

Sri Lanka: Gaps in the Government Response to Post-2007 Internal Displacement

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Overview of Internal Displacement in Sri Lanka

Sri Lanka experienced conflict-induced displacement as early as August 1977, when ethnic violence in many parts of the island led to the displacement of some 25,000 individuals.¹ Since that time, there have been multiple, overlapping waves of internal displacement, resettlement and return in Sri Lanka, resulting primarily from the twenty-six-year civil war between the government of Sri Lanka and the secessionist Liberation Tigers of Tamil Eelam (LTTE). Internal displacement has also resulted from natural disasters such as seasonal flooding and, most notable, the Indian Ocean tsunami of 2004, which displaced over 500,000 people.

After more than two decades of relatively low-intensity fighting, the LTTE controlled much of Northern Province—comprising the districts of Kilinochchi, Mannar, Mullaitivu and Vavuniya as well as the Jaffna Peninsula—and much of Eastern Province, comprising the Trincomalee, Batticaloa and Ampara districts. The conflict escalated in 2006, when government forces initiated large-scale military operations in Eastern Province.² In the period between April 2006 and March 2007, over 220,000 individuals were displaced from Trincomalee and Batticaloa.³ It was a relatively brief

displacement, and the vast majority of these IDPs had returned to their places of origin by early 2008. In 2007, after taking complete control of Eastern Province, the government turned its offensive to Northern Province.

In January 2008, the government officially withdrew from a five-year-old cease-fire agreement, a step that marked the start of the final phase of the conflict.⁴ As government forces pushed the LTTE further toward the northeast coast during the subsequent months, civilians residing in Northern Province were displaced, primarily to a cluster of emergency sites in Vavuniya known as Menik Farm, as well as to smaller sites in Jaffna and Mannar.

On 16 May 2009, after a final assault on the northeast, the government declared victory and an end to the conflict. Although no precise figures can be determined, it is estimated that more than 280,000 persons were internally displaced between April 2008 and May 2009.⁵ Most were interned in closed sites at Menik Farm. The approximately 280,000 persons displaced since April 2008 are referred to as “new” IDPs.

Following the final assault, infrastructure and property damage throughout Northern Province was substantial, and both residential and agricultural land was severely contaminated with landmines and unexploded ordnance.

¹ Human Rights Watch, *Playing the “Communal Card”: Communal Violence and Human Rights*, April 1995 (www.hrw.org).

² International Crisis Group, *Sri Lanka’s Muslims: Caught in the Crossfire*, Asia Report No. 134, 29 May 2007 (www.crisisgroup.org).

³ UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to Sri Lanka, 14 to 21 December 2007, A/HRC/8/6/Add.4*, 21 May 2008, para. 16(a), p. 7 (www.brookings.edu/projects/

idp/rsg_info.aspx).

⁴ BBC News, “Sri Lanka Profile: A Chronology of Key Events,” updated 21 January 2011 (www.bbc.co.uk/news/world-south-asia-12004081).

⁵ UN Office for the Coordination of Humanitarian Affairs, *Sri Lanka, Joint Humanitarian Update*, 15 June 2009 (<http://ochaonline.un.org/srilanka/SituationReports/JointHumanitarianUpdate/tabid/5724/language/en-US/Default.aspx>).

The closed sites, in particular those at Menik Farm, attracted considerable international attention. The government claimed that LTTE fighters and supporters were hiding among civilians fleeing the conflict areas in the North. The government did not allow IDPs fleeing the North to stay with host families, instead directing them to camps and confining them there while conducting a “screening” process to separate alleged LTTE supporters. Military personnel were staged on the periphery of the camps, and freedom of movement was severely restricted until, under international pressure, the government introduced a temporary pass system in late 2009.

There is also a substantial caseload of persons, displaced prior to April 2008 primarily because of conflict, known as “old” IDPs. While figures vary significantly for several reasons, there were estimated to be approximately 227,000 “old” IDPs at the end of 2010.⁶ That figure includes more than 70,000 individuals whose land had been occupied as government-designated high-security zones (HSZs)—buffer zones surrounding military installations—in the districts of Jaffna, Mullaitivu, Kilinochchi, Trincomalee and Mannar. Civilians are not allowed to enter military-controlled HSZs, and while many HSZs have been officially “gazetted” by the government, others have been set up in an ad hoc manner. Another large component of the “old” IDP caseload—and the group displaced for the longest period of time in Sri Lanka—comprises at least 65,000 “Northern Muslim” IDPs who have been living in protracted displacement in Puttalam District since 1990.⁷ The “old” IDP caseload also includes an estimated 44,000 individuals displaced from Northern Province between 2006 and 2008, as well as several thousand displaced by the creation of a special economic zone in Trincomalee in 2006.

⁶ Internal Displacement Monitoring Center, *Sri Lanka: IDPs and Returnees Remain in Need of Protection and Assistance*, 14 January 2011, p. 20 (www.internal-displacement.org).

⁷ Norwegian Refugee Council, *Protracted Muslim IDPs from Jaffna in Puttalam and their Right to Choose a Durable Solution*, June 2010 (www.nrc.no/arch/_img/9493105.pdf).

The “new” IDP population is the primary focus of this study for several reasons:

—Both international donors and the government have given priority to the return of “new” IDPs and that caseload has received much international attention.

—The current government, which took power in November 2005, has responded to the “new” IDP caseload in a manner that has disregarded many of the programs, initiatives and commitments undertaken during the decade before it assumed office.

—There are substantial political complexities surrounding the “old” IDP caseload, and reliable information and data regarding this group (at least with respect to the 12 benchmarks used in this study) are lacking.

The government’s policies toward the “new” IDP population have differed substantially from policies toward IDPs displaced in the past, such as in the aftermath of the 2004 tsunami. Broadly speaking, two overarching policies in particular have been detrimental to IDPs: the government’s closed-camp policy during and after the final stages of the conflict (see Benchmark 1, below), which ran far afield of the Guiding Principles on Internal Displacement, led to international condemnation and raised many protection concerns beyond those related to freedom of movement and the government’s consistent denial of access to humanitarian actors (see Benchmark 12, below), which compounded, and continues to compound, the already very serious protection concerns.

Together, the consequences have been far-reaching. The government’s desire to move quickly from the humanitarian relief phase to the recovery phase (see Benchmark 3, below) was precipitated in part by international outrage over conditions in the closed camps (see Benchmark 1, below) and the lack of humanitarian access to the camps (see Benchmark 12, below). Rather

than focusing on care and maintenance of the displaced population with the assistance of the international community, the government embarked on a campaign to return IDPs as quickly as possible, often without considering the protection of individual IDPs. Government denial of humanitarian access continues to hamper efforts to bring about durable solutions in the North.

1. Prevent Displacement and Minimize its Adverse Effects

Do national authorities take measures to prevent arbitrary displacement and to minimize adverse effects of any unavoidable displacement?

It cannot be said that the government of Sri Lanka, as a party to a conflict that resulted in the displacement of hundreds of thousands of civilians, takes measures to prevent conflict-induced displacement. However, the government does take measures to prevent and mitigate the effects of disaster-induced displacement, efforts that significantly increased after the 2004 tsunami.⁸

Since June 2006, the Indian Ocean Tsunami Warning System has been active in Sri Lanka.⁹ The government conducts public awareness campaigns and periodic tsunami preparedness drills that include evacuations to pre-designated safety areas.¹⁰ In 2009, the Ministry of Disaster Management and Human Rights identified zones at risk of flooding in the upcoming rainy season and constructed drainage systems to mitigate the risk.

⁸ UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to Sri Lanka*.

⁹ SciDev Net, “Indian Ocean Tsunami Alert System Up and Running” (www.scidev.net/en).

¹⁰ Government of Sri Lanka News, “Tsunami: Five Years On Thursday,” December 24, 2009 (www.priu.gov.lk/Development2009/dev200912/20091224tsunami_five_years_on.htm); Spot, “Tsunami Drill Today” (www.spot.lk/article10673-tsunami-drill-today.html).

The ministry promised in July 2009 to “work closely with all our partners to enhance preparedness and develop mitigatory measures and responses to any foreseeable hazard.”¹¹

In 2009 and 2010, during and after the final stages of the conflict in Northern Province, most civilians fleeing the North in May 2009 were interned in military-run camps at Menik Farm, where some 220,000 remained in detention until at least September. Conditions in the camps were below established international standards, despite the provision of substantial material assistance from the international community. The camps, designed as temporary emergency relief sites and not semi-permanent structures, were overcrowded and lacked sufficient health and sanitation facilities and clean water.¹²

During this period, the displaced were prevented entirely from leaving the camps.¹³ In August 2009, Amnesty International observed, “Sri Lanka’s IDP camps—which should only serve to provide emergency assistance to people uprooted by conflict—have become places of mass arbitrary detention.”¹⁴ In statements following his September 2009 visit to Sri Lanka, Walter Kälin, Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (RSG), emphasized: “There is an urgent need to restore the freedom of movement for the displaced. They should be allowed to return to their homes, and where this is not possible,

¹¹ Address by Hon. Mahinda Samarasinghe, MP, Minister of Disaster Management and Human Rights, in Parliament on 22 July 2009 on the occasion of the Adjournment Debate on Internally Displaced Persons (www.dmhr.gov.lk/english/more_news.php?dmhrind=261).

