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INTERNALLY DISPLACED PERSONS IN PUTTALAM

MISSION REPORT BY THE REPRESENTATIVE OF THE UNITED NATIONS SECRETARY GENERAL ON INTERNALLY DISPLACED PERSONS IN SRI LANKA

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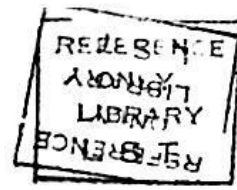
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Editor's Note

The August 2008 Issue of the LST Review presents some profoundly disturbing reflections. Firstly, regarding the state of internally displaced persons (IDPs) in Puttalam and secondly, in reference to general concerns affecting all IDPs in Sri Lanka as detailed in a recent report by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, to the United Nations Human Rights Council, consequent to a Mission to Sri Lanka from 14-21 December 2007.

In the two papers that this Issue publishes, the plight of Northern Muslims who were expelled by the Liberation Tigers of Tamil Eelam (LTTE) in late 1990 and have been living since then as part of a displaced population primarily in the Puttalam District, is examined.

In research work undertaken as part of a consultancy for the Law & Society Trust during late 2006 and early 2007, *Farzana Haniffa* explores the multifaceted nature of this gravely troubling displacement crisis and points to the extreme tensions that have arisen among those displaced as well as in regard to their increasingly fraught relations with the host community. Evidence of adverse living conditions and poor quality of life in the displacement camps is persistently featured in the research. Lack of realisation of citizenship rights of those displaced, insufficient health services and the general depriving of basic social, economic and cultural rights among the displaced community, emerge as key findings of the work.

The devastating impact that displacement has had on the women is particularly examined. While the study bears testimony to the empowerment of some displaced women, it also reports on the fact that many women who prior to being displaced, though had belonged to middle-class families engaging in home based income generation activities, had been then compelled, as a result of displacement, to resort to menial occupations in low-level labour. This was seen by them as detrimental to their social status with consequential negative effect on their mental well being. The author cautions that, while drastic changes to the gender roles as a result of displacement must be acknowledged, sensitivity must also be manifested to the conditions of extreme disempowerment that have brought about these role changes.

Misunderstandings between the displaced Northern Muslims and the host community consisting of both the urban and rural poor, in relation to the allotment of humanitarian assistance and in relation to the perception of

competition faced by the Northern Muslim outsiders, not only to the labour market but also to the education sector, are some of the interesting findings of the research.

An important emphasis of this research meanwhile is its focus on the insistence of the Northern Muslims on their right to return.' The author observes that there is no coherent State policy regarding the possible return of these people – when the political situation permits – and points out that engagement in well-meaning humanitarian measures should not lose sight of the Northern Muslims' attachment to their places of origin. This, as she points out, is not merely a question of the "displaced persons' personal attachment to their homes and places of origin", but "is also a matter of addressing the manner in which the cultural geography of a region and a way of life of a people was forcibly transformed by an act of ethnic cleansing."

The second paper in this Issue written collectively by *Haritha Wedathanthri, Gamini Hitinayake and Lahiru Perera*, reflects similar concerns in relation to the Puttalam based displaced population.

The authors echo concerns expressed in the previous paper regarding the sudden negative change in social status that displacement brought about for Northern Muslims, many of whom had been relatively well-off prior to their being ejected from their places of residence. Accompanying tensions consequent to the displacement, among the IDPs and the host community, are also reflected in this analysis. The authors note however that there have been some positive examples of integration, such as the creation of School Development Societies consisting of both IDPs and host community members.

Both papers detail several recommendations in the context of their findings, including the improvement of infrastructural, health, sanitation and education facilities of IDPs, and ensuring equal access to these facilities by both IDPs and host community members. From a more policy based perspective, it is also recommended that the Official Languages Act be properly implemented, and that the right of assisted return of Northern Muslims are integrated into resettlement assistance programs.

Our concluding Report looks at the problem of IDPs in Sri Lanka from a countrywide perspective. In his Mission Report to the United Nations, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, *Walter Kälin* observes that the first and overwhelming concern of both returnees and those still in displacement is physical security.

The Mission Report points to a “pervasive, often disabling, sense of fear” among the war-displaced in general, which was not limited to those in the newly cleared areas of the East. Rather, the Representative had received reports of extrajudicial killings, physical assault, abduction, disappearances, forced recruitment and harassment in all areas he visited, for which the paramilitaries were blamed. He was particularly affected by the stories told to him by women IDPs and returnees about their disappeared husbands and sons. The recommendation made thereto is very relevant;

The Government must re-establish safety and security in all IDP and return areas, protecting the civilian population against all forms of harassment, physical harm and abduction, regardless of the source. Clear accountability for these crimes would help reduce their occurrence and confer a necessary degree of public confidence in the Government’s ability to protect its citizens. The Government must re-establish the authority of the civilian police and ensure compliance with procedural protections guaranteed by national and international law, including the Presidential Directives on Arrest and Detention.

Further, the difficulties faced by IDPs in obtaining documentation essential for the purpose of assuring their access to public services, entitlement to humanitarian assistance, and ability to exercise freedom of movement, are noted. The Government is called upon to clarify the purpose of any registration, identification or data collection, which must serve the purpose of meeting the needs and fulfilling the rights of IDPs.

Among its comprehensive recommendations, the Mission Report usefully suggests that the Government develop a policy addressing all aspects of internal displacement in line with the Guiding Principles on Internal Displacement, which assigns institutional responsibilities, establishes accountability, addresses issues including standards for registration and de-registration, entitlements to assistance, equitable standards for compensation for loss of property and livelihoods, while enshrining the principle of voluntariness of return together with the right of IDPs to informed choice.

Kishali Pinto-Jayawardena

TWICE REMOVED: NORTHERN MUSLIM REFUGEE WOMEN IN PUTTALAM[#]

Farzana Haniffa^{*}

Introduction

In October 1990, all Muslim residents of the five Northern districts of Sri Lanka were expelled by the Liberation Tigers of Tamil Eelam (LTTE). This expulsion resulted in the displacement of over 70,000 Muslims who have since remained in temporary settlements outside the Northern Province, with the largest concentration living in the Puttalam district.¹ The Sri Lankan conflict is generally understood as one between the majority Sinhala and the minority Tamil communities, and the expulsion of Muslims by the Tamil-Nationalist LTTE has not been adequately documented nor integrated in to any mainstream historical narrative in Sri Lanka.²

In delineating the different experiences of displacement in Sri Lanka, the experience of the displaced Northern Muslims is considered less severe than the experience of other displacements, since the former now live outside the war zone, while many of the other displaced live in areas that continue to experience the conflict and therefore remain vulnerable to multiple displacements.³ The humanitarian aid community has been active in the Northern Muslim context as well. However, humanitarian organisations, attempting to address the crisis of internal displacement in the country as a whole, are concerned with the specificity of different displacement experiences from an operational perspective only and are not always interested or able to intervene in keeping with the particular political sensitivities of the different displacement experiences. For instance, local intellectuals have often complained that most international organisations view the Northern Muslim predicament as one of camp management.⁴

Another issue in humanitarian assistance that community members feel strongly about is that of the terminology used. Humanitarian Assistance for displaced populations can be accessed through using the IDP language and terminology. Many local agencies too have accepted the terminology of the United Nations (UN)-defined "displacement" to access funds for their own assistance programs. However, certain local organisations are also struggling to have their experience recognised as more specific and requiring a different definition. For instance, some struggled to have the United Nations High Commissioner for Refugees (UNHCR) recognise their status as different from Internal

[#] Consultations for this report were conducted in Puttalam in late 2006 and early 2007 under the Transitional Justice Project of the Law & Society Trust's Human Rights in Conflict Programme, with funding from The Asia Foundation under its Women and Islam Program.

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¹ Hasbullah, S. H. 2001. *Muslim Refugees: The Forgotten People in Sri Lanka's Ethnic Conflict*. Nuraicholai: Research and Action Forum for Social Development.

² Dr. Hasbullah's volume cited above remains the most useful and authoritative account of the expulsion and its consequences to date.

³ Those displaced by the Tsunami, of course, are to be found outside the conflict zones. They constitute yet another category of displacement in the country with differently calculated assistance schemes.

⁴ As Hasbullah has pointed out, their issues are often seen as those of "camp management" alone. See Hasbullah in www.lincs-magazine.org. November 2002.

Displacement and argued for the term “refugees,” on the basis that they do not have the possibility of return. This was not accepted by UNHCR, given that the displaced communities had not crossed internationally recognised state boundaries; the communities however continue to refer to themselves as Refugees. Groups have also attempted to have the term “ethnically cleansed persons” used when describing their experience, but the term most often used is “forcibly evicted.” Some non-governmental organizations (NGO) and donor representatives are impatient with this tussle with terminology since many of the problems of day to day life of the Northern Muslims they feel are similar to that of other IDPs and require similar solutions.

Muslims are currently 8.9 percent of the Sri Lankan population, and at the time of the expulsion, they were 5 percent of the population of the Northern Province. The Northern Muslims unlike many other communities in long term displacement in the country, have no immediate prospect of going back. They are impacted by the shock of the expulsion, as well as the inability to return even after the cessation of fighting. Given the fact of the expulsion, and given that the LTTE remains in *de facto* control of most of the places from where they were forced out, their return needs to be facilitated by guarantees from the LTTE. They constitute one of the many marginalised minority communities in the country who have experienced expulsion in the name of nationalism and security. The Muslims of Sri Lanka are also the second minority in the country and the peculiar patronage politics spawned by this dual condition of displacement and minority status has also affected the situation of Northern Muslims. Their systematic expulsion by the LTTE in 1990—an event of ethnic cleansing—has transformed both the material status of members of this group as well as its sense of place in the Sri Lankan polity. It has also reinforced the larger Muslim community’s sense of themselves as beleaguered and at best as marginal members of the Sri Lankan community.

The Northern Muslim communities are now scattered in four administrative divisions in the North-Western part of the Puttalam district, bordering the lagoon on one side and the sea on the other, where Northern Muslim settlements extend from the Southern Karambay area to Nuraicholai, Pallivasalthurai and up to Kalpitiya in the northern-most tip of the promontory. Puttalam district is immediately south of Mannar district, the district with the largest Muslim concentration at the time of the expulsion. There are settlements also in the Palavi area and in areas close to Puttalam town. The total IDP population of the Puttalam district (all D.S. Divisions) is 63,145 according to a recent survey conducted by Dr. Hasbullah.⁵ The overwhelming majority of Puttalam IDPs are living in the Kalpitiya Peninsula. According to the above mentioned survey, about 34,809 IDP persons (55 percent) are found within the Kalpitiya peninsula. The Law & Society Trust team visited communities and community based groups both in the Palavi and Puttalam town areas as well as in the narrow landmass of the greater Kalpitiya region.

Consultations with Northern Muslim Women on the Experience of Displacement

The consultations with Muslim women on which this paper is based were done to ascertain women’s stories of the expulsion, the conditions of displacement and their expectations for the future. Based on the understanding that women experience displacement differently from men, and that women’s own experiences in turn will differ based on class and education levels, these consultations were conducted to elicit different Northern Muslim women’s perspectives on the expulsion.

⁵ Hasbullah, 2006.

The work for this project was conducted not in the form of an academic research project but as a series of meetings and consultations with local women as well as with community based organizations (CBOs) working on women's issues. It was felt that with their extensive experience in the field, CBOs will be able to articulate and theorise the experiences of these women in useful ways. The five one-day consultations/meetings conducted with displaced women's groups were conducted as part of a larger series of consultations with the Northern Muslim community and were informed by the prior consultations with other organisations and groups.

In order to facilitate future rights-based development and humanitarian assistance work by community groups, this document is partly formulated by placing the violations suffered by the community of Northern Muslims in the context of the obligations of the State to the International Covenants to which Sri Lanka is a signatory and minimum standards adopted by the United Nations.

It is important to note however that this position is made with the awareness that the rights discourse itself emerges from a particular history and politics that has its limitations in a context such as Sri Lanka. However, in an era where options remain limited and there seems to be minimal efficacy in the use of the rights discourse—even though there exists a Human Rights Ministry—this paper will still explore the rights framework. Furthermore, the issues of Northern Muslims and the expulsion have not been worked on enough from a rights-based framework. Therefore if internationalisation is seen as a useful way of working and if raising the profile of the issue among local human rights groups too is taken as a positive move, then the rights discourse remains important.

Nivedita Menon defines the law as an arena of competing rights claims, and grounds her discussion on a critique of the rights discourse from a variety of fairly standard perspectives. For instance, quoting Wendy Brown, Menon points out that 'rights' emerged in modernity as a vehicle of emancipation from political disenfranchisement or from institutionalised servitude, at the moment of transition away from feudalism in Europe. It was also a vehicle that privileged an emerging bourgeois class through formal egalitarianism and universal citizenship. Conceptually the rights bearing 'individual' became a possibility only fairly recently in the history of Europe. An atomised disaggregating self easily differentiated from similarly disaggregated others was not as obviously available to schools of thought before this time. It was also at this historical point that it was possible to locate the individual self within the limits of the body in opposition to an outside world. The outside world was then available to be conquered, colonized and commodified and as one that the individual could have rights to and about.

Menon then goes on to quote Catherine A. MacKinnon, to describe the manner in which feminists have come to understand the norm of the abstracted 'autonomous' individual that is promoted by law as essentially male and thereby blind to the specificity of women's experience. By extension, the law too is blind to the needs of women. Then Menon points to the need to incorporate the notions of community and responsibility into the argument about individuals and rights, and to keep in mind also the importance and perhaps still pertinent salience of 'entitlement' that the rights discourse brought about in the first place. She also brings in the point that the historical processes that led to the emergence of the individual in western societies, and western legal theory were not experienced in the same way by post-colonial polities; that the desegregation of the individual did not take place in the same way or to the same extent within modernity as experienced by post-colonial subjects. Therefore the rights discourse itself would be understood and would work differently in such different contexts. Additionally, the language of rights according to Menon privileges States and their institutions. Implicitly, rights claims call on the State and the law to uphold such rights. But

in a world where the State and the law remains complicit with specific class, caste and gender interests, the success of such a move can only be partial and contingent.

While there are many flaws in the present system of Human Rights enforcement, with State parties routinely rescinding their responsibilities, these instruments remain among the few international mechanisms whereby States can be held accountable to certain standards of service provision to its citizens. Further, these instruments have also not been adequately utilized in addressing the predicament of the Northern Muslims. This document is envisaged as a take off point for framing the concerns of women in the Northern Muslim community as part of the larger social and political context of which the Northern Muslim community is a part. Therefore the documentation of the larger predicament of Northern Muslims, with an emphasis on different Northern Muslim women's experiences is formulated in reference to the UN Guiding Principles on Internal Displacement, the International Covenant on Economic, Social and Cultural Rights, with special emphasis on the right to housing, and the Convention to Eliminate All forms of Discrimination Against Women (CEDAW). It is hoped that this paper will also assist in the work that community groups are currently conducting under difficult circumstances.

This paper also assumes that the experiences of Northern Muslim women cannot be adequately understood without reference to the larger context and politics of the expulsion and displacement experience. Like all communities, the Northern Muslim community, too, consists of various different stratifications of class, education levels and regions. Therefore the experience of displacement for women in this community too was not uniform. As part of the consultation, meetings were held with Northern Muslim women with experiences as diverse as, middle-class women from Mannar and Jaffna, women from a group that had returned to Nachchikudah in the Kilinochchi district where the conflict is intense, working class women that worked in the fields, young volunteer teachers in a school in Alankudah and women workers in established NGOs in Puttalam. While many of the problems that they articulated were similar, their experiences and reference points were different. This paper draws attention to these differences where appropriate.

