

## Sri Lanka: Waiting to go home - the plight of the internally displaced

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#### GLOSSARY

CATAW	Coalition for Assisting Tsunami-Affected Women
CEDAW	Convention for the Elimination of Discrimination Against Women
CERD	Convention for the Elimination of Racial Discrimination
CFA	Ceasefire Agreement
CRC	Convention on the Rights of the Child
CZMP	Coastal Zone Management Plan
DIG	Deputy Inspector General
DRMU	Disaster Relief Monitoring Unit
DS	Divisional Secretariat
GA	Government Agent
GTZ	A German international cooperation enterprise for sustainable development with worldwide operations
HRC	Human Rights Commission
HSZ	High Security Zone
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IPKF	Indian Peace Keeping Force
LTTE	Liberation Tigers of Tamil Eelam
MoU	Memorandum of Understanding
NGO	Non-governmental organisation
PDS	Planning and Development Secretariat
P-TOMS	Post-Tsunami Operational Management Structure
RADA	Reconstruction and Development Agency
SLA	Sri Lankan Army
SLMM	Sri Lanka Monitoring Mission
STF	Special Task Force
TAFOR	Task Force for Relief
TAFREN	Task Force to Rebuild the Nation
TRO	Tamils Rehabilitation Organization
UDA	Urban Development Authority
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNOHCA	Office for the Coordination of Humanitarian Affairs

The people of Sri Lanka have experienced widespread displacement during many years of internal armed conflict. The control of land is one of the issues at the heart of the ethnic conflict and for this reason the future of Sri Lanka's displaced populations has become highly politicised and contested, resulting in many people being trapped in decades of forced displacement. In addition to this, the 2004 tsunami both dramatically increased the population of Internally Displaced Persons (IDPs) in Sri Lanka and also changed the political dynamics regarding land and displacement.

IDPs in Sri Lanka suffer a variety of human rights violations, including serious violence and widespread denial of economic and social rights and violations of some civil and political rights. Not only are they often more vulnerable to human rights violations than other members of the population, but they are also less able to access legal and other remedies.

In light of the changing dynamics of displacement following the tsunami, Amnesty International undertook a mission to Sri Lanka in August 2005 to assess the human rights situation of IDPs around the country. During the mission Amnesty International delegates met with displaced communities, local government authorities, security forces representatives, civil society and international organisations in Galle, Ampara, Batticaloa, Trincomalee, Vavuniya and Mullaitivu. Delegates also met with representatives of the Sri Lankan government, international organisations and civil society in Colombo, and with the Liberation Tigers of Tamil Eelam (LTTE) and international organisations in Kilinochchi. This report is based on the findings of this mission and highlights Amnesty International's core concerns regarding the human rights situation of IDPs in Sri Lanka.

An Amnesty International delegation led by the Secretary General, Irene Khan, visited Sri Lanka in December 2005 shortly after Presidential elections on 17 November. They met the newly-elected President of Sri Lanka, Mahinda Rajapakse, Foreign Minister Mangala Samaraweera and representatives of the United Nations High Commission for Refugees (UNHCR) and several others. During discussions the delegation pressed for intensified efforts to ensure durable solutions for all IDPs. The delegation also travelled to Kilinochchi to meet with Mr Thamilselvan, head of the political wing of the LTTE, and other LTTE representatives and discussed among other issues concerns about child recruitment.

The Secretary General visited a welfare camp for people displaced by the conflict at Thellipallai, in the Jaffna peninsula where 110 families from the fishing community, comprising 350 people in total, had been living since 1995. Most had been displaced due to the fact that their houses were in one of the High Security Zones (HSZs)(1) occupied by the army.

Amnesty International's Secretary General also visited the Mannalkadu Transitional Camp in the Jaffna peninsula for people displaced by the tsunami. While there she talked to families who were waiting for the authorities to provide permanent housing in a nearby location. The families to whom the delegation spoke seemed to be in great confusion about their future and their options. They understood that they could not return to nor rebuild their old homes as these were located in the buffer zone where the government had prohibited the reconstruction of damaged houses.

## **The context of displacement**

### ***Patterns of displacement***

The last two decades of internal armed conflict in Sri Lanka have been characterised by widespread displacement of the civilian population. The majority of those displaced are from the north and east, the contested areas where most of the fighting has taken place. Because of their geographical concentration in these regions, the Tamil population has experienced by far the greatest displacement. According to a census of all IDPs in Sri Lanka conducted by the Ministry of Rehabilitation, Resettlement and Refugees in 2002, 80.86% of the displaced population was Tamil, 13.7% Muslim, 4.56% Sinhalese and other 0.88%.(2) Many of these IDPs have suffered multiple displacements during the course of the conflict.

One of the first waves of conflict-related displacement followed the anti-Tamil riots of 1983, after which over 100,000 Tamils fled to India while others sought asylum in other countries overseas. Throughout the mid-1980s the fighting between Tamil armed groups(3) and the Sri Lankan security forces continued to displace significant numbers of people from their homes. However, levels of displacement escalated dramatically following the departure of the Indian Peacekeeping Force (IPKF) and the resumption of hostilities in 1990, when thousands of people fled to escape the violence. While the majority of those displaced were Tamils, in October 1990 over 70,000

Muslims were driven out of the north by the LTTE, who gave them just a matter of hours to leave their homes. The majority of these Muslims continue to live as IDPs in Puttalam, Anuradhapura and Kurunegala districts.

According to government figures, levels of displacement peaked at over one million in 1995 following the breakdown of peace negotiations (begun the previous year) between the LTTE and the Sri Lankan government and the resumption of hostilities. Hundreds of thousands of people fled Jaffna town in advance of its capture by the Sri Lankan military in 1995. High levels of displacement continued throughout the 1990s and into the new millennium. For example, in 2000, it is estimated that 170,000 people fled before the battle at Elephant Pass, Jaffna district.

While many people were displaced by the fighting, displacement was also the result of a multitude of other factors. Some left their homes to escape the widespread arrests, torture and "disappearances" perpetrated by the security forces. Others were displaced when their property was taken over by the military, some fled communal violence between communities, and others were expelled from or chose to leave areas of LTTE control. In addition, many people were forced to leave their homes because the conflict had destroyed the infrastructure and livelihoods on which they depended.

While many IDPs have spent some or all of their displacement in government camps and welfare centres run by the government and non-government organizations (NGOs), others have sought informal assistance from family and friends or have fended for themselves in their new locations. In January 2002 the UNHCR estimated the total number of IDPs in Sri Lanka to be 731,838.(4)

#### ***Developments since the 2002 ceasefire***

In February 2002, with the facilitation of the Norwegian government, the Government of Sri Lanka and LTTE signed a ceasefire agreement (CFA) that brought an end to hostilities. The Sri Lanka Monitoring Mission (SLMM)(5) was established to monitor the ceasefire.

Peace talks began in late 2002. However, after several rounds of talks the LTTE withdrew from the negotiations in April 2003 citing the lack of peace dividends for the north and east. Since then the relationship between the Sri Lankan government and LTTE has further deteriorated, with an increase in killings and violent clashes and a growing threat of a return to full-scale conflict. The deterioration of the security situation in the north and east since 2004 has been further fuelled by the breakaway of the LTTE's eastern commander, known as Colonel Karuna. His supporters have reportedly continued to attack LTTE targets since the split in March 2004. This split altered the political and military situation in the east and resulted in a crackdown by the LTTE on any suspected dissent within the Tamil community and spiralling tit-for-tat killings between Karuna's supporters and the LTTE.

Even after the signing of the CFA people have continued to be displaced, although on a smaller scale and mostly for a limited time. For example, around 40,000 people were displaced from Mutur, Trincomalee district in April 2003 following violence between local Muslim and Tamil communities; families fled their homes in Batticaloa before the battle between the LTTE and Karuna's breakaway group in April 2004; and during the past year it has been reported that thousands of Tamils have fled into LTTE-controlled areas from Jaffna and Trincomalee in order to escape harassment by the security forces and out of fear of being caught up in a resumption of the conflict.

However, for the first time in many years, the CFA enabled people to move relatively easily between LTTE and government-controlled areas and in the four years of relative peace that have followed, many IDPs have returned to their homes. It is estimated that by mid-2005 more than 385,400 IDPs had returned home.(6)

In mid-2005, according to UNHCR figures, 805,000 people remained displaced, 347,475 by the conflict, living independently, with family or in welfare centres within Sri Lanka and 457,500

displaced by the tsunami. According to UNHCR, it was not clearly established how many conflict-IDPs were among those displaced by the tsunami. Some of the displaced people had returned to Sri Lanka from India only to be forced into a renewed cycle of displacement.

There are several reasons why such a large number of IDPs have not been able to return to their places of origin or habitual residence or to resettle in another part of the country, following the CFA. Many of the remaining IDPs' original homes are now occupied by the Sri Lankan security forces as HSZs, are occupied by the LTTE, or are in areas where there are landmines; others are unable to return because of damaged infrastructure or a lack of opportunities to earn a decent living in their home areas; while others who did not own land in their home areas do not have any land to return to. Many IDPs face legal problems reclaiming their land as they have lost land title documents or found that other people have settled in their property. Some had sold their property at a very low price before they fled. Concerns about security, in particular the threat of abductions, killings and child recruitment and the possibility of a return to conflict are also important reasons why some IDPs feel it is not safe to return home. The rate of return of IDPs slowed down considerably after 2003, both because most of those who could easily go home had already done so and because of the deteriorating security situation.

### ***The tsunami***

On 26 December 2004, the Indian Ocean tsunami devastated Sri Lanka's coastline, killing 35,322 people and displacing 516,150(7). Northern, eastern and southern coastal areas were severely affected, although the north and east were the worst damaged.

The scale of the disaster prompted a massive international and national response, with large amounts of aid pledged by the international community. Those displaced by the tsunami were initially sheltered in public buildings, emergency camps, or with friends and family. As the authorities recognised that providing permanent new housing for those displaced by the tsunami would take a number of years, transitional shelters were constructed for all those who could not return home (largely due to the imposition of a coastal buffer zone, detailed below).

### ***Caption***

Emergency shelter for tsunami IDPs, Batticaloa. © AI

Immediately following the tsunami the government established a number of new and powerful government bodies dedicated to tsunami recovery. The Task Force for Relief (TAFOR) was responsible for coordinating relief efforts,(8) while the Task Force to Rebuild the Nation (TAFREN) was established as the primary institutional mechanism for recovery and reconstruction. TAFREN identified four key areas for the reconstruction response: returning people to their homes; restoring livelihoods; health, education and protection; and upgrading national infrastructure.

The government requested the UNHCR to act as the National Lead Agency for providing transitional shelter. UNHCR accepted this role due to the severity and scale of the disaster. As emergency accommodation (such as tents or public buildings) could only be a temporary solution, UNHCR set about planning for transitional shelter to bridge the gap until permanent housing could be constructed. UNHCR supported the government and over 100 non-governmental implementing partners in the coordination and construction of over 55,000 transitional shelters for those displaced by the tsunami. In November 2005, after reaching this target, UNHCR returned its focus to its pre-tsunami work of providing assistance to the conflict-displaced and refugees repatriating from India.

In November 2005 the Reconstruction and Development Agency (RADA) was established by the then newly-elected government headed by President Mahinda Rajapakse with the intention of combining the work of the separate task forces in one agency responsible for all reconstruction and development activities in post-tsunami and post-conflict areas.(9) Although the aim is to provide housing, livelihood, social services, infrastructure and development assistance, for both conflict and tsunami-displaced in equal measure, there remain inconsistencies between different

districts, due to lack of coordination and the fact that delivery of services has been affected by the escalation of violence in the northeast in recent months.

With the change of government in November 2005, two new ministries, the Ministry of Resettlement and the Ministry of Nation Building and Development, were created with the functions and powers of three existing ministries shared between them.<sup>(10)</sup> A positive aspect of the RADA, the Ministry of Resettlement and the Ministry of Nation Building and Development is that they are dealing with policies, programmes and projects arising from both the conflict and the tsunami, with the aim of ensuring that there is a coherent strategy in place for the equal treatment of both conflict and tsunami-affected displaced. However, a top-down approach has meant that this has not yet been translated into fully effective action on the ground.

In the LTTE-controlled areas there are several entities that are involved in relief, rehabilitation and reconstruction efforts. The Planning and Development Secretariat (PDS), is a branch of the LTTE's civil administrative structure that coordinates all humanitarian planning and development in the LTTE-controlled areas and in the northeast as a whole. The Tamils Rehabilitation Organization (TRO) is a humanitarian organization that has been working in the northeast for over 20 years. It is a registered charity with the Government of Sri Lanka. The Centre for Women's Development and Rehabilitation, the Economic Consultancy House are among NGOs and independent bodies registered with the government and involved in rehabilitation and reconstruction efforts.

In May 2005, LTTE concerns regarding people in the north and east not receiving an equal share of tsunami aid, led to a written agreement between the government and the LTTE called the Post-Tsunami Operational Management Structure (P-TOMS). This was intended to establish a mechanism between the government Ministry for Relief, Rehabilitation and Reconciliation<sup>(11)</sup> and the PDS of the LTTE to jointly manage the distribution of some of the international funds for tsunami reconstruction. However, the *Janatha Vimukthi Peramuna* (JVP) <sup>(12)</sup> withdrew from the government coalition in protest at the agreement on the grounds that it was unconstitutional and lodged a petition against it in the Supreme Court. In July the Supreme Court placed a stay order on some key elements of the P-TOMS, effectively blocking its implementation, which further deteriorated the relationship between the LTTE and the government. There has been no further Supreme Court decision on this issue or date set for a hearing.