¹² ICG, *Sri Lanka: A Bitter Peace*, Update Briefing, Asia Briefing No. 99, 11 January 2010, p. 2 (www.crisisgroup.org).

¹³ U.S. State Department, 2009 Human Rights Report: Sri Lanka, 11 March 2010 (www.state.gov/g/drl/rls/hrrpt/2009/sca/136093.htm).

¹⁴ Amnesty International, *Sri Lanka: Unlock the Camps in Sri Lanka: Safety and Dignity for the Displaced No—A Briefing Paper*, ASA 37/016/2009, August 2009, p. 6 (www.amnesty.org).

to stay with host families or in open relief centres.”¹⁵ Following Kälín’s visit, the government set a target to release 70-80 percent of IDPs still in camps by the end of 2009 (see Benchmarks 2 and 10, below).

Despite the fact that “the Sri Lankan government misrepresented the scale of the crisis”¹⁶ and was unable to provide adequate material assistance such as shelter, food and water, it refused to provide international and national relief agencies adequate access to the camps.¹⁷ International agencies were prevented during this time from monitoring the protection of the displaced population and often even from speaking with them.¹⁸

2. Raise National Awareness of the Problem

Does government (at the highest Executive level, e.g. President/Prime Minister) acknowledge the existence of internal displacement and its responsibility to address it as a national priority?

The government has publicly acknowledged its responsibility to address internal displacement as a national priority, but it has failed to meet international standards in addressing it. In formal statements and press releases, the president and other officials have recognized their responsibility for IDPs in accordance with international standards. For example, the prime minister, speaking at the Sixty-Fourth Session of the UN General Assembly

in September 2009, stated: “One of our highest priorities [subsequent to the defeat of the LTTE in May 2009] has been to meet the immediate humanitarian needs of these displaced civilians, and to ensure their long-term safe, voluntary and dignified return to their homes.”¹⁹

In November 2009, the permanent representative of Sri Lanka to the UN recognized that “the State has the primary responsibility not only to provide for the welfare of displaced civilians in terms of food, clothing, medical care and shelter, but also to ensure their safety, in keeping with the provisions of the Guiding Principles on Internal Displacement.”²⁰ Partially as a consequence of such statements, there is a broad public understanding that internal displacement is an important national issue in Sri Lanka.

However, such direct statements by government officials—particularly regarding adherence to the UN Guiding Principles on Internal Displacement—may be understood in light of the government’s reported tendency to engage in public relations “acrobatics.”²¹ Explicit reference to the Guiding Principles is not the

¹⁵ IRIN, “Sri Lanka: Concerns Growing over Pace of IDP Resettlement,” 30 September 2009 (www.irinnews.org/Report.aspx?ReportId=86371).

¹⁶ Amnesty International, “Sri Lanka: Government Misrepresentations Regarding the Scale of the Crisis,” ASA 37/012/2009, May 2009; Amnesty International, *Sri Lanka: Unlock the Camps in Sri Lanka*, p. 5 (www.amnesty.org).

¹⁷ Amnesty International, *Sri Lanka: Unlock the Camps in Sri Lanka*, pp. 7–8, 10–15.

¹⁸ *Ibid.*, pp. 11–12, pp. 23–24.

¹⁹ Address by Ratnasiri Wickramanayaka, Prime Minister and the Head of Delegation of the Democratic Socialist Republic of Sri Lanka at the Sixty-Fourth Session of the United Nations General Assembly, New York, 26 September 2009 (www.un.org/ga/64/generaldebate/pdf/LK_en.pdf).

²⁰ Permanent Representative of Sri Lanka to the UN, Security Council Debate on Protection of Civilians in Armed Conflict – 11th November 2009, Statement by Ambassador Palitha Kohona, Permanent Representative of Sri Lanka, “Statement on Protection of Civilians,” 12 November 2009, (www.slmission.com/consular/other-missions/86-security-council/380-statement-on-protection-of-civilians.html). (also repeated verbatim in subsequent speeches, as recently as May 2011.)

²¹ Human Rights Watch, *Uncovering Sri Lanka’s War Crimes*, 21 January 2010 (www.hrw.org/en/news/2010/01/22/uncovering-sri-lankas-war-crimes); see also International Crisis Group, *War Crimes in Sri Lanka*, 17 May 2010, p. 9 (citing the 18 May 2009 statement by the Minister for Disaster Management and Human Rights that “all Tamil civilians have been rescued without shedding a drop of blood.”)

same as adherence to them.²² In 2009, the International Crisis Group stated: “The UN’s ‘Guiding Principles on Internal Displacement,’ while formally accepted by the government, are being ignored.”²³

Further, while such high-level statements do serve to raise awareness, government engagement is often framed in terms of providing for the material needs of IDPs and facilitating their swift return at the expense of taking the rights-based approach embodied by the Guiding Principles.²⁴ The government thus presumes that IDPs’ vulnerabilities result directly from their displacement, rather than from the complex mix of factors—many of which, in Sri Lanka as elsewhere, are linked to government and military activities—that in fact cause displacement and contribute to IDPs’ insecurity.

The national media, which are largely state controlled or state influenced, regularly address internal displacement.²⁵ However, it has proven difficult since April 2008 for international media to cover displacement as the government has often denied journalists access to the North.²⁶ During the assault on Northern Province,

the government “attempted to suppress independent (and as it turned out more accurate) reporting on the scale of the catastrophe and restricted access by national and international journalists to the conflict zone,” according to Amnesty International.²⁷ Sri Lanka ranks 158 among the 178 countries in the latest Press Freedom Index, which is issued by Reporters Without Borders.²⁸

3. Collect Data on the Number and Conditions of IDPs

Do the national authorities collect data on the number and conditions of IDPs?

The national authorities collect data on the number and, to a lesser extent, on the conditions of IDPs. However, data collection is neither systematic nor uniform. While the central government claims to aggregate data regularly, the most timely and accurate data are available from international actors, who work with local officials to regularly compile nationwide statistics. The government has been accused of misrepresenting actual conditions by using incorrect terminology that suggests IDPs in transit and those living with host families have achieved a durable solution to their displacement.

In Sri Lanka, enumeration of IDPs is tied to registration, and the government generally registers the conflict-induced “new” IDP caseload. The Government Agent (GA), the official appointed by the government as the administrative representative and head of public services, is responsible for IDP registration at the district level. Newly arriving IDPs typically register with the GA, Divisional Secretary (administrator of a sub-division within a district) or camp official soon after arrival, as registration is required to receive material assistance.

²² This study does not purport to broadly assess the credibility of public statements issued by the government of Sri Lanka or its officials. It does, however, discuss several instances in which the government deliberately implemented policies in violation of the Guiding Principles on Internal Displacement.

²³ International Crisis Group, *Development Assistance and Conflict in Sri Lanka: Lessons from the Eastern Province*, 16 April 2009, p. 26 (www.crisisgroup.org).

²⁴ For more on the government’s desire to swiftly return IDPs, see Benchmark 3, below.

²⁵ For a brief overview of media in Sri Lanka, see BBC News, “Sri Lanka Profile: Media,” 21 January 2011 (www.bbc.co.uk/news/world-south-asia-12000330).

²⁶ Reporters Without Borders for Press Freedom, *World Report: Sri Lanka*, March 2010 (<http://en.rsf.org/report-sri-lanka,79.html>); see also *Report of the Secretary General’s Panel of Experts on Accountability in Sri Lanka*, 31 March 2011, p. 113, which discusses media restrictions more generally as well as the assassination, disappearance, conviction and sentencing of Sri Lankan journalists in 2009 and 2010 and notes “press freedom was circumscribed during the conflict, especially in the latter stages.”

²⁷ Amnesty International, *Sri Lanka: Unlock the Camps in Sri Lanka: Safety and Dignity for the Displaced Now—A Briefing Paper*, ASA 37/016/2009, August 2009, pp. 10–11 (www.amnesty.org).

²⁸ Reporters Without Borders for Press Freedom, *Press Freedom Index 2010*, October 2010 (<http://en.rsf.org/press-freedom-index-2010,1034.html>).

With some exceptions, IDPs are registered whether they are living in camps, with host families or in emergency transit sites; this is considered to result in the relatively efficient and accurate district-wide enumeration of IDPs (at least vis-à-vis the “new” IDP caseload).

The most reliable and timely overall numerical data concerning internal displacement therefore exist first with government officials on the district level. The central government does not appear to aggregate this data in any timely, systematic way. The district-level numerical data are instead collected from GAs by humanitarian actors—typically UNHCR—then aggregated and published in the UN-OCHA Joint Humanitarian Update (JHU) on a regular basis.²⁹ One offshoot of this process is that humanitarian actors often encourage local authorities, with whom many enjoy a good relationship, to update figures.