Muslims' Minority Condition and its Impact on the Expulsion Experience

While community members place the blame for the expulsion squarely on the LTTE, many are also resentful of the manner in which the State rescinded its obligations at the time of the expulsion by accommodating the mass displacement that occurred. The Sri Lankan government did little to prevent the expulsion of the Northern Muslims—some from areas in the North controlled by the State in 1990—and was slow in its response to the displacement. The displaced have stories of food and travel assistance rendered to the people by the army during the time of the expulsion. There is one story from Mannar where a small army camp in fact engaged the LTTE cadres to prevent attacks on the moving communities. However, there was a sense that the government did little at the highest levels to safeguard the Muslim communities of the North. Northern Muslim community leaders say that the community had an inkling of the impending expulsion and informed Ranjan Wijeratne, the then Minister of Defence, about the possibility. Wijeratne had assured them that the government forces would not allow such a thing to happen. However no measures were taken by the security forces to prevent the event itself. Javid Yusuf, then principle of Zahira College, Colombo, states that when sections of the expelled Muslims arrived in Colombo in lorries, no government representatives were available to receive them and government mechanisms were slow to become mobilized. The state is yet to acknowledge the special circumstances of the displacement from the expulsion, and explore options of temporary settlements and future

resettlement that must be considered in these circumstances. The State is also yet to explain its response to the expulsion.⁶

According to Guiding Principle No. 9 of the United Nations Guiding Principles on Internal Displacement,

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

This section has argued that in failing to prevent the expulsion, and after the process, in failing to adequately address the concerns of the expelled, the state failed to fulfil its responsibilities towards the Muslim minority of the North. In a country where respect for minorities' rights and entitlements has been under fire for so long, this failure of the State is of little surprise and is but one point in a long history of such failings.

The manner in which Muslim minority politics developed in the 1990s also contributed to the neglect of the Northern Muslims. After decades where Muslim politicians aligned themselves with one or the other of the main Sinhala and Tamil political parties, the late 1980s and the 1990s saw the emergence of a Muslim party, namely, the Sri Lanka Muslim Congress (SLMC).

Emerging from the political realities of the Eastern Province the SLMC has always had a focus that was essentially centred on the East. Currently the Sri Lanka Muslim Congress (SLMC) calls for a separate administrative unit for Muslims in the South-Eastern part of the country, with the non-contiguous Muslim settlements of the North and East connected to the South-Eastern Unit. Many Northern Muslims are unhappy with this arrangement. Many Northerners⁷ feel that the SLMC's proposals are not adequately sensitive to the conditions under which Northern Muslims have lived historically, and may have to live at the point of a political settlement to the conflict. They feel that given their numbers—they were 5 percent of the population of the Northern province at the time of the expulsion—they need to find systems of coexistence rather than those of exclusive enclaves as suggested so far by the SLMC.

Given the climate of ethnic polarisation prevailing in the country, inadequate attention has been paid to addressing questions of coexistence as well as the question of local minorities in ethnically disaggregated administrative units. The SLMC feels that the articulation of Northern Muslim grievances as different from those of Muslims of the East, will weaken the claim for a separate Muslim administrative unit for the South-East. As a result, the political will or the backing for making the specificities of the expulsion clearer, and making demands of the Northern Muslims to a life of dignity while in displacement, without prejudice to their right to return, has been fraught with problems. As Hasbullah has repeatedly pointed out, the Northern Muslims were an integral part of the North of Sri Lanka, and it is important that recognition of their right to return and reestablishment of their settlements is kept alive.

However, the manner in which the national conflict has been understood so far as a Sinhala and Tamil affair, and the lack of political will among the main Muslim political parties to

⁶ The establishment of the Secretariat for Northern Muslims in Puttalam town is but one step in the process of this acknowledgment. Much still remains to be done.

⁷ It is important to note that this sentiment is not uniformly shared by all Northern Muslims. There is substantial support for the SLMC position from some Northern Muslims.

highlight the unique conditions of the Northern Muslims, makes this a difficult task. Arguably, no thinking has gone into the prospect of return for the Sinhala persons either who were forced out of the North during the escalation of the conflict, and as journalists D.B.S. Jeyaraj has pointed out, there are other communities that have been subjected to forcible relocation like those driven out by the army in the Mavilaru colonisation scheme for instance. However, this does not in any way detract from the need to adequately understand this particular expulsion experience, and to call for policy makers at all levels to make special provisions to deal with the experience.

Resettlement and Return

Given that the camps in Puttalam are outside the conflict zones, they are not administered in the same manner as those in the North, where peoples' movement outside the camps is restricted. Those with the ability to do so have bought land in Puttalam; some have bought land with State assistance, and many have participated in the State assisted resettlement in Puttalam in 1996. People have been generally eager to move out of camps and in to settlements with some vestige of permanence. Therefore programs for the resettlement of expelled Northern Muslims often assume that they will settle permanently in Puttalam. However, it cannot be taken for granted that these quasi-permanent living conditions demonstrate integration in to the Puttalam community, or that they are therefore willing to rescind their right to return. In fact during the resettlement program of 1996, community leaders were insistent on a recognition that the program in Puttalam was an "interim arrangement" while awaiting conditions for resettlement in the North.⁸ Even those that have relocated in resettlement villages in Puttalam still retain their registration status as residents of the Northern Province and insist on identifying themselves as Northern Muslims.

There is no coherent State policy regarding the possible return of these people when the political situation permits. Accessing assistance for return when opportunities present themselves was a question that plagued even the resettlement scheme of 1996 and still remains to be addressed.⁹ It is important that well meaning humanitarian measures do not lose sight of the Northern Muslims' attachment to their places of origin. Further, return to the North is not merely a question of the displaced persons' personal attachment to their homes and places of origin. It is a matter of addressing the manner in which the cultural geography of a region and a way of life of a people was forcibly transformed by an act of ethnic cleansing. It is also a matter of recognising the rightful place of the Northern Muslim community in particular, and the Muslim community of Sri Lanka in general, as an integral part of the Sri Lankan polity. The mere passage of time should not be permitted to institutionalize the atrocity of the expulsion.

⁸ See: Hasbullah. 1996. *Refugees Are People: Proceedings of the Workshop on the Resettlement Program for the Forcibly Evicted Muslims of the Northern Province, Sri Lanka*. Northern Muslim Rights Organization, Colombo.

⁹ The housing project undertaken with World Bank funding has promised community leaders that the project is done without prejudice to people's right to return when conditions permit. But the documentation on the World Bank Sri Lanka website states repeatedly that the project is based on the UNHCR survey which saw 90 percent of the displaced population as reluctant to return. It also states in its objectives that, "The development objectives of the proposed Puttalam Housing Project are to meet the housing needs of the conflict affected population of the Puttalam district, with the caveat that the IDPs in the Puttalam district would be integrated in to *their current location of choice*." The language is somewhat ambiguous and it is hoped that beneficiaries of this project will also be able to access at least some assistance for resettlement in their places of origin when the political conditions become suitable for such return.

Sixteen years after the expulsion, in a context where there has been continuous conflict in the areas from which they were displaced, return remains a fraught proposition for many Northern Muslims. During the peace process of 2002-2005, Northern Muslim return was sporadic and the numbers were not in keeping with those of the rest of the displaced population. Those that returned found their properties destroyed, when available, their houses were occupied and in certain rural areas of Mannar, their villages were covered by secondary forest. While the LTTE acknowledged the expulsion and stated that there were no obstacles to Northern Muslims return, the situation on the ground was far from being conducive to their return. Although some did brave the difficult conditions, many turned back. Today, of those that returned, some have been compelled to relocate back to Puttalam and others remain trapped in LTTE controlled areas. The Ministry of Resettlement, currently headed by Rishath Bathiuththeen, himself a Northern Muslim, did take measures to assist returning Northern Muslims. But before the deterioration of the security situation almost a year ago, no coherent resettlement policy that took Northern Muslims' concerns regarding safety and infrastructure provision in to account was evident. At no time during the sessions of peace talks that took place, were the issues of the Northern Muslims' return discussed substantively.

Because of the expulsion, 70,000 people became permanently displaced, many became disenfranchised, and Northern Muslims became a community that was isolated from the discourse of the conflict, finding great difficulty in articulating its predicament, and on behalf of which, insufficient State assistance has been provided. Even before 1990, large numbers of people were displaced in the North and East of Sri Lanka, and since then many, mostly ethnic Tamil communities, have faced multiple displacements. The immediacy of their need has meant the neglect of the arguably less urgent concerns of the Northern Muslims. Today in a context where violence is ongoing, with conditions of multiple displacement demanding the limited resources available for humanitarian assistance in Sri Lanka, little change in the status of Northern Muslims—either in terms of a settlement to the conflict or in terms of humanitarian or development assistance to improve living conditions seems imminent.

Host Community–Displaced Community Relations

Relations between the host community and the displaced community in the area in Puttalam which the Northern Muslim community resides are complex. The influx of IDPs in 1990 transformed the social, political and economic face of the North-Western coastal part of the Puttalam district where IDPs are concentrated. As one of the less well-served areas of Puttalam district, it too was home to large numbers of rural and urban poor. The influx of the refugees, while it developed the economy, also meant competition over local resources.

The extent of cultivable land in the area has changed with the development of settlements, and areas under coconut, vegetable and onion cultivations have decreased. There has also been competition in the labour market. The arrival of the cash strapped displaced persons who were willing to work for lower wages, largely replaced the locals as labourers in the onion and vegetable fields.

Further, misunderstanding and misinterpretation between the Northern Muslims and the host community poor were reported over the handing over of humanitarian assistance. While the Northern Muslims constitute an easily identifiable community in need, the equally distressed host community poor living nearby have sometimes been ignored in the process. Nadarajah Shanmugaratnam reports of an instance where the United Nations Children's Fund (UNICEF) handed out school bags to children of IDP families only.¹⁰ Puttalam based humanitarian aid NGOs have begun to recognise the problem and now formulate programs to assist the

¹⁰ Ibid, p. 56

Northern Muslims as well as the host community. Due to the increasing demand for land for housing among the displaced, land prices have shot up depriving poor host community families from being able to own land. Most host community poor are not able to compete with the IDPs who buy land using State cash assistance for IDP housing. Also the “more enterprising”¹¹ displaced Northern Muslims have thrived in many areas of economic and social development, which is sometimes resented by the locals.

Therefore the Muslim community native to Puttalam that was instrumental in providing for the welfare of the Northern Muslims when they first arrived now resent the latter’s presence. They are resentful of the presence of the displaced community on the grounds that they prevent the host community from accessing the meagre resources of the area to which they are rightfully entitled. They are often told to “go back to where you came from,” and told also that the State allocation for this or that service in Puttalam does not include them. Northern Muslims also complained that career promotions for those in the education sector in the Puttalam district—regardless of qualifications and seniority—are generally not forthcoming if one is a Northern Muslim. Many pointed out that recent appointments as school principals for instance were given to the less qualified host community candidates over the more senior Northern Muslim person. Middle-class Northern Muslims stated that they can only improve themselves professionally by leaving the area—often by going abroad.

The simmering tension manifests itself in a variety of ways. Northern Muslim businesses in the Pallavi area for instance are flourishing and have contributed to the increased economic activity in the area. However they are resented as needless competition. Many stories were reported of instances where fledgling Northern Muslim business ventures came under threat from the host communities, both Muslim and Sinhala. Northern Muslims were not permitted to operate three-wheeler taxis from taxi stations in Pallavi and Krushikarma camp. It was also reported while at Krushikarma camp, that there were restrictions on fishing by Northern Muslims.¹²

More recently, the host community middle-classes have gathered into ‘an intellectual group’ with the objective of articulating the grievances of the host community and urging the State and the Northern Muslims to take measures to address the congestion in the area caused by the presence of the displaced. However, we also encountered persons among the host community who saw the increase in the numbers of Muslims in the area in a positive light, and thought that Northern Muslims integration in to the area resulting in an increase in Muslims’ voting strength, would be to the advantage of the larger Muslim population in the area. This was one instance where the emphasis was more on inter- rather than intra-ethnic tensions in the Puttalam area.

Living Conditions and Quality of Life in Displacement

The internal displacement of the Northern Muslims has now entered its seventeenth year. During that time, there have been various individual stories of moving on from conditions of deprivation, marginalization and poverty, while sections of the population were helped with resettlement assistance in the mid 1990s to build permanent settlements outside the Welfare Centres. However, the vast majority of persons live in abject conditions in welfare centres in inhospitable geographic areas. As observed by the team reporting to this study and as

¹¹ Host community members that we spoke to often identified the Northern Muslims as “more enterprising” and more “hard working” than themselves.

¹² It was reported that in certain instances where the Northern Muslim communities were stronger, the same was done to host communities.

Hasbullah has described, many of the welfare centres are located in marshy, barren or scrub lands and many of these get inundated during the monsoonal rainy season. The study team's visit on 1st November 2006 was at a time when rains inundated the area and the people of Pallivasalthurai complained of flooding, leaking roofs and the spread of diseases.

The UN Guiding Principle on Protection during Displacement 18 (1) & (2) states:

1. *All internally displaced persons have the right to an adequate standard of living.*
2. *At a minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:*
 - a. *Essential food and potable water*
 - b. *Basic shelter and housing*
 - c. *Appropriate clothing*
 - d. *Essential medical services and sanitation.*
3. *Special effort should be made to ensure the full participation of women in the planning and distribution of these basic supplies.*

Close to 90 percent of the Northern Muslims in Puttalam continue to be dependent on food rations provided by the State with assistance from the World Food Program. Food Ration provision by the ministry of Relief and Rehabilitation and Reconstruction via the Secretariat for Northern Muslims is erratic and there is corruption evidenced in its distribution.¹³ While ration provisions were recently "streamlined" by the Secretariat for Northern Muslims, residents complained that this meant only that those in the government service alone were prevented from accessing rations. In November 2006 it was reported that ration stamps which were generally valid for six months were to expire in December 2006 but that only two months' rations had so far been distributed to the population.

The displaced are often compelled to use their food stamps to 'buy' what is available and not what is considered a standard provision. For instance, people complained that the most recent ration distribution did not have either American (wheat) flour or coconut oil. They were instead compelled to take large amounts of rice. Given that in Jaffna, very few people eat rice as the evening meal, people felt the lack of wheat flour. Often the food items offered are substandard and the people have no recourse. In September 2006 the rice they received was infested with weevils and unusable. Displaced persons took the rice to the Government Agent's office and insisted that they be given rice fit to be consumed.

Furthermore, people complained that the price of food items at the Cooperative Store from which ration coupons can be redeemed was higher than at the private retail stores.¹⁴ When ration provision is delayed the people are compelled to resort to using the services of the ration *mudalali* (often an opportunistic trader) who buys the promise of rations from the displaced for an amount less than the face value of the food stamps. For example, Rs.1,200/- worth of ration stamps are sold at Rs.900/-. Given the fact that ration distribution is almost

¹³ Food relief provision throughout the country, for both the displaced and for those receiving rations under the government's poverty alleviation scheme Samurdhi, are rife with delays and corruption.

¹⁴ According to a petition circulated by the People's Secretariat in July 2006, the cooperative store sold poor quality rice for Rs.35/- per kilogram while the retail store had good quality rice for Rs28/- per kilogram.

never regular, the ration *mudalali* is considered to be providing an essential service. The ration amount has stayed at Rs.8/- per day per person for decades. This is true in the case of all communities displaced due to the conflict everywhere in the island.

People claimed that in comparison with the Samurdhi welfare provision (welfare provided from the State for low income families) and the assistance provided for those affected by the tsunami, this is a meagre amount.¹⁵ They felt further marginalized by the State's welfare schemes. Further, there are no provisions made to solicit either the participation of women or their perspectives on ration distribution, the content of rations or their quality. Early in 2006, the ration distribution was conducted via camp officers appointed by the ministry of Relief Reconstruction and Rehabilitation and selected Grama Niladharis [village level government administrative officer]. None of those appointed as camp officers were women.¹⁶

Water and sanitation conditions in many of the camps and in some resettlement villages are dire—there are often inadequate toilets and a lack of privacy in the camps. For instance, in Alankuda, the Sarafiya Puram Camp has 48 families, and 18 families do not have toilet facilities. In the Kalmunaikudi-D Camp there are 27 families, and ten of these do not have toilets. In the Al Hijra Camp there are 99 families, and 17 do not have toilets. Then the Al Hira camp has 68 families and 18 do not have toilets.¹⁷

In settlements where the displaced have built houses, there are individual wells and latrines as per the practice in the much larger compounds in which they used to live in the Northern Province. However, the presence of both a well and a latrine in each 8-10 perch compounds, together with the manner in which rains often inundate these compounds, bring about highly unsanitary conditions. Fecal matter in the drinking water makes it unsafe and ill health is rife. In one instance, the residents of a displaced community spoke of the availability of pipe borne water, but the area Municipality, they said were not responsive to their request for pipe borne water. In certain welfare centres in the Kalpitiya area the shortage of latrines is critical. In Kandalkuli-A camp in Kalpitiya for instance, many people have to go to the lagoon to defecate. At an earlier time people entered the neighbouring jungle to do so. With the clearing of areas neighbouring the welfare centres people are compelled to visit the lagoon, while women have to wait till it is dark to do so. In some instances they have to travel as much as one kilometre to the lagoon for this purpose.