In response to the tsunami, the government announced the establishment of a coastal buffer zone with the stated intention to protect against damage and loss of life in the event of a future tsunami. It was announced that no rebuilding was permitted within this buffer zone, apart from certain exceptions (including tourist facilities), and that communities who had lived in the buffer zone would be relocated inland. This buffer zone was initially set at 100 metres from the average high water line in the south and west, and 200 metres in the north and east, apparently to reflect the greater damage caused by the tsunami in the north and east. However, this was subject to further review due to concerns raised nationally and internationally regarding the large-scale dislocation it caused. In February 2006 the RADA announced the revised demarcation of the buffer zone based on the Coastal Zone Management Plan (CZMP)<sup>(13)</sup> of 1997. The CZMP stipulates "set back" zones, depending on the nature of the coastal area, which has to be decided between the Coast Conservation Department and the Divisional Secretariat at district level. It is reported that revisions to the buffer zone have enabled 11,000 people who would have been relocated under the original plans to rebuild their homes on the coast. The coastal buffer zone declared by the government has not been followed strictly in areas under LTTE control. In LTTE-controlled areas where land is in short supply, people have been allowed to settle inside the zone.

At the time it was implemented, the coastal buffer zone resulted in a massive programme of relocation, in which those who had lived within it were prevented from rebuilding their homes on the coast and were instead moved inland to transitional shelters, while waiting for permanent houses to be built for them. This has left hundreds of thousands of people displaced and in limbo.

The large-scale relocation caused by the tsunami and the subsequent application of the coastal buffer zone dramatically altered the dynamics of displacement in Sri Lanka and exacerbated disputes over land, which have been linked to ongoing ethnic conflict. Moreover, there has been widespread concern among coastal communities that this forced relocation away from the sea will erode their livelihoods and traditional way of life.

#### *Caption*

Shelter that the fishing community has built in the buffer zone, Batticaloa, despite government regulations in force at the time. © AI

The latest government estimates show that Sri Lanka needs at least 100,000 permanent homes to be built or repaired. New housing policy which expands the number of people entitled to new or repaired housing could swell this figure to 115,000 homes. Working with the 100,000 figure, approximately 30,000 of the permanent homes required are to be built as part of a donor building programme. According to the Joint Report of the Government of Sri Lanka and Development Partners, published in December 2005, Memoranda of Understanding (MoUs) had been signed with donors for the building of 29,640 houses to be built under the donor building programme.(14) By 7 March 2006, MoUs had been signed with donors for the building of 34,094 houses. This is more than required, since it is thought that some of these MoUs may not come to fruition. According to the government agency RADA, by 18 April 2006, 5,959 relocation houses had been completed and 9,438 were under construction. Just over 14,000 donor-built relocation houses were still to be started.

In addition to the donor building, some 70,000 to 80,000 families can return to their original land and rebuild their houses, under a "self-help" programme, using some additional skilled workers. The programme requires cash grants from both government and donor agencies (co-finance) to repair and rebuild these damaged homes. In the "self-help" reconstruction programme, by 31 March 2006, the start of 42,851 homes could be confirmed, and a further 25,235 first instalment construction grants paid out. Therefore some 27,000 to 37,000 homes in the "self help" programme are still to be started, or in some cases, completed.(15)

According to the progress report "Moving from Transitional Shelters to Permanent Houses" published on 31st March 2006, 56,531 transitional shelters have been totally constructed and 3,029 transitional shelters have been decommissioned. Therefore 53,502 transitional shelters are being occupied by the people who are displaced by the tsunami. The number of tsunami IDPs living in transitional shelters, with their family or friends, or in their damaged houses while waiting to move into permanent housing is therefore estimated to be 330,000 to 350,000.

#### **Legal and policy framework for the protection of the human rights of IDPs**

The primary duty and responsibility to protect the rights of IDPs lies with the national authorities of the state. The state is obliged to provide assistance and protection for all IDPs on its territory and to facilitate to the maximum extent possible the work of humanitarian organisations involved in assisting IDPs. As a state party to a range of international treaties, including specifically the International Covenant on Civil and Political Rights (ICCPR) 1966, the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, the Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1965, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, and the Convention on the Rights of the Child (CRC) 1989, Sri Lanka is bound by various international obligations to promote and protect the human rights of the population, including those displaced by either conflict or natural disasters.

In addition to the binding international human rights treaties listed above, the UN Guiding Principles on Internal Displacement set out authoritative standards on the protection of the internally displaced: those who have been forced to flee their homes in order to avoid the effects of armed conflict, generalized violence, violations of human rights, or natural or other human-made disasters, but who have not crossed an international border.(16) The Guiding Principles reflect and are consistent with international human rights law, international humanitarian law and

international refugee law. The Guiding Principles offer protection from forced displacement and protection to IDPs at all stages of displacement: during displacement (including humanitarian assistance) and in the return, resettlement(17) and reintegration processes. In addition to the Guiding Principles, forced displacement is also prohibited in binding international law according to the interpretation of the United Nations (UN) Human Rights Committee that forced displacement violates Article 12 of the ICCPR.(18)

The Guiding Principles state that their standards should be observed by all state authorities, groups and persons, irrespective of their legal status. In 2002, the Sri Lankan government adopted a national framework for relief, rehabilitation and reconciliation based in part on the Guiding Principles.(19) The UNHCR has also developed programmes based on the principles to benefit IDPs in Sri Lanka.

The principle of non-discrimination enshrines a fundamental right protected by the UN Charter, international human rights law and international humanitarian law.(20) It prohibits discrimination of any kind including discrimination based on race, religion or belief, ethnic or social origin, legal or social status, or other status. Thus, although there is no explicit prohibition of discrimination against IDPs because of the fact of their displacement, discrimination based on 'other status' - for instance in Article 2 (1) of the ICCPR and Article 2 (2) of the ICESCR - is included in the general prohibition and would apply to IDPs. The Guiding Principles further indicate that the Principles shall be applied without discrimination of any kind. However, the principle of non-discrimination does not prevent protection and assistance being tailored to the particular needs of certain IDPs, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons. In fact, the Guiding Principles recognise that such protection and assistance ought to take into account their special needs.

Other human rights that are central to the protection of IDPs include the right to liberty and security of person and the right to freedom of movement and to freely choose the place of one's residence. These rights, provided, for instance, in Articles 9(1) and 12 of the ICCPR, respectively, are reiterated in Principles 12 to 16 of the Guiding Principles. Principle 12(2) states that in order to give effect to the right to liberty and security of person, IDPs 'shall not be interned in or confined to a camp.' Such internment or confinement can only be justified in 'exceptional circumstances' and if 'absolutely necessary' and 'it shall not last longer than required by the circumstances.' Set out in Principle 14 of the Guiding Principles, every IDP has the right to liberty of movement, particularly from camps and settlements, and the freedom to choose his or her residence. Principle 15 guarantees the right of all IDPs to flee from areas where their lives, security or freedom are threatened (including, if necessary, the right to seek asylum in other countries) and the right not to be forcibly returned to such areas. Principle 16 sets out the right not to be arbitrarily displaced from their homes (unless military reasons demand it for the security of civilians); and the right to return to their homes should they wish to do so.

Other key related rights include the right to life, to dignity and physical, mental and moral integrity, including protection against rape, torture and gender-related violence. In the context of internal displacement in conflict, the rights of all non-combatants, or those taking no active part in hostilities, to physical and mental integrity is protected by international humanitarian law.(21)

Under the CRC it is prohibited in all cases to recruit children below the age of 15 years in armed or military forces.(22) Sri Lanka ratified the Optional Protocol to the CRC on Children in Armed Conflict, which explicitly provides that armed groups, distinct from the armed forces of the State, must not recruit children under the age of 18 into armed groups. Moreover, child recruitment is classified as a "war crime" by the Rome Statute of the International Criminal Court.(23) The Guiding Principles contain a specific prohibition against the recruitment of displaced children into any armed forces or groups.(24)

The right to an adequate standard of living is guaranteed in international human rights law, in particular in Article 11 of the ICESCR. The Guiding Principles stipulate that "at the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide IDPs with and ensure safe access to: (a) essential food and potable water; (b) basic shelter and housing; (c) appropriate clothing; and (d) essential medical services and sanitation."<sup>(25)</sup> International standards also prohibit the arbitrary deprivation of housing, land and property. The Guiding Principles elaborate on this prohibition to include "arbitrary and illegal appropriation, occupation or use."<sup>(26)</sup>

In addition to providing guidance on the protection of IDPs from arbitrary displacement, and their protection during displacement from their homes or places of habitual residence, the Guiding Principles provide guidance on duties and responsibilities of the state and other actors in relation to return, resettlement and reintegration of IDPs, stressing in this process the fundamental importance of the principle of returning or resettling voluntarily, and in conditions of dignity and safety. In particular, Principle 29(2) observes the duty of the authorities to assist IDPs to recover their property and notes in this regard that "when recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation." This reflects the obligation of states parties to the ICCPR to ensure an "effective remedy"<sup>(27)</sup> and a general trend in human rights and refugee law towards recognising a right to restitution of property, whether destroyed or occupied, or to compensation for its loss.<sup>(28)</sup>

In terms of return, reintegration or resettlement, the authorities must ensure that any solutions are sustainable and that an individual does not suffer multiple cycles of displacement. Relocating IDPs to places of insecurity or to places where they cannot enjoy basic economic, social and cultural rights and are therefore unsustainable may breach a range of human rights standards.

### **The right to physical and mental integrity**

IDPs in Sri Lanka face a number of threats to their physical and mental integrity, including conflict-related, community-based and domestic violence. In particular, the physical and mental integrity of IDPs in the north and east is seriously undermined by the escalating insecurity and human rights violations taking place in these regions. Displaced people, being dislocated from normal social and community support structures, are particularly vulnerable to conflict-related insecurity, which not only threatens their lives, but also their prospects for durable solutions and a return to normal life with full protection of their human rights.

While the human rights situation in the north and east did improve following the CFA and many IDPs returned home in 2002 and 2003, the situation has deteriorated dramatically over the last two years, with escalated levels of violence, resulting in widespread human rights abuses. Much of this escalation in violence has been due to the split within the LTTE in March 2004. Since the LTTE attacked the Karuna group in April 2004 and forced the group to go underground, the Karuna group has continually ambushed and attacked the LTTE and those affiliated with it, while the LTTE has sought to regain control of the east through a violent crackdown, not just on Karuna supporters, but on any dissent within the Tamil community. The LTTE has accused the Sri Lankan Army (SLA) of providing support to Karuna's group, in the same way as the SLA has reportedly supported other Tamil armed groups opposed to the LTTE.

From December 2005 onwards the violence spread from the east to include the north, with numerous armed clashes, killings and "disappearances" reported. In the Jaffna Peninsula, attacks attributed to the LTTE or their "front organizations" on members of the security forces using claymore and landmine explosions, led to a heightened sense of insecurity and tension among all people living and working in those areas, including IDPs. Over 100 people were killed in the northeast during the period from 4 December 2005 to 11 January 2006 alone. Although the security forces took the brunt of the attacks, students, civilians, members of the LTTE and other armed groups were also killed in the violence. Member of Parliament, Joseph Pararajasingham, was shot and killed by unknown assailants in Batticaloa town on 24 December 2005.



Despite face to face talks between the government and the LTTE on 22 and 23 February 2006 in Geneva, the first since April 2003, the low level intensity conflict has continued. On 12 April 2006 a bomb exploded in a crowded vegetable market in Trincomalee town, killing five people including one child. Following the bomb blast over twenty Tamil and Muslim civilians were killed by Sinhalese in what appeared to be retaliatory attacks; dozens of homes and businesses were destroyed and several thousand people displaced. Concerns have been expressed about lack of timely intervention by the security forces in order to protect civilians.

Violence continued to escalate following a suicide bombing at army headquarters in Colombo on 25 April 2006 in which ten people died and the army commander was seriously injured. The government retaliated by launching air and artillery strikes by the joint armed forces against LTTE positions in Sampoor and Muttur Divisions in Trincomalee District on 25 and 26 April in which at least 12 people were killed.

Following the market bomb and air strikes in Trincomalee, according to UNHCR and other agencies, 32,081 people comprising 9,039 families were displaced from several villages in the district, and are living in temporary shelters.

The escalation of violence has also led to an increase in the number of people fleeing to India. According to UNHCR, since 12 January 2006, 1019 people had been recorded as arriving in Tamil Nadu, South India, from Sri Lanka.(29)

#### ***Killings, abductions and child recruitment***

While many civilians living in the north and east are affected by the increasing conflict- related violence and human rights abuses, including killings, abductions, child recruitment and "disappearances", (30) the insecure circumstances in which IDPs live make them particularly vulnerable. Displaced people often live in areas that are unfamiliar to them where they may lack family and community support networks.

The LTTE has for a long time recruited Tamil children into its forces. Agencies working with children reported that, before the March 2004 split between the LTTE and the Karuna faction, there was a sense that the LTTE might be prepared to end this unlawful practice of child recruitment. However, following the split and Karuna's release of an estimated 1,800 child soldiers(31), there has been more widespread recruitment across the north and east.

In August 2005 Amnesty International delegates spoke to one mother living in an emergency shelter in the east who alleged that her underage son had been recruited by the LTTE in July 2005. Her son had gone to run some errands and when he did not return the next day his mother realised that he may have been recruited and went to the LTTE-controlled area to enquire about him. LTTE officials reportedly told her that her son had voluntarily joined the LTTE forces and had been sent for training. However, the mother later heard that some other boys who went missing at the same time as her son have since escaped from LTTE forces. She therefore enquired again about her son and an LTTE official told her that her son had also escaped. When Amnesty International met her, more than one month later, she still did not know the whereabouts of her son and feared that he may be either still with the LTTE or in the custody of the security forces.

According to agencies working on child recruitment in the east there is no evidence to suggest that children living in tsunami IDP camps have been particularly targeted by the LTTE for recruitment. They report that it is children living in remote areas of government controlled territory and areas bordering LTTE territory that are most at risk. However, there are reports of tsunami IDP children also being recruited by the LTTE.

NGO representatives in Vavuniya told Amnesty International that children living in local conflict IDP camps are targeted for recruitment. They reported that, as these children are mostly living in

severe poverty and have few options for the future, it is relatively easy for the LTTE to persuade them to join its forces.