In this respect, the government has made some progress in understanding the scope of displacement through data, although it appears to be as much incidental as intentional. In 2007, following a mission to Sri Lanka, RSG Kälin noted:

Presently there is no comprehensive, uniform system of registration, resulting in a number of difficulties, since registration is used to establish entitlement to government assistance. Varying standards are applied for registration and deregistration. IDPs staying with friends or families, as well as those originating from areas approved for return, are not registered. In accordance with the principle of non-discrimination, where aid eligibility is dependent upon registration status, all IDPs meeting the factual description in the *Guiding Principles* should be eligible for registration, regardless of date or place of displacement or place of accommodation. . . . Finally, procedures should

²⁹ UNHCR collects and updates figures on a biweekly basis. The JHU is published monthly before June 2010, the updates were twice monthly.

be simplified and information centralized such that IDPs can move freely and not risk losing their assistance.³⁰

By 2009, local officials and international agencies had a much better grasp of the number of IDPs living with host families. That resulted partially from the fact that “new” IDPs who had deregistered and departed the camps for host families were required to register again with local officials in order to receive food rations.³¹ (“Old” IDPs living with host families, displaced from Eastern Province during the 2007 mission of the RSG, did not systematically receive food rations.) Otherwise, the government has failed to implement most of the recommendations Kälin made following his mission.

Some commentators have further alleged that IDP statistical data have been manipulated for political purposes. The terms “return” and “resettlement” are used interchangeably by government officials to refer to release from closed camps.³² The Guiding Principles, however, distinguish between them: Principle 28 provides for

³⁰ UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to Sri Lanka*; see also Brookings-Bern Project on Internal Displacement, *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*, April 2005, in which Kälin praises the government for its stated willingness to create a comprehensive registration system for all tsunami-displaced persons (www.brookings.edu/projects/idp/rsg_info.aspx#Kalin).

³¹ According to several sources, not all IDPs with hosts were receiving food rations as of mid-2010, including over 25,000 individuals living with hosts in Vavuniya and Mannar districts—most of whom were released from Menik Farm under a special program for people with specific needs (elderly, pregnant, or disabled individuals or those with infants).

³² Centre for Policy Alternatives, *Commentary on Returns, Resettlement and Land Issues in the North*, 14 May 2011, p. 5 (www.cpalanka.org).

IDPs “to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.” The government’s conflation of the two durable solutions “has resulted in a situation where upon returning to the district of origin subsequent to release from camps, regardless of whether a person has returned to one’s own home and land, there is an assumption that return is complete.”³³

National commentators further observe,

The rush to return IDPs and reduce IDP figures is a political one. By reducing displacement, the government is able to demonstrate that there is a transition from humanitarian assistance to early recovery and development. The fewer IDPs in camps and the ability to state that significant numbers have returned is used as a tool by the government to demonstrate success since the war ended.³⁴

On 7 July 2010, at the UN Security Council Debate on the Protection of Armed Civilians, the permanent representative of Sri Lanka to the UN stated, “In my country, we have resettled nearly 90% of the [“new”] IDPs within one year of concluding a 27-year-long conflict.”³⁵ At the same time, statistics compiled by the UN from government data showed that 292,081 individuals (“new” IDPs) had been “released or returned,” while 34,946 individuals remained in camps. But according to the same data set, only 216,262 IDPs had returned

to their place of origin, while 71,264 were living with host families, 3,288 were accommodated in temporary transit facilities and 1,267 were in institutions.³⁶ The government’s use of the blanket term “resettle” to encompass both release from camps and return to place of origin conceals—intentionally or not—that 75,819 individuals had been released from camps and were still unable to return to their place of origin.

This is not merely an issue of semantics. The permanent representative’s quote, given at greater length, is illustrative:

The Resettlement issue is also politicized. In my country, we have resettled nearly 90% of the IDPs within one year of concluding a 27-year-long conflict. Resettlement necessitated clearance of uncharted mine fields laid by the terrorist group in civilian residential areas, farmlands and roads. Whilst assistance for de-mining and resettlement is miniscule, there are those who hypocritically preach to us about the need for early resettlement.³⁷

Landmines and unexploded ordnance riddle residential and agricultural land in the Northern Province and are among the most serious threats to human security there (see Benchmark 10, below). If accurate data are crucial to programming, as recognized by the RSG during his mission to Sri Lanka in 2007, and if assistance for de-mining and other programs is lacking, the motivation for continued misrepresentation of statistical data on the part of the government remains unclear.

Data regarding such characteristics as gender, age, family size and household composition are generally

³³ Ibid.

³⁴ Ibid., p. 25.

³⁵ Permanent Representative of Sri Lanka to the UN, “Protection of Civilians,” Security Council Open Debate on Protection of Civilians in Armed Conflict – 7th July 2010, Statement by the delegation of Sri Lanka (www.slmission.com/news/news-from-other-sources/17-other-news/462-protection-of-civilians.html?tmpl=component&print=1&page). That statement was repeated verbatim two days later in the second line of a in a major government-controlled newspaper, *Daily News*, in an article entitled “Rule of Law: Terrorists Pay Scant Attention” (www.dailynews.lk/2010/07/09/sec01.asp).

³⁶ UN Office for the Coordination of Humanitarian Affairs, *Sri Lanka, Joint Humanitarian Update*, August 2010 (www.humanitarianinfo.org/srilanka_hpsl/Catalogues.aspx?catID=74).

³⁷ Permanent Representative of Sri Lanka to the UN, “Protection of Civilians,” Security Council Open Debate on Protection of Civilians in Armed Conflict – 7th July 2010, Statement by the delegation of Sri Lanka.

collected by local government officials during registration but are typically neither aggregated by authorities at the local level nor regularly compiled at the national level by international agencies.

Similarly, data for events for which the displaced need certification, such as deaths and births, for national identity cards, and for lost land titles and missing family members are not systematically collected, and the scope of the need for documentation can only be extrapolated from samples.³⁸ A serious impediment to quantifying the need is its political character. For example, death certification is required for family members to inherit the property and assets of the deceased, to claim pensions and compensation and to legally remarry. But the government publicly acknowledging the number of death certificates needed among the “new” IDPs would be tantamount to enumerating the number of casualties resulting from its assault on the Northern Province—which it is loath to do for political reasons. Rather than encourage the government to quantify the need, international agencies have instead urged it to streamline the process for issuing documentation.³⁹

4. Support Training on the Rights of IDPs

Has there been any training of the authorities on the rights of IDPs?

Regional and to a lesser extent national government

officials have participated in numerous training sessions in recent years on both the rights of IDPs and other issues related to internal displacement. However, the number, duration and frequency of those sessions are very difficult to measure on a national level. There is little systematic, accurate reporting on training and its modalities and no centralized reporting mechanism. Quantitative reports on training in the Sri Lankan setting should be taken in this light.

The government generally permits training of its personnel—most notably, the police and military—by national and international humanitarian organizations. Much of the Northern Province, where displacement is most extensive, was formerly governed and administered by the LTTE; in the conflict and post-conflict period, it has been, in effect, under the administration of the military. Only recently have many areas in the North transitioned to civil administration. The primary obstacle to training government officials during this time has been the lack of consistent humanitarian access (See Benchmark 12, below). However, a significant number of small-scale training sessions have been conducted throughout the country since 2002.

Sri Lankan NGOs, such as the Consortium of Humanitarian Agencies in Sri Lanka (CHA), have conducted workshops with financial support from international actors. For example, in 2002 the CHA, with financial support from the Brookings-Bern Project on Internal Displacement, conducted a series of training and assessment workshops in Trincomalee, Vavuniya, Mullaitivu, Kilinochchi, Jaffna, Mannar, Batticaloa and Ampara.

The Human Rights Commission of Sri Lanka (HRC), established initially as an independent body to protect and promote human rights, holds ongoing training for government authorities on the rights of IDPs. Since its creation in 2002, HRC’s National Protection and Durable Solutions for Internally Displaced Persons Project (NPDS for IDPs Project) has conducted training programs for the protection and promotion of IDP rights. Training is carried out for government officials,

³⁸ One humanitarian worker stated that only 10 percent of respondents in a small survey of displaced families who had lost family members reported success in acquiring a death certificate. Author interview, early 2011.

