Now, the people are begging for everything, buckets, food, etc. They need to feel there is no conspiracy against them". [...]

➤ [IRIN News, Job creation challenges in former conflict zone, 22/06/2011](#)

[...] Although current figures are unavailable, estimates suggest unemployment could be as high as 20 percent, with underemployment at around 30 percent. There is no data on the level of private investment - viewed by many as vital for creating jobs. By comparison, the average unemployment rate nationally is 5 percent, according to the Central Bank. [...]

➤ [World Bank, World Bank Provides Support for Thousands of Victims Affected by Recent Floods in Sri Lanka, 03/06/2011](#)

[...]The World Bank today approved US\$38 million in additional financing for the Community Livelihoods in Conflict-Affected Areas Project (Re-awakening Project) to respond to lives and livelihoods devastated by the heaviest rains in one hundred years.

More than 1.2 million people in 16 districts were affected by the rain in November and December 2010 which caused devastating flooding and landslides. Around 363,000 people were displaced in 630 temporary relocation centers mostly in the Eastern, Northern, and Central Provinces. The districts of Batticaloa, Ampara, and Trincomalee suffered the most, accounting for 94% of the affected population. Some 500,000 have become food insecure requiring immediate assistance to avoid hunger and malnutrition. [...]

According to preliminary official estimates of the Ministry of Finance and Planning (MOFP), the cost of the flood impact stands at US\$ 500 million for rehabilitation of the rural infrastructure such as small-scale irrigation, rural roads, drinking water supply, housing, electricity, health and schools as well as cost of livelihood production damage in crops, livestock and fisheries. [...]

➤ [IRIN News, Long Road to Normality, 18/05/2011](#)

[...] In the Northern Province, where the conflict was worst, many say life has improved, despite crippling unemployment and a devastated infrastructure: 160,000 houses were destroyed, no electricity lines were intact and the A9 was reduced to rubble.

According to the UN's latest Joint Humanitarian and Early Recovery Update [http://www.humanitarianinfo.org/srilanka_hpsl/Files/Situation%20Reports/...], thousands of returnees will have ongoing shelter needs until permanent housing recovery projects reach them. [...]

Lopsided development

Rights activists, however, feel that remaining travel restrictions and heavy military surveillance have slowed a return to normality.

Ruki Fernando, the head of the Human Rights in Conflict Programme at the Law and Society Trust [<http://www.lawandsocietytrust.org/web/>], based in Colombo, told IRIN: "The government doesn't seem to realize that restrictions on travel, religious events, freedom of association and assembly that apply only to the North are abnormal in relation to rest of the country, and hinder a restoration of normality."

Dammika, who has travelled on the A9 on several occasions, also feels that post-war economic development, accelerated in other parts of the country, has been slow to take off in the North.

There have been large development projects in the Vanni since the end of the war. The A9 was repaved and electricity supply restored to at least the main towns, but private investment and jobs have been hard to come by. [...]

➤ [Amnesty International, Sri Lanka Annual Report 2011: State of the World's Human Rights, 13/05/2011](#)

[...] Internally displaced people

About 20,000 of some 300,000 people who were displaced by armed conflict in 2009 remained in government displacement camps in the north; shelters and health facilities continued to deteriorate. Sri Lanka's Defence Ministry continued to control humanitarian access to these camps and to places of

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resettlement. Many families who left the camps still lived in unsettled conditions and continued to depend on food aid. Tens of thousands remained with host families and some 1,400 remained at transit sites. [...]

➤ [Oxfam, Oxfam says Sri Lanka flooding disaster deepens, 07/02/2011](#)

[...]International agency Oxfam today said that the disaster in Sri Lanka was deepening as a result of a second wave of flooding in the country. One million people in Sri Lanka have already been affected by the first wave of flooding.

"These fresh floods could not have occurred at a worse time. The situation is alarming as people who recently returned to their homes after last month's flooding have been forced to flee again. Needs are immense and the affected population is being exposed to fresh dangers after the latest round of flooding", said Thusitha Siriwardana, Oxfam's Campaign Manager in the country.

The recent floods have been widespread affecting 18 districts in the Eastern, Northern, Central and North-Central Provinces. More than a million people have been affected in the new flooding and over 320,000 have been forced into temporary shelters. Damage to houses, roads and farmlands has further intensified. Many areas are still inaccessible making it difficult to conduct rescue and relief operations and to assess the extent of damage.

Siriwardana further warned:

"The situation is critical. In addition to the massive humanitarian needs there are long-term concerns regarding food security as well. The floods are likely to destroy more than 90 per cent of the paddy cultivation in the affected districts. [...]

➤ [Internal Displacement Monitoring Centre, IDPs and returnees remain in need of protection and assistance; A profile of the internal displacement situation, 14/01/2011](#)

[...] Health

In remote return areas, road conditions were still poor and transport services limited. As a result, people living there, including returnees, had problems accessing health services. In the return areas, antenatal care and immunisation were provided by Medical Officer of Health Offices (MOHO) and outreach clinics. A psychiatric clinic was held every two weeks at Killinochchi General Hospital, and outreach clinics were held in the hospitals in Mulankavil, Poonahary and Tharmapuram. The number of health professionals in the return areas was too low to meet actual needs in terms of basic health services. Basic infrastructure, including communication, electricity and water supply, were also lacking in many health facilities. Around-the-clock health services were not available in many places because accommodation for health staff was lacking (UN OCHA, 8 October 2010, p.7; WHO, 25 September 2010, p.2).