Health services in the area have not expanded sufficiently to support the growing Northern Muslim population. A fact finding report by the Centre for Policy Alternatives (CPA) quoted the District Medical Officer of Kalpitiya as stating that their medical supplies invariably run out each year, and that the year of the tsunami was the only exception. The current provision of health services is inadequate. People in welfare centres and settlements located on the Kalpitiya promontory are compelled to travel to Kalpitiya or Puttalam for medical assistance and the provision of services through the community health workers is inadequate. Another fundamental problem with accessing health care in Puttalam is the fact that the staff in state hospitals are often Sinhala speaking and are not sensitive to the language needs of the Tamil speaking Northern Muslim population. Instructions regarding eating/not eating before the

¹⁵ This is a perception only. In actual fact, the Samurdhi grant is usually as small as the food rations provided for the displaced with arguably a little more flexibility since there is sometimes a cash component built into it as well. The Samurdhi program itself is politicized and the more significant benefits—the Rs.750.00 per month grant—is often tied to political patronage. See, Rosanna Salih. *The Samurdhi Poverty Alleviation Scheme*. Paper prepared for the social security division of the ILO Geneva. September 2000.

¹⁶ The Secretariat for Northern Muslims has 4 women as clerical staff.

¹⁷ Survey conducted in 2006 by the Research and Action Forum for Social Development towards improving toilet facilities in the camps.

conduct of tests, general dietary restrictions, instructions regarding medications and their after-effects, for instance, are not conveyed in a language that is understandable to the population. Many reported that medical and health care staff is impatient and abusive to those seeking help.

Guiding Principle no. 19 (2) states that:

Special attention should be paid to the health needs of women including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.

Additionally, Article 12 of the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) states that:

Notwithstanding the provisions of paragraph 1 of this article, State Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Often the provisions of clinics for pregnant mothers are insufficient and pregnant women are compelled to stand for hours in the sun in the hope of attending the clinic. According to a survey of 50 women done by a local research team, it was discovered that almost none of the women, including girls, who had completed up to High School senior level Advanced Level education, had any knowledge of reproductive health. The midwives serving these communities do not have adequate Tamil language skills. The Ministry of Health conducts programs, but they are not regular, and are often conducted in Sinhala.

The Expulsion and its impact on Citizenship Rights

The UN Guiding Principles on Displacement no. 22 states:

- (1) *Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:*
 - a. *The right to seek freely opportunities for employment and to participate in economic activities.*
 - b. *The right to associate freely and participate equally in community affairs.*
 - c. *The right to vote and to participate in governmental and public affairs including the right to have access to the means necessary to exercise this right; and*
 - d. *The right to communicate in a language they understand.*

Northern Muslims are considered residents of a province other than the one in which they currently live. Therefore, they are not able to demand the provision of service as an entitlement. This is an unusual feature of displacement in Sri Lanka.¹⁸

¹⁸ This is not to say that those that are entitled for State provisions themselves are adequately catered for. There is a general lack of provision of services to the peripheral areas of the country. For

The rights listed in (b) and (c) above are deprived to the Northern Muslims in Puttalam given that citizenship rights in Sri Lanka are decided on the basis of residency in a particular administrative area. In terms of the 13th Amendment to the Constitution, where certain administrative powers were devolved to the provincial administrations, the provinces' call for applications for appointments to such sectors is made on the basis of registration as a voter resident in that province. Proof or registration is based on names appearing on the voters' list for the province. Given that the Northern Muslims are generally registered as residents and therefore voters of the Northern Province, their names do not appear in the North Western/Wayamba Province (where the Puttalam district is located) voters' lists and therefore cannot access services or public sector employment where they currently live. As a result, most government jobs that are available to Northern Muslim residents of Puttalam have to be accessed through patronage, or by applying for job vacancies in sectors administered by the Central Government. Given the resource-poor nature of the area, the underdevelopment of the private sector and its confinement to small businesses, the Northern Muslims have limited employment opportunities. As one person stated, there are only "the fields or the salterns or government service employment" as means of livelihood.

Work for persons without skills in Puttalam is limited to daily wage labour on the salterns and the onion fields. This too is low paying, seasonal hard labour and dependent on the weather. Men from the community generally find this underpaid menial work to be below their dignity and often do not engage in it. This results in the widespread, often noted, phenomenon of husbands staying at home while wives go to the fields to work.¹⁹ It is reported that this role reversal does not in turn mean that husbands help out with house work or child care. Women are compelled to work as wage labourers as well as run the households. In fact women's access to the outside world is resented and there is sometimes domestic violence resulting from this resentment. Alcohol abuse is rampant among the male population and there is drug use among the youth.

Many Northern Muslim youth complain that they have not had the opportunity to vote even as residents of the Northern Province. Voter registration forms are not circulated in any systematic way among the Northern Muslim settlements; there are often delays in getting voter registration forms to Puttalam from Vavuniya, Mannar and Mulaitiwu, and in some instances, returning forms by the due date becomes impossible. Politicians too are not interested in seeing that the entire voting age population of Northern Muslims is able to vote. Politicians win seats on the basis of the percentage of votes they get of the registered voters. Therefore increasing the number of registered voters is not necessarily in their interest. Therefore people called for the establishment of a common place where Northern Muslims could register themselves as voters. It was stated that under current conditions the community is losing the habit of voting and losing interest in the election process as a whole. Further, it was stated that people found it extremely difficult to access the voters' lists due to the fact that the lists were published in the North.

Sri Lanka has not implemented the official languages policy that recognizes both Sinhala and Tamil as official languages²⁰ resulting in a countrywide problem about which much has been

instance, while there was a severe teacher shortage in the schools providing education for the displaced population, the teacher shortage was common to the entire educational zone and was true of both Sinhala and Tamil medium schools.

¹⁹ This is a fairly well documented aspect of life in displacement in Puttalam. See for instance, Danish Refugee Council, Program Document 2003; and *Escalation of Conflict Leaves Tens of Thousands of IDPs without Protection and Assistance*, of the Internal Displacement Monitoring Center, 2006.

²⁰ By virtue of the 13th Amendment to the Constitution (1987), both Sinhala and Tamil are official languages of Sri Lanka. See Articles 18.1 and 18.2 of the Amendment.

written.²¹ The inability of Sri Lanka's Tamil speaking population to conduct its business with the State in its language of choice is partly the basis for the current ethnic conflict, and though there are provisions in the law to ensure that all citizens can transact State business in a language of their choice, the implementation of this provision has been slow and at times non-existent. The Northern Muslim communities currently in temporary settlements in Puttalam are a Tamil speaking community in a district where the administration is conducted mainly in Sinhala. The lack of facilities for the Northern Muslims to transact business with the State in the language of their choice is a major difficulty confronting the community.

Many respondents noted that the provision of health services is compromised due to lack of Tamil speaking nurses. In addition, all dealings with the State administration are affected by this phenomenon. While the establishment of the Secretariat for Northern Muslims in Puttalam town has eased some of these problems, issues still remain. For instance, in Kalpitiya, it is reported that making a police entry necessitates paying a Police Constable Rs.500/- to translate. In the case of disputes between two parties of Northern Muslims, this translation fee is doubled. Letters from the Government Agent or the District Secretary are still sent in Sinhala to a people who have no capacity in the language. Birth Certificates and Death Certificates are written in Sinhala though parents and loved ones are unable to check if the information in the forms is accurate. People reported that often names of children are recorded wrong. While school syllabuses have provisions to teach Sinhala, there are in fact no teachers who can teach the language and there is no funding allocated to enable recruitment to fill any of the absent teacher cadre. Implementation of the Official Languages Act is done on the basis of recognition of the existence of a sufficiently large Tamil speaking population in a given DS division meriting the provision of administrative services in the Tamil language. A proclamation has to be made by the President stating that there is a need for service provision in the given DS division; and this has to be gazetted. While certain DS divisions with a Tamil speaking majority have been recognised in the Puttalam district, implementation has been slow as noted elsewhere in the country.

There are many reports about the treatment of Northern Muslims by local bus operators. This everyday discrimination that Northern Muslims face from certain sections of the host community was one of the more obvious manifestations of the host community and displaced community ill-will earlier discussed. The use of the Sinhala Language to a community known to be Tamil speaking was one means by which passengers were neglected. There was also a visible lack of respect for the displaced population from all ethnic groups of the host population. Elderly persons were treated with disrespect, women were harassed, and people were cheated out of their change. People reported comments made—that the Northern Muslims should travel in transportation reserved for the "Ahathi."²² The buses also do not carry the names of destinations in the Tamil language. While some of the treatment reported by the Northern Muslims who use the bus service seemed common to the private bus service provision all over the country, there was a perception among them that they were especially targeted due to their status as displaced persons.

The study so far has outlined some of the conditions under which the Northern Muslim community, displaced by the LTTE's expulsion of 1990, currently resides in the district of Puttalam. The general conditions that prevent the full enjoyment of human rights and fundamental freedoms in the political, economic, social, cultural and civil field for all Northern Muslim residents of the area are often even more out of reach for women from the community, given the social restriction placed on most women's access to the public sphere.

²¹ For instance, see Jayadeva Uyangoda. 2001. *Questions of Sri Lanka's Minority Rights*. Colombo: International Centre for Ethnic Studies.

²² Derogatory Tamil language term for the displaced.

In situations of displacement, the shock of displacement and the difficult conditions that it brings about often results in drastic changes to gender roles, with women taking on more public roles that were perhaps not common prior to the crisis, and are also different from those thought of as ideal in the current context. Certain feminist academics have even termed this role change for women as a form of “ambivalent empowerment.”²³ However, the condition of extreme disempowerment that brings about this role changes—the condition of expulsion and displacement—should not thereby be forgotten and valorised inadvertently.

In relation to this study there was once the question that, if the fact of being Muslim affected these women’s experience in any considerable way. While the obvious answer to this is yes, one also needs to be aware that being Muslim is not just about being adherents of a particular religion but that the politics and economics of early 21st century Sri Lanka impact on what it means to be Muslim differently. Therefore the experience of being Muslim in Sri Lanka also means to be a *second* minority, Tamil speaking, and in the case of Northern Muslims, being affected by long term displacement. There is a disturbing trend noted of exoticising the Muslim experience, even among the most sympathetic of NGO and donor personnel. This is an exoticism that the change of dress code brought about by the piety movement has contributed towards. Once someone had asked if female headed households existed among the Muslim community. What this study is proposing is to be wary of the manner in which being sensitive to the religious sensibilities of a community, does not thereby detract from understanding all of the class, regional and ethno-political issues that also impinge on an understanding of Muslims in the country.

Article 1 of CEDAW states that:

For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women irrespective of their marital status on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 5 states that:

State parties shall take all appropriate measures:

- a. To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;*
- b. To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interests of the children is the primordial consideration in all cases.*

²³ Rajasingham-Senenayake, D. 2001. “Ambivalent Empowerment: The Tragedy of Tamil Women in Conflict.” In *Women, War and Peace in South Asia*. Rita Manchanda (ed.). New Delhi: Sage. Also see Zackariya, F., and N. Shanmugaratnam. 2002. *Stepping Out: Women Surviving Amidst Displacement and Deprivation*. Colombo: Muslim Women’s Research and Action Forum.

We were told that women from middle-class families that were displaced had attended to various different home-based income generation activities. This included the cultivation of home gardens. The inability to do so under the current conditions exacerbated by poverty has placed the community under stress. The communities of farmers do not have access to land in the displaced areas, and therefore maintaining home gardens and the rearing of goats and milch cows is no longer possible. Today the only option for many is the onion and vegetable fields of Puttalam—providing labour for the cultivation of others' lands. The women talked of this as a severe deterioration of social status. Even the poorest among them stated that they no longer were able to engage in income generating home gardening activities while at home and thereby preserving their "respectability." Working in the fields as paid-labour was not considered a "respectable" occupation.

While the importance of women gaining individual strength through education and employment must be valued, it is important also to realize that for many of these communities, the fact of women entering the outdoors sphere through menial jobs in the onion fields of Puttalam for instance, increased the stress factor of the complete transformation of their way of life. It is reported that a majority of the Northern Muslim community was farmers and fisher people—sometimes both. The urban landless existence that they have been compelled to get used to have stripped them of their way of life and women working as labourers outside of their home is just one aspect of a disturbing transformation. The conditions that lead to women taking on more public roles that are not innately empowering—like labouring in the onion fields—do little to contribute to the dignity of life for either men or women, and should be understood as such when looking into women's particular concerns in situations of displacement. Working in the fields is considered the worst possible work option, and women compelled to take on this work often hide it from others. When the labour transportation lorries are sometimes stopped in Puttalam town, the women cover their faces to avoid recognition by passers by. These are factors that were pointed out as happening even today, and not merely at the time of initial displacement.

Therefore critiquing "cultural" preoccupations regarding women's public roles must be understood in this context of extreme powerlessness and these women's own understanding of such roles and not dismissed merely as dated gender stereotypes. In turn it remains important to note that women are also not mere victims of the dire conditions from which they emerge. Many women from the expelled community have built up successful lives and contributed to the betterment of their community. The young teachers and NGO workers met during consultations bare testament to the skill and resilience of the women working under difficult circumstances among a community ambivalent about the public presence of women.

The recent changes in Islamic practice worldwide, the transformations of dress practices, more stringent observations of prayer for instance, have influenced Muslims in Sri Lanka too. It can be argued that the Sri Lankan Muslims' embracing of piety is partly in keeping with the general polarisation of ethnic communities in the wake of the conflict, and the State's political and social marginalisation of minorities. The Islamic Piety movement has spawned a variety of different groups among Muslim communities all over Sri Lanka and they have different prescriptive notions regarding women's dress and behaviour. In Puttalam too the presence of the *Jama'athi Islami* and the *Tablighi Jama'at* and the rivalries between them—two Islamic *da'wa* or missionary groups active at the grassroots level—was commented on by persons consulted for this study.

Community activists stated that this new piety has changed people's perceptions and relationships to ethnic others. Some suggested that, this has impacted the manner in which women too are treated within the community. For instance, most Muslim women in Puttalam adhered to the new dress code of covering the head with a scarf or of wearing the *abhaya* or

cloak with a scarf. It is reported that women today are discouraged by these groups from employment in areas where there is contact with men and with ethnic others. Therefore “cultural” preoccupations must also be seen in the larger social and political context of Sri Lanka in the midst of conflict, and not unduly valorised as somehow sacrosanct.

During one conversation with a group of formerly middle-class Northern Muslim women from Mannar and Jaffna, the destruction of privacy and the compulsion to communal living was talked about as the greatest indicator of loss of their previous way of life. They stated that formerly they used to live “like people in Colombo; we were so self-sufficient that we didn’t need our neighbours—we hardly knew who they were.” Now they were compelled, they said, to share wells and toilets with people they hardly knew. These indicators of the destruction of a way of life were evident in all stories about the current standards of life in displacement conditions.

Given these sensibilities of the community, the little space that women have found for themselves is fraught with difficulties. It was a general trend in the community that families did not permit their women with skills to seek employment; whereas women who were eager to work were not recruited due to a lack of skills. Women NGO workers reported that they often found it very difficult to work due to a lack of respect for them in the field, harassment in public transportation, and the need to be vigilant when using a mode of transport such as three wheelers. One NGO worker stated that women working late and talking to men in the field are looked at very critically by the communities in which they live as well as the communities in which they work.

The Northern Muslim community in general is more sympathetic to women accessing professions traditionally sanctioned as suitable for women. Teaching for instance is a popular option largely approved by the community, hence the preponderance of large numbers of unpaid female volunteer teachers. Some women even said that it was harder for women working in NGOs to find husbands. It was also stated that even amongst the local NGOs these presuppositions regarding women’s roles continued to prevail. One woman NGO worker noted that women were often paid less than men for the same work even in NGOs. While ‘gender’ was a donor friendly term and therefore various programs that targeted women were undertaken, it is not clear that the wider NGO sector was too interested in bringing about substantive changes in women’s status among the community. During some of the study’s earlier general consultations, NGOs rarely sent their female representatives and women were seen only at meetings that were specifically about women’s issues.