³⁹ See also the *Report of the Secretary General’s Panel of Experts on Accountability in Sri Lanka*, 31 March 2011, pp. 108–10, which describes as “slow and cumbersome” the process for obtaining death certification despite the government’s December 2010 passage of a temporary provision establishing new definitions and procedures (www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf).

government security forces (army, navy, air force and police), NGOs, IDPs and host communities, HRC protection staff and private sector actors. In 2008, the NPDS for IDPs Project reported that it trained 4,936 people in 200 sessions using the Rights-Based Disaster Response training program, which focuses on the rights and protection of conflict- and disaster-induced IDPs in all stages of displacement. The NPDS for IDPs Project includes reports of its training sessions in monthly and annual reports.⁴⁰ HRC continued to conduct training throughout the country in 2009 and 2010.⁴¹

While the HRC has been the primary trainer on the rights of IDPs in Sri Lanka, the government has permitted other training initiatives, generally targeting the North, that have benefited IDPs.⁴² Foreign government agencies such as USAID have sponsored training on human rights and the Tamil language for local government and security officials.⁴³ UNHCR, UNICEF and local government officials (women and children's desk officers, judicial medical officers and mental health officers) provided a substantial number of capacity-building training sessions throughout the North to enable local officials to address sexual and gender-based violence (SGBV).⁴⁴ Government SGBV counselors and members of the military and the police often attended the sessions.

⁴⁰ Available on the NPDS for IDPs Project website (www.idpsrilanka.lk).

⁴¹ However, see Benchmark 8, below, on government actions to incapacitate HRC during these years.

⁴² In an effort to refrain from favoring specific groups, most post-conflict humanitarian assistance programming in the North has targeted specific geographic areas, as opposed to specific groups.

⁴³ International Crisis Group, *Development Assistance and Conflict in Sri Lanka: Lessons from the Eastern Province*, p. 3 in footnotes, 16 April 2009 (www.crisisgroup.org).

⁴⁴ "Sexual and Gender-Based Violence: A Summary of UNHCR Activities in Sri Lanka" (UNHCR, March 2010).

5. Ensure a Legal Framework for Upholding IDPs' Rights

Does national legislation address the specific needs arising in situations of internal displacement and support IDPs to realize their rights?

There is no national law in Sri Lanka directly addressing internal displacement; consequently, IDPs have no special legal status.⁴⁵ A draft bill on the protection of internally displaced persons was developed but had yet to be passed at the time of writing. The internment of civilians in the final stages of the conflict violated several provisions of national law enshrined in the Sri Lankan constitution.⁴⁶ The government justified the violations, as well as many other instances of arrest without due process and indefinite detention, by appealing to a set of temporary legal measures known collectively as the Emergency Regulations, which have drawn fierce criticism from the international community.

A draft bill on protection of internally displaced persons was submitted to the Ministry of Disaster Management and Human Rights in August of 2008 by the Human Rights Commission's National Protection and Durable Solutions for Internally Displaced Persons Project. It covers all phases of displacement due to conflict, disasters and development. There are specific provisions in the draft legislation to protect extremely vulnerable groups among the displaced, such as children and persons with disabilities. It would establish an Internally Displaced Persons Authority as the lead agency for issues related to displacement and designate other responsible institutions.⁴⁷

⁴⁵ UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin— Addendum: Mission to Sri Lanka, 14 to 21 December 2007*, A/HRC/8/6/Add.4, 21 May 2008, para. 19, p. 9 (http://ap.ohchr.org/documents/dpage_e.aspx?m=71).

⁴⁶ The Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.

⁴⁷ Draft Bill of Protection of Internally Displaced Persons

According to one national observer in 2009, “there appears to be no urgency on the part of the government to consider this bill as it has made no public comment on it nor listed it on the Order Paper of Parliament for debate.”⁴⁸ As of July 2011, the bill had not been introduced in Parliament and its status was unclear.

Several provisions of existing national law relate to IDPs, although they have not always proven successful in guaranteeing protection.⁴⁹ Many provisions were violated during the final stages of the conflict and in the period immediately following the conflict. The internment of IDPs at Menik Farm and other sites violated

several articles of the Sri Lankan constitution, and the following list is not exhaustive:

—Article 12(1). *Equal protection*: Inhabitants of closed camps were unable to access legal services or various structures established by law to provide remedies to those whose rights had been violated, such as the Human Rights Commission. Interned families of persons detained by security forces had no means of arranging legal assistance for the detained or determining their whereabouts.

—Article 14(1)(h). *Freedom of movement*: Camp inhabitants were prohibited from venturing out of the camps and accessing public spaces.

—Article 13(1). *Due process* (including the provision “Any person arrested shall be informed of the reason for his arrest”): Persons crossing into government-controlled areas at Omanthai checkpoint in Vavuniya district and persons residing within the camps were often separated from their families and detained without notification of family members by authorities.

The government’s legal basis for its actions during this period was a set of laws known collectively as the Emergency Regulations. Described by the International Commission of Jurists (ICJ) as “far-reaching,” “draconian” and “open to arbitrary use and abuse,” the most recent set of Emergency Regulations was passed after the assassination of Sri Lanka’s foreign minister in 2005.⁵⁰ Along with the similarly troublesome Prevention of Terrorism Act, the laws provide the government broad powers of arrest and detention, including the authority to detain persons indefinitely and without charge.⁵¹

(www.idpsrilanka.lk/html/SpecialProgrammes/IDP%20Bill/2008%20Aug%2008%20-%20Draft%20IDP%20Bill.pdf).

⁴⁸ B. Skanthakumar, “Window-Dressing? The National Human Rights Commission of Sri Lanka,” *Law and Society Trust Review*, no. 262, August 2009 (www.lawandsocietytrust.org/web/images/PDF/NHRC%20Report%202009.pdf).

⁴⁹ Including fundamental and language rights in the Constitution (1978); Act on the Rehabilitation of Persons, Properties, and Industries (1987); National Child Protection Authority Act (1988); Welfare Benefits Act (2002); Mediation (Special Categories of Disputes) Act (2003); Sri Lanka Disaster Management Act (2005); Tsunami (Special Provision) Act (2005); Registration of Deaths (Temporary Provision) Act (2005); Geneva Conventions Act (2006); and Resettlement Authority Act (2007). For full text of these laws, see Human Rights Commission of Sri Lanka, National Protection & Durable Solutions for Internally Displaced Persons Project, “IDP Related Domestic Laws,” (www.idpsrilanka.lk/html/IDP%20Related%20Norms%20and%20Laws/IDP%20Related%20Domestic%20Laws.html). These laws include overall provision of rights common in situations of displacement and have not been revised to include specific language on displacement, with the exception of the Resettlement Authority Act, which created the Resettlement Authority to develop a national policy on internal displacement. Much of this legislation, however, was temporary in nature. National and international actors have, for example, urged the government to pass a provision on registration of deaths similar to the legislation passed shortly after the tsunami.

⁵⁰ International Commission of Jurists, *Briefing Paper: Sri Lanka’s Emergency Laws* (www.icj.org).

⁵¹ BBC, “Sri Lanka Government Relaxes War-Time Emergency Laws,” 5 May 2010 (<http://news.bbc.co.uk/2/hi/8661394.stm>).

While the laws were enacted in response to legitimate security concerns during times of serious political violence—and while some have been partially relaxed in the post-conflict period—according to the ICJ,

A wide variety of human rights organizations, including UN bodies, international non-governmental organizations and national groups, have criticized these laws for violating fundamental rights, enabling state repression of legitimate political activity and exacerbating conflicts.⁵²

6. Develop a National Policy on Internal Displacement

Has the national government adopted a policy or plan of action to address internal displacement?

Sri Lankan law provides for the formulation of a national policy for IDPs and refugees; however, there was no national policy to address internal displacement at the time of writing.

In 1999, the government initiated a process to address the challenges of ensuring effective programming for the conflict-affected population. In June 2002, after extensive consultations with multiple stakeholders, including IDPs, the government adopted the National Framework for Relief, Rehabilitation, and Reconciliation. The Framework establishes a set of policies and strategies related to human rights, specific rights of the displaced, relief and reconciliation/peace-building, to be followed up by relevant actors. Policy recommendations include adopting the Guiding Principles as official policy for assisting IDPs affected by conflict; regular surveys and assessments with a view to accelerating and expanding opportunities for return, resettlement and reintegration; and establishment of an independent humanitarian ombudsman system.⁵³

⁵² International Commission of Jurists, *Briefing Paper: Sri Lanka's Emergency Laws*.

⁵³ Government of Sri Lanka, *National Framework for Relief,*

After the adoption of the Framework, the government passed the Resettlement Authority Act (2007). The act established the Resettlement Authority, whose mandate is to formulate a “national policy and to plan, implement, monitor, and co-ordinate the resettlement of the internally displaced and refugees.”⁵⁴ As of July 2011, there was no such national policy.⁵⁵

7. Designate an Institutional Focal Point

Has the government designated a national focal point on IDPs?

There is no permanent designated focal point on IDPs in Sri Lanka. Instead, IDP issues have been addressed by both a variety of different line ministries and ad-hoc entities set up under presidential directives.

The presidential cabinet currently comprises nine senior ministers and forty-nine cabinet ministers, many of whom were newly appointed after a parliamentary election and cabinet restructuring in 2010.⁵⁶ Since the restructuring, a large number of ministries have been involved in addressing issues associated with internal displacement, as they were before. Prior to 2010, the primary ministries involved in IDP response were the Ministry of Resettlement and Disaster Relief Services

Rehabilitation, and Reconciliation, June 2002, available at Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Sri Lanka” (www.brookings.edu/projects/idp/Laws-and-Policies/sri_lanka.aspx).