There have been widespread politically motivated abductions and killings across the east following the split in the LTTE; the LTTE has sought to regain control of the area and wipe out opposition within the Tamil community and the Karuna group has attacked the LTTE and its supporters. During Amnesty International's visit to the east, delegates documented reports of abductions and killings of tsunami-displaced people, allegedly by the LTTE. The families of those killed were very frightened to remain in the emergency IDP camps, where they felt they could be easily targeted by the LTTE and were therefore vulnerable to further violence. They were even more frightened at the prospect of being relocated to the remote transitional camp that had been identified for their community, where the LTTE is reportedly very active. Although these families had requested alternative options in lieu of moving to this transitional camp, local authorities informed Amnesty International that there was no alternative available and the families must relocate there.

Amnesty International delegates met Lokeswari (not her real name) while she was living in an IDP camp. She described how in the past she had been abducted and ill-treated by LTTE cadres who kept her chained, beat her and threatened to kill her. Once she was released the LTTE continued to harass and threaten her and her family.

One day Lokeswari's husband did not return to the IDP camp at the time he was supposed to and shortly afterwards a local person came to tell her that her husband had been shot and killed by the LTTE. Lokeswari is deeply traumatised and afraid for her life following her husband's killing. She believes she is particularly vulnerable to further violence because she is living in an IDP camp.

Jayarani (not her real name) was living in an IDP camp with her husband. She lost her parents and children in the tsunami. One day a friend came to the IDP camp and told her that her husband had been shot nearby. She believes that he was killed by the LTTE.

Jayarani has now lost all her family. She is despairing and believes that she too might be killed. She wants help from the authorities to move to a different place where she will not be at risk.

Organisations working with IDPs told Amnesty International delegates that the growing violence and insecurity is hampering the successful return of conflict IDPs to their homes of origin. NGOs in Batticaloa reported that approximately one third of families displaced by the conflict who had returned to their homes in LTTE-controlled areas following the ceasefire had felt unable to stay there due to the threat of harassment, violence and child recruitment. These families had again left their home areas to return to government controlled areas where they felt safer.

### ***Insecurity in IDP camps***

Many of those living in tsunami and conflict IDP camps told Amnesty International delegates that they felt extremely vulnerable to violence by the LTTE and armed groups, while others were concerned about harassment by the Sri Lankan security forces.

Tamil tsunami displaced people living in Thiraimadu transitional camp, Batticaloa district, expressed serious concerns about security in the camp, which is run partly by the TRO and partly by NGOs. Those who fear violence by the LTTE are particularly concerned about living in this camp, both because of the fact that it is TRO run and therefore easy for the LTTE to control, and because it is in a relatively remote location and does not have a police post nearby. Some residents expressed concerns about the possibility of child recruitment from the camp. The fact that the camp lacks electricity is also a concern as people – especially women - are afraid to move around the camp after dark.

When Amnesty International raised concerns about security in the camps with the Government Agent (GA)(32) Batticaloa, he acknowledged that there were 10-15 families still living in an emergency shelter that were refusing to move to Thiraimadu camp as they believed their lives would be in danger. He stressed that there is no other option and they must relocate there. However, local agencies working on shelter told Amnesty International that they were exploring other options for those who are frightened to move to Thiraimadu. The GA Batticaloa confirmed that no new police posts have been established to protect the tsunami IDP camps.

The security situation has also had an impact on the willingness of organisations engaged in building housing for IDPs in Thiraimadu to continue their work. The TRO discontinued working in the location partly in response to concerns over the security situation after a grenade attack on the TRO office in Batticaloa in June 2005, in which a TRO official was injured.

Further illustrating how IDPs can be caught up in the conflict, the Deputy Inspector General (DIG) Eastern Range claimed that camps for tsunami-displaced people have become common sites for shooting or grenade attacks on the security forces by the LTTE, as it is easy for those responsible to hide among the residents of the camp. He reported that the majority of these attacks had been in Ampara district. It is clear that any such use of IDP camps by the LTTE to launch attacks places IDPs at great risk and heightens their sense of fear. Under international humanitarian law, there are clear rules on the conduct of hostilities that are designed to protect civilian lives to the maximum extent possible. Common Article 3 to the Geneva Conventions applies "in the case of armed conflict not of an international character" and is binding on all parties to a conflict. It provides for the protection of persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed "hors de combat" by sickness, wounds, detention, or any other cause.(33) The Guiding Principles on Internal Displacement equally prohibit attacks 'in all circumstances' against IDPs who do not or no longer participate in hostilities.(34)

Both representatives of Tamil communities displaced both by the tsunami and by the conflict believe that they are particularly vulnerable to harassment by security forces because they are living in temporary camps. In Karaitivu, Ampara district, representatives from a Tamil tsunami IDP camp told Amnesty International delegates that they had faced heightened security problems following the declaration of a State of Emergency (SoE) on 13 August 2005.(35) They reported that, in one incident, all the residents had to flee the camp in the middle of the night and hide outside the village because of firing near the camp by the police Special Task Force (STF).(36) They also reported that there was an increase in the checkpoints in the area. Members of their community were more frequently being asked to show their identity cards by the security forces. Parents told Amnesty International that their children are no longer able to attend evening classes due to shooting incidents. Some children coming home in the evening had been forced to hide in fields for their safety.

Muslim people displaced by tsunami in the east told Amnesty International delegates that they felt particularly at risk of violence and harassment, primarily by the LTTE, and that the local authorities were not protecting them or their property due to fear of the LTTE. Muslim IDPs in Ampara and Batticaloa reported incidents of harassment by the LTTE and expressed concern that the poor security environment following the LTTE split had been further increased by the tsunami and resulting conflicts over land. In particular they claimed that they were being threatened and harassed to move from their land as part of an LTTE strategy to claim more land for Tamil communities in the post-tsunami relocation.

The climate of fear and the vulnerability of IDPs to intimidation and violence by armed groups and the security forces have had an impact on the ability of displaced communities to provide input into consultation processes and publicly express their views, as well as of local NGOs to consult with and effectively support IDPs. NGO representatives in Batticaloa told Amnesty International delegates that local people, and especially IDPs, are afraid to go far from their homes or to

participate in community programmes and that NGOs are increasingly reluctant to enter LTTE areas.

In Kattankudy, Batticaloa, a Muslim community, displaced to the coast by the conflict in 1990 and displaced again by the tsunami in 2004, has returned to its original pre-1990 land in Ollikalam, where they have established a tsunami IDP camp and hope to rebuild their original village. Representatives of this community described to Amnesty International delegates the harassment that they have been facing following their return to their original land. They reported being told by neighbouring Tamil villagers and LTTE representatives that, if they did not move from the area, their well would be poisoned and they would be killed.

*Caption*

Mosque in an IDP camp Ollikalam, Batticaloa ©AI

The Muslim community in Ollikalam described to Amnesty International a number of recent incidents of harassment in their new camp. In August 2005, for example, the loudspeaker from the mosque in their camp was stolen. This loudspeaker was used both for prayer and to call people to collect their rations. Immediately before it was stolen there had been an incident in which members of the neighbouring Tamil population had tried to collect rations but were refused because they were not tsunami IDPs. The community feel that this act was intended to intimidate them and drive them away from the land.

This community also described the failure of the police and local government to provide them with protection or support. They shared that complaints about encroachment of their land were ignored by the local authorities. They believe this is due to LTTE influence over and threats against local government officials.

A series of consultations were held with tsunami-displaced people around the country by the Disaster Relief Monitoring Unit (DRMU)(37) of the Sri Lanka Human Rights Commission (HRC). These consultations took the form of public meetings and focus group discussions, more than 7,000 of which were held in 13 districts. Given the tense situation and climate of fear in the north and east it is of real concern that local people may not have been able to speak freely about their concerns during such consultations, especially given the highly sensitive and politicised nature of the debate around displacement and relocation. A report of the DRMU's findings and recommendations was presented to the President in January 2006.

***Domestic and sexual violence***

There have been reports of high levels of sexual and domestic violence in both tsunami and conflict IDP camps. Women's groups claim that, in the north and east, decades of conflict and poverty has resulted in high levels of alcoholism and domestic violence and that this is worst among displaced communities. Many men displaced by the conflict and tsunami are unemployed and traumatised, which is resulting in higher levels of alcohol abuse and violence.

While cultural stigma and lack of appropriate services makes it difficult for women and children to report sexual and domestic violence, resulting in an underestimation of the problem, many IDPs told Amnesty International that these types of violence were taking place in their camps. The insecurity faced by women in IDP camps is further aggravated by their cramped living conditions. Many IDP women reported that they feel uncomfortable sharing small huts with male members of their extended family and that they lack privacy for bathing and have to walk a distance from their homes to go to the toilet at night. Many also expressed concern that the public areas of the camps are not lit.

Representatives of the Coalition for Assisting Tsunami-Affected Women (CATAW)(38) reported that immediately following the tsunami there were a number of sexual attacks in tsunami emergency camps but the response of the authorities on the issue was that, as there had not been any reports made to the police, there had therefore been no incidences of gender-based

violence in the emergency camps. This is despite the fact that in the confusion immediately following the tsunami it was even more difficult than usual for many women to access the police in order to make reports.

In Batticaloa a 13-year-old girl was reportedly raped by a stranger while walking in the tsunami transitional camp where she was living. The local community came to know of this rape, resulting in the girl and her family facing serious stigma. Local NGOs believe that such attacks are possible because, among other things, there is no electric light in parts of the camp.

NGOs in Akkraipattu, Ampara district reported that there is sexual abuse taking place within the tsunami IDP camps, which they believe is due to large families living together in small shelters. Other NGOs told Amnesty International that growing incidences of domestic violence among tsunami IDPs are partly due to the fact that the financial support is given to the male household heads and can easily be spent on alcohol, as well as the fact that many relief items can be easily sold and the money spent on alcohol.

In discussions about security, the GA Batticaloa told Amnesty International delegates that there had been a serious problem linked with alcohol and sexual and domestic violence among tsunami-displaced people in the emergency shelters, but that this would no longer be a problem once families were in transitional shelters, where each family has a separate house. However this claim was contradicted by a number of women living in transitional shelters who told Amnesty International delegates that there were high levels of alcohol use and sexual and domestic violence in their camps.

CATAW representatives told Amnesty International delegates that some tsunami-affected women in Akkraipattu, Ampara district, have engaged in sex work in order to buy basic necessities. It is not clear how many women, displaced either by the tsunami or the conflict, are involved in sex work in order to survive, but is likely that this pattern is repeated elsewhere.

Staff at the Sithamparapuram welfare centre for conflict-displaced people in Vavuniya told Amnesty International that there are very high levels of sexual and gender-based violence within the camp. They believe the high levels of alcohol use and violence among this conflict IDP community - some of whom have been in the welfare centre for over a decade - were fuelled by their poverty, cramped living conditions and hopelessness. UNHCR and camp authorities have initiated a number of projects to address the high levels of sexual and gender-based violence and some of the welfare centre's residents have been convicted and imprisoned on charges of rape and assault. Staff at the Sithamparapuram welfare centre also told Amnesty International that there is a serious problem of child neglect and abuse in the camp. Many female IDPs travel to the Middle East to work as domestic workers and their husbands often neglect the children in their absence. The Sithamparapuram welfare centre is very dilapidated, with cramped living conditions far inferior to those found in tsunami transitional camps and no electricity, adding to the insecurity of the residents.

## **The right to equality and non-discrimination**

### ***Discriminatory treatment between tsunami IDPs and conflict IDPs***

#### ***Housing***

The well-funded and relatively swift response to the tsunami stands in stark contrast to the inadequate support that conflict IDPs have received for many years.<sup>(39)</sup> Across the north and east, conflict-affected communities, representatives of civil society and national and international NGOs, and government officials all expressed concern that there is a serious disparity in humanitarian assistance between the two groups of IDPs that could lead to resentment and conflict.

Commissioners from the HRC told Amnesty International delegates that tensions were already emerging between poor or conflict-affected communities and tsunami affected communities. One possible example of such tension can be seen in an incident in Kattankudy, Batticaloa district, where transitional shelters for tsunami displaced people were smashed. It is suspected that those responsible were neighbouring conflict-affected communities who were unhappy with the difference in treatment between themselves and tsunami-affected populations. In particular, Amnesty International observed that there is a clear disparity in the accommodation provided to conflict and tsunami-displaced people, the package of relief that they receive while displaced, and the support they are given in order to return or resettle in another part of the country.

Although the emergency shelters in which tsunami-displaced people were housed, including public buildings and tents, were very basic and not fit for long-term habitation, by November 2005 all tsunami displaced people had been moved from emergency shelters to transitional housing. These transitional houses are small and generally made of wood, although sometimes also of tin or thatch, with one or two rooms and some kitchen space. In most cases each family has their own separate house. Most of the transitional camps visited by Amnesty International were of a reasonable standard, with basic sanitation, washing facilities and paths around the camp.

In contrast to the situation of those displaced by the tsunami, those displaced by conflict, where they are not living with family or friends, are accommodated in 'welfare centres', which are effectively large camps. According to the Ministry of Relief, Rehabilitation and Reconciliation there are 143 'welfare centres' in the north and east. In comparison to the transitional camps for tsunami-displaced people, the welfare centres visited by Amnesty International were very dilapidated, cramped and lacking in privacy and infrastructure. Many people have lived in these welfare centres for over a decade.

In addition, where conflict-displaced people have returned to their land or resettled to new land and are still waiting for permanent housing, they are often living in very poor conditions. For example, Amnesty International delegates visited a conflict IDP community in Hijranagar village, Ampara district, who had returned to their original land and were living in very small thatched shelters, with no electricity or other infrastructure. Likewise, in Mullaitivu district, Amnesty International delegates visited a resettlement site where conflict-displaced people were living in dilapidated temporary shelters, some since 1995. This site had no proper roads and no electricity. Moreover, there were insufficient public wells for the community, which had caused families to dig unsafe, unofficial wells near their homes. Local NGOs reported that during the previous year four children had drowned in such unofficial wells.