Divorce is becoming rampant within the community. It was reported that the relative ease with which men are permitted to divorce under Muslim personal law, causes many social problems. *Quazis*, or the judges in the Muslim personal law courts, are not sensitive to the larger social problems of divorce and do little to persuade those seeking divorce to make an effort to resolve their problems. There are no counselling systems, for instance, that inform men and women of the repercussions of divorce and perhaps prevent divorce other than as a last resort. Given that there is no maintenance requirement that the husband is compelled to meet under Muslim personal law, women are at risk of being left both socially and economically vulnerable by divorce. It was also noted that resettlement assistance for families is generally handed over to the heads of households. In Sri Lanka, men are still considered the head of a household. Prior to displacement, due to dowry practices, most land was owned by women. In the context of displacement, land ownership—sometimes bought with State assistance—is generally in the name of the man. While the study did not encounter any specific instances where land ownership and women’s destitution due to the high incidences of divorce were connected, the possible correlation is highlighted here as an area worth pursuing further.

The problem of dowry is faced by the community at all levels. Many reported that the custom of dowry has changed since the expulsion, with many Northern Muslims adopting the practices of the host community in Puttalam. In parts of Mannar where land was plentiful, giving a girl-child a section of the property was customary and did not threaten the families' survival. Here in Puttalam, the practice is to build and furnish a house. Many Northern Muslims could not afford to do this. There were instances where families lost what little they owned to give as dowries for the girl children's marriages. Women stated that they now dread having girl children. Many women spoke of girl children reaching their late twenties at home with no prospect of marriage because of lack of dowry money. Some stated that they gave large dowries to have their children married and then had to support the husband since he invariably did not have a job. Others noted that families sent their daughters abroad as migrant workers to earn their dowries. Another significant role change that may soon appear among this community is that of the hitherto unusual high prevalence of single women. It is fair to say that the extreme commoditisation of marriage through dowry is a consequence of displacement related deprivation; community members certainly perceive it to be so. Further, it is a change that affects the quality of life of large numbers of community women that needs to be addressed.

In Kalpitiya there are many Muslim female volunteer teachers in the under-resourced Tamil medium schools that cater mainly to children of the Northern Muslim community. In the Alankuda Muslim Maha Vidyalaya for instance, there was an extreme teacher shortage. While the required number was 71, the number on the staff was 35. The teacher shortage means that the cadre is locally filled with volunteer teachers with basic Advanced Level qualifications and no tertiary education. This remains true of all the schools in the area serving the Northern Muslim population. In fact this teacher shortage was true of a large number of peripheral areas all over the country. Volunteer teachers too rarely receive any compensation from the State. In Puttalam a certain percentage of these teachers were paid by the Ministry of Rehabilitation. But this was done for a short time only and did not cover the entire volunteer teacher cadre working in the schools serving the displaced population in the Puttalam area. Some reported that they had worked for 8 years without payment. Teaching is done under difficult circumstances and the government is still to release funds either to call for appointments or to make the volunteer teacher appointments permanent.

The current state of affairs contributes to both the low quality of education in these schools as well as the problem of employment among educated Northern Muslim women. Young Muslim women with Advanced Level education have no employment options in the area. Therefore they say that they use their time to contribute towards community well being by working as unpaid volunteer teachers. It was noted that most volunteer teachers are women. While most young men with similar levels of education leave the area in search of employment elsewhere, women are compelled by social convention and fears about their safety to remain in the Puttalam district. Ironically, when these women do leave their community in search of employment, migration of women occurs mostly as domestic workers to the Middle East.

The cycle of poverty and lack of childcare and protection for children sometimes means that children are taken out of school and put to work in the onion fields. Further, young women leave school to find employment as domestic workers in the Middle East; 14-16 year olds are also leaving school to work in the onion fields and garment factories. In addition, in some camps like Hajara Muhaam where the conditions are worse than others, families are hesitant to send their girl children to school after the age of puberty due to fear of harassment from youth of the area. Stereotypical notions regarding women's place makes parents reluctant to educate their girl children. Such reluctance is further compounded by the everyday threat to the safety of girl children.

An issue that emerged several times in meetings with different members of the Northern Muslim community was that in displacement they lost the capacity to be with those that they knew. They no longer live with those from the same village whom they knew for generations, but with strangers. Some of the settlements that emerged in the mid 1990s when people began to move out of the camps with State assistance, were formed on the basis of villages in Mannar. However, not all the displaced were able to relocate, and even those that did were not always able to live in close proximity to those from their original villages. Therefore many were compelled to live among strangers. This loss of community has contributed towards the insecurity with which many of the poorest displaced are compelled to live, and has contributed towards the purported need to 'protect' their girl children. Community restrictions on women's mobility is therefore perhaps understandable. It is unfortunate, however, that this often means that girl children are prevented from attending school after a certain age and women are not permitted to work. Such restrictions, far from offering protection to women, only compound on their marginal status.

The number of women leaving to the Middle East for employment is high. Lack of care and protection for children in situations where mothers leave for employment as migrant labour noted from other parts of the country remain true among the Northern Muslims in Puttalam as well. Here too, an increase in the responsibility of fathers as care givers has not occurred. Reports of girl children abused by family members in whose care they were left were noted. Sexual abuse of girl children and sexual violence against women is rarely reported due both to the difficulty of communicating with the authorities, and the need to protect family honour.

Additionally, the lack of education and exposure to the outside world and therefore a lack of knowledge regarding options and choices exacerbate the powerlessness experienced by the people. The harsh conditions of the welfare centres and the lack of options make early marriage for girls fairly widespread. Under the resettlement scheme of 1996 housing assistance was provided for households. These conditions too lead to many marriages of underage girls in order to access this resettlement money. In addition to the loss of childhood, these children face many health problems due to sexual activity and pregnancies at too early an age, and emotional problems due to the inability to deal with marriage and motherhood. Young mothers are often malnourished and children are born with low birth weights and still-birth is common. Many try to abort and hurt themselves in the process.

Many of the community women and NGO workers that were consulted, brought up the fact that large numbers in the community—both men and women—were “psychologically affected” and in need of “counselling.” Others mentioned that illnesses that were unusual in their places of origin—heart conditions, diabetes, etc.—were now rampant among the population and often linked it directly to the expulsion experience. While the conflict and the tsunami has brought about a mental health discourse and a vocabulary of “trauma” and “counselling,” that is rather loosely used among the NGO community, the recurrence of this trope is worth noting.²⁴ Further, in consultations with older Northern Muslims who recounted their expulsion experience, many physical manifestations of their stress were noted. One elderly gentleman could not stop great ragged sobbing coughs from shaking his body while he recounted the experience of having a teenage LTTE cadre—not from the village—telling him that he must leave. Experts in Sri Lanka advise against unsustainable treatment options such as counselling and recommend that the conditions that caused the stress in the first place be addressed instead. However, given that the current socio economic conditions hardly permit

²⁴ Many publications dealing with the Northern Muslims routinely describe this as a need among the community. It is unclear if there have been any programs that have investigated and targeted this need. See for instance, Shanmugaratnam, N. 2001. *Forced Migration and Changing Local Political Economies: A Study from North Western Sri Lanka*. Colombo: Social Scientists' Association.

any significant change in their everyday lives, it is perhaps worth investigating into what means are available to provide members of the Northern Muslim community with at least a minimal amount of relief for their problems.

There is insufficient education regarding reproductive health among the more depressed sections of the community. While women may be instructed by doctors whom they see on rare occasions that they should practice birth control until a sufficiently mature age, they do not have the knowledge or the capacity to do so. This is especially the case among the married underage girls. It was reported that both men and women in the community were ignorant of basic knowledge on reproductive health. Programs conducted by the Ministry of Health are often conducted in Sinhala and provision of translation often means a meagre summary of "main points" at the end of the program. In a survey conducted by the Community Development Organisation, out of 200 families surveyed, 50 families had an incidence of early marriage. Community organisations working with these populations linked the increased incidences of suicide among young women in the community to the phenomenon of early marriage and the general deteriorating conditions under which women live.

Article 2 of the CEDAW Convention states that:

State parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and to this end, undertake:

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

The discourse on Muslim Personal Law reform have not progressed very much in Sri Lanka and no changes have been made since 1956.²⁵ The government appointed a Personal Law Reforms Committee in 1986, but this special committee was quickly disbanded due to loud community protests against instituting a minimum age of marriage for Muslims in Sri Lanka. In 1995, when the State made 18 years the legal age for marriage, the Muslim community was exempted. This was preceded by a Muslim Personal Law Reforms Committee appointed by the Minister for Muslim Religious and Cultural Affairs that released a report in 1991 with recommendations for changes. However, the report is yet to be tabled in Parliament and no development has been recorded since that time. Two issues with regards to personal laws that have been long agitated for by Muslim women activists—the minimum age of marriage and the issue of maintenance—remain urgent concerns for the Northern Muslim community as well.²⁶

Article 16(2) of CEDAW states that:

The betrothal and marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

²⁵ See, Kodikara, C. 2003. "Engaging with Muslim Personal Law in Sri Lanka" in *www.lines-magazine.org*.

²⁶ Attempts to reform Muslim personal law in Sri Lanka has been part of the very useful work conducted by the Muslim Women's Research and Action Forum.

Injunctions against child marriage appear in a variety of covenants to which the Sri Lankan State is a signatory. However, poverty and displacement seem to routinely impact on all ethnic communities and bring about high unrecorded incidences of child marriage that are invisible in the statistics. It is unclear if the fact that the legal age of marriage remains undefined under Muslim personal law is a contributory factor to the high incidence of early marriage in the poorer sections of the expelled Northern Muslim community. While bringing in legislation to codify an age of marriage is necessary, incidences of child marriage are unlikely to decrease if the contributing factors of economic deprivation and assumptions regarding gender based child rearing roles also are not addressed.

The specific conditions faced by the Northern Muslims displaced by the Expulsion of 1990 are unique in many ways. They stem from the shock of the expulsion, the specific status of Muslims as a minority in the conflict and the State's lack of interest in the conditions in which minority communities in the country live. They are further exacerbated by the inability and refusal of humanitarian organisations to distinguish between the different sorts of displacement experiences in the country. The particular manner in which Muslim politics has configured itself with the escalation of the conflict in Muslim areas of the North and East has further marginalised the Northern Muslims. It is within these broader conditions that the concerns of Northern Muslim Women in the situation of displacement need to be understood. As with many displacement contexts, social roles of both men and women have undergone drastic changes in conditions of displacement. While some have benefited from these changes most have suffered greatly. The Sri Lankan Muslim community's principal social response to the conflict and political marginalisation has been to embrace the piety movement. The norms of ideal Muslim womanhood that are posited by the many groups taking the piety movement forward have in turn impacted the manner in which women dress and act in public. The consequences of all of these conditions are exacerbated in the poverty stricken, resource poor conditions of camp life in which a majority of Northern Muslims are compelled to live today.

Recommendations

General Comment No. 18 of the International Covenant on Economic, Social and Cultural Rights relating to non discrimination states that:

The committee also wishes to point out that the principle of equality sometimes requires State Parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination prohibited by the Covenant. For example, in States where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the State should take specific action to correct those conditions. Such action may involve granting for a time to the part of the population concerned certain preferential treatment in specific matters as compared with the rest of the population. However as long as such action is needed to correct discrimination in fact, it is a case of legitimate differentiation under the covenant.

Regardless of the many times during which the problems have been raised and discussed, little of any importance has been done to alleviate the problems of the Northern Muslims displaced by the expulsion of 1990.

The government is therefore urged to take cognizance of the particular difficulties of the Northern Muslims and undertake special measures to address their problems as set out below.

- 1.** Take measures to identify the various different conditions of conflict-related displacement in the country and have a mechanism whereby policies and strategies are developed to best address the specificity of each context of displacement. The mechanisms thereby instituted must not detract from but add to the services currently provided.
- 2.** Recognize the special circumstances of Northern Muslim displacement and take measures to ensure that Northern Muslims are able to access a life of dignity in keeping with all civil and political rights as well as social, economic and cultural rights while in displacement without prejudice to their right to return.
- 3.** Ensure all resettlement assistance programs for Northern Muslims outside the North have some cognizance of the fact that Northern Muslims have the possibility to return at a future date and that any assistance given to improve their standards of living is done without prejudice to their right to assisted return when the political conditions present themselves at some future date.
- 4.** The speedy implementation of the Official Languages Act in all parts of the country. If not already done so, to take measures to issue a Gazette notification indicating that the areas of the Puttalam District with high concentrations of Northern Muslims require provision of services in the Tamil language.
- 5.** Address the teacher shortages in the schools in the less affluent areas of each district of the country with special reference to the Puttalam district.
- 6.** Look in to the possibility of distinguishing between schools from less and more resourced areas of each district. This is especially important in facilitating University Entrance for Students from the under-resourced Tamil medium schools in Puttalam catering mainly to the Northern Muslim community.
- 7.** Explore the possibility for offering special educational assistance through scholarship schemes to children of displaced families, address the problems of school drop-outs at a country wide level.
- 8.** Provide Vocational Training facilities in the more depressed areas of Puttalam district targeting youth in both the displaced and host communities.
- 9.** Review and increase the ration amount and improve ration distribution processes to the displaced population.
- 10.** Take remedial measures to address the lack of health care facilities in the area. Take measures to ensure adequate Tamil language staffing in the provision of essential services like health care.
- 11.** More awareness raising programs and more stringent controls on Quazi Courts for monitoring and prevention of child marriages.
- 12.** Streamline voter registration processes by instituting a special mechanism to enable registration of Northern Muslims through the Secretariat for Northern Muslims in Puttalam.

13. Conduct an investigation into the mental health needs of the community and provide psychosocial assistance where necessary.

14. Sections of Muslim Personal Law as they now exist are distinctly disadvantageous for women. They are also in no way in keeping with the spirit of Quranic injunctions. Therefore it is urged that the recommendations of the Law Committee be tabled in parliament and taken forward in order to ensure that women have some recourse to maintenance in instances of divorce.

15. Look into the political options that will most benefit the Northern Muslims and other local minority communities in any future political settlement.

In relation to any future peace process, the following actions are urged.

1. Have a Presidential Commission to investigate the Expulsion of Northern Muslims in 1990: Take measures to increase institutional recognition of the expulsion and its consequences through providing special measures to look in to Northern Muslim concerns regarding return and resettlement as well as their specific needs under a settlement to the conflict.

2. Political representatives of the Northern Muslims must look into a variety of political options not limited to territorial options to address the special circumstances of the Northern Muslims.

3. Northern Muslim organisations lobbying the government and the international community must look at ways of building coalitions with other communities with similar grievances in order to address the isolation of Northern Muslim Community issues. For instance, the language issue and the issue of reviewing dry ration amounts, are national issues.

4. Many Tamil writers have pointed to other expulsion experiences; and the recent government directive to expel Tamils from Colombo lodges is only the most recent. Both the State and the LTTE seem to use the strategy at various times and it is perhaps worthwhile to address the question of expulsions in a broader sense as a reality of the Sri Lankan conflict that needs to be looked at and addressed.

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PSYCHOSOCIAL AND CULTURAL IMPACT OF ARMED CONFLICT ON THE LIVELIHOODS OF IDPS IN PUTTALAM DISTRICT[#]

*Haritha Wedathanthri, Gamini Hitinayake and Lahiru Perera**

Summary

Multi-ethnic communities of the North and Eastern provinces and the border villages of the same have been internally displaced due to the armed conflict that has taken place during the last two decades. These communities have shifted from their traditional areas to the adjoining districts many times, in some cases over six to seven times during this conflict. This has created many social, cultural, environmental and economic problems and disputes. Puttalam has become the new settlement for Muslims displaced from LTTE controlled areas in the North. Many internally displaced persons (IDPs) from the Muslim and Tamil communities are being temporarily settled in the Puttalam District. This has increased the utilization of livelihood resources resulting in the depletion and competition for natural resources, and increasing poverty in the district. The area's market normalcy has also been disrupted by IDPs offering cheap labor, affecting the livelihoods of others.

The Puttalam District is located in the North-Western Province bordering Northern, North-Central and Western Provinces. The Northern part of the Puttalam District has been heavily affected by the armed conflict. Further, there are parts of the Puttalam District, including the main town, which have been predominantly inhabited by the Muslim community. They live among other culturally different Sinhala and Tamil communities.