[...] Housing

The existing two large initiatives on housing together aim at rebuilding and constructing less than 100,000 housing units in north, east and central Sri Lanka. The actual need for housing reconstruction in the north and east alone likely far exceeds 200,000 housing units: As of November 2010, more than 200,000 housing units destroyed before 2002 and more than 23,000 housing units destroyed in 2006 needed rebuilding (World Bank, 10 November 2010). This was in addition to those units that were destroyed between 2006 and 2009, the number of which had not been made public as of 6 January 2011 (World Bank, 7 January 2011). In the Vanni alone, more than 230,000 units were estimated to have been damaged or destroyed due to the conflict (UN OCHA, 22 February 2010, p.2). [...]

Water, sanitation and hygiene

In Menik Farm, there was one toilet for every 50 people and in Ramavil camp one for every 60 people, which was clearly below Sphere standards (one toilet is recommended for a maximum of 20 people). Sanitation and hygiene were poor in Menik Farm (UN OCHA, 8 October 2010, pp.10-11). IDPs staying in transit sites also had to cope with insufficient sanitation and water facilities and lacked private living space (UN OCHA, 31 August 2010, p.1).

In return areas in the north, water supplies were not sufficient due to a lack of funding since late August 2010. Many returnees had to resort to open defecation because there were not enough toilet facilities, a situation that was expected to facilitate the spread of waterborne diseases in the event of floods during the upcoming monsoon season (UN OCHA, 31 August 2010, p.4; UN OCHA, 2 December 2010, p.15). As of late July 2010, about 96,000 toilets had to be repaired or constructed and more than 60,000 wells were needed in the northern return areas. In October 2010, there was still an urgent need to clean wells,

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construct toilets and improve sanitation in many areas, including those where IDPs were staying with host families (UN OCHA, 31 July 2010, p.3; UN OCHA, 8 October 2010, p.11). [...]

Livelihoods [...]

IDPs staying with host families and returnees had difficulty accessing livelihoods. In northern Sri Lanka, agriculture and fishing are the two main livelihoods, with 60 per cent of returning IDP households having worked in farming before they were displaced and with many others being fishermen (WFP, 12 October 2010, p.5).

With demining of residential areas still a priority in most return districts, clearance of surrounding fields, streams and wells lagged behind. This has meant that many people who returned to cleared residential areas did not access to agricultural livelihoods and remained dependent on assistance (CPA, September 2010, pp.10-11; GICHD, August 2010, p.13; UN OCHA, 14 July 2010, p.13; UN OCHA, 26 March 2010, p.6).

IDPs staying with host families also had difficulties accessing livelihood opportunities. For example, displaced fishermen who were staying with host families in Jaffna district and who had been displaced from other districts were not able to obtain fishing licences in Jaffna (UN OCHA, 21 May 2010, p.5). [...]

Education [...]

Return areas

Some progress has been made in making education available in return areas, but obstacles remain. Some schools in the return areas continued to be occupied by government forces or used as detention or "rehabilitation" sites for "separatees" (see Liberty and freedom of movement), including the primary section of the V/Tamil MV school and the Omanthai Central College in Vavuniya (CRC-OPAC, 19 October 2010, pp.5, 6). [...]

➤ [Geneva International Centre for Humanitarian Demining, Landmines and Land Rights in Sri Lanka, 31/08/2010](#)

[...] 3.3 Impact on different groups

There is no available data to show how contamination affects different groups, based on gender, age, etc. However, it is clear that special groups such as women, youth and children are particularly vulnerable due to the impact of the conflict. Many are unable to return to their homes and land live in camps, transit sites or with host families. Protection issues such as Gender Based Violence and abductions have been reported in both the IDP camps and return areas, mostly involving women. Also, the high military presence in the North and East creates fear within the local communities, especially among women.

Due to the ongoing clearance efforts, many areas in the North are dynamic, with regular returns taking place. Resettled areas typically have very basic services. Some do not have adequate schools, hospitals and toilets. In such areas, upon return, both men and women face hardships in rebuilding their lives. This is more difficult for female heads of households (FHH), who, following the death/disappearance of the male head of household, may not have the support of family members. Upon return to their land, without functioning toilets, many have to resort to using wooded areas near homes. These areas in most cases remain mine-contaminated, as priority for clearance is usually given only to residential areas. This becomes a security issue for those returning, especially women.

Women also face hardships in terms of livelihoods. Many FHH find it difficult to manage both a livelihood and caring for children and other dependents. This is made even more difficult by the absence of support mechanisms in these areas, largely due to family members having disappeared, been killed, displaced or having relocated. If land near their homes is contaminated, the options are limited to either using land elsewhere, seeking other forms of livelihood or else depending on food assistance. [...]

Landmines

➤ [Inter-Agency Standing Committee complied by OCHA, Joint Humanitarian and Early Recovery Update - Report # 33; June 2011, 20/07/2011](#)

[...]• In June, approximately 3.9km² of land was released through minefield clearance and battle area clearance (BAC), with a cumulative total of 491 km² of land cleared and released since 1 January 2009.

• Surveys were essential to the cancellation and release of land in areas previously classified as hazardous. During June an additional 59.7km² of land estimated to be contaminated (Confirmed Hazardous Area) was cancelled in the DSDs of Vavuniya Town (Vavuniya District), Manthai West and Madhu (Mannar District),

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Town and Gravets, Muttur, Eachchilampattai and Verugal (Trincomalee District) and Eravurpattu (Batticaloa District).

- Since the beginning of 2011, Non-Technical Surveys have identified almost 62.3km² of new land known or estimated to be contaminated across all Districts. Approximately 93% of this contamination was estimated (Confirmed Hazardous Areas) requiring further mine action interventions, while the rest was known (Defined Hazardous Areas) and marked for clearance.