Although there are already clear differences in standards between the temporary shelters in which tsunami and conflict-displaced people are accommodated, the disparity in the circumstances of these two groups is likely to be even greater once the permanent housing for those tsunami-displaced people being resettled away from the coast has been built.

K. Sathiyanantham is a 42-year-old Tamil man who was displaced by conflict from his home in Chemmalai East, Mullaitivu, and who later returned to his land but was given little support to rebuild his life. He first left his home in 1983 because of local violence and moved to a place five kilometres away, where he lived in a makeshift hut that he built with materials provided by the local government authorities. He and his family spent seven years living in this basic shelter and surviving on dry food rations because they had no way to make a living in the area.

After seven years local government officials reportedly told K. Sathiyanantham that it was safe for him to return home. He and his family returned to their home in 1990 and stayed there for three months. They were then displaced again as the Sri Lankan Navy were shelling his village from the sea. This time K. Sathiyanantham and his family walked all the way to Mannar, where they paid Rs. 5000 (about USD \$50)(40) for a boat journey to India. The family spent two years living in refugee camps in India.

In 1992 K. Sathiyanantham decided to return to Sri Lanka and the family received support from UNHCR to make the journey to Trincomalee, where they were given Rs. 500 by the Sri Lankan government on arrival. After being moved around for a number of days the family were eventually taken to the Sithamparapuram welfare centre for conflict IDPs in Vavuniya, where they stayed until 2002. After the signing of the CFA in 2002 K. Sathiyanantham felt it was safe to return to his home village. He requested help from the local authorities, which provided the family with transport to return to their home. On returning they found that their house had been destroyed, but UNHCR gave the family a tent to put up on their land. K. Sathiyanantham and his family lived in this tent for three months, during which time they built a temporary shelter out of thatch. K. Sathiyanantham claims he never received any money to help build this shelter.

K. Sathiyanantham and his family continued to live in this temporary shelter and receive the Rs.1260 rations allocated for conflict IDPs from 2002 until 2004. In December 2004 the tsunami destroyed his shelter and since then he and his family have been living with his brother. They are now receiving the rations allocated for tsunami IDPs.

The official package of housing support being provided to tsunami-displaced people who are relocated away from the buffer zone is a transitional shelter, followed by a permanent house(41) with a minimum value of Rs. 250,000(42). However, while this minimum standard has been set at Rs. 250,000 by the government, it is reported that many NGOs are building permanent housing for tsunami displaced people with a value of up to Rs. 500,000. Those living outside the buffer zone whose houses were destroyed by the tsunami receive Rs. 250,000 to rebuild their houses, or if their houses were only partially destroyed they receive Rs. 100,000.

In contrast, conflict-displaced people are housed in mostly dilapidated welfare centres or with family and friends. If they return to their home area or resettle elsewhere they receive Rs. 25,000 when they initially move in order to build a basic shelter (a number of agencies working with conflict-displaced people told Amnesty International delegates that, in practice, it can take up to two years for this payment to come through and sometimes it never does). The conflict-displaced people are then supposed to be given money to build a house. Until recently the money given for this was very little, but it has risen in the last few years. It was 75,000 until 2004, when it was raised to Rs. 150,000 and then to 250,000 (to ensure parity with tsunami displaced people) in 2005. However, the Ministry of Relief, Rehabilitation and Reconciliation informed Amnesty International that there is not enough money available to provide this Rs. 250,000 to all those who are returning or resettling and therefore only some receive it.

Thangarasa Thirumalar is a 47-year-old Tamil woman from Illupaikulam, Trincomalee, who was displaced by the conflict and has returned to her home after many years. She was first displaced in 1986 due to fear of harassment by the SLA, and spent four years in a welfare centre in Mullaitivu. She told Amnesty International delegates that during this time she was given Rs.1200 in dry food rations per month for her whole family (herself, her husband and three children). After four years in the welfare centre Thangarasa Thirumalar and her family returned to Illupaikulam where they found their house had been destroyed. They constructed and lived in a small hut on the land, while continuing to receive the Rs. 1200 in rations.

However, in 1991 Thangarasa Thirumalar and her family were displaced again, as the conflict restarted and the SLA was distributing leaflets telling civilians to leave the area. They again went to a welfare centre in Mullaitivu where they stayed for six years, all the while continuing to receive their rations.

In 1997 the family again returned to their home in Illupaikulam, after hearing from friends that the security situation had stabilised. They built another temporary thatch shelter in which they lived for the next seven years. In 2004 the German government development agency, GTZ, built the family a small brick house in which they now live. Thangarasa Thirumalar told Amnesty International that during the time they were clearing land and building their shelter they did not receive any financial support from the state. However, they did continue to receive their rations until six months after they moved into their permanent house and when the rations stopped they finally received Rs. 25,000 as a one-off payment by the state, which they used to repay their loans.

Thangarasa Thirumalar's house is very basic, with a tube well but no electricity. She lives in fear of being displaced again.

In an example of the disparity between the accommodation provided to the two types of IDPs, UNHCR told Amnesty International that in Kuchchveli, Trincomalee district, there are 605 families originally from the area that were displaced by the conflict and have now returned but have no proper housing and are living in huts or with families. However the tsunami-displaced people in this area will receive new permanent houses.

All tsunami-displaced people had been housed in transitional shelters by November 2005. Moreover, the identification of permanent land for their relocation was well underway in most districts by the time of Amnesty International's visit in August 2005 and some construction of permanent housing had already begun. It is predicted that most of this permanent housing will be completed in three to four years, although some commentators are sceptical about this timeframe and are concerned that the transitional camps may become long terms slums.

#### *Caption*

Tamil conflict IDPs in a welfare centre in Vavuniya. © AI

In comparison many conflict-displaced people have been displaced for over a decade, many with no real prospect of a durable solution. The reasons that some have not been able to go home include real physical or security barriers. For others it appears to be inadequate government support and lack of infrastructure in their home area, as well as the failure of the authorities to establish an effective and impartial mechanism to resolve disputes related to housing, land and property restitution, that has prevented them from returning. Moreover, while the government has found land to resettle those displaced by the tsunami, there has been a real lack of political will to find land to resettle those conflict IDPs who are not able to return home and would like to resettle or locally integrate.

#### **Food and humanitarian assistance**

Not only is the standard of accommodation provided to tsunami and conflict-displaced people different, but so also is the package of rations that they receive. Those displaced by the tsunami



receive Rs. 175 of dried food rations and Rs. 200 in cash per week. The Ministry of Relief, Rehabilitation and Reconciliation informed Amnesty International that these payments will continue until livelihoods are established. Tsunami-displaced people have also received two instalments of Rs. 5,000 payouts, while those who have lost a breadwinner or their livelihood have also received a third instalment of Rs. 5,000. In addition they have received financial assistance for burials of relatives killed by the tsunami and for buying kitchen equipment. However, while this is a general government standard, many tsunami-displaced people that Amnesty International delegates spoke to have not received all these benefits and others had received more than this. Some have received support to re-establish livelihoods.

Those displaced by the conflict and living with friends or in welfare centres are supposed to receive Rs. 1,260 of dry rations per month for a family of five people. In theory these rations should continue for up to 15 months after the family have returned or relocated; however many conflict-displaced people told Amnesty International delegates that this was not the case.

### ***Political will***

The levels of political will to address the situation of the tsunami and conflict-displaced people are very different. This is partly inevitable, given the scale and uniqueness of the tsunami and the international attention it received, as well as the political sensitivities surrounding return and resettlement of the remaining conflict-displaced people. However, it has resulted in real inequality in the effort given to identifying solutions for the different IDP communities and the speed with which solutions are sought and implemented.

One of the central reasons for this disparity in treatment between different types of IDPs is the large amounts of international aid provided for tsunami relief and the resulting priority given by donors and international agencies to tsunami work. Local NGOs in Batticaloa described how many international organisations are spending vast amounts of money on tsunami-affected families while ignoring the needs of their poor and conflict-affected neighbours. A representative of one NGO stated that "enough money is coming in to lift the east out of 20 years of underdevelopment, but we need to be allowed to use this money for tsunami *and* conflict-affected people. This is not happening". Many local and international NGOs that have worked for a long time in the north and east reported that some of the relief organisations that arrived following the tsunami were not fully aware of the existing conflict situation or the political sensitivity around issues of ethnicity, land and relocation.

However, by the middle of 2005 the need for an inclusive and conflict-sensitive approach to tsunami reconstruction was increasingly being recognised by the major actors. The Sri Lankan government, UN agencies and many of the donor governments are now stressing the need for a tsunami response that is district focused and provides development benefits for all populations within tsunami-affected districts, including those affected by conflict and poverty of which there are plenty. Despite this shift among some donors, in Trincomalee and Batticaloa representatives of some donor agencies told Amnesty International delegates that many of the international NGOs are continuing to channel their support solely to tsunami-affected populations.

Salma Abubakar is a 44 year old Muslim woman who has been displaced by the conflict and, following her return to her original home in Hijranagar, Ampara, lost her job as a result of the tsunami.

Salma Abubakar initially left her home in 1990 because of fighting between the LTTE and IPKF, during which the LTTE told the population of her village they should flee the area in order to save their lives. The entire village left in one night, leaving behind all their possessions. They walked to nearby Pottuvil, where they stayed in a local mosque. After three months in the mosque Salma Abubakar and her family moved to a welfare centre for IDPs, where she lived in a thatch shelter for six months before going to stay with relations. Salma Abubakar and her family stayed with her relations until 2002, when local government authorities told her community that it was safe for them to return to their village.

*Caption*

Salma Abubakar, a Muslim conflict IDP, received a tin shelter in Hijranagar village, Ampara, because her livelihood was affected by the tsunami. © AI

In 2002 Salma Abubakar and some others from her village returned to their land, where they constructed very small and basic thatch huts in which they currently live. Salma Abubakar told Amnesty International that she did receive Rs 25,000 allowance to finance the construction of a shelter, but only one year after she had returned. She now works doing odd jobs, including agricultural work, and receives a small allowance the state provides to very poor families. The site in which Salma Abubakar and her neighbours live lacks basic infrastructure. The only well is 1½ miles away and there is reportedly not enough water for the whole community. There are no latrines and the lack of electricity means the community are afraid of elephant attacks during the night.

Salma Abubakar's employment as an agricultural labourer was affected by the tsunami. Because of this she has received tsunami relief in the form of a large tin hut, which is attached to her thatched shelter. This hut provides her with a living space that is much larger, more durable and more rainproof than her thatched shelter.

The difference between Salma Abubakar's new home and the basic shelters of her neighbours - who were not affected by the tsunami and continue to wait for government support to rebuild their homes - dramatically demonstrates the inequity in the support available to those affected by the conflict and the tsunami.

*Caption*

Shelter of Tamil conflict returnees in Hijranagar village, Ampara. © AI

Despite the serious concerns over the disparities in treatment between conflict and tsunami-displaced people, some commentators have suggested that the massive displacement caused by the tsunami has resulted in increased international and national concern about the situation of all IDPs in Sri Lanka and greater will on the part of the government, donors and civil society to address the situation of conflict-displaced people. One UN official told Amnesty International delegates that the tsunami has forced the government to find solutions to the long running land problems in Sri Lanka and that, once the government began to address these issues, this opened up the possibility of finding durable solutions for conflict-displaced people who cannot return home. LTTE representatives also told Amnesty International that the experience of mass displacement in the south, caused by the tsunami, had demonstrated to the government that the money allocated for conflict-displaced people was inadequate and resulted in the increases in financial support for returning and resettling conflict-displaced people detailed above.

One conflict-affected community whose prospects for a durable solution have improved following the tsunami are the Tamil conflict IDPs living in the Alles Garden welfare centre,

Trincomalee town.

UNHCR told Amnesty International that before the tsunami there had been no political will to find a solution for this community, many of whom had spent many years in the welfare centre. When the tsunami struck, one third of the homes in Alles Garden were destroyed and the population of the camp initially fled out of fear, although they later returned.

UNHCR reported that the government's shift in attitude towards IDPs following the tsunami resulted in an agreement that the majority of the conflict-affected families in Alles Garden will be included in the permanent resettlement being planned for tsunami IDPs.

Soosaipillai Mohanadas is a 27-year-old Tamil man from Linganagar, Trincomalee. He has been displaced both by the conflict and the tsunami and is currently living in Alles Garden welfare centre.

Soosaipillai Mohanadas and his family fled their home in 1990 because of fighting, in which many of the neighbours were being killed. They initially went to Kuchchveli, Trincomalee, where they built themselves a makeshift shelter. However, after six days the SLA reportedly collected all the IDPs from this area and took them to Trincomalee town where Muslim and Tamil IDPs were separated. Soosaipillai Mohanadas and his family were sent to a welfare centre in China Bay. After one month at this welfare centre the family were told by the SLA that they could return home. However, when they went back to Linganagar they found that a Sinhalese family had occupied their house, so the family returned to Trincomalee town where they rented a home.

When Soosaipillai Mohanadas married a returnee from India who was living in Alles Garden welfare centre he moved to the welfare centre to live with his wife. However, in 2004 the welfare centre was affected by the tsunami and Soosaipillai Mohanadas' home was destroyed. He was therefore moved to a different welfare centre for a few months, before returning to Alles Garden. Soosaipillai Mohanadas told Amnesty International that before the tsunami he had no hope of leaving Alles Garden, but because of the tsunami he has now been promised a new permanent home.

### ***Regional disparity in tsunami response***

Immediately following the tsunami there were allegations that the government was discriminating against the north and east in the allocation of relief supplies and similar allegations have continued in relation to longer-term rehabilitation activities. While some of these allegations were made by the LTTE and may have been politically motivated, many community representatives in the north and east told Amnesty International delegates that they also believe there is discrimination in favour of the south. For example, one Muslim community leader in Maruthamarai, Ampara district, told Amnesty International delegates: "the government is rebuilding the south and ignoring the east. This is why the Muslims in the east are not receiving their fair share of the international aid".