⁵⁴ See Benchmark 3, above, for a discussion of the meaning if the term “resettlement” in the Sri Lanka context. Government of Sri Lanka, *Resettlement Authority Act, No. 9 of 2007*, available at Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Sri Lanka.”

⁵⁵ Government of Sri Lanka, Ministry of Resettlement and Disaster Relief Services, “Resettlement Authority” (www.resettlementmin.gov.lk/resettlement-authority.html).

⁵⁶ ColomboPage (www.colombopage.com/archive_10C/Nov22_1290415176CH.php).

(responsible for camp administration and the provision of essential services; renamed in 2010 as the Ministry of Resettlement); the Ministry of Disaster Management and Human Rights (responsible for coordination between government actors as well as with international actors; renamed in 2010 as the Ministry of Disaster Management); and the Ministry of Nation Building and Development and Estate Infrastructure (responsible for registration of IDPs and food distribution; renamed in 2010 as the Ministry of Economic Development).⁵⁷

UNHCR's implementing partners as of December 2010 were the Ministry of Resettlement; the Ministry of Economic Development; and the Ministry of Finance and Planning. It listed as its operational partners the Presidential Task Force for Resettlement, Development and Security in the Northern Province (PTF); the Ministry of Child Development and Women's Affairs; the Ministry of Disaster Management; the Ministry of External Affairs; the Ministry of Justice; the Ministry of Public Administration and Home Affairs; the Ministry of Rehabilitation and Prison Reforms; and the Ministry of Social Services.⁵⁸

The current primary coordinating mechanism for all government and international assistance to IDPs, the PTF, was set up in May 2009. The PTF comprises some twenty ministerial and military officials and is chaired by Basil Rajapaksa, a member of Parliament and brother of the president. Its responsibilities include preparing "strategic plans, programs and projects to resettle IDPs [and] rehabilitate and develop economic and social infrastructure of the Northern Province."⁵⁹ Its main role

is "to coordinate activities of the security agencies of the government to support resettlement, rehabilitation and development and to liaise with all organizations in the public and private sectors and civil society organizations for the proper implementation of programs and projects."⁶⁰ The PTF is involved in and must approve all humanitarian and reconstruction efforts in the North (see Benchmark 12, below). It is a temporary entity; its mandate must be renewed every year.

8. Support NHRIs to Integrate Internal Displacement into their Work

Is there a National Human Rights Institution (NHRI) which gives attention to the issue of internal displacement?

The Human Rights Commission of Sri Lanka addresses internal displacement in its programming. However, the institution has been generally ineffectual for several years, leading to its downgrading by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. While it has proven effective in rights promotion activities such as conducting awareness training and counseling, it has not exhibited sufficient independence from the executive branch of the government, nor has it shown the capacity to fulfill its core mandate of preventing, investigating and assisting in the prosecution of human rights abuses.

The HRC was established in 1996 pursuant to the Human Rights Commission Act No. 21 and was subsequently constitutionalized in the 17th Amendment (3 October 2001). In June 2002, the HRC launched the National Protection and Durable Solutions for Internally Displaced Persons Project to "protect and promote [the] rights [of] persons under threat of displacement, internally displaced, and returned."⁶¹

⁵⁷ UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to Sri Lanka*, A/HRC/8/6/Add.4, 21 May 2008, para. 20, p. 9 (www.brookings.edu/projects/idp/rsg_info.aspx).

⁵⁸ UNHCR, "Sri Lanka" in *UNHCR Global Appeal 2011(Update)*, 1 December 2010 (www.unhcr.org/4cd96f2a9.html).

⁵⁹ Government of Sri Lanka, "President Appoints New Task Force to Rebuild North," 14 May 2009 (<http://reliefweb.int/node/308858>).

⁶⁰ Ibid.

⁶¹ Human Rights Commission of Sri Lanka, "Establishment"

The NPDS for IDPs Project has five broad thematic areas: protection monitoring, coordination, training, advocacy and studies. Specific activities include investigating complaints; conducting monitoring visits; conducting training programs for members of the military, NGOs/community-based organizations, IDPs and host communities and government officials; working with the Department of the Registrar General to issue documents to IDPs; and publishing handbooks, studies and advocacy materials on the rights of IDPs.⁶²

In 2006, the NPDS for IDPs Project began drafting the Bill to Protect the Rights of the Internally Displaced Persons, and in August 2008, the draft was submitted to Parliament by the Ministry of Disaster Management and Human Rights (see Benchmark 5, above).⁶³

While the HRC originally aimed to comply with the Paris Principles,⁶⁴ it has come under fire in recent years for its perceived ineffectiveness and lack of independence from the executive branch. In June 2006—less than one year after the current president, Mahinda Rajapaksa, assumed office and only one month after he directly appointed five new commissioners, in violation of the Sri Lankan constitution—the HRC stopped investigating disappearances, a phenomenon that most observers in Sri Lanka have attributed to government intelligence and security services. Despite receiving at least 2,000 reports of disappearances, the HRC stated that it would discontinue investigations “for the time

being, unless special directions are received from the government.”⁶⁵

As a result of that and other apparent failures to meet international standards for independence and effectiveness, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights downgraded the HRC to Grade B—the status of “observer”—in late 2007. From early 2008 onward, the HRC proved generally ineffective in fulfilling its core mandate of preventing human rights abuses and bringing cases for prosecution.⁶⁶ During the final stages of the war, authorities did not give notice to HRC of persons detained at Omanthai checkpoint or arrested at camps, which is a requirement even under the Emergency Regulations.⁶⁷ HRC was not allowed access to multiple places of detention, and families in Menik Farm and other closed camps could not contact HRC for a substantial period of time.⁶⁸ HRC did receive reports of disappearance, illegal arrest and detention, torture and harassment during this time, although the extent to which it acted on the reports is unclear and many of the cases are still unresolved.

Still, the NPDS for IDPs Project continued to carry out activities during this period with financial support from international agencies. Through its Human Rights

(http://hrcls.lk/english/?page_id=615). Human Rights Commission of Sri Lanka, NPDS for IDPs Project, “About Us,” (www.idpsrilanka.lk/html/npdsproject.php).

⁶² Human Rights Commission of Sri Lanka, NPDS for IDPs Project, *Monthly Report*, November 2009 (www.idpsrilanka.lk/html/npdsproject.php).

⁶³ Human Rights Commission of Sri Lanka, NPDS for IDPs Project, *Annual Report 2008* (www.idpsrilanka.lk/html/npdsproject.php). NPDS for IDPs Project, *Protection of Internally Displaced Persons Bill* (www.idpsrilanka.lk/html/SpecialProgrammes/IDP-Bills.htm).

⁶⁴ “UNDP Sri Lanka” (www.undp.lk/SubNew_Initiatives/Pages/Detail.aspx?itemid=12).

⁶⁵ Human Rights Watch, “Sri Lanka: Human Rights Commission Downgraded,” 18 December 2007 (www.hrw.org/en/news/2007/12/17sri-lanka-human-rights-commission-downgraded).

⁶⁶ Ibid.

⁶⁷ Regulation 20(9).

⁶⁸ See Human Rights Watch, *Legal Limbo: The Uncertain Fate of Detained LTTE Suspects in Sri Lanka*, 02 Feb 2010, p. 11 (www.hrw.org): “Security forces carrying out the arrests at Menik Farm and other camps often refuse to inform the families or government representatives (*grama sevakas*) in the camps where they take those arrested. Even the Human Rights Commission of Sri Lanka, which needs to be informed about an arrest according to the Presidential Directives on Arrest and Detention, has not been informed in the cases documented by Human Rights Watch. The families, particularly those held in the camps, have no ability to search for their missing relatives.”

Defenders program, HRC trained many groups, including especially villages with high IDP concentrations, in basic human rights principles. It conducted training on voting rights for IDPs and returnees and on child protection for government and non-government national child protection actors. Through its mobile legal clinics, it encouraged local officials to meet with IDPs and returnees to offer legal counseling and provide referrals to NGOs dealing specifically with legal, land and documentation issues.

Recently, following the direct appointment by President Rajapaksa of five new commissioners to the HRC, prominent domestic groups have spoken out against both the process by which the appointments were made and the suitability of some appointees to serve on the commission.⁶⁹ In particular, it was noted that the abolition of the Constitutional Council—a result of the passage the 18th Amendment to the Constitution,⁷⁰ widely considered to unduly consolidate power in the presidency—allows for direct, unchecked appointments to the HRC by the president. Also noted was the perceived unsuitability of the appointees, among them a former government analyst and a former inspector general of police.⁷¹

In summary, while the NPDS for IDPs Project has the ability to undertake much IDP-related programming with the support of international donors, it currently lacks the institutional capacity to seriously and effectively function as a guarantor of rights under Sri Lankan law. Until the HRC itself undergoes genuine reform vis-à-vis its relationship with the Office of the President, the work of the NPDS for IDPs Project will be limited to the promotion of rights.