- The total known and estimated extent of contamination to date in the Northern and Eastern Provinces is approximately 299.4 km² (See tables 15, 16 and 17 below for extent of contamination, land release and ongoing tasks during June 2011.)

- Additional surveys are planned in the DSDs of Padavi Sri Pura, Kuchaveli, Eachchilampattai, Muttur, Town and Gravets, Seruvila and Verugal (Trincomalee District), Porativu Pattu and Eravur Town (Batticaloa District), Manthai West, Madu and Musalai (Mannar District); Pachchilapalli (Kilinochchi District) as well as in Trincomalee District.

- The government is yet to release the following areas for necessary mine action interventions:

☑ Mullaitivu District: Six GNDs in the Puthukkudiyiruppu DSD and three GNDs in the Maritiméattu DSD

☑ Jaffna District: Fifteen GNDs in the Tellipallai DSD [...]

- Eleven landmine/Explosive Remnants of War (ERW) incidents claimed 15 casualties between January-June 2011. Communities and partners reported 798 explosive devices and suspected dangerous areas as of 30 June. 392 war-injured and disabled persons, identified by MRE partners, were referred to available services and support mechanisms. Around 952 people with disabilities benefitted from physical rehabilitation services. [...]

➤ [Government of Sri Lanka, Large haul of war materials recovered in north and east, 14/07/2011](#)

JAFFNA: The field engineer troops have recovered unserviceable AP mine in a search operation conducted in the KOPAY South area yesterday (12).

VAVUNIYA: 349 Unserviceable AP mines, 02 unexploded ordnances and one 60mm mortar bomb have been recovered by the field engineer troops and the SARVATRA, HORIZON, MMIPE and FSD de mining teams in the suburbs of VAVUNIYA yesterday (12).

KILINOCHCHI: 02 unserviceable hand grenades and one RPG mortar bomb have been recovered by the field engineer troops in a search operation conducted in the CHUNDUKULAM area yesterday (12).

MULLAITTIVU: Following unserviceable military items have been recovered by the field engineer troops in a search operation conducted in the UDAYARKATTU TANK area yesterday (12).

Artillery rounds with fuses 05 Artillery rounds without fuses 190 81mm mortar bomb without fuse 130 unidentified bombs 75

EAST: Large haul of unserviceable military items used by the LTTE organization have been recovered by the field engineer troops in a search operation conducted in the SELVANAGAR, KADUMURUWILKULAM and NARAKAMULLA areas yesterday (12).

Motorola Hand held 01

Cooger hand held battery 01

T-56 magazines 02

AP mines 19

T - 56 weapons 35

T - 81 weapons 01

RPG weapons 15

SMG weapons 02

GPMG weapons 02

303 weapon 01

Repeater weapon 01

LMG weapons 05

T - 56 improvised Sniper weapon 01

MPMG weapons 02 M16 weapon 01

12.7 barrel 07

MPMG barrel 01 MPMG Tripod 03

81mm mortar Bipod 02

60mm mortar base plate 03

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➤ [Government of Sri Lanka, War materials recovered in north and east, 06/07/2011](#)

[...] VAVUNIYA: Following military items have been recovered by the field engineer troops and the SARVATRA, HORIZON, DDG, MAG and FSD de mining teams in the suburbs of VAVUNIYA yesterday (05).

AP mines 261

unexploded ordnance 03

81mm mortar bomb 06

60mm mortar bomb 02

KILINCHCHI: The field engineer troops and the HALLO TRUST de mining team have recovered following military equipment in the suburbs of KILINCHCHI yesterday (05).

122mm mortar bombs 08

122 mm mortar fuses 09

60mm mortar bombs 08

RPG bomb 02

Hand grenade 01

10kg claymore mines 14

Anti tank bombs 10

Iron ball(small) 50

EAST: 25 AP mines have been found by the field engineer troops in search operations conducted in the SELVANAGAR and KARADIYANARU areas yesterday (05).

Additional information from the Sri Lankan government on war materials recovered can be found on www.reliefweb.int

➤ [Inter-Agency Standing Committee complied by OCHA, Joint Humanitarian and Early Recovery Update - Report # 32; May 2011, 24/06/2011](#)

[...] Coordination and Government Partners

Regional Mine Action Offices (RMAOs) are located in the Government Agent offices of Jaffna (covering the Jaffna and Kilinochchi Districts) and Vavuniya (covering Vavuniya, Mullaitivu, Mannar and all districts of the Northcentral and Eastern Provinces). Sub-offices, which focus only on each district, are located in Mullaitivu, Mannar and Kilinochchi. The RMAOs carry out coordination, information management and quality management functions for their respective Areas of Responsibility, under overall coordination of the National Mine Action Centre in Colombo, and with support from UNDP and UNICEF.

☑ In order to facilitate IDP resettlement, the areas designated by the government for residence and livelihood remain the high priority for issuing clearance tasks. Across all districts, tasks now increasingly include land clearance for livelihood and infrastructure. Surveys and clearance activities have extended to the Eastern Province for the first time since the end of the war.

☑ Approximately 6.29km of land has been released through minefield clearance and battle area clearance (BAC) in May, with a cumulative total of 523.3km of land cleared and released since 1 January 2009.

Surveys were essential to the cancellation and release of land in areas previously classified as hazardous. During May an additional 21.8km of land estimated to be contaminated (Confirmed Hazardous Area) was cancelled in the DSDs of Vavuniya North and Vengalcheddikulam (Vavuniya District), Puthukudiyiruppu (Mullaitivu District) and Manthai West (Mannar District).