Due to the uncertainty of the situation, people refrain from investing in any long term activity or infrastructure. The IDPs, specially the younger generation, still remember the war atmosphere. Getting them out of this trauma and synchronizing them with the normal society is hindered due to various psychosocial situations and cultural differences, created due to various external and internal forces. Their frustration due to various types of abuse, human rights violations, lack of initiatives and support from outside as well as within, has made them less normal, when looking from an average societal point of view. Due to this, even a very small incident that takes place within these communities sparks further conflicts instantly.

Many agencies including government and non-governmental organizations are engaging in different strategies to overcome the situation, and have been successful sometimes. The main failure has been not addressing the perception of the host communities. The activities of these agencies benefit only the IDPs, using resources, and this has promoted unequal and unfair distribution of resources. This situation creates further tension and disharmony.

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Introduction

Sri Lanka's population is composed of several different ethnic and religious groups. The majority of people are Sinhala, most of who speak the Sinhala language and are Buddhists. Tamils form the largest minority group, and are mainly Tamil-speaking and are Hindu. Sri Lanka also has a significant Muslim population, who are often caught in the crossfire of the conflict, and continues to be an important political force and conflict flashpoint in the current situation.

The war has had a devastating effect on the entire country, and has been felt most acutely by the approximately three million people living in conflict-affected areas (CAA). Since the beginning of the war, it is estimated that more than one million people have been displaced, many of them repeatedly. Internally displaced communities being shifted from their traditional areas and crossing over the boundaries to other adjacent districts have created many social, cultural, environmental and economic problems and disputes. The Puttalam District under discussion in this paper, has unique characteristics and impacts generated due to the armed conflict.

Context of the Puttalam District

The Puttalam District is located in the North-Western province bordering the North, North Central and Western provinces of Sri Lanka. The District extends to an area of 3,013 square kilometres occupying a population of 705,342 in year 2001. The District comprises of 16 Divisional Secretariat Divisions (DSD) and 1,288 villages that belong to the dry zone. The mean annual rainfall and average temperature in the area is between 800 and 900 millimetres and exceeds 27 degrees Celsius respectively. The ethnic composition in Puttalam is as follows: 73.8 percent Sinhala, 18.7 percent Muslims, 6.9 percent Sri Lankan Tamil, 0.3 percent Indian Tamil and 0.4 percent others.

The northern part of the Puttalam District has been heavily affected by the armed conflict. This part of the District has been predominantly an area of majority Muslim communities, among other culturally very different Sinhala and Tamil communities. This became the new home of the majority Muslim and some Tamil internally displaced persons (IDPs) who were mainly displaced from LTTE controlled areas in the North.

There are more than 65,000 IDPs in 145 camps and settlements living in this District for the past 15 years. Most of them came from the Mannar District during the 1990s. However, there are also a few IDP community groups from Wannai and the Jaffna District. Most of the IDPs are Muslims coming from fishing and farming communities. They were living in small and large settlements scattered over the Northern Province for many generations. There are also some Sinhala IDPs who have had inter-marriages with other ethnic individuals. Majority of the different ethnic IDP groups are living segregated from each other and are not integrated in to the local communities.

This paper is an attempt to highlight the related issues and impacts of this crisis and suggest possible solutions for the Puttalam IDPs.

Discussion

In the North of Sri Lanka, the Tamil people were the majority while the Muslim and Sinhala were the minority. All were living together in harmony and peace. However, one day two

decades ago, every single Muslim man, woman, and child had to leave their homes and the province. They were asked to leave their possessions behind. No one disobeyed the order, fearing the penalty that was death. In this situation, Muslim communities shifted from their home lands and crossed over to the adjoining Districts. The majority of Muslims living in the Northern Province felt comfortable in moving to the Puttalam District and in doing so, left their land and almost all their belongings behind. They lost their village, religious institutions, agricultural land, animals and property, commercial and industrial establishments, houses and household items. The extent of these economic losses suffered by them is not so well known. These losses have not been systematically recorded or estimated. The information available in terms of the economic losses for the selected items of the assets, reported as lost by individual IDP families are estimated as follows.

The Muslim families ousted from the North have lost wealth of multiple kinds totalling rupees 5,408 million as estimated losses of family assets. Of this, a total of rupees 2,967 million would have been considered recoverable if Muslim IDP families had been allowed to return to their homes immediately after expulsion. The non-recoverable loss of the Northern Muslim IDPs is rupees 2,441 million. The total loss in terms of the large, medium and small commercial and industrial establishments have been worked out to a sum of rupees 2,107 million according to the market price in 1990. The owners have lost their income of rupees 180 million from 30,000 acres of coconut land. The estimated total loss in respect of religious institutions is rupees 1,715 million. The breakdown of the total economic loss is tabulated as follows:

Table - Total Economic Loss (estimate) of Expulsion

Type of Loss	Value of Losses (in Rs. millions)
Family assets	5,408
Commercial and industrial establishments	2,107
Coconut cultivations	180
Religious institutions	1,715
Total	9,410

This clearly shows that the total economic loss is about rupees 9,410 million. However, this estimate does not include the loss of vehicles, overall loss of paddy lands and highland crops, and fixed income from self-employment (Hasbullah, 2001).

The above clearly shows that the Muslim communities living in the North were economically fairly well off. The sudden loss of all their belongings and assets, have had a huge impact on their mental status as well as social status. The collective frustration created due to this situation has been immense.

At the time of the expulsion, the government and other international agencies paid more attention to these IDPs and provided a dry ration system as an immediate relief measure. The rations were provided for IDPs from 1990 to 1996 and they were purely dependent upon these dry rations. After this, international agencies have been gradually reducing their attention on dry rations for IDPs in Puttalam. However, the government has a dry ration provision system of rupees 1,250/- for a five member family up to now. This is far below even the minimum requirement to fulfill their basic needs, even without considering the way of life they were used to before being displaced. As a result, the majority of IDPs have slowly moved in to agricultural and fisheries activities to strengthen their livelihoods during the last ten years.

Kalpitiya is one of the Divisional Secretariat divisions where a majority of IDPs live. These IDPs have better experience and knowledge on farming and fishing than the host community, despite the fact that the host community has been farming and fishing in Kalpitiya for generations. Ground water is the main source of water for agriculture in the Kalpitiya area. The local host community used ground water from wells for their farming. However, the use of ground water was not over-exploited and was managed at a balance. When the IDP farmers started increasingly getting involved in agriculture, and with this significant expansion of intensive agriculture, the situation began to change. Simultaneously, the extent of farming land and the ground water usage increased. Usage of agro-chemicals also is on the increase. The heavy application of fertilizers and excessive irrigation of the highly permeable soil has produced a serious deterioration of groundwater quality. Ground water nitrate concentrations in many irrigation wells, are now in excess of 10mg N/L, the permissible WHO drinking water standard. In addition to nitrate, due to high levels of chloride and potassium concentration, the ground water is unacceptable for potable use (Kurupuarachchi, 2003).

Further the soil erosion is very high in the Kalpitiya area due to intensive agricultural practices. Over exploitation of synthetic fertilizer application has resulted in impermeable soil environment, where plants are unable to absorb nutrients from the soil. These clearly indicate the adverse affects on the environment and the long-term impact on the future generations and nature.

Agriculture production has increased in the Kalpitiya area during the last ten years. Market price has gone down due to higher production. This has led to a competition between the host community and the IDPs causing poor and deteriorating social relationships among these two communities.

In the Kalpitiya area, there are two sources for fishing, the sea and the lagoon. The host community is using both these sources for fishing. Most of the host community depend on fisheries as one of their main livelihoods. When the IDPs started encroaching the lagoon for fishing, the host community was against it. This has created a very unpleasant situation as well as conflicts and disharmony between the two communities. Now, the host community has allowed IDPs to fish only in the sea and in restricted areas in the lagoon.

This clearly indicates the division in social status of the two communities and in the long run, the possible conflicts that could generate due to the host community not accepting the IDP community as equals in the same society.

Some IDP communities have settled on lands which they have purchased and developed as their new home. Some are settled in separate villages on government land or still live in camp type of shelters. The tension between the IDPs and the host community exists due to various reasons. There are several causes that create further conflicts, such as IDPs receiving more attention and services from the government and NGOs. There is a difference among the service received by the IDPs and local communities, provided by different relief, rehabilitation and development agencies. Market normalcy is also disrupted by IDPs offering cheap labour and this is affecting the livelihoods of some local host communities. The limited resources are divided among the IDPs and the host community; however, the local host communities believe that the IDPs receive special attention, while the IDPs perceive that the local communities are at a greater advantage, for example, in terms of education and/or jobs. The host community is forced to share education, health, water and sanitation facilities with the IDPs, which are not originally allocated to IDPs; but IDPs are entitled to IDP special service provisions which lead to further tensions (for instance local school children do not allow IDP children to sit on chairs in schools).

In camp type of shelters, there are hardly any facilities and no space for children to play. They are forced to use common toilets and wells. There is a lack of privacy, which is culturally sensitive, especially for Muslims. In some cases early marriages take place due to this situation. After 1996, IDP women migration was very high to Middle East countries due to family economic problems. This has created many psychosocial problems for spouses and children. For instance, the parent who remains behind demands that the eldest of the family look after the other children in the family, even if the child is of school-going age. IDPs school drop-out rate is high due to this reason as well as due to poverty. Very few opportunities are available to children for entertainment. As a result of all these, IDP children are highly frustrated.

Due to the uncertainty of the prevailing political situation, people refrain from investing in any long-term activity or infrastructure. The general feeling of insecurity in the country due to the no war-no peace situation and the blocked peace process, creates a feeling of frustration, disempowerment, and leads to a lack of general motivation among many poor IDPs. The younger generation of IDPs remember only the war, helping them cope and re-integrate with society hindered due by various social and cultural differences that are created due to various external and internal factors. The school children who studied in the North at the time of expulsion, have now completed their education. But it is very difficult to find decent employment for them. This leads to immense frustration among the younger generation.

When living becomes competitive, the division between the two communities surface and that leads to social tension between the IDPs and local host communities. For instance, there is competition for three-wheeler hires and common parking space in the Norochcholai and Kurinchipitty junctions. The local host community does not allow IDPs to park the vehicles in these parking spaces. When an accident takes place, between a person from the host community and an IDP, it results in conflict. Any small incident that takes place within these communities sparks further conflicts instantly.

However, there are successful interventions to integrate IDPs within the local host community. Certain schools have established a 'School Development Society' consisting of IDP members and host community members. They contribute equally towards school development activities, and such schools function smoothly without any incidents of conflict. Another mechanism employed is the 'Mosque Trustee Board' in the village of Alankuda. This Trustee board consists of IDP members and host members responsible for governing the community of the area. In addition, this Trustee board plays a successful role in integrating the Tamil, Muslim and Sinhala communities in the village. The board resolves all issues in a non-partisan manner without considering ethnicity or social status, as a result the IDPs and the local host community live together peacefully in this village.

Furthermore there is integration between IDPs and the local host community in some villages where agricultural lands belonging to the local host community are provided on conditions to the IDPs for cultivation. IDPs cultivate these lands and share the returns with the local host community according to the conditions previously agreed upon.

Some NGOs have been implementing micro finance and savings programs with IDPs and the host communities. As a result, some women's groups were able to save significant amounts of money for their future and some IDP women have started micro businesses as their livelihood.

Suggestions

It is very important to improve infrastructural, health and sanitation, and education facilities in the area. By improving these, both IDPs and the local host communities will have equal access to these basic facilities, and will help reduce tension in the community. In addition to carrying out relief and rehabilitation work, the government and development agencies will have a major role to play in spearheading such initiatives mentioned above.

A good mechanism should be put in place for the government and NGOs to include the IDPs and the host community in their interventions, and to ensure transparency of the same. This will help not only to create a positive perception about such programs among both communities but also to help develop the trust between the government, NGOs and the communities, increasing participation of all stakeholders and recipients.

The promotion of peace building activities among the IDPs and local host communities is essential. Peacebuilding programs should integrate with cultural and local economic activities. This will create a platform for both social integration and community cohesiveness for sustainable peace in the area.

It is essential to raise awareness among the farming communities regarding the recommended dosage of agro chemicals and fertilizer for farming activities. In addition, it is essential to promote conservation farming practices in the area as a measure to minimize adverse effects on the environment.

The Puttalam District is rich in natural resources and has good geographical conditions that reveal the possibility of economic potentials in terms of fisheries, aquaculture, coconut and perennial crop plantation, salt industry and other industries if managed properly. It is very clear to see that there is a district based comparative advantage. If this is focused on and taken in to account at the planning stage, creating an enabling environment, this can attract more local and possible foreign investments in future. This will create more economic opportunities for IDPs and the local host communities, reducing competition for livelihood resource base.

Many IDPs could become good entrepreneurs, if they are treated equally as locals. The district could utilize their skills for integration towards a holistic economic development for the area. This will resolve many problems in the district.

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**REPORT OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL
ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS,
WALTER KÄLIN
MISSION TO SRI LANKA
(14 to 21 December 2007)**

I. Introduction

1. In accordance with his mandate contained in Human Rights Council resolution 6/32, and by invitation of the Sri Lankan Government, the Representative of the Secretary-General on the human rights of internally displaced persons (hereinafter “the Representative”), Walter Kälin, conducted an official mission to Sri Lanka from 14 to 21 December 2007.¹ His main objective was to engage in dialogue with the Government with a view to ensuring the full enjoyment of human rights of internally displaced persons (IDPs) in Sri Lanka by identifying conditions necessary for them to achieve durable and sustainable solutions.

2. In Colombo, the Representative met with government officials, international organizations, non-governmental organizations, civil society and donors. He travelled through Puttalam, Vavuniya, Trincomalee and Batticaloa districts, where he met with IDPs and returnees, community and religious leaders, government agents, local area security commanders, local and international non-governmental organizations and United Nations agencies. He regrets that he was unable to visit Kilinochchi to raise humanitarian and protection concerns with the Liberation Tigers of Tamil Eelam (LTTE) and to meet IDPs in the Vanni.² While this mission focused on those displaced by armed conflict and acts of violence, the Representative recalls those displaced by the devastating tsunami of 26 December 2004.

3. The Representative appreciates the cooperation of the Government of Sri Lanka, the access granted to him to most parts of the country, and the open conversations he had with all interlocutors. He is most grateful for the perfect support provided by the United Nations Country Team, in particular the United Nations High Commissioner for Refugees (UNHCR) Colombo and its field offices. He was well served by the wealth of information provided to him by civil society organizations and appreciates the communications he received in advance and during his visit. Above all, he thanks the many IDPs who graciously shared their experiences with him under difficult circumstances; their courage and dignity left an enduring impression.

4. The Representative shared his primary findings with the Government at the conclusion of his mission and was encouraged by the willingness of governmental officials to acknowledge problems in the response to internal displacement and the protection of IDPs.

¹ A/HRC/6/L.46.

² The Vanni denotes areas under LTTE control and roughly includes Kilinochchi and Mullaitivu districts and parts of Jaffna, Mannar and Vavuniya districts.

He particularly welcomes the Government's prompt consideration of his recommendations through the mechanism of the Consultative Committee for Humanitarian Assistance (CCHA). He underscores his desire and intention to continue this dialogue.

II. General Context

5. Sri Lanka, with its population of 21 million, has been embroiled in an internal armed conflict of varying degrees of intensity for the last 25 years. Government policies following independence left the Tamil minority feeling increasingly marginalized from the Sinhalese majority, and by the 1970s a segment of radicalized Tamil leaders dropped demands for increased devolution of powers in Tamil majority areas and instead raised the call for a separate state. A segment of this population advocating armed resistance ultimately was consolidated under the control of the Liberation Tigers of Tamil Eelam (LTTE), which has been designated by the Government of Sri Lanka and others as a terrorist organization.

6. The intervening years have left more than 70,000 dead and many hundreds of thousands displaced. Following a ceasefire agreement (CFA) between the Government and the LTTE in 2002, a period described as "no war, no peace", open hostilities resumed after general elections in late 2005. In 2006, government forces regained control of parts of the Eastern Jaffna Peninsula and consolidated control of the Eastern Province. Government and military leaders have recently announced their intention to reclaim control of the entire island. The theatre of conflict has concentrated in the north, and there is increasing potential for mass displacement within and from the Vanni. Shortly following the Representative's visit, the Government announced its formal abrogation of the CFA.