⁶⁹ Jayantha Dhanapala, “Human Rights Commission of Sri Lanka,” *Sri Lanka Guardian*, 27 March 2011 (www.srilankaguardian.org/2011/03/human-rights-commission-of-sri-lanka.html).

⁷⁰ The Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.

⁷¹ Dhanapala, “Human Rights Commission of Sri Lanka,” *Sri Lanka Guardian*.

9. Facilitate IDPs’ Participation in Decisionmaking

(a) Do the national authorities encourage and facilitate the ongoing participation of IDPs in the planning and implementation of policies and programs for addressing internal displacement?

National authorities have sought to enable the participation of IDPs to some degree in the planning and implementation of policies and programs that affect them, with limitations reported in terms of women’s participation in decisionmaking and consultation of women in camps. In addition, the government did not give adequate information or notice about options, conditions and modalities related to return movements that the government organized following the end of the conflict.

During the consultation process to develop the National Framework on Relief, Rehabilitation, and Reconciliation, “conflict-affected populations were given the space to discuss their grievances pertaining to their districts, the existing impasse in humanitarian relief, and the weaknesses of past rehabilitation projects.”⁷² That occurred at the district level in thematic workshops organized by the Consortium of Humanitarian Agencies, which then presented the findings to the government steering committee drafting the Framework.⁷³

In 2004, the NPDS for IDPs Project initiated the concept of “human rights animators,” IDPs chosen to represent the IDP population before government and NGO bodies. In 2008, the NPDS for IDPs Project developed the concept further by establishing a Human Rights Defenders Program, which was formulated to

⁷² Andres Angel, *National Legal Framework for IDPs in Sri Lanka: A Critical Analysis* (New Delhi: Institute of Peace and Conflict Studies, September 2008) (www.ipcs.org/pdf_file/issue/1905030534RP17-Andre-SriLanka.pdf).

⁷³ Ibid.

create a group of people who can identify the numerous problems of the people whom they represent and to coordinate with the responsible parties either governmental or non-governmental in order to search for solutions to the problems they identified and to ensure life with dignity for IDPs and for the host communities.

Since 2008, the project has trained over 1,700 human rights defenders in the Puttalam, Jaffna, Trincomalee, Vavuniya, Anuradhapura and Batticaloa districts.⁷⁴ However, the program must be viewed against the backdrop of almost total impunity for serious human rights violations in Sri Lanka.

A 2007 fact-finding mission report found that

in camp situations the men were better positioned to negotiate with authorities and were more likely to be consulted in decision making or asked to assist with camp matters. There was no definitive mechanism in place to ensure that women were also part of decision making processes in relation to camp administration and in relation to decisions with regard to the well-being of the displaced.⁷⁵

Further, following the end of the conflict, IDPs in camps frequently voiced concern about a lack of information sharing by the government. Information about conditions in IDPs' places of origin was not systematically shared, nor was information about planned returns. While some IDPs were allowed to undertake "go-and-see" visits, that was by no means the case for all groups. The return process was government-driven, and while most returns were deemed by observers to be voluntary

in nature, the government did not sufficiently take into account IDPs' preferences regarding the modality or timing of returns.⁷⁶

In general, returns took place through government-organized convoys. The convoys were scheduled almost immediately after residential areas had been "released for return."⁷⁷ Despite calls by the international community and IDPs themselves, the government did not give adequate notice of impending releases. During 2009 and early 2010, notice was given to IDPs an average of one to three days in advance. Later—following repeated requests for better forewarning—the average notice increased to about one week. After the introduction of the pass system in December 2009 (permitting temporary movement in and out of camps), the short advance notice served as a de facto limit on how long an IDP could stay outside the camp for fear of missing a return convoy.

(b) Are IDPs able to exercise their right to political participation, in particular the right to vote, without undue difficulties related to their displacement?

By law, IDPs registered to vote before displacement can vote in the district where they are registered.⁷⁸ They can return to their district to vote or apply to vote as a displaced voter to the Department of Elections, which requires the submission of several documents. If the application is approved, IDPs can cast their ballots at poll-

⁷⁴ Human Rights Commission of Sri Lanka, NPDS for IDPs Project, "Human Rights Defenders Programme" (www.idpsrilanka.lk/html/SpecialProgrammes/HRDProgramme.html).

⁷⁵ South Asians for Human Rights (SAHR), *Report on the Fact Finding Mission to the North and East of Sri Lanka to Assess the State of Displaced Persons*, 8 August 2007 (www.internal-displacement.org).

⁷⁶ Internal Displacement Monitoring Center, *Sri Lanka: IDPs and Returnees Remain in Need of Protection and Assistance*, 14 January 2011, p. 39 (www.internal-displacement.org).

⁷⁷ The term "released for return" does not necessarily connote mine clearance had taken place in the residential areas. Some areas were released for return after completion of a nontechnical survey for the presence of mines. Agricultural areas surrounding the residential areas were not assessed as part of this process (see Benchmark 10, below).

⁷⁸ Human Rights Commission of Sri Lanka, NPDS for IDPs Project, "Voting Rights" (www.idpsrilanka.lk/html/SpecialProgrammes/VotingRights.html).

ing stations in the district within which they currently reside (IDP camps are included).⁷⁹ However, serious difficulties, illustrated below, have appeared in practice.

For the 2000 parliamentary elections, 216 “cluster polling stations” were set up in “cleared areas” to accommodate the 250,000 eligible voters residing in “uncleared areas” (not under government control). However, movement in and out of the “uncleared areas” was canceled on election day, preventing IDPs from reaching polling stations to vote.⁸⁰ A number of obstacles prevented IDPs from realizing their right to vote in the 2004 parliamentary elections and the 2005 presidential elections, including difficulties securing documentation and lack of access to polling centers in LTTE-controlled areas.⁸¹ Nonetheless, the International Organization for Migration (IOM) observed in 2006 that in light of the “impressive” mechanisms developed for IDPs voting in the 2004 and 2005 elections, “with the exception of some important technical flaws and localized problems of inadequate implementation, the legal framework governing IDP voting could serve as an example of best practices for other countries with substantial numbers of IDPs.”⁸²

In the January 2010 presidential elections, only 25,541 of 45,542 displaced voters in the North took part.⁸³ Lack of identity documentation and transportation to polling stations impeded full electoral participation. IDPs without identity documents recognized by the election commissioner were issued temporary camp cards to be

used as identity documents allowing them to cast their votes.⁸⁴ However, the election commissioner did not announce that he would accept the temporary cards as a valid document until the day of polling. While the district of Vavuniya made arrangements to transport IDP voters from camps to polling centers within their district and to the districts of Kilinochchi and Mullaitivu for the presidential elections, many IDPs were unable to vote due to delays and other shortcomings in transportation.⁸⁵

In March 2010, the Colombo-based Center for Policy Alternatives (CPA) filed a “fundamental rights application” before the Supreme Court, alleging that authorities failed to ensure that IDPs living in the Northern and Eastern Provinces could exercise their right to vote. CPA requested the Court to direct the Commissioner of Elections to develop IDP-specific guidelines on voting rights for the April 2010 parliamentary elections and other elections to be held in the Northern and Eastern provinces to ensure that those allowed to vote were able to do so.⁸⁶ On 13 March 2010, the Supreme Court directed the Commissioner of Elections to recognize the temporary camp cards in the parliamentary elections in April 2010.⁸⁷ Nonetheless, the executive director of the Sri Lanka-based Campaign for Free and Fair Elections said that in the elections, “Many IDPs still in camps in the North were told they did not have the right documentation for voting. Moreover, election officials were

⁷⁹ IOM, *Sri Lanka: The Voting Rights of Internally Displaced Persons, Refugees and Economic Migrants*, April 2006 (www.geneseo.edu/%7Eiompress/Archive/Outputs/Sri_Lanka_Final.pdf).

⁸⁰ IDMC, *Profile of Internal Displacement: Sri Lanka*, June 2001 (www.internal-displacement.org).

⁸¹ IOM, *Sri Lanka: The Voting Rights of Internally Displaced Persons*.

⁸² *Ibid.*, p. 4.

⁸³ Campaign for Free and Fair Elections (CaFFE), “About 700,000 Did Not Vote in North,” 1 February 2010 (www.caffesrilanka.org/About_700,000_did_not_vote_in_North-5-1743.html).

⁸⁴ CaFFE, “Special Identity Cards: Charles Accuses Elections Commissioner,” 1 February 2010 (www.caffesrilanka.org/Special_Identity_Cards_Charles_accuses_Elections_Commissioner_5-1738.html).

⁸⁵ Center for Monitoring Elections, “CMEV Briefing: Inability of Authorities to Address the Voter Rights of IDPs and Others in the North,” 31 January 2010 (<http://cpalanka.org/>).