UN representatives told Amnesty International delegates that there is no evidence of deliberate discrimination against the north and east and that TAFREN had been quite equitable in allocating resources to the different districts, but that the fact remains that some districts are under-pledged by donors. In particular, Ampara, which is difficult to reach by road from Colombo, lacks local capacity and was greatly impacted by the buffer zone, has received less pledges of international aid than other districts. This has resulted in Muslims, who have a large presence in Ampara, feeling they have been particularly singled out for discrimination. There have also been allegations that the constituencies of influential politicians have received more support. For example, in Hambantota, which was then Prime Minister (now President) Mahinda Rajapakse's constituency, reconstruction was very advanced. Hambantota district has more MoUs signed for permanent housing construction than the actual houses destroyed by the tsunami in that area.(43)

There is little doubt that the tsunami response in the north and east has been weaker and slower than that in the south. This is not surprising given that, as a result of decades of conflict, the north and east was already suffering from increased levels of poverty, existing problems of displacement, poor infrastructure and weak administration. The LTTE claims that the government's insistence on centralising the tsunami response has been highly detrimental to the north and east where a different type of response is needed because of the different conditions that prevail.

Partly to address LTTE concerns about discrimination against the north and east, the P-TOMS was agreed in order to ensure equal distribution of relief to the north and east. This was to be jointly managed by the government and the LTTE, with participation of Muslim representatives, and would administer some of the international funds for tsunami rehabilitation. This was seen not just as an opportunity to ensure equitable distribution of tsunami aid, but also as a step towards confidence building between the government and the LTTE. However, this was never implemented because in June 2005 the JVP withdrew from the government coalition in protest at the agreement. Following a petition lodged by the JVP in July, the Supreme Court put a stay order on some elements of the P-TOMS, effectively blocking its implementation and contributing to a further deterioration in the relationship between the LTTE and government. The matter is still before the Supreme Court.

#### ***Allegations of discrimination and "land grabbing" in the context of return, reintegration and resettlement***

Land has been a key cause of tension between ethnic groups in Sri Lanka for many decades and is one of the factors fuelling the conflict. Each ethnic community has lost land through forced displacement and encroachment by other communities. For this reason displacement and the identification of land for the return and resettlement of IDPs are highly sensitive and ethnically charged issues.

Concerns within government authorities and among other parties to ensure particular ethnic population balances in particular areas have been one of the main barriers to the effective resettlement or local integration of many conflict displaced people. This is particularly true in areas such as Trincomalee, where all three ethnic groups are present and there is significant tension between them. UNHCR representatives in Trincomalee told Amnesty International that negotiating terms of resettlement for IDPs is very difficult because of concerns within each community that others should not live in areas that they have traditionally inhabited. They also reported that government authorities have made more effort to resettle Sinhalese IDPs than those from other communities - a pattern which appears to be repeated across the north and east. Likewise, in Vavuniya some local NGOs told Amnesty International delegates that the government does not want to settle any more Tamils in Vavuniya and is encouraging Sinhalese families to move into the area, while others alleged that Tamil ex-armed groups(44) are trying to move Tamils into Vavuniya. Such claims and counterclaims are found across the north and east.

Mass relocation following the tsunami and the implementation of the buffer zone appears to have fuelled existing ethnic tensions over land, with each community concerned that others are using the tsunami relocation to appropriate new land. For example, LTTE representatives raised concerns about land encroachment in Trincomalee, saying that if Tamils are moved away from the coast another community will occupy that land. They stressed that post- tsunami resettlement must not change the ethnic balance in the east or move one community to the area traditionally held by another. They pointed to earlier initiatives by the government to increase the Sinhalese population in Trincomalee as evidence for their concerns.

It is clear that some land-grabbing is taking place. For example, Amnesty International delegates visited a community of Tamil conflict-displaced people in Kinniya, Trincomalee district, which had built homes on land earmarked for the relocation of Muslim tsunami-displaced people. Local agencies believe that the Tamil community was encouraged to take this land by the LTTE and that the LTTE may have paid for the construction of their houses and wells, although the

community denied this. While the local government had sought to resolve the situation by asking the Tamil IDPs to accept smaller plots of land in return for being allowed to stay in the houses they had built, at the time of Amnesty International's visit the Tamil IDPs were refusing and the stalemate continued. Members of this Tamil IDP community told Amnesty International delegates that the government has allowed Muslims to encroach Tamil land in the past and that a long history of injustice against Tamils justifies their encroachment of this land.

Such situations are permitted and exacerbated by governmental failure to develop and implement equitable, timely, independent, transparent and non-discriminatory procedures, institutions and mechanisms to assess and enforce housing, land and property restitution claims. This gap has yet to be adequately addressed by the international community.

Sithravel Lingeswaran is a 28-year-old Tamil man who was displaced both by the conflict and tsunami and is now living in a basic house built on public land at Sinnathoddam, Kinniya division, Trincomalee. He was originally displaced from his home village of Uppar, also in Kinniya division, in 1990 because of fighting between the LTTE and the SLA and shelling by the SLA, in which local people were being killed. The entire village left together and walked through the jungle to a nearby area where they were housed in a school. After three months in the school the community was transported to a welfare centre that was located in disused aircraft hangars. Sithravel Lingeswaran told Amnesty International delegates that approximately 650 families were living in each aircraft hangar.

Sithravel Lingeswaran and his family spent five years in this welfare centre before local government authorities told his community that they could go home. However when they returned home they found that their houses were destroyed and their land had become jungle. Each family in Sithravel Lingeswaran's village was provided with a temporary shelter by local government authorities and they lived in these shelters on their own land for two years. Sithravel Lingeswaran told Amnesty International that during this time no one in his community received any support from the state to rebuild their homes.

On 12 March 1997 local authorities reportedly informed Sithravel Lingeswaran's community that they should leave their homes within 24 hours for their own safety. So they again went to stay in a nearby school where they remained for a few months. According to Sithravel Lingeswaran, local government officials then told his community that the government was unable to find available state land for them to resettle on, so they were moved into temporary shelters (reportedly provided by UNHCR) built on privately owned land. The community remained in these shelters for six years.

However, these temporary shelters were destroyed by the 2004 tsunami, following which the owners of the private land told the community it must move as they wanted their land back. Therefore, in January 2005 Sithravel Lingeswaran and the 86 other families who had been living on this land without legal title moved onto public land at Sinnathoddam. They cleared this new land and a local NGO built shelters for them.

Sithravel Lingeswaran told Amnesty International that he did not care that the land he had occupied was earmarked for Muslim tsunami IDPs, as he believes that Muslims are encroaching on a lot of Tamil land. Moreover, he told Amnesty International that nobody is helping his community and that no matter what the local government authorities say he will not allow anyone to break down his house or resurvey his land. Sithravel Lingeswaran says he will fight anyone that comes to take the land.

Muslim communities expressed great bitterness about the way in which they had been pushed from their inland agricultural land to the coast, in order to escape fighting, by LTTE land-grabbing and by government-sponsored colonisation by Sinhalese communities, resulting in heavy casualties among the Muslim community in the tsunami. Muslim tsunami-displaced people in Ampara and Batticaloa told Amnesty International delegates that they are being severely

discriminated against in the allocation of land, that the LTTE is using the tsunami displacement to appropriate land which belongs to them, and that the government is failing to protect them from this.

Members of a Muslim tsunami IDP community in Kattankudy, Batticaloa told Amnesty International delegates that in summer 2005 some Tamils illegally erected huts on land that the local Mosque Federation had earmarked for the resettlement of Muslim IDPs, they believe with the encouragement of the LTTE. Although this community have complained to the local government and to the LTTE, they report that no action has been taken and that Tamils, supported by the LTTE, have continued to occupy Muslim land.

This community also claimed that local government officials are telling some local Muslims not to rebuild their tsunami-damaged houses and that the government will find them new land instead, despite the fact that these houses were outside the buffer zone. They believe that this is being done at the demand of the LTTE. They reported that the LTTE is encouraging local Tamil people to threaten those Muslim tsunami-displaced people who have resettled in transitional camps in order to try to force them to leave the land they are currently living on. Local Muslim leaders also told Amnesty International that when they tried to get some land surveyed that they wanted to use to resettle Muslim tsunami-displaced people, all local private surveyors in Batticaloa said that the LTTE had warned them not to survey any land in Kattankudy, so as a result, the community ultimately had to bring in a surveyor from Ampara. Representatives of this Muslim community have complained a number of times to the local government about this alleged harassment and claim that local government officials have admitted that they cannot take action because of threats from the LTTE. When Amnesty International delegates put these allegations to the GA in Batticaloa, he responded that any encroachment of land by private actors (including where sponsored by the LTTE) was not the responsibility of the local government but of the police and courts.

Although the main tension between the ethnic communities following the tsunami is regarding land, there are also allegations of discrimination in the distribution of relief. In particular, while the major relief operation immediately following the tsunami was under way, there were numerous claims of aid being diverted to particular communities. The LTTE claim that in a number of places, including Trincomalee, government officials, the security forces, Buddhist monks and the JVP acted to divert aid to Sinhalese communities. However, some local NGOs in the north and east claim that the TRO commandeered relief supplies being delivered by other agencies and diverted them to Tamil communities. Representatives of Muslim communities told Amnesty International delegates that they have been the most excluded in relief and rehabilitation efforts as, while the government focuses on the Sinhalese community and the Tamils have the LTTE to speak for them, the Muslims do not wield sufficient power to ensure that they receive their share of tsunami aid.

#### ***Disparate treatment of tenants, traders and other groups***

While those who owned property inside the buffer zone are being provided with a new property away from the coast and those whose property outside the buffer zone was destroyed are getting support in rebuilding, the situation for people who were renting or squatting in property that was destroyed by the tsunami is much less clear.

During its August 2005 mission, Amnesty international encountered much confusion about what support is available to tenants affected by the tsunami. While TAFREN told Amnesty International delegates that tenants living in the buffer zone should get the same resettlement package as homeowners, Amnesty International found that in many places this was not happening. For example, in Batticaloa, Amnesty International found that tenants who had been provided with emergency shelter and rations were not being offered any transitional housing or permanent relocation, but were also unable to find new premises to rent as all their possessions had been lost in the tsunami and they did not have the money for a deposit. Revealing the gap between central and local government, the GA in Batticaloa told Amnesty International that it was his

understanding that tenants displaced by the tsunami would receive rations and the Rs. 5000 stipends, but were not entitled to being relocated.

The "Principles on housing and property restitution for refugees and displaced persons" outlined by the UN Special Rapporteur Paulo Sérgio Pinheiro (Pinheiro Principles), states that "States should ensure that the rights of tenants, social-occupancy rights holders and other legitimate occupants or users of housing, land and property are recognized within restitution programmes. To the maximum extent possible, States should ensure that such persons are able to return to and repossess and use their housing, land and property in a similar manner to those possessing formal ownership rights."

The government's December 2005 Joint Report stated that a policy decision needed to be made with regard to tenants residing in transitional shelters.<sup>(45)</sup> According to the UN Office for the Coordination of Humanitarian Affairs (OHCA), tenants are not covered by the housing policy regardless of which zone they were living in. Under the government housing plan, a new house will be built or the damaged house repaired but the ownership will still be with the landlord.

The situation of those who were squatting and therefore lack legal title to houses destroyed by the tsunami which they previously occupied also appears to be confused. In August TAFREN told Amnesty International delegates that those without legal title would be assured transitional shelter but not necessarily any permanent solution, while in the districts local agencies reported that many people in such positions were not even being given transitional housing. However, latest reports suggest that this had now changed and they will now get a permanent house under a re-housing grant supported by NGOs.

Those tsunami-displaced people who are living with friends and family have reportedly been overlooked in the relief and rehabilitation efforts. In its December Joint Report the government admitted that there are no proper statistics on this population and many may not be accessing the support to which they are entitled.

Another population that has reportedly missed out on tsunami relief are small traders who lost all their wares when the tsunami destroyed markets at which they were trading. Although in theory those whose livelihood was destroyed by the tsunami are entitled to some support, including rations, in many places it appeared that this was not happening.

Amnesty International delegates met with Anandhi and her family (not her real name) who were displaced both by the conflict and the tsunami and living in emergency shelter in a school in Batticaloa. Anandhi reported that she was facing eviction from her emergency shelter but was not being offered any transitional shelter because she was a tenant at the time of the Tsunami.

Anandhi was first displaced in 1978 by communal riots and then fled her home again in 1990 because of fighting between the LTTE and the SLA. She was renting a home in Batticaloa town when the tsunami struck, destroying the house where she lived. Anandhi was originally given emergency shelter in the school together with 18 other families. However 12 of those families, who had owned their homes that were destroyed by the tsunami, were later moved to transitional shelters. Anandhi reported that local government officials told the four remaining families they were not entitled to transitional shelter because they were tenants.

Anandhi told Amnesty International that the principal of the school was becoming increasingly threatening in his efforts to get the remaining four families to leave the school and that on a number of occasions he has told them he will force them to leave that very day. On each of these occasions the families have persuaded UNHCR or local government officials to mediate with the Principal to allow them to stay little longer.

Anandhi and the four other families cannot leave the school as they have nowhere to go. She reported that a local government official told her that she should buy land and that the state would then build her a house on it. However not only does Anandhi not have sufficient money to buy land, she also does not have enough money for a deposit to rent a new home. Her family is very poor and before the tsunami they were living on property belonging to a religious charity, for which they had not paid rent for a long time. Anandhi is frightened about the future and desperately wants a permanent home for her family.