7. In 2004, the LTTE commander for the Eastern Province, Vinayagamoorthy Muralitharan (commonly referred to as Karuna) broke with the LTTE leadership, taking a substantial portion of former LTTE cadres with him. The Karuna Faction subsequently registered as a political party, the Tamil Makkal Viduthalai Pulikal (TMVP). It became clear that Karuna was cooperating with the Sri Lankan military and operating with its tacit approval. TMVP paramilitary forces operate openly in parts of the Eastern Province. Following a split, the TMVP is led by Karuna's former deputy, Pillaiyan; Karuna is in custody for immigration fraud in Great Britain. In early March, the TMVP won a majority of seats in local elections in Batticaloa.

A. International framework

8. As citizens of their country, IDPs in Sri Lanka remain entitled to all guarantees of international human rights and international humanitarian law subscribed to by the State or applicable as customary international law.³ They do not lose, as a consequence of their displacement, the rights of the population at large. At the same time, IDPs have needs and vulnerabilities distinct from the non-displaced population, which must be addressed by specific protection and assistance measures. These rights are detailed in the Guiding Principles on Internal Displacement,⁴ which, though not directly binding, reflect and are consistent with international human rights and international humanitarian law. They have been recognized by States as "an important international framework for the protection of internally displaced persons",⁵ and are increasingly reflected in national laws and policies.

³ On the Representative's understanding of protection, see E/CN.4/2005/84, paras. 34-85 and E/CN.4/2006/71, paras. 4-12.

⁴ E/CN.4/1998/53/Add.2.

⁵ A/Res/60/1, para. 132; 60/168, para. 8; A/Res/62/153, para. 10. See also A/HRC/6/L.46, para. 6 (c).

The Guiding Principles apply equally to non-State actors, including armed groups such as the LTTE and TMVP.

9. The primary duty and responsibility to provide protection to IDPs lies with the national authorities, and IDPs have the right to request and receive such protection and assistance from the Government (Guiding Principle 3). There may be times when a State does not have the capacity to fulfil these obligations, because it either lacks means to do so, or does not have de facto control over parts of its territory. In the former case, the State has an obligation to seek the assistance of others, particularly international organizations; such support shall be considered in good faith and not as interference in a State's internal affairs (Guiding Principle 25).

10. Furthermore, and without prejudice to their legal status, those who do hold de facto control are obliged to respect the rights of IDPs and secure their protection. The Guiding Principles "provide guidance to [...] all other authorities, groups and persons in their relations with internally displaced persons". In Sri Lanka, this means that the LTTE is responsible for preventing and avoiding actions which could lead to arbitrary displacement, as well as for protecting those who are displaced in areas under its control. As a party to the conflict, the LTTE is bound by international humanitarian law. As a non-State actor, it is not party to human rights treaties, but it is subject to the demand of the international community that "every individual and every organ of society" respect and promote human rights.⁶ The LTTE has itself recognized this responsibility.⁷

B. National context

11. Sri Lanka is party to the main United Nations human rights conventions and their optional protocols, except to the Second Optional Protocol to the Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture. It has not signed the International Convention for the Protection of All Persons from Enforced Disappearance. Similarly, while it is party to the four Geneva Conventions of 1949, it has not ratified their Additional Protocols, nor has it signed the Rome Statute of the International Criminal Court.

12. The Constitution of Sri Lanka contains a fundamental rights chapter reflecting the rights to equal protection before the law, non-discrimination, freedom of movement and choice of residence.⁸ Following the assassination of the Foreign Minister in August 2005, a state of emergency was declared, and the President has since adopted a series of emergency regulations.

These regulations have had particular bearing on the rights of IDPs, including expanding powers of arrest and preventive detention and creating a High Security Zone (HSZ) in Trincomalee and along coastal areas.

⁶ Preamble to the Universal Declaration of Human Rights, UNGA, 10 December 1948 (UDHR).

⁷ The Charter of the North-East Secretariat for Human Rights "recogniz[es] the Universal Declaration of Human Rights and other United Nations Human Rights instruments" and states as its objective, "promot[ing] recognition and respect for the human rights and the basic freedoms of the people of the Northeast of this Island according to [the UDHR and the major human rights conventions to which Sri Lanka is party]".

⁸ The Human Rights Committee has observed that "Sri Lanka's legal system still does not contain provisions which cover all of the substantive rights set forth in the [International Covenant on Civil and Political Rights], or all of the necessary safeguards required to prevent the restriction of Covenant rights beyond the limits permissible" (CCPR/CO/79/LKA), para. 7.

13. Serious violations of human rights and international humanitarian law by the parties to the conflict have been noted by the United Nations treaty bodies and mandate holders of the Human Rights Council.

III. Magnitude and Dynamics of Displacement

14. Sri Lanka has been affected by cycles of displacement over the past 25 years. International attention has largely focused on two phenomena: the 2004 tsunami killed 40,000 persons and displaced more than half a million, and the re-escalation of the armed conflict since early 2006 has displaced more than 308,000. In fact, there remains an equivalent number of Sri Lankans (312,000) in situations of “protracted displacement”, prior to the 2002 ceasefire.

15. Displacement in Sri Lanka is characterized by its fluidity and unpredictability. Mass returns were prioritized by the Government and carried out extremely quickly in the East during 2007. In a period of months in mid-2007, more than half of the 308,000 newly displaced returned home. Meanwhile as military activities have intensified in the North, there has been more displacement. Finally, some IDPs have been displaced more than once, i.e., some of those displaced prior to 2002, or displaced by the tsunami, were again displaced by the resumption of the armed conflict. In total, however, as of December 2007, the Government estimated that there were 577,000 IDPs in Sri Lanka.

16. The Representative distinguishes among six situations:

(a) IDP returns in Trincomalee and Batticaloa districts. In the period between April 2006 and March 2007, more than 220,000 persons had to flee their homes as a result of military operations in Trincomalee and Batticaloa districts. At the height of the crisis, Batticaloa district alone had more than 160,000 IDPs living in 96 temporary IDP sites. Due to government policy, since August 2006, roughly 170,000 of these IDPs have returned to their divisions of origin;

(b) Continuing displacement since 2006 and 2007 in the Eastern districts. Roughly 188,000 of the 300,000 displaced since the resumption of hostilities remain in displacement in both the North and the East. Those who remain displaced in the East are primarily those from areas where there are (i) high security zones, (ii) zones awaiting demining, or (iii) houses or villages occupied by security forces. Many of these IDPs are concerned about security, access to services and livelihoods. Most are in camps or host families in Batticaloa district, although some are in “transit camps” in Trincomalee district;

(c) Recent displacement in the Northern Province. As a consequence of military operations along the FDL (Forward Defence Line), Mannar and Vavuniya districts, the Vanni and the Jaffna Peninsula have been the locus of the most recent displacements. By August 2006, 51,000 persons had registered as newly displaced in Jaffna district, of which 31,000 currently remain displaced. Nearly 3,000 newly displaced persons registered in Puttalam during 2006-2007. Since September 2007, another 22,500 persons were displaced by fighting in the north, mostly in Mannar district but also within the Vanni and some within Jaffna and Vavuniya;

(d) Displacement inside the Vanni. In the areas under LTTE control, covering Mullaitivu and Kilinochchi districts and parts of Mannar, Vavuniya and Jaffna districts, estimates indicate 106,000 IDPs, or perhaps one third of the total population. This category overlaps with categories (c), (e) and (f) but warrants attention as a distinct category, because

these IDPs face additional challenges related to freedom of movement and access to services and livelihoods. In particular, Kilinochchi and Mullaitivu districts experienced large influxes of IDPs from Jaffna in 1995 and 1999. The two districts have experienced new displacement since 2006, of 81,000 arriving from Jaffna, from within the districts, and recently Mannar;

(e) Protracted displacement. In Jaffna, Mannar, Puttalam and Vavuniya, there are communities of displaced persons who fled their homes due to the conflict 6 to 17 years ago. Approximately 312,000 IDPs are in this category. Puttalam and Jaffna provide striking cases. Approximately 63,000 northern Muslims have remained in displacement since 1990, living today in 141 Government-maintained welfare centres in Puttalam. Another 57,000 are displaced on the Jaffna Peninsula, many unable to return because their homes are encompassed in High Security Zones which, cumulatively, cover one fifth of the peninsula. Vavuniya hosts more than 36,000 IDPs, many of whom fled military operations in Jaffna, Mullaitivu, Kilinochchi and Mannar districts in the mid- and late-1990s;

(f) Displacement caused by the tsunami and other natural disasters. Presently, 9,000 families remain displaced from the 2004 tsunami and live in 58 welfare camps, primarily in the North and East. Up to another 2,000 families have found other living arrangements.

17. The vast majority of IDPs find accommodation with host families, often relatives and friends, or on vacant land. Thus displacement has a far-reaching effect on many more families than the IDPs alone, and these families and their communities play an essential role in supporting IDPs that must be recognized and reinforced. Close to 20 per cent of IDPs (98,000) live in camps or “welfare centres”. Those in welfare centres tend to be those in protracted situations. In contrast, during the recent mass displacement in the East, the majority of the displaced stayed in 1 of 96 temporary IDP sites set up in schools, temples or mosques, or other public buildings or land. In Jaffna, fewer than 10 per cent of IDPs live in 68 welfare centres, with the remaining 90 per cent dispersed among family or friends. A similarly low percentage lives in welfare centres in Vavuniya, though in Puttalam the majority do live in such centres.

18. The ethnic dimension of displacement cannot be ignored. Because of their geographic concentration on the North and East, Tamils have been disproportionately affected by the conflict. While Sinhalese, Tamils and Muslims constitute 74 per cent, 18 per cent and 7 per cent of the population as a whole, figures on the long-term displaced indicate that this population is to 78 per cent Tamil and 13 per cent Muslim. At the same time, the population of Trincomalee historically has been roughly balanced among the three groups. The Representative repeatedly heard IDPs describe their fears that patterns of displacement, organized returns and the designation of areas as High Security Zones, special economic zones or cultural or religious sites are affecting the prior distribution and balance of populations, and tensions among the communities are increasing.

IV. Responses to Internal Displacement

A. Domestic responses

19. Sri Lanka does not have a specific law or policy comprehensively addressing internal displacement. The Representative was informed that a law on protection and assistance to IDPs is being considered.

20. Several ministries have responsibilities for displacement-related issues. The Ministry of Disaster Management and Human Rights (MDM&HR) coordinates among government actors, including ministries and the military, and also between national and international actors. The Ministry of Resettlement and Disaster Relief Services (MR&DRS) has primary responsibility for camps and welfare centres and the provision of essential services including assistance to the long-term displaced. It has played a central role in the return process in the East. The Ministry of Nation Building and Development and Estate Infrastructure (MNB&DEI) has responsibility for registration of IDPs, which is implemented through the Government Agent (GA), and distributes food provided by WFP to the newly displaced. The Secretariat for Coordinating the Peace Process (SCOPP), the Ministry of Foreign Affairs, and the Ministry of Defence also participate in formulating official policies and responses to displacement. Early last year, legislation established a Resettlement Authority under the Ministry of Resettlement, charged with formulating a resettlement policy and coordinating governmental and non-governmental actors “in order to end displacement of persons”.⁹ Its authorizing legislation grants power in the areas of documentation, property disputes, housing, education and health infrastructure, recovery, development and livelihoods. However, it neither indicates substantive standards nor assigns accountability for implementation in relation to other governmental actors. The Authority is not yet operational.

21. The GA is the key authority at the district level and is responsible for shelter, rations, water/sanitation, and access to health and education services. The GA, along with the Divisional Secretary (DS) and district and national Registrar offices, is responsible for issuance of national identity cards (NIC) and other personal documentation.

22. The Sri Lanka Human Rights Commission has an IDP Unit with field offices that provide assistance to IDPs, especially in the area of arrest and detention and personal documentation. Mobile documentation clinics have helped many obtain needed documents, but requests have by far exceeded processing capacity, leaving a lengthy backlog.

23. The Representative did not obtain information concerning government allocations for assistance and protection to IDPs. Government compensation is sometimes provided to victims of the armed conflict, including the displaced, but compensation appears to be allocated in response to particular incidents, on an ad hoc basis. As for daily needs, the Government relies heavily on international organizations to supply food and non-food humanitarian assistance, as well as emergency and transitional shelter and infrastructure for resettlement or relocation projects.¹⁰ Most immediate emergency assistance is provided by international agencies and NGOs. The Government provides limited funding for the Human Rights Commission, with growing reliance on funds from the international community.

24. Following the majority of returns in the East, MR&DRS developed a six-month post-resettlement emergency assistance plan. The Representative heard concerns that the plans had been developed at the central level, without consultation of IDPs. He was advised that MNB&DEI is developing a three-year plan of recovery for the East and that a new initiative is addressing land rights.

25. Two primary coordination mechanisms exist between the Government and humanitarian actors. The Consultative Committee on Humanitarian Assistance (CCHA) is a

⁹ Resettlement Authority Act, No. 09 of 2007, Part II, art. 14 (b).

¹⁰ The 2008 Common Humanitarian Action Plan (CHAP), which is the international humanitarian community’s strategy for essential interventions, requests over US\$ 68 million for food aid and nearly US\$ 36 million for shelter and non-food relief items.

high-level forum for coordination and policymaking led by the Minister of Disaster Management and Human Rights and attended by key ministries, United Nations and key bilateral donors. There are subcommittees on IDP resettlement and welfare, logistics and essential services, livelihoods, health and education. MDM&HR also chairs a monthly IDP coordination meeting which allows humanitarian agencies to raise operational and protection concerns with ministries, government agents and security forces.

26. A potentially powerful initiative is the cooperation between MDM&HR and UNHCR to develop guidelines on “Confidence Building and Stabilization Measures for Internally Displaced Persons in the North and East of Sri Lanka”. These measures aim to reduce tensions between communities, as well as strengthen communication and confidence between the civilian population and civil administration and armed forces, through targeted interventions such as establishing civil-military liaison committees; capacity-building and training in human rights and international humanitarian law; disseminating information on government programmes and policies; promoting community participation; village profiling to identify obstacles to durable solutions; supporting reconstruction and livelihoods through quick impact projects; and reviewing existing restitution and compensation schemes for resolving land and property disputes. An Action Plan was endorsed by the CCHA in October 2007, and at the time of the Representative’s visit, administrative structures were being established but implementation has been slow, in part due to lack of government allocations.

27. While these efforts show the Government’s willingness to improve existing efforts, significant structural obstacles hinder the national response. First, there is evident confusion among responsible actors, as responsibilities are dispersed and accountability not clearly established. Second, policies on matters such as return and the emergency and development plans for the East have been made in Colombo, without consultation of the communities affected, and this appears to be general practice. Third, policy decisions taken in Colombo, such as those affecting access of NGOs, are not always effectively communicated and implemented at the local level, especially military authorities. The outcomes of the CCHA are not public, undermining transparency and accountability. In addition, where plans have been adopted, more can be done to empower local actors, especially civilian authorities. Finally, the lack of comprehensive and uniform policies on key matters, particularly compensation and assistance, has led to ad hoc and piecemeal responses.

28. The Representative was impressed by the vibrant civil society, which plays an essential role in protecting and assisting IDPs. He is concerned that insecurity still impedes access for humanitarian agencies and NGOs and threatens the safety of their staff. The commitment of national staff is remarkable. Many undertake significant risk, as humanitarian workers have been the targets of violence including killings, abductions and disappearances, as well as intimidation and extortion. The Representative remains concerned that an air of mistrust of international humanitarian organizations and national NGOs, especially voiced by a vocal minority of government officials, pervades the public discourse. So long as such criticism remains unchallenged by those in positions of authority, it will continue to hamper this valuable work and pose a risk to the well-being of all humanitarian workers.

B. The international community

29. Pursuant to the Government’s request, UNHCR is the lead international agency for IDPs in Sri Lanka. For the conflict-displaced, UNHCR engages in contingency planning and emergency response and provides protection and humanitarian assistance. It is also implementing confidence-building and stabilization activities for all IDP communities, with an additional emphasis on the search for solutions for those in protracted displacement.

30. International agencies have not adopted the cluster approach,¹¹ although UNHCR coordinates efforts in the areas of protection, camp coordination and management (shelter), and non-food relief. UNICEF leads sectoral groups on water, sanitation, education and nutrition; WFP on logistics and food security; WHO on health; UNDP on early recovery; and OCHA supports coordination.