⁸⁶ S. S. Selvanayagam, “Fr [Fundamental Rights] Violation Petition Filed Seeking Voting Rights for IDPs,” *Daily Mirror*, 3 March 2010 (<http://print.dailymirror.lk/news/news/5075-fr-violation-petition-filed-seeking-voting-rights-for-idps.html>).

⁸⁷ CaFFE, “No change in IDP Identity Stance at April 8 Polls,” 12 March 2010 (www.caffesrilanka.org/No_change_in_IDP_identity_stance_at_April_8_polls_5-1931.html).

unable to give the IDPs clear directions about what to do when their camp identification was not accepted.⁸⁸

10. Establish the Conditions and Means for IDPs to Secure Durable Solutions

Is the government working—or has it worked—to establish conditions enabling IDPs to secure a durable solution to displacement?

While the government of Sri Lanka has worked to establish appropriate conditions for the return of IDPs, often return areas are not conducive to achieving durable solutions; in many cases, they are not conducive to sustaining returning IDPs over even the short or medium term.

The government stated its commitment to establishing conditions for the return of IDPs in its National Framework for Relief, Rehabilitation, and Reconciliation (2002). The Framework calls for regular surveys and assessments of conditions in places of origin to increase information about conditions for return. The Framework also advocates for the “option of voluntary relocation of families who cannot return to their original places of residence due to prevailing security concerns.”⁸⁹

The government also demonstrated its commitment to identifying durable solutions by establishing the Resettlement Authority and the Ministry of Resettlement and Disaster Relief Services. The ministry has reported that to facilitate the return of IDPs to their places of origin, it undertook several reconstruction projects in the areas of water and sanitation, electricity, rehabilitation of roads, education and community development.⁹⁰ In 2008, a National Consultation on

IDPs and Durable Solutions was held in Colombo (in response to RSG Kälin’s 2007 mission recommendations) under the leadership of the Minister of Disaster Management and Human Rights.⁹¹

Immediately following the end of the conflict, the government vowed to resettle the approximately 280,000 IDPs and outlined a 180-day plan to return the majority to their “original places of habitation.”⁹² The plan was perhaps overly ambitious. As alluded to by Sri Lanka’s permanent representative to the UN (see Benchmark 3, above), de-mining residential areas in the North was an urgent priority following the end of the conflict. At the same time, the government was under pressure—both self-imposed and international—to release IDPs from the closed camps, a concept that the government closely equated with return. The subsequent government-managed returns often took place before return areas had been adequately de-mined.⁹³

The government and international community prioritized the de-mining of residential areas throughout the North. Consequently, many IDPs were returned to residential areas surrounded by minefields, where it was impossible to conduct agricultural and other livelihood activities. Returned IDPs therefore remained dependent on aid, but because many locations had not been de-mined to the security standards required by most UN and humanitarian agencies, it was not possible for the international community to access their areas of return.⁹⁴

Disaster Relief Services, “Provision for Infrastructure Development,” no date (www.resettlementmin.gov.lk/projects-funds-resettlement.html).

⁸⁸ IRIN, “Sri Lanka: Very Low Voter Turn-Out among IDPs,” 12 April 2010 (www.irinnews.org/report.aspx?ReportID=88772).

⁸⁹ Government of Sri Lanka, *National Framework for Relief, Rehabilitation, and Reconciliation*.

⁹⁰ Government of Sri Lanka, Ministry of Resettlement and

⁹¹ Walter Kälin, “Finding Durable Solutions for Sri Lanka’s Displaced,” speech delivered at the National Consultation on IDPs and Durable Solutions, Colombo, Sri Lanka, 23 September 2008 (www.brookings.edu/speeches/2008/0923_sri_lanka_kalin.aspx).

⁹² Government of Sri Lanka, “India and Sri Lanka Agree on IDP Timetable, Political Solution,” 22 May 2009 (<http://reliefweb.int/node/310259>).

⁹³ ICG, *Sri Lanka: A Bitter Peace*, Update Briefing, Asia Briefing No. 99, 11 January 2010, p. 4 (www.crisisgroup.org).

⁹⁴ *Ibid.*; and Internal Displacement Monitoring Center, *Sri*

Infrastructure was heavily damaged throughout the North, and many IDPs were returned to their places of origin to find that homes and public buildings had been looted or completely destroyed.⁹⁵ All of this resulted in a large number of IDPs having to stay with host families or in temporary transit camps for protracted periods of time (see Benchmark 3, above).

Much more will need to be done to create durable solutions for those who have been displaced. Creating conditions conducive to livelihood activities (including the demining of agricultural areas), settling outstanding land claims and establishing a functioning civil administration in the North will require substantial time and effort.

Further, as RSG Deng reported following his 1993 mission to Sri Lanka, some government officials acknowledged that durable solutions would not be sustainable until the root causes of the conflict and displacement were addressed.⁹⁶ Nearly two decades later, while the twenty-six-year conflict has ended, the government of Sri Lanka has demonstrated little progress in addressing the root causes of the long-standing conflict.

11. Allocate Adequate Resources to the Problem

Do the authorities prioritize internal displacement in allocating budgetary resources and in mobilizing international support?

Government budget expenditure is only a small percentage of overall spending used to address internal

displacement, and the government emphasizes mobilizing international donor support to cover the remaining costs.

According to government data for 2007-2013, the expenditures by the Ministry of Resettlement rose annually between 2007 and 2009, peaking in 2009, and were projected to decrease annually beginning in 2010 (see figure 2-9). However, the ministry's expenditure includes some foreign financing as shown below. The reduction in total expenditure beginning in 2010 is indicative of the government's stated position (see Benchmark 3, above) that it has successfully "resettled" (returned) a vast majority of IDPs and is concluding what it views as extensive reconstruction and demining activities in the North. In a speech presenting the 2010 budget, President Rajapaksa stated:

Hon. Speaker, even in the liberated areas, the progress we have achieved since the date of liberation is remarkable. The Government has been able to resettle 263,000 people. Only 15,000 people remain to be resettled. A vast area of farm lands, public places, and residential areas have been demined. Provision of electricity, irrigation facilities, construction of roads and bridges, restoration of schools, health facilities and other public places have turned the Northern and the Eastern provinces to normalcy. . . . The Government has implemented a \$2 billion reconstruction program in the North. These major reconstruction activities are expected to be completed by 2012.⁹⁷

Lanka: IDPs and Returnees Remain in Need of Protection and Assistance, 14 January 2011, p. 23.

⁹⁵ ICG, *Sri Lanka: A Bitter Peace*.

⁹⁶ UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Francis Deng—Addendum: Profiles in Displacement: Sri Lanka*, 25 January 1994, E/CN.4/1994/44/Add.1 (www.brookings.edu/projects/idp/rsg_info.aspx).

⁹⁷ Board of Investment of Sri Lanka, *Budget 2011, His Excellency Mahinda Rajapaksa President*, 22 November 2010, para. 11 (www.boi.lk/Budget_speech_2011/budgetspeech2001-eng.pdf); on 2011 estimates, see also a state media report: Sri Lanka Broadcasting Corporation, "The Expenditure of the Government for Next Year Exceeds One Thousand and 80 Billion Rupees [\$9.85 billion]," 18 October 2010.

Figure 2-9. Ministry of Resettlement: Expenditure 2007-2013 (billions \$)^a

	2007	2008 Revised budget	2009	2010 Revised budget	2011 Estimate	2012 Projection	2013 Projection	2007-2013 Total
Domestic Financing	28.3	24.2	36.7	14.2	6.8	2.0	1.7	113.9
Foreign financing	1.5	14.2	8.5	14.2	9.1	4.3	0.1	51.9
Total expenditure	29.8	38.4	45.2	28.4	15.9	6.3	1.8	165.8
Foreign financing (% of total)	5.03%	36.98%	18.81%	50.00%	57.23%	68.25%	5.56%	31.30%

Source: Government of Sri Lanka, Ministry of Finance and Planning

- a US dollar equivalents were calculated using the exchange rate of SLR (Sri Lankan rupee) to USD (US dollar) at 109.668 on 1 July 2011 (www.oanda.com/currency/converter). For original rupee values, see: Government of Sri Lanka, Ministry of Finance and Planning, Department of National Budget, “Ministry of Resettlement and Disaster Relief Services,” in *Budget Estimates 2009* for 2007 and 2008 figures (www.treasury.gov.lk/BOM/nbd/budgetestimates2009.htm) and “Ministry of Resettlement,” in *Budget Estimates 2011* for 2009-2013 amounts (www.treasury.gov.lk/BOM/nbd/budgetestimates2011.htm).