Since the beginning of 2011, Non-Technical Surveys identified almost 50km of new land known or estimated to be contaminated across all districts. Approximately 93% of this contamination was estimated (Confirmed Hazardous Areas) requiring further mine action interventions, while the rest was known (Defined Hazardous Areas) and marked for clearance.

The total known and estimated extent of contamination to date in the Northern and Eastern Provinces is approximately 326.7km [...]

The government is yet to release the following areas for necessary mine action interventions:

Mullaitivu District: Six GNDs in the Puthukkudiyirippu DSD and three GNDs in the Maritimepattu DSD

Jaffna District: Fifteen GNDs in the Tellippalai DSD [...]

Eleven landmine/Explosive Remnants of War (ERW) incidents claimed 15 casualties during January to May 2011. Communities and the NGO network reported 386 explosive devices and suspected dangerous areas as of 31 May April 2011. 231 war-injured and disabled persons, identified by MRE NGO partners, were

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referred to available services and support mechanisms. Around 752 people with disabilities benefitted from physical rehabilitation services.

➤ [United Nations Mine Action Service/United Nations Development Programme/UNICEF, Portfolio of Mine Action Projects 2011, Fourteenth Edition, 18/03/2011](#)

[...] Mine action operations are a vital precursor to the return of IDPs and the reconstruction and recovery activities that need to be undertaken in support of returnees. In line with the Government's resettlement plan, priority for clearance in 2010 was given to residential areas. According to IMSMA, between 01 January 2009-31 December 2010, a total of 444 km² has been cleared. 530 km² of contaminated land has been identified so far through Non Technical and Technical Surveys. As of December 2010, over 300,000 IDPs have been resettled in their districts of origin, with the majority of this number returning to the Northern districts.

In July 2010, the establishment up of a national mine action coordination body, the National Mine Action Center (NMAC), was officially approved by Cabinet. In consultation with national and local stakeholders, the NMAC drafted a National Mine Action Strategy in September 2010. In line with the Strategy, the primary focus in 2011 will continue to be on ERW clearance of residential areas with an increasing emphasis on livelihoods and infrastructure priorities.

As a result of continuous MRE in the North and East, general levels of understanding the mine/ERW threat are high. However, as many communities remain close to hazardous areas the threat of injury or death remains high. UNICEF in collaboration with its NGO partners and network of community based partners and volunteers will continue the intensive Mine Risk Education (MRE) campaigns in the North. In addition, the focus will be people who are increasingly visiting the North and East from the South of the Island. [...]

A total of 530 km² remains contaminated. Priority in 2011 will be given to remaining residential areas, as well as nonresidential areas such as farmlands, grazing land and coastal access routes that will allow farmers, livestock holders and fishermen to return to their traditional livelihoods, hereby affording them the opportunity to recover their socio-economic independence.

Overall, civilian casualty rates have declined in Sri Lanka falling from a peak of 211 in 2001 to 6 casualties reported in 2008. As returns of IDPs to the North sharply increased in 2009, the number of incidents has unfortunately risen. Since January 2010 a total of 28 incidents have taken place, with 47 casualties (including 9 people killed and 38 injured). However, considering the high level of contamination in some of the return areas the casualty rate is low, which is mainly attributed to consistent mine safe behaviour of the population resulting from intensive MRE campaigns. The NMAC has identified 1,460 registered mine survivors in Sri Lanka, not including military casualties (since 1985). The public health system provides medical treatment to mine victims, while post-operative care, including counselling and mobility aids are provided on a limited scale by some I/NGOs with the support of ICRC and UNICEF. There are also some livelihood development programmes that target war victims, including mine survivors. However, these services are fragmented. There is a critical need for a comprehensive referral system, more specialized aftercare services and initiatives to support and monitor the rehabilitation of survivors. [...]

➤ [IRIN News, Sri Lanka: Displaced to be resettled by end 2011 – government, 10/02/2011](#)

[...] Nearly 17,500 people continue to live at Menik Farm, the country's largest camp for internally displaced persons (IDP). Earlier the government had hoped to close the 500-hectare site outside the northern town of Vavuniya at the end of 2010. [<http://www.irinnews.org/Report.aspx?ReportID=91328>]

"The demining process has been accelerated. However, a lot needs to be done. We believe by the end of 2011, we can complete the process," Basnayakaye said.

"The main problem we have is the landmine situation and we cannot close the camp until we clear the area," said Rishad Bathiudeen, a senior government minister and former minister of resettlement and disaster relief services.

According to the recently launched Joint Plan for Assistance to the Northern Province, [[http://www.reliefweb.int/rw/RWFiles2011.nsf/FilesByRWDocUnidFilename/MDCS-8DNHK2-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2011.nsf/FilesByRWDocUnidFilename/MDCS-8DNHK2-full_report.pdf/$File/full_report.pdf)] a total of 530sqkm was still contaminated at the start of the year, with 444sqkm cleared since 1 January 2009.

Nigel Robinson, programme manager for the Swiss Foundation for Mine Action (FSD) in Sri Lanka, said it will probably take at least 18 months to complete all of the known high priority tasks, and more contamination is being identified as the population starts to conduct livelihood activities. [...]