### ***Gender-related discrimination***

Women's organisations claim that women are being discriminated against in the tsunami response, particularly in relation to equal consideration in the allocation of land, reparations for lost livelihood and consultation on the determination of adequate solutions. Representatives of the CATAW told Amnesty International that, while in some communities in the east women have traditionally owned the family property, in many cases where families are resettled the new property is registered in the man's name, as he is considered by the authorities to be the head of the household. CATAW is concerned that such practices effectively strip women of their property rights, making them dependent on male family members. In December 2005 Joint Report the government acknowledged that benefits (including cash and housing grants) had been given to male household heads, as had some title deeds, and that it must ensure that in future title deeds for the properties of relocatees are given to both husband and wife.(46)

In the area of rebuilding livelihoods, women's organisations report that most of the emphasis is on rebuilding what have traditionally been men's trades, such as fishing, and that women's employment needs are being overlooked.

Women's organisations also report that local government officials are not consulting effectively with women in regard to the tsunami response, but tend to consult mostly with powerful local men. In addition, they report that during the relief phase most consultation took place at the site where provisions were distributed and, as it was usually men who went to collect provisions while women remained in the shelters, this approach effectively excluded women.

### **Right to adequate standard of living**

#### ***The coastal buffer zone and resulting relocation***

The coastal buffer zone resulted in the relocation of hundreds of thousands of people who lived along Sri Lanka's coastline. While the buffer zone was originally set at 100 metres from mean



high tide in the south and west and 200 metres in the north and east, the size of the buffer zone in each area is now being decided at local *Grama Sevaka* Division level (the lowest level of local government). The new setback zones, as they are now called, are not uniform along the coast, and have to be decided between the Coast Conservation Department and the Divisional Secretariat at district level.

One exception to the general prohibition on rebuilding within the buffer zone which has caused huge controversy is the exemption provided to the tourist industry. When Amnesty International asked TAFREN representatives about the justification for this exemption they replied that, in order to attract tourists, hotels must be located on the beach. However many civil society commentators and communities affected by the tsunami have expressed anger at this exemption, which they see as discrimination against coastal communities in favour of the powerful tourist industry. Affected communities expressed serious concerns that, once they are moved away from the shore, beaches will be privatized and their access to the sea, in order to fish, will be severely restricted, having a long-term impact on their livelihoods.

*"My village people's whole life is here. Not just one day or two days – their life." (Local businessman Rupa Chandra, Arugam Bay)*

Rupa Chandra lived within the buffer zone at Arugam Bay, Ampara, where his house and his small shop were destroyed by the tsunami. He told Amnesty International that, while he is happy to resettle inland with his family, he must keep his shop on the beach in order to get trade. He has reopened his shop in a small makeshift shelter but is concerned that he may be forced to close it down because of the buffer zone restrictions. Rupa Chandra told Amnesty International that he fears the Tourist Board will privatize the beach and build a big tourist complex, preventing local people from fishing or running small businesses from the beach.

Arjit Niroshan is the Chairperson of the Fisheries Society in Arugam Bay. He told Amnesty International that local fishermen do not want to move to the transitional site 600 metres away from the sea because they fear that if they move they will lose their access to the sea, and hence their means of earning a living. The fishermen often go to sea in the middle of the night and it will be difficult for them to do this if they are based so far away from the coast.

One place where there is deep concern about the relocation of local people to make way for the development of tourist facilities is Arugam Bay, Ampara. In this area, which has an existing small scale tourist industry and has reportedly been earmarked for some time for further tourist development, local residents are very unhappy at being offered a relocation site 600 metres from the sea. Most local people are dependent on fishing and small, often unregistered, tourism related businesses for their livelihood. They see the relocation as an attempt to remove them from the beach in order to privatize it for tourist development.

In summer 2005, when the Urban Development Authority (UDA) came to Arugam Bay to mark the 200 metres boundary line within which only registered tourist facilities would be able to build, local residents blocked them from reaching the area. In response to these protests the chairperson of the national Tourist Board reportedly promised local communities that there would be consultation with them on any future tourist development. Following this, local small-scale tourist businesses in Arugam Bay drew up an alternative development plan and invited the tourist board to discuss it. However, the Tourist Board reportedly refused to meet with them, citing the previous protests. At the time of Amnesty International's visit in August 2005 some local people had restarted their small-scale, unregistered businesses in the buffer zone. However, they felt that their future was very uncertain.

Most communities that were living in the buffer zone are highly dependent on fishing and related activities for their livelihood. Many among the communities Amnesty International met with expressed deep concern that they will not be able to continue these livelihood activities once they have been relocated. In particular they are worried that once they are relocated inland there will

be no place to store their boats, which they are accustomed to keeping near their houses on the beach.

Representatives of a Tamil coastal community that has been relocated to Thiraimadu transitional camp, six kilometres away from the sea, told Amnesty International delegates that it is now very difficult for them to fish at night, as they used to do, because there is no transport to the coast. Likewise, representatives from a Sinhalese community living in emergency accommodation in Sangamitha welfare centre in Trincomalee town told Amnesty International delegates that, although 70% of their community are fishing people, they are being moved to a transitional site six miles from the coast. They reported that when they were initially offered the site they agreed to move because they were very scared of another tsunami, but that in recent months their levels of fear have reduced and they would prefer to stay on the coast.

In addition to concerns about access to the sea, representatives of communities along the coast said that they are being relocated to areas that lack basic infrastructure, including transport and medical facilities; that they being moved into an area largely populated by a different ethnic group; or that they are being moved onto agricultural land, depriving those who had farmed that land of their livelihood. The majority of communities Amnesty International delegates met with reported that they had not been properly consulted about their relocation. Some NGOs suggested that the large amount of international aid allocated to be spent on tsunami housing programmes by the end of 2005 had resulted in international NGOs rushing to build new housing for relocated communities without proper consultation. In its December 2005 Joint Report the government acknowledged that communication and consultation with affected communities have not been adequate and accepted that more direct communication with communities is needed to ensure sustainable solutions for those who are displaced.(47)

However not all communities were unhappy at being moved away from the sea. Representatives of the Muslim community in Kalmunai, Ampara, told Amnesty International that they were very keen to relocate away from the coast and were concerned at reports that the buffer zone in Kalmunai may be reduced to less than 200 metres. In this area the tsunami had come very far inland, resulting in huge casualties. It appears that both the scale of casualties in the tsunami and the dependence of the community on the sea for their livelihood are key factors that determine whether communities wish to relocate away from the coast.

All the communities from within the buffer zone that Amnesty International delegates spoke to expressed resentment at the different pace at which rehabilitation of those inside and outside the buffer zone had been taking place. Many pointed out that while those who lived outside the buffer zone were quickly able to receive their Rs. 250,000 grant and rebuild their houses, those from within the buffer zone remained in limbo and are likely to be waiting a long time in transitional shelter before they are provided with permanent shelters.

Amnesty International met some communities who had chosen not to leave the buffer zone and instead remained living there in damaged homes or emergency shelters despite government efforts to relocate them. This was the case with a number of Muslim families in Galle town who were living in tents and makeshift huts along the seafront. These families reported that they have been offered transitional homes at a site seven kilometres away but do not want to move there as it is a majority Sinhalese area and transportation links to the town are infrequent, making it difficult for them to access the mosque and Muslim school. They were also concerned at being so far from their fishing activities. They stated that they would consider moving such a distance from the coast for permanent homes, but not for transitional shelters from which they will be moved again. When Amnesty International delegates asked the GA about this community, he replied that, although at that time the authorities were not actively removing those people who remained in the buffer zone, in the future all these people will be forced to move to new locations. He also stated that in order to coerce people into leaving the buffer zone the authorities were telling NGOs that they must remove the emergency tents in which the people were staying.

Strong lobbying against the buffer zone resulted in the Government reverting to the Coastal Zone Management Plan of 1997 which reduced the buffer zone very significantly in most areas. The Coast Conservation Department is the prime authority for issuing permits for any activity that comes within their purview, in this case construction in the setback zones. It has posted planning officers at Divisional Secretariats who visit potential sites with the Divisional Technical Officers and give approval for construction at the site itself. Those wanting to build in the setback zones can apply for a housing permit, which may be permitted under certain circumstances, if the land is not needed for any infrastructure projects and is at a sufficiently high elevation not to be at risk of inundation by the sea. Problems which cannot be solved locally are directed to the head office in Colombo for settlement.

The setback zone standards according to the CZMP of 1997 have been published in leading national newspapers and on electronic media. Furthermore, District and Divisional Secretaries have been informed of the revised buffer or setback zones in their development programmes. It has been reported that implementation of the setback zones will take some time before it is running smoothly in each district.

### ***Housing and camp conditions***

Although, according to TAFREN, there are clear minimum standards for the permanent houses being built for relocated tsunami-displaced people, the accommodation found in transitional camps and emergency shelter is variable. In particular the standard of accommodation in the emergency shelters that Amnesty International delegates visited was very basic. For example, in Galle some of the families who had remained within the buffer zone in emergency accommodation were living two families to a tent, while the tents were perishing, were infested with rats and were regularly flooding. Likewise, those living in emergency accommodation in a building belonging to the Batticaloa Paddy Marketing Board had been living for eight months in small tents or cramped together in large halls.

While most of the transitional shelters that Amnesty International saw were of reasonable quality, local NGOs expressed concern that the shelters would leak during the rainy season and are not likely to last more than two years. While in both Galle and Trincomalee the GAs assured Amnesty International that permanent houses would be constructed within two years, local NGOs, such as the NGO consortium in Akkraipattu, Ampara, estimated that it would take five to eight years to build all the permanent housing required for relocation.

According to the Ministry of Relief, Rehabilitation and Reconciliation, conflict-displaced people will continue to wait a long time for assistance with permanent houses following return or resettlement, as there is not enough funding to build all the homes required. They also stated that there is no money available to upgrade the temporary shelters in which some conflict-displaced people have been living for many years.

Among many of the tsunami IDP communities and the NGOs working with them there were serious concerns that, while adequate shelters are being constructed in transitional camps, communal infrastructure, including lighting, health and transportation facilities, is being overlooked. Representatives of the United Nations Children's Fund (UNICEF) particularly raised concerns that in many cases there are inadequate site selection processes, resulting in houses being built before environmental assessments are undertaken. This means that if the land is later found unsuitable - for example prone to flooding - there is little that can be done.

One major concern expressed by many communities was the distance of relocation sites from schools and the problems this poses for children's attendance. Although, according to UNICEF, within two months of the tsunami, education levels were back to normal levels, some UNICEF representatives claim that there is not enough coordination taking place to ensure that transitional camps are located near to permanent or temporary schools. Residents from a community of people displaced by the tsunami in Matara told Amnesty International delegates that the school which had been destroyed by the tsunami and was now being relocated to a more distant venue,

makes it difficult for some children to attend. Moreover in its December 2005 report, the government acknowledges that some children in tsunami affected schools have been dropping out of school in order to work.(48)

However, despite the problems in the camps for those displaced by the tsunami, the camps for conflict-displaced people have even worse conditions. In one resettlement site in Mullaitivu, where conflict-displaced people have been living for many years in temporary shelters awaiting permanent housing solutions, there is no electricity or transportation and there is regular flooding due to lack of proper drainage. In addition, residents keep falling sick due to the unclean water from local wells and have to travel 15 kilometres to the nearest hospital. The local secondary school is also 15 kilometres away resulting in many children dropping out because of the distance.

Most of the IDPs that Amnesty International delegates spoke to were receiving rations, although many were unhappy at the quality of the rations and the delays in receiving them. In both Galle and Ampara a number of community representatives complained about quality and cultural appropriateness of relief, that the flour and rice they received was rotten, or that they were being given foreign rice and wheat which they did not know how to cook. It was also reported that delays in the distribution of ration cards resulted in some people being unable to collect their rations.

#### ***Impact on ongoing development work***

In the tsunami-affected areas, particularly in the north and east, several local NGOs told Amnesty International delegates that pressure from donors to rapidly disburse large amounts of money earmarked for tsunami relief was pushing NGOs to focus solely on tsunami work and resulting in other development activities being sidelined. Moreover, the presence of so many international organisations has inflated the prices of property and services, making it hard for smaller local NGOs to continue to operate. Local NGOs also reported that staff members were leaving to join international NGOs which offer higher salaries, thereby reducing their capacity to operate. One local NGO also told Amnesty International that pressure on international NGOs to spend money quickly was resulting in local people being paid to do work that they would have done anyway, thereby destroying the spirit of voluntarism and increasing dependency of local communities on outsiders.

#### **Durable solutions to the plight of the IDPs**

Land is a central issue to Sri Lanka's ethnic conflict and one that can only be resolved in the context of a long-term peace settlement. This means that solutions for all IDPs are highly politicised and, for many, durable solutions are blocked by political interests.

A nationwide strategy has been developed to provide durable solutions to all tsunami-displaced people, whose displacement is less bound up with the ethnic conflict than is that of conflict displaced people. However, serious concerns remain regarding the imposed nature of the solutions offered to those from within the buffer zone, the question of deprivation of housing, land and property arbitrarily and without compensation, the possibility that temporary shelters will end up being permanent homes and the fact that some categories of tsunami-displaced people do appear to be falling through the gaps. These factors threaten the realisation of sustainable, voluntary and dignified solutions for those displaced by the tsunami.

However, for those displaced as a result of the conflict, the realisation of durable solutions is far more politically charged and difficult to achieve. It appears that all parties are manipulating issues of return or resettlement for military or political gain and this, combined with the constantly changing security environment, has resulted in many conflict-displaced people spending years in welfare centres. There are serious policy issues, including security, economic and social barriers to durable solutions for many conflict-displaced people that can only be overcome as part of a wider peace process. Nevertheless, the creation of equitable, timely, independent, transparent and non-discriminatory procedures, institutions and mechanisms to assess and enforce housing,

land and property restitution claims would provide assistance to those returning and may help to depoliticise the issue of land on return.

Moreover, donor funding for the reconstruction of the north and east is in part dependent on the progress of the peace process, which is currently uncertain. While some agencies working with IDPs are hopeful that the tsunami may have opened up new possibilities for conflict-displaced people, how this will translate into durable solutions remains to be seen. In the light of this, the international community should place greater emphasis on its responsibilities to promote and protect the right to housing, land and property restitution, particularly given its clear connection in this case with the right to voluntary and sustainable return in safety and dignity.