Expenditure of the Human Rights Commission is set to increase slightly according to the government’s budget estimates for 2011-2013. Expenditure stood at 90 million Sri Lankan rupees in 2008 (\$835,000), nearly 99 million rupees in 2009 (\$860,000) and was 119 million rupees according to the 2010 revised budget (approximately \$1.1 million). Projected expenditure for 2012 and 2013 was around 120 million rupees (\$1.1 million).⁹⁸ As mentioned in Benchmark 8, the HRC’s National Protection and Durable Solutions for Internally Displaced Persons Project has been supported by international funding, particularly from UNHCR.⁹⁹

⁹⁸ US dollar conversions are estimates calculated using 1 July exchange rates for each year up to 2011 (www.oanda.com/currency/converter/). Government of Sri Lanka, Ministry of Finance and Planning, Department of National Budget, “Human Rights Commission of Sri Lanka,” in *Budget Estimates 2010* and *Budget Estimates 2011*.

⁹⁹ See the latest available annual report of the HRC, for the year 2008 available at the commission’s Web site (http://hrcl.lk/english/?page_id=135). Also, the government’s budget estimates for 2010 and 2011 report a small amount of “foreign financing.”

The above figures probably do not account for the government’s entire financial contribution to displacement generally or to durable solutions in the East and the North in particular. However, that overall funding for addressing internal displacement cannot be readily quantified is, in part, symptomatic of the larger issue (see Benchmark 7, above) that there is no single entity within the government dealing specifically with displacement.

12. Cooperate with the International Community When Necessary

Does the government facilitate efforts by international organizations to address internal displacement?

The government has invited and accepted substantial participation from the international community in addressing internal displacement in all its phases. However, it actively works to exclude rights-based programming from the international agenda. The government also severely impedes humanitarian access to the

North of the island, despite the relative lack of security risks following the end of the conflict.

The RSG carried out missions or working visits to Sri Lanka in 1993, 2005, and 2007 and in April and September 2009.¹⁰⁰ Sri Lanka was originally pointed to as a model (to a certain extent) for promoting and enabling humanitarian access in situations of internal armed conflict, particularly in RSG Deng's 1993 mission report.¹⁰¹ In contrast, RSG Kälin reported following his 2007 mission that "some humanitarian organizations still do not enjoy full access to all areas of return, and access in the North is increasingly difficult."¹⁰²

¹⁰⁰ For related documents, see Brookings-LSE Project on Internal Displacement, "Items from Walter Kälin, Former Representative of the UN Secretary-General on Internally Displaced Persons" (www.brookings.edu/projects/idp/rsg_info.aspx#Kalin) and OHCHR, "Country Visits" (www2.ohchr.org/english/issues/idp/visits.htm). See also Walter Kälin's speech presenting his 2009 report before the Sixty-Fourth Session of the UN General Assembly, "The Human Rights of Internally Displaced Persons," 26 October 2009 (www.brookings.edu/speeches/2009/1026_internal_displacement_kalin.aspx), in which he discusses his April 2009 visit to Sri Lanka and the report itself: UN General Assembly, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons*, 3 August 2009, A/64/214, paras. 58-64, pp. 16-17 (http://ap.ohchr.org/documents/dpage_e.aspx?m=71). From 27 February to 5 March 2005 RSG Kälin traveled to Colombo, Sri Lanka, and Bangkok, Thailand, to attend a number of working meetings and seminars on the issue of the protection of IDPs with a particular focus on the response to the tsunamis of 26 December 2004. The mission did not have a fact-finding component and as such was not characterized as an official visit. However, the Permanent Missions of Sri Lanka and Thailand had been contacted and informed prior to the mission, and both agreed that the Representative attend the meetings in both countries.

¹⁰¹ See UN Commission on Human Rights, *Internally Displaced Persons: Report of the Representative of the Secretary-General, Mr. Francis Deng—Addendum: Profiles in Displacement: Sri Lanka*, E/CN.4/1994/44/Add.1, pp. 25-28, 34-35 (http://ap.ohchr.org/documents/dpage_e.aspx?m=71).

¹⁰² UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally*

Humanitarian space in Sri Lanka has diminished considerably since 2006.¹⁰³ In 2008, the government ordered the withdrawal of agencies from the North. As Human Rights Watch reported that year:

Aggressive public statements from senior government officials continued against international agencies, including the UN, with many accused of being LTTE supporters or sympathizers. Humanitarian aid agencies' operations were significantly affected, with restrictions on movement and difficulties obtaining visas and work permits for expatriate staff.¹⁰⁴

Inconsistent access has led to gaps in the delivery of aid and to a decrease in the presence of humanitarian actors, leaving IDPs at a higher risk of human rights violations by camp security forces.¹⁰⁵

Despite large-scale involvement of the international community in Sri Lanka, humanitarian access to and within the country, especially to the North, has often been restricted or even denied by administrative obstacles. The approval of the Presidential Task Force for Resettlement, Development and Security in the Northern Province (see Benchmark 7, above) is required, on a project-by-project basis, for international and national organizations to carry out any activity on the island. In 2010, another impediment was introduced whereby even after PTF approval was granted, explicit permission was required from the Ministry of Defense

Displaced Persons, Walter Kälin—Addendum: Mission to Sri Lanka, 14 to 21 December 2007, 21 May 2008, A/HRC/8/6/Add.4, para. 68, p. 20 (www.brookings.edu/projects/idp/rsg_info.aspx).

¹⁰³ IDMC, *Sri Lanka: Continuing Humanitarian Concerns and Obstacles to Durable Solutions for Recent and Longer-Term IDPs: A Profile of the Internal Displacement Situation*, 10 November 2009 (www.internal-displacement.org).

¹⁰⁴ Human Rights Watch, "Sri Lanka: Events of 2008" (www.hrw.org/en/node/79245).

¹⁰⁵ Amnesty International, *Stop the War on Civilians in Sri Lanka: A Briefing on the Humanitarian Crisis and Lack of Human Rights Protection*, 15 March 2009 (www.amnesty.org).

(MoD) for both individual staff members (especially internationals) and their vehicles to enter the North. This clearance was seldom granted until forty-eight or even twenty-four hours before a planned mission.

The process for obtaining PTF approval alone is lengthy, and the MoD clearance process further impedes access to the North substantially. Together, they render the planning of activities in the North highly cumbersome and in many cases, due to the medium-term nature of humanitarian assistance programming generally, infeasible.

Moreover, international agencies to a certain extent self-regulated their activities out of legitimate concern that purely rights-based programming (such as human rights or protection monitoring) would be denied PTF approval. For example, UNHCR's website (alluding to the process for registering recipients of the shelter grants issued to IDPs released from camps) states that,

UNHCR is the lead for the protection sector and has direct access to beneficiaries, although some of its NGO operational partners often face restrictions. The shelter grant registration process provides an invaluable opportunity for UNHCR to collect baseline protection information, monitor returns, and identify the specific protection needs of returning families, particularly the most vulnerable.¹⁰⁶

In May 2009, the UN High Commissioner for Human Rights reported that “unrestricted humanitarian aid will make the difference between life, illness or even death to many, and yet access for the UN and NGOs to the IDP camps continues to be hampered.”¹⁰⁷ In April 2009, during his visit to Sri Lanka, RSG Kálin asked the government to facilitate unhindered access for humani-

tarian agencies and organizations to all IDP sites.¹⁰⁸ In July 2009, the government ended ICRC's access to IDP camps for protection work pending a renegotiation of its postwar mandate.¹⁰⁹ As of February 2010, the ICRC still had no access to IDPs in camps, and in November 2010 the government asked ICRC to close its offices in the North and to operate only from Colombo.¹¹⁰

In January 2011, Catherine Bragg, the UN Deputy Emergency Relief Coordinator, raised the issue of humanitarian access with the government. At that time—despite the passage of almost two years since the end of the conflict—permission for UN staff to work in the North was granted for a limited duration of only one month, after which individual staff members were required to reapply. Despite Bragg's contention that communities in the North “remain extremely vulnerable and have critical humanitarian needs that we must address immediately,” the government did not then grant her request to extend the one-month period to three months.¹¹¹

¹⁰⁶ UNHCR, “2011 Country Operations Profile: Sri Lanka” (www.unhcr.org).

¹⁰⁷ OHCHR, “Message of the High Commissioner of Human Rights to the Human Rights Council Special Session on the Human Rights Situation in Sri Lanka,” 26 May 2009 (<http://reliefweb.int/node/310706>).

¹⁰⁸ UN General Assembly, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons*, 3 August 2009, A/64/214, para. 60, p. 16 (http://ap.ohchr.org/documents/dpage_e.aspx?m=71).

¹⁰⁹ U.S. Department of State, *2009 Human Rights Report: Sri Lanka*, 11 March 2010 (www.state.gov/g/drl/rls/hrrpt).

¹¹⁰ ICRC, “Sri Lanka: ICRC Continues to Respond to Humanitarian Needs,” Operational Update, 24 February 2010 (www.icrc.org). ICRC, “Sri Lanka: ICRC to Operate Exclusively from Colombo—Interview,” 25 March 2011 (www.icrc.org).

¹¹¹ Agence France-Presse, “UN Seeks Greater Humanitarian Access for S. Lanka,” 21 January 2011.