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- [Agence France Presse, Sri Lanka mine fears as floods recede, 16/01/2011](#)

[...] Unexploded mines planted during Sri Lanka's Tamil separatist war may have shifted during recent floods, officials said Sunday, as residents started to return to their badly-damaged homes and farms. More than one million people were initially displaced in the flooding, with the east of the island worst affected by a week of unusually heavy monsoon rains. [...]
- [Internal Displacement Monitoring Centre, IDPs and returnees remain in need of protection and assistance; A profile of the internal displacement situation, 14/01/2011](#)

[...] Until humanitarian clearance operations started in earnest in late 2009, the contamination of conflict-affected areas with landmines and unexploded ordnance (UXO) was an important obstacle to IDPs' return. During 2010, lack of funding prevented clearance agencies from keeping up with the fast pace of returns since late 2009. Access to food, health services, sanitation facilities, livelihoods, education, and transport facilities was limited due to ongoing contamination with landmines and UXO of many areas surrounding return villages. [...]

Given the extent of the mine and UXO contamination in the north of Sri Lanka, clearance operations are likely to continue for years during and after returns. According to the Sri Lankan Ministry of Economic Development, clearance will take 15 years (Le Temps, 18 November 2010). [...]
- [Geneva International Centre for Humanitarian Demining, Landmines and Land Rights in Conflict Affected Contexts, 30/12/2010](#)

[...] With residential and other land prioritised over agricultural land, the surrounding uncontaminated land will be quickly reoccupied, as is the case in Sri Lanka.

Due to the prioritisation of residential land over agricultural land for clearance in Sri Lanka, only eleven percent of returnees can engage in farming. While occupants return to residential areas that are cleared, because their own agricultural land remains contaminated, they then encroach on uncontaminated land belonging to someone else to meet their agricultural and food security needs.

Government officials often have significant influence over the sequencing, speed, location, and extent to which survey and clearance occurs. This is especially the case in areas that are still militarised. In Sri Lanka, land has been cleared in areas which were then turned into 'high security zones' by the military, instead of being returned to its original owners. Despite such problems, most mine action organisations in Sri Lanka do not see the connection between the release of land and land rights issues that occur once they have left an area. In Sri Lanka, insufficient communication by mine action organisations with IDPs about their land has created problems. If land is released, and insufficient information is provided to local communities about the status of their land, many are unlikely to return to reassert their rights. This leaves the land open to be claimed by others. With limited information, rumours can emerge, regarding the status of land, which can mislead affected communities, and encourage some to return to contaminated land.

Apart from the risks of such a return, upon discovery that their land is still contaminated, vulnerable households are then likely to occupy someone else's land. This can be out of necessity for residential and/or agricultural purposes. Such occupation then creates problems for property owners, particularly if the number of secondary occupants is large, and if these occupants are from a different ethnic, religious tribal, language, or geographic group. Wartime divisions can make effective communication between these groups difficult and can lead to additional disputes. [...]
- [Supporting the safe return and resettlement of IDPs, 14/12/2010](#)

[...] As a result of the conflict between the Government of Sri Lanka and the Liberation Tigers of Tamil Elam, many parts of Sri Lanka are highly contaminated by remnants of conflict. [...]

The large amounts of contamination meant it was impossible for clearance to keep pace with the returns process. IDPs therefore have had to come back to places where there is either still a residual risk of mines and unexploded ordnance (UXO), or where hazardous areas have actually been identified. [...]
- [Geneva International Centre for Humanitarian Demining, Landmines and Land Rights in Sri Lanka, 31/08/2010](#)

[...] 3 Mine action in Sri Lanka
3.1 Mine/ERW contamination

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Several districts in Sri Lanka have been affected directly or indirectly by the conflict. At least ten districts, including Ampara, Anuradhapura, Batticaloa, Jaffna, Kilinochchi, Mannar, Mullaitivu, Polonnaruwa, Trincomalee, and Vavuniya are contaminated or were contaminated and have been cleared. It is estimated that the majority of the areas in the East have now been cleared. However, there are reports that several pockets in the Eastern Province remain contaminated. Survey and mine clearance operations are currently concentrated in the North, with residential lands prioritised for clearance. With a significant proportion of land cleared for resettlement, the focus of mine clearance operations is slowly shifting to land used for agricultural and other livelihood purposes. It is estimated that approximately 482km is contaminated by mines and UXO in the North.³⁵

Both the GOSL forces and the LTTE used mines during the conflict. However, the extent of the contamination problem is unclear due to several factors. The vast land area in the LTTE-controlled Vanni region³⁶ has not always been used during the nearly three decade-long conflict. No surveys have been done for the entirety of the area, and therefore the nature of contamination is unknown. There are vast areas which were mined by the LTTE without any documentation. Furthermore, those in charge of security issues, mine action activities and resettlement, are not always informed or aware of previous phases of the conflict when mines and UXO were used. All of these factors have contributed to a complex environment for mine action. [...]

Economic and security restrictions

➤ [International Crisis Group, Reconciliation in Sri Lanka: Harder Than Ever, 18/07/2011](#)

[...]2. Militarisation and insecurity

In other more visible ways, life in the north is dominated by the military. Despite government claims that it is regularly dismantling “high-security zones” (HSZs), particularly in Jaffna, there has been no meaningful reduction in the military’s overall presence. Instead, it has increased and become more permanent, often without any formal process for residents and property owners. Instead of scattered HSZs, the government says it now has a “single peace zone”– which in fact means military camps and installations are everywhere. This infusion of soldiers is part of the government’s strategy to repress any revival of insurgency, but it is taking a significant toll on the civilian population. “The army is using informants, giving them favours. Nothing is transparent, especially regarding the militarisation. It breeds suspicion”.

In the words of another local development worker: “The militarisation makes you accept vulnerability as a lifestyle.... The people feel like they [the military] are acting like the victors, not liberators”.