In 2006 UNHCR again proposed to conduct a survey of IDPs living in welfare centres in the northeast. In collaboration with the Ministry of Resettlement and the Ministry of National Building and Development, UNHCR began by revalidating the information obtained in the 2004 survey of IDPs living in welfare centres in Puttalam District. Having completed this, UNHCR is now intending to embark on surveys in most of the welfare centres in the northeast. The survey aims to obtain information about the IDPs living in the welfare centres and to consult the IDPs themselves on their preferred durable solutions and the obstacles they face in achieving them.

### ***Policy and legal barriers to durable solutions***

UNHCR and other agencies working with IDPs told Amnesty International that the central barrier to effective return or resettlement of conflict-displaced people is a lack of political will. They pointed out that donors are generally keen to fund development projects in Sri Lanka and would be likely to fund any conflict IDP resettlement programmes if the government made this a priority. However, the Ministry of Relief, Rehabilitation and Reconciliation denied this, stressing that the main barriers to permanent solutions for conflict-displaced people are lack of funding and lack of land.

The Ministry told Amnesty International that 60% of those who were in welfare centres when the CFA was signed have since returned to their homes. However, this still leaves hundreds of thousands displaced. They also stressed that all conflict-displaced people must return to their original homes unless they were originally landless or there are clear physical impediments such as HSZs that prevent their return. Only in such cases will resettlement be considered.

UNHCR told Amnesty International that, while in general the most favoured option for IDPs in any setting is return to their homes of origin, the Sri Lankan government stresses return even when other options may be more appropriate, because it is the least politically sensitive option. Resettlement to other areas within Sri Lanka is only undertaken in limited cases, while local integration is usually not permitted. According to UNHCR the reason for this is that the government and other parties do not wish to change the ethnic status quo in any area by settling people from another ethnic group there. This is not only because of ethnic tensions over land, but also because allowing IDPs to resettle or locally integrate in an area would change the make-up of the electorate, as currently IDPs are transported back to their place of origin to vote. In this way possible durable solutions for some IDP families are being blocked for political reasons.

An example of the government's reluctance to resettle IDPs can be seen in Trincomalee where UNHCR has tried for some time to get local government authorities to allocate land for the resettlement of conflict-displaced people, but they have consistently refused as they did not want to change the ethnic make up of the local community. Likewise, according to UNHCR, many conflict-displaced people in Puttalam have built new lives in the area where they are now living and would prefer to integrate locally, but are not being allowed to do this for the same reason. Such reluctance to consider alternatives for those who cannot or do not wish to return home, including for those with compelling protection reasons, is forcing many people to continue living with an IDP status and is denying them the right to choose their place of residence and the opportunity to fully rebuild their lives.

It also appears that some communities are more likely to get help with returns or resettlement than others. Agencies working with IDPs in Trincomalee told Amnesty International that there has been far more organised resettlement of Sinhalese and Muslim communities than of Tamils displaced by the conflict. This is despite the fact that Tamils make up the majority of conflict-displaced people in the district.

UNICEF believes that one of the reasons that the option of return or resettlement does not work for some IDPs and they ultimately leave their homes again, is that the government does not approach returns holistically. Instead the different elements of return (infrastructure, shelter, security and other such considerations) are dealt with by different parts of government without adequate coordination. While this is most true for the return of conflict-displaced people, there is also lack of coordination in resettling tsunami-displaced people in transitional sites. UNICEF pointed out that it is only usually asked for its input after returns have already taken place.

Muttiah Canagaratnam is a 53-year-old Tamil refugee who returned from India and now lives in Sithamparapuram welfare centre in Vavuniya.

Muttiah Canagaratnam and his family were reportedly first displaced from their home in Kilinochchi in 1985, due to aggression by the SLA. The family walked to Mannar from where they took a boat to India. They spent three years living in an Indian government refugee camp, but returned to Sri Lanka in 1988 after UNHCR had reportedly advised them that it was safe to return. They were brought by boat to Jaffna, where the family were given Rs. 2,000 by UNHCR to help with resettlement. Muttiah Canagaratnam reported that he never received Rs. 25,000 for shelter as promised by the local government authorities.

Muttiah Canagaratnam and his family were displaced again in 1990, as violence escalated and many of their neighbours in Jaffna were killed in fighting and air raids. The family again walked to Mannar and took a boat to India, where they stayed in a refugee camp for another two years.

In 1992 Muttiah Canagaratnam and his family decided to return to Sri Lanka and were supported by UNHCR to travel to Trincomalee by boat. From there the family were brought to Sithamparapuram welfare centre in Vavuniya, where they remained for the next 13 years. Muttiah Canagaratnam reported that he had left India because UNHCR had told him the family would be better off in a welfare centre in Sri Lanka than in a refugee camp in India and that, as soon as the situation improved, they would be helped to return home or resettle in a new place.

Muttiah Canagaratnam and his family still live in Sithamparapuram welfare centre. They have spent most of the last two decades as IDPs or refugees and have been denied the opportunity to build any permanent life. He told Amnesty International that he has been promised many times that he will be given land, which never happened. He says that he has lost hope.

The way in which land is identified for resettlement in LTTE areas may be contributing to further displacement and land conflicts. UNHCR is concerned that some of the land identified by the LTTE for the resettlement of those displaced by both the conflict and the tsunami is private land that has been expropriated.

The policy regarding returnees from India is of concern, as some have returned through the facilitation of UNHCR only to become IDPs within Sri Lanka. Although the Ministry of Relief, Rehabilitation and Reconciliation told Amnesty International that returnees from India go directly to their homes and there should be no returnees from India living in welfare centres apart from a few in Vavuniya, Amnesty International delegates encountered returnees from India in other welfare centres, including Alles Garden in Trincomalee. While UNHCR does continue to advise that the situation in Sri Lanka is not conducive to mass returns of refugees from India, the fact that some refugees are returning with the support of UNHCR, apparently having been advised

that they will be able to return to their original homes, and are then internally displaced within Sri Lanka, is a cause for concern.

There are a number of legal barriers preventing IDPs from returning to their homes. Many IDPs have lost the title deeds to their land and the process for establishing ownership in such situations is both slow and complicated. Another major barrier is the fact that if a person occupies a property for 10 years they are given prescriptive title to that property. This means that the property of some conflict-displaced people (many of whom have been displaced for more than a decade) has been legally taken over by other people who have been resident in it for more than 10 years and have therefore gained prescriptive title. However, lawyers working on this issue point to the fact that in cases where the original property owner is overseas, according to Sri Lankan law, the 10-year prescription period should not begin until they return to the country. They suggest that the legislation should be amended to provide the same safeguard to IDPs, so that in the case of a displaced person's property the 10-year period only begins once they have returned to their home area. The issue of restitution of property to original occupants while ensuring the rights of secondary occupants is dealt with in the Pinheiro Principles.(49)

Manikkam Maniyam is a 62-year-old Tamil refugee who returned from India and now lives in Alles Garden welfare centre, Trincomalee. He told Amnesty International delegates that he first left his home in Pankulam, Trincomalee in 1990 because of fighting between the SLA and the LTTE and because the thatched house that his family had lived in was burned down by local Sinhalese people. He and his family walked to Jaffna where they spent a week in a welfare centre. As Manikkam Maniyam believed it was not safe to remain in Sri Lanka, the family paid a local fisherman Rs. 500 per person to take them to India. The family lived in a number of refugee camps in India until July 1992.

Manikkam Maniyam decided to return to Sri Lanka in 1992 after UNHCR advised him that the security situation in the country was somewhat improved and that return would be possible. With the support of UNHCR the family were brought by ship to Trincomalee and, after spending three months living in a local college, Manikkam Maniyam and his family were moved to the Alles Garden welfare centre, where they have remained ever since.

Manikkam Maniyam told Amnesty International that local government authorities have yet to fulfil their promise of building a permanent house for him on his original land. He has visited his original land which has now turned into a jungle. Manikkam Maniyam's shelter at the welfare centre was destroyed in the tsunami. He is hopeful that following the tsunami there may be a possibility of his family being provided with a permanent house.

In terms of policy barriers to durable solutions for tsunami-displaced people, the main factor is the implementation of the coastal buffer zone. While plans are being made to find people permanent homes away from the buffer zone, it is not clear when this will happen or how durable it will be, as those who want to remain close to the sea may leave these homes and try to return to the coast. Moreover, policy gaps leave some groups, such as tenants and small traders, without a durable solution.

### ***Security barriers to durable solutions***

The insecurity, military activity and human rights abuses that have continued after the signing of the CFA are a major barrier preventing IDPs from returning to their homes or successfully resettling.

#### *Caption*

Muslim tsunami IDPs living in temporary housing in a transitional camp in Kinniya, Trincomalee.

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One of the most common reasons why conflict-displaced people remain displaced is because their homes are in HSZs or are in other ways being used by the military. For example, UNHCR

reported that in Trincomalee a community of Muslim conflict-displaced people are being prevented from returning to their land as the SLA claim that it needs the water supply there. Such military occupation of private land has caused great controversy and is a major issue of contention between the LTTE and government. However, it is also the case that some IDPs are unable to return home because the LTTE is using their land for military activities, for example in Trincomalee where Muslim and Tamil IDPs currently living in the Kinniya area are reportedly being prevented from returning because their homes are near an LTTE training camp. Until there is a permanent peace settlement it is unlikely that either party will relinquish occupied private land and therefore in the current climate of increasing tension the prospects of return for these IDPs are dim. For other IDPs returning home is impossible because there are landmines or unexploded ordnance on their land.

These IDPs whose land is used for military purposes or is mined are among those for whom the government sees resettlement as an option, although in practice it is not always available. However, many of these IDPs are reluctant to resettle as they fear that by doing this they may lose the right to return to their original land. The LTTE also opposes the resettlement of conflict-displaced people whose land is in HSZs, insisting that the HSZ should be removed and the IDPs' land returned to them. It appears that, in order to allow these people to leave the welfare centres and build some kind of permanent life in the absence of any withdrawal of the HSZs, provisions are needed that allow resettlement while guaranteeing IDPs the right and support to return to their homes of origin or places of habitual residence if this becomes possible.

On 8 May 2006 the Supreme Court of Sri Lanka ordered the District Secretary of Jaffna to seek the possibility of resettling 7,000 families who have been displaced from the Palali High Security Zone.<sup>(50)</sup> Under the decision, the Attorney General's Department is to consult the Defence Ministry to obtain information about the number of persons who had been forced to vacate the area due to military activity. In Jaffna District as a whole, according to UNHCR, over 8,242 persons (2,197 families) are currently living in 69 welfare centres in the district.

As the security situation continues to deteriorate, agencies working with IDPs report that a significant number of those who do return, locally integrate in their place of displacement or resettle in another part of the country are being re-displaced by fear of conflict or human rights abuses. For example, local NGOs in Batticaloa told Amnesty International that one third of those resettled in LTTE controlled areas were moving back to government-controlled areas because they feared harassment and killings. People have also been re-displaced in the opposite direction as many Tamils from Jaffna and Trincomalee - including IDPs who had returned or resettled - have reportedly moved into LTTE areas in fear of arrests and "disappearances" by the security forces and the renewed hostilities between the security forces and LTTE.

Another reason why IDPs have been reluctant to return home is because they are from an ethnic community that is a numerical minority within their own area and feel they may suffer harassment or violence from the majority ethnic community that surrounds them. This is true for some of the Tamil IDPs currently living in Mullaitivu and Kilinochchi who are afraid to return to their home areas in the east where they would be a minority. It is also particularly true for Muslims whose homes are in LTTE controlled territory and whose return would raise serious protection concerns. For these people the possibility of a durable return or resettlement is inextricably tied to a de-escalation of violence and a return to peace negotiations, with issues of safe return being made a priority in these talks.

For tsunami displaced people many of the same security concerns apply as with conflict displaced people, although generally to a lesser extent. As outlined earlier, some tsunami displaced people do not wish to move to the sites allocated for transitional or permanent housing as they feel insecure and fear harassment and violence, either from the LTTE, other Tamil armed groups, or from the security forces. It is of concern that tsunami-displaced people with genuine security concerns are not being offered alternative accommodation and this may result in further displacement for these people if they leave the government-allocated sites to seek somewhere



safer to live. The conflicts over land and land appropriation being carried out by different communities in the context of the tsunami relocation are also threatening the security of tsunami-displaced people and preventing them from resettling.

### ***Infrastructure barriers to durable solutions***

According to agencies working with IDPs, one of the major reasons why conflict-displaced people are unable to return, or their attempts at return or resettlement fail causing them to be displaced again, is the fact that they cannot maintain an adequate standard of living in the areas of return or resettlement.

This is due in large part to the lack of infrastructure in areas of return. As mentioned above there is little coordinated planning for the return or resettlement of those displaced by the conflict. According to UNHCR, conflict-displaced people tend to "trickle home" rather go through the mass relocation that tsunami-displaced people experience and this results in people returning to areas before any infrastructure has been put in place. However, according to some NGOs there is a more fundamental problem which is that donors, while willing to fund house-building for returning conflict displaced people, do not want to invest in expensive infrastructure while the peace process remains so fragile. This means that in many areas of return or resettlement there are inadequate roads, and little or no medical services, water supplies and other basic necessities.

One major barrier to successful return of families is that many return or resettlement sites do not have schools near them. According to UNICEF this results in some families leaving their children behind with relatives when they return, or just the men of the family returning.

Many of the 4,800 villages in the northeast have been badly damaged during the conflict and lack basic infrastructure and access to public services, thereby complicating the reintegration of returning IDPs or discouraging them from returning to their homes altogether. UNHCR and UNDP recognized the need for a Village Assessment in order to determine the infrastructure and public service needs of villages of return in order to assist and guide the donor community and enhance its programme planning for development assistance projects that will ensure the sustainability of return. Together with the Government, UNHCR and UNDP are currently conducting the Village Assessment in some 5,000 villages in the northeast. The VA is being carried out concurrently with the complementary National Welfare Centre Survey, to help the government plan for sustainable durable solutions, including return.