31. At the national level, UNHCR chairs the IDP Protection Working Group. It has provided a forum for addressing protection concerns, particularly through joint advocacy efforts, including its *Study on Forced Displacement, Freedom of Movement, Return and Relocation*, adopted by the Inter-Agency Standing Committee (IASC).¹² The study detailed specific incidents of forced displacement and forced return in 2006-2007, and made recommendations to all relevant actors based upon national and international legal norms. The IASC is a forum for overall coordination of the work of the humanitarian community, including contingency planning and fund-raising, and it has been an important platform for public advocacy on the protection of civilians, consultation of IDPs in the return process and the imperatives of humanitarian access and protection of humanitarian workers.

32. The cooperative and supportive role of the international community could be strengthened by greater consultation and transparency on the part of national authorities. In some instances, this cooperation has been strong, such as with the development of the Confidence Building and Stabilization Measures. In other cases, including the early stages of the return process in the East, the international community was not always timely informed or consulted on the Government's plans, and had to respond to critical humanitarian needs of the population with little or no notice.

33. Until recently, international organizations tended to focus on emergency humanitarian relief or development initiatives, with a gap in attention to transitional measures needed for early recovery and resolution of protracted displacement. The Representative is pleased at indications that this is changing. He strongly encourages organizations proposing livelihood initiatives and other elements necessary to provide durable solutions, and hopes that donors will fund these programmes. Most notably, the World Bank, in conjunction with MR&DRS, recently began implementing a project to assist approximately 40 per cent of the long-term displaced in Puttalam district through cash grants for the construction of homes. While from a development perspective, it is understandable that this project targets families who have made a similar investment of their own, through prior acquisition of land rights, it is precisely those who cannot make such an investment who are the most vulnerable. Additional projects are needed to assist these groups. A concerted and coordinated approach among the international community and national authorities, that would address the housing needs of all IDPs, as well as access to livelihoods and income-generating activities, would go a long way in improving the living conditions of many IDPs and, for some, in finding a durable solution.

V. Finding Durable Solutions

A. General remarks

34. Despite their disparate circumstances, all of the IDPs the Representative met expressed a common desire to lead their lives in safety and security, with access to livelihoods

¹¹ See Inter-Agency Standing Committee, *Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response*, 24 November 2006.

¹² The IASC is chaired by the United Nations Resident and Humanitarian Coordinator and comprised of the executive heads of the United Nations agencies and international and national NGOs.

and basic services. Accordingly, this report aims to identify those obstacles to durable and sustainable solutions that must be addressed in order to allow IDPs and returnees to regain their lives.

35. In accordance with Guiding Principles 14 (a) and 28, IDPs have the right to choose among three durable solutions: (i) return to their place of origin (commonly referred to as “resettlement” in Sri Lanka), (ii) integration in the area of displacement, or (iii) relocation to another part of the country (what the Guiding Principles refer to as “resettlement”). The decision to return shall be voluntary and informed, and the return itself conducted in a manner that ensures the safety and dignity of the individuals involved. Moreover, authorities have an affirmative obligation to facilitate the integration of IDPs into the social, cultural and economic life of the community, regardless of the solution chosen.

36. Substantive conditions necessary to sustain any durable solution include: (i) physical security, (ii) full protection of the law, specifically non-discrimination on the basis of prior displacement; access to national and local protection mechanisms including police and courts; restored access to personal documentation; and access to property restitution or compensation mechanisms; (iii) matters affecting the ability of IDPs to (re)integrate economically, socially and culturally, including access to shelter, livelihoods, and basic services. At the same time, the process leading to durable solutions must ensure that IDPs receive relevant information and are consulted on envisaged solutions.¹³

37. The Representative has found that failure to effectively address IDPs’ concerns may jeopardize the possibility and sustainability of peace. When IDPs are not able to recover their property, or to otherwise find solutions allowing them to live decent lives, and when they feel that they have suffered injustice without redress, prospects for reconciliation diminish. Similarly, the exclusion of IDPs from political participation reinforces feelings of marginalization and undermines the legitimacy of governments. In contrast, resolution of such issues can be a positive force for social rehabilitation and peacebuilding.

B. Safety

38. The first and overwhelming concern of both returnees and those still in displacement is physical security. The Representative was struck by the pervasive, often disabling, sense of fear among those he met. Whether they have returned to their communities, are in camps or transit sites, or are travelling, IDPs feel at risk. This is not limited to the newly cleared areas of the East; rather, he received reports of extrajudicial killings, physical assault, abduction, disappearances, forced recruitment and harassment in all areas he visited. He was particularly affected by the many women among the IDPs and returnees who told him about husbands or sons who had been murdered, abducted or arrested with no information on their whereabouts.

39. Sources of insecurity are varied. They include disappearances allegedly by all parties; abductions by unidentified actors; continued incursions and attacks by the LTTE, including claymore mine explosions; threats and attacks by irregular armed groups including the TMVP; tactics used by security forces including roundups, identification techniques, and detentions without notification to family of the reasons for and location of detention; looting; and incomplete mine-clearance.

¹³ The specific problem of finding durable solutions for those in protracted displacement is addressed separately below.

40. Camps and transit sites in the East, in particular, are subject to harassment by paramilitaries, primarily the TMVP. The Representative received reports about lootings in plain sight as well as abductions. Shelter material has been stolen in large quantities. At one camp, metal sheeting protecting the toilets and bathing area was completely gone, and women had nowhere to go in safety and privacy. Where residents witnessed an abduction or killing and admitted knowing the responsible party, they stated that they would be killed if they spoke of it. IDPs reported abductions by armed elements for forced labour; they also complained of common practice among TMVP and Special Task Force (STF) to appropriate IDPs' bicycles for their own use. IDPs complained that civilian police refuse to enter the camps at night, although in many instances there are army or STF outposts nearby.

41. In some areas returnees seemed at greater risk, as the harassment appeared to be more systematic and conducted jointly by security forces and TMVP. As part return to areas formerly under LTTE-control, it was practice to screen the IDPs, to photograph, fingerprint and "register" them, and then issue an IDP (returnee) card to be carried at all times, identifying the place of origin. Often screening was conducted by military in the presence of masked men. Return communities were subjected to cordon and search operations, particularly following security incidents such as the shooting of a soldier or a claymore explosion. Searches often occur at night. One community had experienced this three times in four months: they described how everyone was taken to the village centre, houses searched, women stripped and beaten, and more than a dozen men arrested after being identified by men wearing masks. Everyone in the village now sleeps together. Confidence in the security forces is undermined by routine disregard of procedures for arrest and detention, including notification of family members of the reasons for and location of the individual's detention. The fact that women simply do not know where their son or husband is, who he is with, or why he was taken, turns their fear into terror. Ultimately, when asked, returnees said that they felt less—rather than more—secure due to the presence of the many army and STF outposts that had cropped up in return and transit areas.

42. The Representative acknowledges that the State faces legitimate and serious security concerns, which it furthermore bears the responsibility to address. A military official has indicated that it is for their own safety that returnees are screened, fingerprinted and issued special identity cards. However, the impact of such a pervasive military presence, and the heavy procedures used, has been to severely restrict and control movement of IDPs and returnees and undermine their own sense of security. In some instances, men are made to report to the nearby army camp on a daily basis and told to report their whereabouts if they do not intend to return at night. Movement may be prohibited after 7 p.m. The resulting fear and vulnerability have broad-ranging consequences for IDPs' and returnees' ability to regain normal and self-sustaining lives. Families fear sending men to work, or boys and girls to school, noting that men and boys had been abducted or detained, and girls harassed, when passing military camps or checkpoints.

43. Entire communities now feel under suspicion because of their place of origin or ethnicity, rather than on the basis of individual behaviour. IDPs are asked for their identity cards at checkpoints, and Tamil IDPs feel that they are interrogated and searched while Sinhalese travellers are not. Moreover, they feel that they have no recourse when wrongs are committed, because the civilian police are not there or they fear retaliation. The lack of prosecution of serious crimes has further bred a sense of impunity and increasing alienation.

44. The Government has recognized some of these problems and taken some action. Some officials recognize the importance of promptly restoring civilian administration in the East. The Representative particularly welcomes efforts to recruit local and Tamil-speaking police and train existing officers. He urges a similar emphasis on recruiting women officers.

Increased civilian police presence—particularly police who know the community and can speak its language—is essential. It is hoped that the Confidence Building and Stabilization Measures, when implemented, will improve both IDPs' and returnees' security and confidence in the State to protect them.

45. However, additional measures are needed. The Government must re-establish safety and security in all IDP and return areas, protecting the civilian population against all forms of harassment, physical harm and abduction, regardless of the source. Clear accountability for these crimes would help reduce their occurrence and confer a necessary degree of public confidence in the Government's ability to protect its citizens. The Government must re-establish the authority of the civilian police and ensure compliance with procedural protections guaranteed by national and international law, including the Presidential Directives on Arrest and Detention. The physical presence and accessibility of police could be expanded through mobile patrols. Other innovations might be considered: elsewhere, for example, IDPs have received improved access to civil and criminal protection mechanisms through the deployment of joint teams of police, human rights commission staff and protection staff of an international organization or NGO.

46. The continued prevalence of landmines in areas of return requires urgent attention. Posing an obvious threat to life, the presence of landmines and unexploded ordnance also affects returnees' freedom of movement and access to livelihoods. The Representative is gravely concerned about reports that some returns occurred before low risk certificates were issued. While placing returnees at unacceptable risk, humanitarian organizations were denied access to these areas for this very reason. In addition, demining was completed to facilitate return to residential areas, but insufficiently in surrounding areas, so that IDPs could not safely resume their farming or fishing, or access forests for firewood. While it appears that initially timetables for return may have been used to pressure demining teams, the Government has recognized demining as a priority in return planning and has improved its coordination in this regard.

C. Housing and property

47. Housing and property raise several discrete but equally important issues. From the moment of displacement, most IDPs have immediate assistance needs stemming from the loss of their homes and land. IDPs have the right to an adequate standard of living, one component of which is basic shelter and housing. After the emergency phase, authorities bear an additional responsibility to establish the conditions that allow IDPs to find durable solutions and rebuild their lives. Repairing and reconstructing homes, or providing alternate permanent shelter, is a part of this.

48. Notably, what may be considered "adequate" shelter during an emergency phase becomes unacceptable the longer the situation endures. Adequately responding to the phases between emergency shelter, transitional shelter and permanent housing is challenging, but the continued hope that IDPs will soon find durable solutions cannot excuse even temporary living conditions that are substandard. Visiting welfare centres in Puttalam and Vavuniya and transit sites in Trincomalee, the Representative was seriously concerned. The welfare centres were intended as transitional shelter many years ago but have become de facto permanent housing. A second generation of IDPs now lives there in overcrowded, dilapidated structures, without sufficient sanitation. Families came to temporary transit sites such as Killiveddi on the promise that they would be there briefly while homes were being repaired. Instead, they remain in overcrowded and inhospitable conditions, many months later, still with no indication when they might go home. The Representative witnessed whole families crowded

into one small open room, with only a tarp on the hard earth, rain seeping through the roof and penetrating sleeping areas.

49. Distinct from the right to adequate shelter, protection of IDPs' housing, land and property rights is an essential component of durable solutions. IDPs are entitled to restitution or compensation for their property, regardless of whether they choose to return, integrate locally or relocate. Many IDPs in the East could not return to their homes. Houses were occupied by the Army or fell within camp perimeters or buffer zones. A mother, camping on the outskirts of her village, explained: "We are resettled (returned) now but still live in displacement." These IDPs had no information about when they might reclaim their homes or receive compensation.

50. A much larger group of IDPs have been affected by the establishment of HSZs in Jaffna and, more recently, in Muttur East/Sampur, Trincomalee. Collectively, HSZs in the North and East have displaced more than 120,000 people. Though the Government indicated plans to release some land in the Muttur East zone, IDPs in the transit sites had not themselves been informed of this fact or the time frame for return. To the Representative's knowledge, no one had received compensation for loss of their land or home in an HSZ.

D. Livelihoods and basic services

51. The Representative noted significant problems in the timely delivery, quality, quantity and nutritional variety of food. The Government administers the regular food assistance scheme and controls distribution, although most of the input is provided by the World Food Programme, and humanitarian NGOs supply emergency and supplemental assistance. He was informed that insufficient rations fixed on prices of 20 years ago would be reviewed. He urges that the Government undertake a comprehensive review of basic assistance and that the system of entitlements be rationalized and standardized. Long delays should be eliminated and better access provided to WFP and humanitarian organizations. He noted disparities in rations based upon the geographic location, length and cause of displacement and size of the family, which are issues unrelated to IDPs' basic humanitarian needs. He also noted a need for essential non-food items. Some women in camps and transit sites had no soap and no sanitary supplies.

52. IDPs in return areas remain almost entirely dependent upon humanitarian assistance. Due to the declaration of HSZs and other restrictions, whole communities of fishermen cannot access the sea, or they are restricted from fishing at night, when catches are best. Insecurity, HSZs, incomplete demining and military occupation of land also restrict access to fields and forests. Many farmers are idle simply because they had lost their tools, seeds and livestock during their displacement, and now lack the means to replace them. At the time of the Representative's visit, UNHCR had quick impact projects for livelihoods, as well as UNDP and FAO, and the 180-day plan for the East mentioned the need to prioritize agriculture and fishing, but this cannot begin to have the needed reach. Whole communities literally had nothing to do. The Representative encourages the Government, with support of the international community, to make extensive efforts to restore livelihoods (rehabilitating and improving access to land; replacing lost assets) and to provide training and assistance to develop income-generating activities for the large portion of displaced who previously worked as day labourers. Particular attention should be paid to developing opportunities for the most vulnerable, especially female-headed households.

53. The Representative saw some achievements in access of IDPs to basic services. In general, IDPs had equal and non-discriminatory (vis-à-vis the non-displaced population)

access to health and education facilities, although insecurity inhibited some from accessing these services. Pending restoration of security and freedom of movement, mobile medical clinics should be considered to address immediate needs. In return areas, efforts were under way to restore and extend basic services - a particular challenge in formerly LTTE-controlled areas lacking infrastructure. Nonetheless, he notes that IDPs must have access to basic sanitation, health and education services at the time of their return.

E. Inter-communal tensions

54. The Representative was concerned by mistrust he saw among different communities and groups of IDPs. While some tensions are deep-seated, certain policies inadvertently exacerbate these tensions. The Confidence Building and Stabilization Measures introduce programmes to build trust (e.g., peace committees and IDP advisory groups; peaceful coexistence measures including student exchanges), but targeted measures are needed to eliminate sources of tension.

55. It is natural for tensions to develop when host communities are under significant strain themselves, or when assistance to IDPs appears to favour IDPs over non-displaced who are similarly situated. Puttalam is economically disadvantaged, with comparatively high levels of unemployment. Although it has hosted a large community of northern IDPs for 17 years, public allocations for those IDPs continue to be paid to their districts of origin. Given the size of the IDP population in relation to the entire community and the length of displacement, a review of assumptions underlying budget allocations is warranted.

56. A second challenge is designing aid programmes to target specific needs and vulnerabilities of IDPs when there are large needs within the host community. The World Bank project importantly recognizes that a singular focus on IDPs would fan existing tensions; accordingly, it provides some housing and infrastructure to the non-displaced host community as well. A new health centre also meets increased demand attributable to the IDPs but serves all members of the community equally.

57. The Representative also observed tensions among groups of IDPs. In Puttalam, "old" IDPs perceived the arrival of "new" IDPs from the East as fomenting an increase in disappearances, roundups, arrests and detentions. In Muttur, restricted access to fishing grounds and HSZs resulted in officials directing Muslim fisherman to traditional Tamil fishing areas. Similarly, IDPs throughout Sri Lanka were keenly aware that different groups receive different assistance packages. Though the disparities may not be intentional, where these differences seem arbitrary - or worse, where they appear to favour one ethnic group over another, this fuels inter-communal tensions and mistrust of the authorities. A uniform and standardized approach to assistance and entitlements - whose determinants are the needs and vulnerabilities of the beneficiaries - coupled with greater transparency about entitlements and the requirements and procedures for obtaining them, would have the additional benefit of eliminating this source of mistrust and, ultimately, insecurity.