This environment is particularly threatening for the tens of thousands of Tamil women who are now heading up households or are single. “Many women in the north say they felt more secure in the Vanni before. The government, by deploying the military there, is making these women more vulnerable”.

Women have to negotiate much of their daily lives with male Sinhalese soldiers. This has been linked with increased prostitution, sexual assaults and sexually transmitted diseases. Especially given the deeply patriarchal nature of Tamil society, many Tamil women are at best stigmatised for trying to get by, and at worst victimised even after the war.

While the militarisation in the east is somewhat less pervasive, the impact is equally devastating, especially for women. A recent study on “war widows” in Trincomalee found:

Widowed mothers spoke about their need for protection from sexual violation and harassment from men in the general public, in positions of authority, in the army, the navy, and in the military police. Quantitative data showed that 68 per cent of [the 40] interviewees reported that pressure to have sexual relationships commonly arises for widowed mothers when they are trying to get work done.... [One interviewee] described intimidation and sexual advances by the military police during frequent forced inquiries in the military camp [She] explained that she is fearful of the manner in which she is unduly stereotyped as a widow of a “terrorist”. The breakdown of the sense of community and social safety nets is a serious concern. As an aid worker commented, “the identity of Tamils in the north is being eroded. Their dignity has been taken away at so many levels – the war, then the camps, then being screened so many times. They have had no dignity or safety for the last three years. You see a real loss of values. Now you have prostitution, kids are hard to discipline, alcoholism”. Domestic violence is also on the rise.

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➤ [International Crisis Group, India and Sri Lanka After the LTTE, 23/06/2011](#)

[...] 4. TNA-government talks: little prospect of a negotiated political settlement Indian officials pressured the Rajapaksa government throughout 2010 to initiate a “structured dialogue” with the TNA aiming at a political settlement. In response, President Rajapaksa appointed a committee of senior parliamentarians to represent him in the talks, which began in January 2011. In addition to discussing a political settlement, the meetings have also focused on addressing the more immediate concerns of Tamils, especially those recently resettled in the north.

That the TNA and the government are talking is positive, and it is clear this would not have happened without India pushing hard. To date, however, there is little evidence of any real commitment on the part of the Rajapaksas to relax the grip of the military and the central government over the north, to allow Tamil political parties to organise freely in the north, or to consider making the constitutional changes necessary to satisfy even the most minimal of Tamil aspirations.

According to one member of the TNA involved in the talks, M.A. Sumanthiran, “On the immediate issues, we placed three matters – long-term detainees, resettlement in ‘high security zones’ and illegal armed groups”. Despite positive words from government officials, little progress has been made on any of these issues. “What is agreed in the meetings is not being followed”, says one person close to the negotiations. [...]

➤ [US Department of State, Sri Lanka Country Report on Human Rights Practices 2010, 08/04/2011](#)

[...] Seizure of private lands by various actors remained a problem across the country. Disputes over land ownership in war-torn areas of the north and east increased significantly as many former residents began returning to areas they had left many years before. The military seized significant amounts of land during the war to create security buffer zones around military bases and other high-value targets, which the government called HSZs. The declaration of HSZs displaced a number of persons, particularly in the Jaffna Peninsula, and rendered inactive approximately 24 square miles of agricultural lands. A degree of progress was made in reducing the size of the HSZs during the year, with some lands being returned to their owners, in the area surrounding the Palaly Air Base in the Jaffna Peninsula, for example. Many of those affected by the HSZs continued to complain, however, that the pace of these returns was too slow and that the government was holding back on the return of lands it might see as economically valuable. The government cited the need to conduct careful demining prior to the handover of these lands, but questions persisted about whether land cleared of mines was always immediately returned to its original owners. [...]

➤ [United Nations, Report of the Secretary General’s Panel of Experts on Accountability in Sri Lanka, 31/03/2011](#)

[...] **C. Continuation of wartime measures**

408. A number of measures introduced by the Government as part of its strategy to defeat the LTTE continue in place. Today, they amount to an impediment to the ability of all Sri Lankans, especially Tamils living in the North and East, to conduct their lives as full citizens and represent an infringement on their rights.

409. Reference has already been made to the deleterious effects of the continuation of the Emergency Regulations and the PTA, as well as the existence of the High Security Zones, within an overall militarized environment that perpetuates an abnormal civil atmosphere. These measures can only be justified for short periods when national security is genuinely imperilled and must be subject to democratic oversight, including judicial and parliamentary review. As long-term measures they restrict human rights and prevent the proper operation of the rule of law. With no oversight, they easily engender impunity.

4.10 In the North and East, in particular, the heavy military presence appears to have taken on a longer term character, with the building of cantonments and reported establishment of private business enterprises under military ownership or control. This development is perceived by the populace as part of a continuing counter-insurgency strategy. Significant demilitarization of former conflict zones is necessary so that civil structures can develop without intimidation. Local government should be *de facto* as well as *de jure* in the hands of civilian administration viewed as legitimate by the local population.

➤ [UK Foreign and Commonwealth Office: Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Section VII: Human Rights in Countries of Concern, 31/03/2011](#)

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[...] Following the end of the military conflict in 2009, economic development has been a key Sri Lankan government priority. The government has said this will benefit all communities. In 2010, Tamil representatives alleged that Sinhalese companies from the south had been favoured in carrying out some reconstruction projects in the north and east. They also complained that minorities' right to own land is not being honoured. Some Tamils and Muslim groups accused the government of "Sinhala colonisation" of the minority-dominated areas of the north and east during 2010 and alleged that army personnel had been granted land and moved their families to settle in the north. They also complained that land belonging to Tamil and Muslim civilians had been designated as "High Security Zones" and the owners were not allowed access to it. The return of approximately 70,000 Muslims forcibly displaced from the north by the Liberation Tigers of Tamil Eelam in 1990 has been an additional challenge. [...]