Perhaps the most significant economic barrier to durable returns or resettlements is lack of opportunities to find jobs to earn a living. Agencies working with IDPs told Amnesty International that in most return or resettlement sites there is inadequate support for conflict-displaced people to rebuild their livelihood. This is also a problem for tsunami-displaced people who have been relocated away from the coast when they have traditionally relied on fishing to earn their living. Unless ways are found to support relocated IDPs to continue their traditional livelihood activities, or develop new ones, the durability of their relocation will be threatened.

When Amnesty International raised the problem of re-displacement of those who have returned or resettled because of lack of possibilities to realise economic and social rights, the Ministry of Relief, Rehabilitation and Reconciliation responded that such people are not considered IDPs and that there is no state support available to them. However, staff at some conflict IDP welfare centres told Amnesty International that in such cases they do sometimes allow these people to return to their old welfare centres on an ad hoc basis if their attempts at return or resettlement have failed.

### **Conclusion and recommendations**

Amnesty International acknowledges the serious challenges that the widespread internal displacement in Sri Lanka poses to the government of Sri Lanka, as well as to donors, international and national NGOs and the LTTE, as well as the efforts of all parties to address the problem. In particular, the scale of destruction and displacement caused by the tsunami was

unprecedented and required a massive and rapid response from the government of Sri Lanka and other parties, which was largely effective. However, Amnesty International believes that there remain a number of key areas where the rights of IDPs are being violated and where action is urgently needed to protect these rights in full compliance with international law and the UN Guiding Principles on Internal Displacement and to help ensure that all of Sri Lanka's IDPs have access to long-term durable solutions.

*In order to uphold the physical and mental integrity of IDPs the Government of Sri Lanka and LTTE should ensure that:*

- with the involvement of displaced persons, the location, layout and management structures of IDP camps and permanent resettlement sites be designed to maximise security and protection, in particular of those whose physical security might be most at risk such as women, children, the elderly, the disabled and female/single households
- in consultation with IDP communities, measures are taken to set up security monitoring systems and establish appropriate mechanisms to effectively address violations of the human rights of residents of IDP camps or permanent settlements
- the civilian and humanitarian character of IDP camps is maintained and all relevant parties abstain from any activity that is likely to undermine this
- IDP camps are run in accordance with internationally established best practices for the protection of women and girls, including adequate lighting and camp layout; delivery of food aid and financial assistance to be given to women; and the establishment of sexual and gender-based violence prevention and response systems in the camps, in cooperation with local authorities and women and men IDPs
- displaced individuals with serious protection concerns are offered shelter in an alternative location where their physical security can be guaranteed, including for women victims of rape and other forms of sexual violence

*In order to uphold the right to non-discrimination of IDPs, the Government of Sri Lanka, LTTE, donors and international and national NGOs should ensure that:*

- the principles of equality and non-discrimination are applied at all stages of displacement, including relief, transitional shelter, resettlement and return
- policies and programmes in relation to relief, recovery and reconstruction for internally displaced persons are free of discrimination of any kind such as ethnicity, religion, political or other opinion, region, property or sex
- no discrimination is made between persons displaced by the tsunami and those displaced by armed conflict or displaced persons in camps and those staying with host families. A similar level of support should be provided to both conflict affected and tsunami affected populations
- no inequities are created with regard to the level of services available to tsunami-displaced populations and non-affected communities living in surrounding areas or tsunami-displaced populations originally living within the buffer zone and tsunami-affected populations originally living outside the buffer zone
- protection and assistance programmes are tailored to the particular needs and situation of certain IDPs, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons

*In order to uphold the right of IDPs to an adequate standard of living the Government of Sri Lanka, LTTE, donors and international and national NGOs should ensure that:*

- all internally displaced persons without any discrimination be provided with and have safe access to adequate food, water, shelter and housing, health and educational services and sanitation
- all efforts are made to ensure that transitional and permanent shelter and housing provided to displaced persons comply with international standards and are culturally acceptable specifically with respect to women and children's privacy requirements
- suitable housing is provided to landless IDPs

- that access to livelihoods and essential services is taken into account when identifying resettlement sites for IDPs or providing assistance for their return to their homes or places of origin
- women are not disenfranchised from or discriminated against in re-claiming former land, housing or property, being resettled onto new land or acquiring housing or land title deeds in their names
- tenants are provided with adequate support including compensation for lost property and assistance with accessing adequate housing including transitional/permanent housing
- persons whose livelihoods were affected by the tsunami including small traders and day labourers in the fishing industry be included in economic redevelopment programmes

*In order to provide durable solutions to all IDPs the Government of Sri Lanka and LTTE should:*

- recognise that all IDPs have the right to return to their homes or places of origin
- ensure that any prohibitions to remain, return or rebuild in areas within the buffer zone are justified by law and on a case-by-case basis are considered to be necessary for reasons of safety and disaster prevention. Due process guarantees should be made available to all persons affected including access to legal advice and an independent court or tribunal and access to just compensation
- make every effort to enable all IDPs to return in safety and dignity to their homes, integrate locally or resettle voluntarily elsewhere and with full respect for their human rights. This should include providing adequate infrastructure, security and livelihood support, in order to avoid repeated displacement
- ensure that all IDPs who cannot return home for valid reasons should have the option to permanently resettle elsewhere or locally integrate. Timely assistance should be given to them to do this
- ensure that the principle of returning or resettling voluntarily is fully respected and that no IDPs are forced to return to their homes or places of origin or resettle in a place where they do not wish to live
- put in place procedures for determining durable solutions for IDPs that are fair, transparent and accessible, based on dialogue/consultation/decision-making with IDP communities and individuals, including opportunities for complaints and appeals
- ensure access to effective property dispute mechanisms, including transparent, independent and competent tribunals or courts, for IDPs with a disputed property claim. Competent legal advice should be provided to those returnees who require such assistance in the pursuit of their property claims
- ensure that in all decisions over solutions that the IDPs, including women, are consulted and kept informed at all stages of the process.

## **Appendix**

**\*\*\*\* For UNHCR Population Maps, use the PDF or WP options \*\*\*\***

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- (1) High Security Zones are where government military camps are situated. Civilians are not allowed to live within a 500 metre radius of these camps.
- (2) There has been no comprehensive survey of IDPs since 2002.
- (3) The LTTE and others.
- (4) During 2002 over a period of several months, UNHCR together with the Ministry of Rehabilitation, Resettlement and Refugees initiated a survey of IDPs in order to register every IDP within Sri Lanka. The final result of the survey was 613,220 IDPs, but since another 118,618 IDPs moved within the country during this period, the final figure was registered as 731,838. Source: UNHCR.
- (5) The Sri Lanka Monitoring Mission (SLMM) is composed of representatives from five Nordic countries. Its website can be found at [www.slmm.lk](http://www.slmm.lk).
- (6) Internal Displacement Monitoring Centre website: [www.internal-displacement.org](http://www.internal-displacement.org). Last viewed in May 2006.
- (7) Figures are from "Post Tsunami Recovery and Reconstruction", Joint Report of the Government of Sri Lanka and Development Partners, December 2005.
- (8) Includes the provision of food, cash allowances, transitional accommodation matters etc.
- (9) RADA combines TAFREN and other mechanisms and institutions into one agency and will ultimately become an authority with statutory powers.
- (10) The responsibilities of the former Ministry of Relief, Rehabilitation and Reconciliation, Ministry of Vanni Rehabilitation and the Ministry of Eastern Development were shared between them.
- (11) The Government ministry responsible for restoring normalcy in conflict-affected areas and which had primary responsibility for the return and resettlement of conflict IDPs.
- (12) People's Liberation Front - a Marxist and Sinhalese nationalist party that had been a minority party in the government coalition.
- (13) The Coast Conservation Act No. 57 of 1981 shifted the emphasis from coast protection to coastal zone management (CZM), under a Director of Coast Conservation. See website of Coast Conservation Department [www.ccd.gov.lk](http://www.ccd.gov.lk).
- (14) See Joint Report, Chapter Three, Donor-built Housing Programme.
- (15) Latest updated figures on the number of houses constructed are available on the RADA website ([www.rada.gov.lk](http://www.rada.gov.lk)).
- (16) See also in relation to internally displaced persons in situations of natural disaster "Protection of Internally Displaced Persons in Situations of Natural Disaster: A Working Visit to Asia by the Representative of the United Nations Secretary General on the Human Rights of Internally Displaced Persons Walter Kälin, 27 February to 5 March 2005 and Draft Operational Guidelines on Human Rights Protection in Situations of Natural Disasters with Particular Reference to the Persons who are internally displaced (Guidelines on Human Rights and Natural Disasters) as presented to the IASC by the Representative of the Secretary General on the Human Rights of Internally Displaced Persons.

- (17) Resettlement in the IDP context refers to relocation within the country, rather than to resettlement to another country as the term is more usually associated in international refugee law.
- (18) ICCPR General Comment 27 (Sixty-seventh session, 1999): Article 12: Freedom of Movement, A/55/40 Vol. I (2000) 128 at Para 7. Subject to the provisions of Article 12, paragraph 3, the right to reside in a place of one's choice within the territory includes protection against all forms of forced internal displacement. It also precludes preventing the entry or stay of persons in a defined part of the territory.
- (19) R. Cohen, 'The Guiding Principles: How Do They Support IDP Response Strategies?' in W. Kälin, F. Deng & R. Cohen, *Recent Commentaries About the Nature and Application of the Guiding Principles on Internal Displacement* (Brookings-CUNY Project on Internal Displacement, April 2002).
- (20) See for example UN Charter, Articles 3, 13(b), 55(c), 76(c); UDHR Article 2, 7, ICCPR Articles 2(1), 3.26; ICESCR Article 2(2); International Convention on the Elimination of All Forms of Racial Discrimination, 1965; Guiding Principle 4; Article 3(1) common to the four Geneva Conventions of 1949, Article 27 of the 4th Geneva Convention
- (21) See for instance Article 3 common to the four Geneva Conventions of 1949.
- (22) CRC, Article 38(3).
- (23) Rome Statute of the International Criminal Court (1998), Article 8(2) (a)(xxvi).
- (24) Guiding Principle 13
- (25) Guiding Principle 18 (1).
- (26) Guiding Principle 21 (1).
- (27) ICCPR, Article 2 (3) (a)
- (28) See, W. Kälin, 'Guiding Principles on Internal Displacement: Annotations', *Studies in Transnational Legal Policy*, No. 32 (Amer. Soc. Int'l L. and the Brookings Institution Project on Internal Displacement, 2000), 72; EXCOM Conclusion No. 101 (LV) 2004: Conclusion on Legal Safety Issues in the Context of Voluntary Repatriation of Refugees.
- (29) See UNHCR's latest report "The State of the World's Refugees 2006: Human Displacement in the New Millennium".
- (30) The LTTE has reportedly been responsible for unlawful killings, abductions, child recruitment and torture. The Sri Lankan security forces have reportedly been responsible for extrajudicial executions, unlawful arrests, "disappearances" and torture.
- (31) Following the April 2004 battle between Karuna's group and the LTTE, Karuna disbanded most of his fighters. Among these were 1800 child soldiers who spontaneously returned home, but later became the target of re-recruitment by the LTTE.
- (32) The most senior government official at district level
- (33) The LTTE informed the UN and ICRC it would abide by the Geneva Conventions in February 1988.
- (34) Principle 10

(35) In response to the assassination of the Foreign Minister, Lakshman Kadirgamar, at his home in Colombo on 12 August 2005 The SoE is still maintained.

(36) An elite group of police officers trained to combat terrorism, reporting to the Inspector General of Police (IGP).

(37) The DRMU was established in January 2005 to respond to the human rights issues raised by the tsunami, and recorded 19,000 complaints.

(38) A coalition of women's organisations formed immediately after the tsunami.

(39) It is important to note that while the initial response was relatively fast, there are concerns that tsunami IDPs may now remain in transitional shelters for a long time.

(40) 102.94 Sri Lanka rupees = 1 USD, 500 rupees = 4.857 USD and 5,000 rupees = 48.57 USD

(41) The IDPs will get the land title to this permanent house. They are also able to keep the title to their land on the coast.

(42) These permanent houses are being built by NGOs.

(43) Centre for Policy Alternatives (CPA) Discussion Paper, March 2006.

(44) There are a number of Tamil ex-armed groups that were very active in the 1980s and 1990s but that now claim to have given up armed activities. However, it is widely believed that many of these groups continue to carry out armed activities against the LTTE in collaboration with the Sri Lankan security forces.

(45) Joint Report, Chapter Three, 3.5 Issues, Problems and Possible Solutions.

(46) See Joint Report, Chapter Nine, page 36.

(47) See Joint Report, Chapter Nine, page 35.

(48) See Joint Report, Health, Chapter Five, Education and Protection, 5.2.6

(49) Principle 17.1 States should ensure that secondary occupants are protected against arbitrary or unlawful forced eviction. States shall ensure, in cases where evictions of such occupants are deemed justifiable and unavoidable for the purposes of housing, land and property restitution, that evictions are carried out in a manner that is compatible with international human rights law and standards, such that secondary occupants are afforded safeguards of due process, including an opportunity for genuine consultation, adequate and reasonable notice, and the provision of legal remedies, including opportunities for legal redress.

Principle 17.2 States should ensure that the safeguards of due process extended to secondary occupants do not prejudice the rights of legitimate owners, tenants and other rights holders to repossess the housing, land and property in question in a just and timely manner.

Principle 17.3 In cases where evictions of secondary occupants are justifiable and unavoidable, States should take positive measures to protect those who do not have the means to access any other adequate housing other than that which they are currently occupying from homelessness and other violations of their right to adequate housing.

(50) The areas demarcated HSZs by the Sri Lanka armed forces in Jaffna District comprise over 25% of the total area.

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