F. Cross-cutting issues

Documentation and freedom of movement

58. Documentation is especially important for IDPs because it is often instrumental in assuring their access to public services, entitlement to humanitarian assistance, and ability to exercise freedom of movement. Without extreme care, procedures and systems relating to

documentation can effectively deny IDPs these rights or become vehicles for discrimination and abuse. The Representative found not only that there were difficulties for IDPs to obtain and retain needed documentation, but also that documentation was used inappropriately by some authorities.

59. The National Identity Card (NIC) is the key piece of personal identification for Sri Lankans. It is used for all official interaction the individual has with the State. Because IDPs commonly have lost personal documentation, authorities must provide clear and accessible procedures for the prompt replacement of NICs at the site of displacement.

60. IDP registration may be used as a temporary form of identification, but cannot substitute for prompt replacement of the IDP's NIC, to which IDPs are entitled as citizens. Not all countries use IDP registration, but where it is used, registration can be important in its own right: for the IDP, it is a marker of entitlement to assistance, and for the government and humanitarian community, it is a powerful tool for planning and delivering assistance. Aggregated data supports the adequacy and appropriateness of emergency response, allocation of central resources for public services and planning for durable solutions.

61. 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.¹⁴ 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 dependant 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. Registration cards should be issued to each IDP individually and in the case of women, in their own names. Finally, procedures should be simplified and information centralized such that IDPs can move freely and not risk losing their assistance. IDPs reported difficulty with a requirement that they deregister at the first site of displacement before registering at the second site because either they could not return in safety, or the local authority was reluctant to deregister the IDP because it would reduce the amount of assistance the area received. A centralized system would facilitate a single step to transfer registrations, and uniform standards would prevent premature deregistration or manipulation.

62. The Representative was concerned that additional registration and identification requirements were imposed on returnees in the East. There was a practice to screen, register and issue family photo ID cards during the process of return. Screening often involved the use of masked men to identify individuals who were then photographed and fingerprinted. Lists were then distributed among checkpoints. Individuals have been closely monitored upon their return, with some men required to report to security forces on a daily basis; villages are checked to ensure everyone returns at night and that only those on the ID card are present. Many IDPs indicated that they limited their movements, lest they be asked for these ID cards at checkpoints and then questioned or harassed.

63. These ID cards, and ID cards required by the Army or STF in some areas, do not appear to serve a legitimate purpose. IDP or returnee status per se is not a reasonable basis for suspicion of illegal activity, nor for restricting freedom of movement. For identification and freedom of movement, it should be sufficient that IDPs carry a NIC. Requiring IDPs/returnees

¹⁴ Emergency assistance prior to receiving the registration card is provided by NGOs and international organizations.

to show identification that singles them out based on this status is discriminatory, and it has led to abuse. The Government must clarify the purpose of any registration, identification or data collection. There may be important and appropriate reasons for doing so, but these must serve the purpose of meeting the needs and fulfilling the rights of IDPs.

Information and consultation

64. IDPs had not been consulted on their needs, interests and concerns in key areas - whether assistance, plans for return, compensation or other issues affecting durable solutions. Even more, IDPs have little access to information on these matters. One family, waiting for months in a transit centre, said that they did not know about the status of their land, now encompassed within the Muttur HSZ: as such, they were simply unable to conceive of the future. IDPs in Puttalam had not had any interaction with government officials for years; they, too, appeared in limbo. In the early stages of the return process in the East, whole communities were simply informed after their villages were declared ready for return. They were not assisted to assess conditions for themselves; nor were they consulted about their needs and intentions. Subsequently, "go and see" visits have been arranged for some communities, but this is not sufficient. Where IDPs did not have basic information - about security and physical conditions in their villages; the process for return including what assistance they would receive; and what choices were available if they did not wish to return - their return cannot be said to comply with the required standards of voluntariness.

65. The Representative recalls that extensive consultation and information-sharing with IDPs has been undertaken in Sri Lanka in the past, following the tsunami. Presently he is encouraged that communication and community involvement have been identified as core activities for the Confidence Building and Stabilization Measures. He also acknowledges that some important improvements were made in the return process, including distribution of information notices and the organization of some "go and see" visits. These efforts are positive, but not sufficient.

66. A systematic approach must be developed to ensure consistent consultation and information-sharing with IDPs. IDPs have a fundamental right to participate in decisions affecting their lives.¹⁵ For responsible authorities, the information gained can improve the effectiveness of the response. For IDPs, consultation enhances feelings of participation and trust. Information sharing, complete, timely and accessible, is furthermore essential to allow IDPs to make voluntary, informed and therefore sustainable decisions regarding their futures.

Humanitarian access

67. The primary duty and responsibility for providing humanitarian assistance to IDPs lies with national authorities. International organizations, however, play an important role in supporting the Government to meet these responsibilities, especially where governments are unable or unwilling to provide necessary assistance. In Sri Lanka the support of international and national humanitarian organizations has indeed been essential, especially in the areas of emergency shelter, food and non-food relief items.

68. While humanitarian access has improved somewhat in the East, some humanitarian organizations still do not enjoy full access to all areas of return, and access in the North is increasingly difficult. Decisions made at the CCHA have not always been respected in

¹⁵ See for example, Guiding Principles 18 (3) and 28 (2).

practice, and agencies find themselves delayed by cumbersome and changing procedures. In the East, organizations are often subject to two levels of approval, on a project-by-project basis, by the GA and the area security commander. The Representative is concerned that agencies engaged in protection activities find it much more difficult to obtain access than those providing material assistance. Serious and legitimate security concerns may occasionally dictate temporary restrictions on access, but such restrictions should be the exception and not the rule. Moreover, once an area is deemed safe for the return of civilians, safety should not be a basis for the exclusion of humanitarian actors.¹⁶

69. Increased transparency—for example, better communication and coordination between the Government and international agencies and humanitarian NGOs in advance of returns—would significantly improve the timeliness and adequacy of the humanitarian response. The Representative noted above his deep concern for the safety of humanitarian workers and his regret at the sentiment of mistrust apparent in the media. In this regard, he welcomes the adoption of Guiding Principles for Humanitarian and Development Assistance in Sri Lanka, subscribed to by the Government of Sri Lanka, the United Nations, and major donors and international agencies. These Principles acknowledge the common humanitarian objectives of all signatories, as well as their commitment to key principles such as non-discrimination and impartiality in activities and assistance, consultation and participation of affected communities, and unrestricted access to all people in need of assistance.

National policy and institutions

70. An abundance of institutions are involved in the response, but without a clear designation of roles. This diminishes efficacy because actors are uncertain regarding (i) who has the authority in certain circumstances, and (ii) who ultimately bears responsibility and accountability. Existing coordination structures provide valuable opportunity to share concerns, but without the element of accountability they have not always resulted in sufficient cooperation among all actors or implementation.

71. Linked to institutional fragmentation, the Representative found that the response to various aspects of displacement tends to be piecemeal and ad hoc. This is particularly true for policies on assistance (rations and shelter) and compensation for loss of property and livelihoods. In some areas, such as IDP registration, there is an absence of common standards or disparity in their application. These gaps and inconsistencies leave needs unmet and are susceptible to an interpretation of indifference or even of bias, regardless of actual intent.

VI. Finding Durable Solutions for IDPs in Protracted Situations

72. Perhaps half of Sri Lanka's IDPs were displaced before the CFA. These IDPs are predominantly in the North Central and Northern Provinces. A large number were displaced by the forced evictions of northern Muslims by the LTTE in 1990. They are mainly in Puttalam and Mannar; another 57,000 remain in Jaffna unable to return to land within the HSZ. Others, in Vavuniya, came from the hill country and were originally landless; still others are displaced from or within the Vanni. Though the circumstances of their displacement vary, these IDPs share a common reality: the process for finding a durable solution has stalled, and they continue to have specific protection and assistance needs related to their displacement. As a result, they show greater social and economic marginalization from their communities of displacement and a greater dependence upon humanitarian assistance.

¹⁶ See Guiding Principles 30 and 25 (3).

73. The Representative was encouraged by the authorities' recognition that finding durable solutions for these IDPs must become a priority. As the IDPs' needs and intentions vary, so too will appropriate responses. Thus two important projects thus far (the World Bank housing project in Puttalam, and UNHCR's relocation villages in Vavuniya) take different approaches, one assisting those who have taken a step toward local integration by acquiring land rights and the other assisting the landless. To adequately address the situation of protracted displacement in Sri Lanka, however, efforts must be undertaken on a different scale, requiring the collaboration of diverse actors, including national and local government, humanitarian and development communities, bilateral donors and international financial institutions.

74. UNHCR has undertaken surveys in a number of districts, in welfare centres and among host families, to gather information on IDPs' preferred solutions and the obstacles they face in achieving them. With comprehensive information, application of the Framework for Durable Solutions could provide a common point of departure to develop a coordinated response.

75. In the face of the conflict, return will not presently be possible for everyone who would elect it. This is the situation of many of the Puttalam IDPs. The Representative met a group of northern Muslim IDPs in Puttalam who expressed great frustration that a welfare centre survey concluded that 96 per cent of residents wished to integrate locally. In this regard, it must be recognized that local integration and return are not mutually exclusive. To the contrary, those living marginalized lives in displacement often do not have either the means or energy to rebuild their lives upon return. Pending achievement of a durable solution, all IDPs have the right to a life in safety and dignity at their site of displacement. Local integration can be an interim solution, allowing IDPs to live the most normal lives possible. Moreover, local integration does not negate the right to return, nor does it terminate rights to restitution or compensation.

76. While the World Bank project could facilitate local integration as both an interim and a durable solution, there was substantial confusion regarding the effect that participation in the project would have on IDPs' voting and property. A clear declaration of IDPs rights is needed to reassure the IDPs and to allow them to begin planning both their intermediate and ultimate solutions.

VII. Preventing Future Displacement and Mitigating Its Consequences

77. The Government has clearly stated its intention to continue military activities and disarm the LTTE. Accordingly the Common Humanitarian Action Plan (CHAP) assumes substantial additional displacement in 2008.

78. In their efforts to prevent displacement, the Representative reminds all parties to the conflict of the imperatives of international humanitarian law. The campaign in the East saw repeated allegations on both sides that civilians were targeted, used as human shields, or prevented from fleeing hostilities. Likewise, there were allegations of deliberate co-location of military installations near civilian populations and indiscriminate shelling. While he did not look into these allegations, actions of this kind would violate the principles of distinction and proportionality and the duty to take precautionary measures. Remembering the civilians who were trapped for a period in Vaharai, the Representative reminds the parties of their duty to facilitate rapid and unimpeded passage of humanitarian relief. Similarly, the duty to exercise constant care to spare the civilian population requires that the parties ensure safe passage to IDPs seeking safety elsewhere.

79. Important lessons applicable to future situations may be drawn from the experience of mass displacement and mass return in the East. First, in conflict, security forces often will be the first to receive fleeing IDPs, before humanitarian actors can arrive. It is therefore essential that the security forces have in place a plan that focuses on addressing the immediate needs of this civilian population. While the need to address security may be a component of the plan, it should be humanitarian and civilian in nature. In particular, IDPs' freedom of movement must be respected, and IDPs may not be confined to a camp. Contingencies should include identification of possible sites for emergency accommodation, stockpiling of emergency shelter items, and planning for the immediate provision of food, water, sanitation and essential medical assistance upon arrival. As quickly as possible, however, there should be a prompt transition from military involvement to civilian control of the humanitarian response. In particular, planning and management of IDP camps should be done by civilian authorities.

80. Second, authorities have positive obligations to facilitate conditions for IDPs to make a voluntarily, informed and meaningful choice among the three durable solutions. Return often is the preferable and preferred solution for IDPs. With 220,000 displaced in the East, government announcements evidenced a strong desire to see the displaced quickly returned home; officials may have sought to pre-empt a situation of protracted displacement. But the speed and magnitude of return prompted concerns about voluntariness and sustainability. The need for greater consultation, participation and information sharing in the return process is discussed above. Conditions necessary for voluntary choice further include eliminating any aspect of coercion, whether using a military presence in camps during returns, the announcements of deadlines, or threats to close camps and discontinue assistance. Similarly, IDPs must not be directed prematurely or unwillingly to relocation. Where return is their preferred solution, this must be facilitated by all reasonable means.

81. Conditions to support sustainability such as security, shelter, livelihoods and basic services are addressed above. It is essential that these issues be addressed in parallel with return, and not only in development plans to be implemented following return. Thus, questions remain about the long-term viability of sustainable return in the East. IDPs in return communities and transit centres expressed a desire and intent to return; but when asked whether they preferred to be where they were or back at the site of displacement, the answers were mixed. Some communities seemed poised on the edge of flight, should a serious security incident occur. In the longer term, the lack of livelihoods and utter reliance on humanitarian assistance threaten the sustainability of this mass return.

VIII. Conclusions and Recommendations

82. Sri Lanka's displacement crisis is a challenge because of its size and the range of circumstances in which IDPs live, their immediate needs, and the challenges they face finding durable solutions. The Representative acknowledges the substantial achievements of the Government but believes that significant further efforts are required. He reiterates his desire to continue his dialogue with the Government, and specifically, to cooperate in the search for durable and equitable solutions for all of Sri Lanka's IDPs. In this spirit, he makes the following conclusions and recommendations.

83. Concerning the national response, the Representative recommends that the Government:

(a) Develop a comprehensive policy addressing all aspects of internal displacement, in line with the Guiding Principles on Internal Displacement. This policy should assign institutional responsibilities and establish accountability and should address

issues including standards for registration and deregistration, entitlements to assistance and equitable standards for compensation for loss of property and livelihoods. It should also enshrine the principle of voluntariness of return in safety and dignity and the right of IDPs to informed choice;

(b) Allocate sufficient resources and increase its own capacity to protect and assist IDPs;

(c) Ensure consistent and accessible dissemination of information to IDPs concerning their rights and entitlements, and procedures for accessing them;

(d) Establish mechanisms to ensure that IDPs are consulted and participate in decisions affecting their lives;

(e) Undertake contingency planning for increased displacement in the North, in particular that both military and civilian authorities be prepared to receive IDPs in conditions of safety and dignity;

(f) Support international and national humanitarian actors in their efforts through advance communication and consultation and facilitated access to all IDP and returnee populations for assistance, protection and early recovery activities alike.

84. With regard to the 300,000 displaced since 2006 who have returned home or remain in displacement, the Representative recommends that the Government:

(a) Address all sources of insecurity and threats to safety, including abductions and disappearances, the presence of armed elements in camps and transit sites, the presence of UXO in return areas, heavy-handed responses by security forces, and the use of additional identification to restrict returnees' freedom of movement;

(b) Restore security through increased civilian police presence, including local and Tamil-speaking police, and promptly restore civilian administration;

(c) Take effective measures to address impunity;

(d) Assure, at all times, the right to adequate shelter;

(e) Recall, with regard to housing and property, that participation in needs-based assistance schemes does not negate rights to restitution or compensation;

(f) Ensure that access to livelihoods and basic services is provided in parallel with return.

85. Concerning the 300,000 IDPs in protracted displacement, the Representative:

(a) Urges national authorities and international agencies to identify and address obstacles to the achievement of durable solutions, including special attention to issues of landlessness and livelihoods and the needs of the most vulnerable, including widows and female-headed households;

(b) Calls upon all relevant actors to improve the standard of living and protection of individuals pending the achievement of durable solutions.

86. The Representative recommends that the United Nations, humanitarian and development organizations and donors:

(a) Continue to support the Government of Sri Lanka in meeting its primary responsibility to protect and assist IDPs;

(b) Continue to support capacity-building within the Government;

(c) Address gaps that fall between traditional humanitarian and development assistance but that are necessary to establish the conditions for durable solutions, including efforts supporting early recovery and confidence-building and stabilization measures, with attention to protracted situations;

(d) Prioritize support for livelihoods initiatives for IDPs, host and return communities.

87. The Representative urges all parties to the armed conflict to:

(a) Ensure full respect for and compliance with international humanitarian law, especially the prohibition against arbitrary displacement and the principle of distinction;

(b) Fulfil their duty to facilitate rapid and unimpeded passage of humanitarian relief;

(c) Ensure safe passage of all civilians seeking safety;

(d) Recognize the impartiality and integrity of humanitarian assistance and ensure the safety and security of all humanitarian workers.

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