➤ [Minority Rights Group International \(UK\), No war, no peace: the denial of minority rights and justice in Sri Lanka, 19/01/2011](#)

[...] 'Old IDPs

[...] Across the north and east over 60,000 people are displaced because their homes have been taken over by the military to create official and unofficial HSZs.⁷⁸ [...]

Land seizure [...]

Throughout the conflict, people from all three communities lost their land, mainly through the establishment of HSZs; land-grabbing by the LTTE or other militant groups and civilians; and encroachment and displacement.¹⁹⁰ Following the end of the conflict, issues over land remain. Specific ways in which the state appears to be involved in land issues highlighted by minority representatives were: taking over land for security purposes or under various ministries; and supporting, assisting and, in some cases, sponsoring people from the Sinhalese community to settle in the north and east.¹⁹¹ In the opinions of those interviewed for this research, these actions represent an attempt by the Sri Lankan government to alter the demographic make-up of the north and east.¹⁹² [...] The principal way in which the state has taken over land that either belongs to or is accessed by minorities is through the creation of HSZs.¹⁹⁶ These fall into two types: first, those where large areas of land are taken over, and in some cases gazetted – possibly making the land seizure permanent; second, small areas of land are taken over unofficially, in an ad hoc manner, for military camps or military installations.¹⁹⁷ According to the North East Secretariat for Human Rights (NESOHR), 220 sq. km, or one-third of the total land area of Jaffna district has been taken over for the HSZ, displacing an estimated 70,000 people.¹⁹⁸ Parts of the HSZ are on the coast, which affects fishing, while a large part of the area taken over is arable land that was used for farming. Unlike other major HSZs the Jaffna HSZ has not been gazetted, raising serious questions about its legality.¹⁹⁹ In August 2004, the Supreme Court of Sri Lanka ruled in favour of the right to return for people displaced by the HSZ and asked the army to explain the security need for taking over the land.²⁰⁰ Despite this decision there has been little effort by the government to return people to these areas. [...]

Several Tamils and Muslims have also lost their land to ad hoc, undeclared, HSZs in different places. In Mannar a large area of coastal land has been taken over, encompassing the Muslim and Tamil villages of Silvathurai and Mullikulam, to which displaced people have been returning. In Silvathurai, a Muslim village, 220 families were unable to return to their homes because of the HSZ.²⁰⁴ Several people interviewed for this report also referred to cases where small areas of land are being taken over in the Vanni districts of Kilinochchi and Mulaitivu, affecting the return and resettlement process. In the area adjoining the Murikandy Pillaiyar temple in Kilinochchi, land has been claimed by the military, preventing ten families from returning.²⁰⁵ Because of limited access to these villages in the Vanni, it was difficult to verify this information or gain further information on other cases.

There are also concerns among minority activists about the military permanently settling soldiers and their families in the north. Construction of houses for military personnel can already be seen when travelling on the A9 highway in Kilinochchi.²⁰⁶ The constructions appear to be of prefabricated materials and not permanent in nature, but the project appears to be large-scale. The larger concern among minority communities is over statements made by senior military personnel in reference to permanent settlements. [...]

Some of the lands belonging to minorities are being taken over by ministries and departments for development projects. In Trincomalee district some 675 sq. km was declared a special economic zone by gazette notification in 2006. This encompasses part of the HSZ. Part of this zone is for local investment and part for international investment. One of the most prominent projects already commissioned within this

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zone is an Indian government funded coal-power plant.²¹² Reports to MRG of land taken over for different development projects include: 650 acres in Kumburupitiya (near Trincomalee town) for a hotel project, 50 acres in the same area for a golf course and 25 acres by the sea front in Pulmudai, also for a hotel.²¹³ [...]

➤ [Geneva International Centre for Humanitarian Demining, Landmines and Land Rights in Conflict Affected Contexts, 30/12/2010](#)

[...] Land as a spoil of war

In Sri Lanka and South Sudan, land has been used as a spoil of war, i.e. as a prize given to loyal soldiers and sympathisers in exchange for their support. Frequently, the land granted is the product of seizures from political opponents, suspected supporters of the losing armed group, or persons displaced by the conflict. Also, the control of land in newly conquered areas can be seen as having strategic value, as seen in Sri Lanka, where many parts of the North and East have been designated as ad-hoc security areas and High Security Zones. These areas are considered by the government as critical to its counter-insurgency strategy, deterring the re-emergence of Tamil rebels. This has made the return of persons displaced by the conflict to their pre-war homes particularly difficult, and has slowed the process of economic recovery, as the displaced remain dependent on food assistance.

➤ [UN Committee on Economic, Social and Cultural Rights, Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant; Concluding observations of the Committee on Economic, Social and Cultural Rights; Sri Lanka \[E/C.12/LKA/CO/2-4\] 09/12/2010](#)

[...] 29. The Committee is concerned that in spite of progress made by the State party to resettle internally displaced persons (IDPs) and to rebuild damaged infrastructure in conflict-affected areas, thousands of IDPs are still prevented from returning due to the establishment of High Security Zones (HSZs) on their homelands. The Committee is also concerned about the conditions of resettlement of internally displaced persons who often lack basic shelter, access to sanitation and water and livelihood opportunities, a situation aggravated by the regular restrictions placed on United Nations agencies, international organizations and international and national NGOs to access internally displaced persons requiring urgent assistance. (arts. 11 and 12) [...]

➤ [Geneva International Centre for Humanitarian Demining, Landmines and Land Rights in Sri Lanka, 31/08/2010](#)

[...]2. Main land rights issues in Sri Lanka

In the North and East of Sri Lanka, land is classified as either state land (also known as Crown land) or private land. State land is owned and controlled by the State, with certain lands being alienated to private individuals and organisations on permits, grants and leases. Private land is owned, and in most cases controlled, by private individuals. However, given the recent conflict, there have been issues with full control and access of some of this land.

In Sri Lanka, land plays a critical role, defining individual identity and status and affecting livelihoods as well as community development. Ownership, control and access to land are key factors in enabling a person to fully enjoy and use his or her land. Secure land rights and tenure result in better prospects for obtaining loans and supporting livelihoods. Therefore, land in itself doesn't facilitate better prospects. However, secure title and tenure, control and access are key elements for full enjoyment and use.

Many factors related to land have been closely linked to the ethnic conflict, exacerbating tensions between the different groups. These factors include: the thousands displaced from their land and the occupation by others; the arbitrary seizure of land belonging to Muslims by the LTTE in the North and East; the existence of High Security Zones (HSZs), Special Economic Zones (SEZs) and ad hoc high security areas; the creation of land settlements under development programmes such as the Maheweli Scheme.⁸

In the North and East, there have been numerous obstacles to accessing, controlling and owning land. Due to the conflict and security threats, large numbers of people were displaced and were forced to flee their land. This land left unoccupied was then taken by various actors, including the Sri Lankan military, the LTTE, other armed actors and IDPs. For example during the conflict, and even at the present moment, large tracts of land in the North and East are classified as HSZs and ad hoc high security areas, used for military installations and camps. There are also new High Security Zones that have been created in Silavathurai and Mullikulam in Mannar (occupied by the navy) and Shanthapuram and Thirumukandy in

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Mullativu districts (by the Sri Lanka Army-SLA).⁹ Because of military occupation of land, thousands of IDPs are unable to return to their land. In some cases, some have been displaced for decades, eg the 'old IDP's'¹⁰ in Puttalam and Jaffna.

What is unclear and not publicly shared is whether the GOSL will continue to maintain a high military presence in the North and East, or return land to their owners. Several individuals and organisations have raised the issue of the use of large areas of land for military purposes.¹¹ This has resulted in the military returning certain areas to the original residents. However, this remains an ad hoc process and needs to be addressed speedily. Statements by government officials, including Cabinet Ministers and the Sri Lankan Army Commander, indicate that the GOSL plans to keep HSZs and have military cantonments in the North and East for the foreseeable future. This raises questions regarding the fate of IDPs in the area.¹²

There are also concerns regarding reconstruction and development work in the North and East, and the creation of Special Economic Zones (SEZ). In Sampur, Trincomalee, the HSZ gazetted under Emergency Regulations in 2007 still remains, (though reduced in size) and overlaps with a SEZ.¹³ Other areas in the North are inaccessible and locals fear that land will be acquired by the State for development.¹⁴ There are no plans to indicate that private land will be taken over for development purposes. However, the lack of information and transparency with development in the North raises fears and tension among communities who have been affected by the conflict and displaced multiple times.

Cases of new land settlements, land grabbing by powerful actors and encroachment have been reported in the North and East. A recent study by the Centre for Policy Alternatives documented several cases where land has been used for new settlements or where land in the Eastern Province has been illegally taken by politicians or religious actors.¹⁵ There are fears that similar trends will occur in newly cleared areas in the North.¹⁶ These are further exacerbated when the SLA commander stated that land in the North and East will be given to service personnel and their families. This has raised fears of possible attempts to displace original owners and change ethnic demographics.¹⁷ [...]

Police registration/denial of residence permits in Colombo

- [US Department of State, Sri Lanka Country Report on Human Rights Practices 2010, 08/04/2011](#)
[...] National/Racial/Ethnic Minorities
Both local and Indian-origin Tamils maintained that they suffered long-standing, systematic discrimination in university education, government employment, and other matters controlled by the government. According to the SLHRC, Tamils also experienced discrimination in housing. Landlords were required to register any Tamil tenants and to report their presence to the police, although in practice many landlords did not comply. [...]
- [UK Foreign and Commonwealth Office: Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Section VII: Human Rights in Countries of Concern, 31/03/2011](#)
[...] Minorities and other discriminated groups
Throughout the conflict, minorities suffered disproportionately – including at the hands of the now defeated Liberation Tigers of Tamil Eelam. The political rights of minorities, a key driver of the conflict, continued to be restricted in 2010. Tamil representatives continued to report discrimination from the government and security forces. Tamil civilians in Colombo were asked to register their presence with their local police station in July, and throughout 2010 arrests under the Emergency Regulations and Prevention of Terrorism Act primarily affected Tamils.
- [Danish Immigration Service, Human Rights and Security Issues concerning Tamils in Sri Lanka \(Report from Danish Immigration Service's fact-finding mission to Colombo, Sri Lanka\), 15/10/2010,](#)
II. 1. 1. Registration requirements for Tamils resident in Colombo
[...] According to the Executive Director of the National Peace Council, the security situation for Tamils in Colombo has much improved. However, in July the police began to register Tamil residents in some parts of Colombo where the Tamil concentration in the population is high. The police attempted to justify their actions saying that all residents, irrespective of ethnicity, were being registered. But in practice it was only Tamil who were compelled to register themselves. This was accompanied by reports of search operations also taking place.¹⁷ [...]

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