

Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) to the Universal Periodic Review mechanism established by the Human Rights Council in Resolution 5/1 of 18 June 2007

Internal displacement due to conflict in Sri Lanka

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I. Internal displacement in Sri Lanka

1. At least 480,000 people are currently internally displaced in Sri Lanka due to the conflict between government forces and the rebel Liberation Tigers of Tamil Eelam (LTTE). Historical divisions between the Sinhalese majority and Tamil minority in Sri Lanka have led to the 25-year civil war, which has caused 70,000 deaths and the large-scale displacement.

2. Since mid-2006, a dramatic escalation in the conflict, during which both the government forces and the LTTE have been accused of deliberately targeting civilians and committing or permitting grave violations of international humanitarian law, has led to an upsurge in new displacements and prolonged the misery of large numbers of civilians already displaced by the conflict between 1983-2002 and the December 2004 tsunami.¹

3. In January 2008, the Government of Sri Lanka withdrew from a 2002 ceasefire agreement negotiated between the two parties, possibly heralding an even more violent phase of the conflict.

II. Internal displacement due to conflict and the number of the displaced

4. Conflict-induced displacement is not a new phenomenon in Sri Lanka and at various times civilians have been targeted by either the Sri Lanka army or the LTTE. In many instances, especially during and since 2006, violations by both parties have been particularly brutal and have involved the use of civilians as human shields, attacks on places of worship and refuge, retaliatory killings, abductions and disappearances and targeted assassinations. This has resulted in people being forced to flee their homes and in many cases, remaining uprooted for long periods of time.

- As of April 2006, over **312,000** people were displaced due to conflict and violence in Sri Lanka.
- By the end of December 2006, this figure had increased to **520,000** as a result of the renewed fighting, making Sri Lanka one of the largest displacement crises in Asia particularly in terms of the proportion of the population displaced.
- Despite a major return program initiated by the government in eastern Sri Lanka in 2007, the number of conflict-induced IDPs in the country is estimated to be **at least 480,000**.

III. Main subjects of concern

Ethnic and descent-based discrimination² as a cause of tensions and conflict resulting in internal displacement

5. Ethnic and descent-based divisions and differences prevent the enjoyment of human rights by members of distinct groups in social, cultural, economic and political life, and fuel tensions between groups leading to conflict and forced displacement which in turn nullifies or impairs the enjoyment of a further range of human rights by affected groups.

6. In Sri Lanka, Sinhalese make up 74 per cent of the population, while Tamils constitute about 12 per cent of the population and live largely in the country's north and east. Indian Tamils, a distinct ethnic group, represent about five per cent of the population and Muslims about seven per cent. Most Sinhalese are Buddhist and most Tamils are Hindu.

7. Following the end of British colonial rule in 1948, a series of government policies led Tamils to fear that they would become marginalised in an increasingly Sinhalese-dominated society. In 1956, Sinhalese was made the only official language of the country, while provisions in Sri Lanka's constitution of 1972

¹ This submission focuses exclusively on the conflict-induced displacement in Sri Lanka.

² UDHR Article 2 and ICERD Article 1.1 as well as other non-discrimination provisions such as ICCPR Article 2.1, ICESCR Article 2.2

favoured the Sinhalese language and Buddhist religion. Discrimination against Tamils also featured in the issue of land ownership and access. Successive governments decided to settle poor Sinhalese farmers in the Tamil dominated northern and eastern provinces, which led to the radicalisation of some members of the Tamil community. By the mid-1970s Tamil leaders were increasingly campaigning for a separate state rather than federal autonomy. Following ethnic riots in 1983, armed conflict developed between government forces and the LTTE, which continues to this day.

8. Since 2005, when the Sri Lanka Freedom Party came to power on a platform of Sinhala nationalism, the government has taken a much more hard-line stance on minority issues. The recent wave of displacement, return and resettlement has increased fears among minority communities of state-sponsored colonisation programmes aimed at changing the ethnic demography of **Eastern Province**. Some Tamil and Muslim residents in the eastern province cite as examples of the ongoing Sinhalisation of the country the government-sponsored movement of Sinhalese settlers into Tamil and Muslim areas, movement of administrative boundaries so as to reduce the size of minority populations in certain areas, and the declaration of minorities' land as sacred for construction of Buddhist temples.

9. Ethnic friction between Tamil and Muslim groups, particularly in **northern Sri Lanka**, culminated in the eviction of 60,000 Muslims by the LTTE from the north and west of Sri Lanka in 1990. A vast majority of these Muslims are still living as internally displaced persons. To a large extent, the Muslim population of Sri Lanka remains marginalised from the political processes of the country.

Protection of civilians during armed conflicts³ & civil and political rights, in particular the right to life;⁴ prohibition of torture and cruel, inhuman or degrading treatment or punishment;⁵ freedom of movement and residence⁶ protection of home⁷

10. Civilians have consistently risked getting caught between the warring parties to Sri Lanka's armed conflicts. They have been forcibly displaced by combatants or prevented from leaving their homes. Following displacement they have risked being sent back to their area of origin against their will.

11. In July 2006, an estimated 50,000 people became displaced in the span of a few days of intense combat. Thousands of civilians, including women and children, were forced to walk for days without food and water in search of safety. The heavy fighting continued to affect civilians, even in hospitals and schools, which were frequently damaged by aerial bombardments. In November 2006, the army bombarded a school which was sheltering over 2,000 IDPs in Vakari Region, killing 62 people and injuring 47.

12. Both the government and LTTE prevented people from fleeing their homes even as their lives were threatened. The government's August 2006 closure of the A9 highway, the only route linking Jaffna peninsula to the rest of the country, exposed most of the 600,000 residents of the peninsula to continued bombardment, widespread abductions, and severe shortage of food, medicines and basic supplies.

13. The LTTE continued to maintain draconian restrictions on people living in the Vanni area under its control. Each person exiting the Vanni had to leave family members behind as guarantee of return. The LTTE also placed restrictions on civilians wanting to flee fighting in Batticaloa district, reportedly using

³ Common Article 3 of the Geneva Conventions of 1949 as well as a number of customary rules of International Humanitarian Law, in particular those related to displacement and displaced persons, e.g. Rule 129B, 131, 132, 134, 135; distinction between civilians and combatants, e.g. Rule 1; indiscriminate attacks, e.g. Rule 11; precautions in attack, e.g. Rule 15 and against the effects of attacks, e.g. Rule 22 (Rules as defined by the Study on Customary International Humanitarian Law, International Review of the Red Cross, Volume 87, Number 857, March 2005)

⁴ UDHR Article 3 and ICCPR Article 6.1

⁵ UDHR Article 5 and ICCPR Article 7

⁶ UDHR Article 13 and ICCPR Article 12

⁷ UDHR Article 12 and ICCPR Article 17

them as human shields, believing their presence would deter the army from bombarding the LTTE-controlled area.

14. In March 2007, following decisive military victories in Eastern Province, the government launched a massive return programme. Many IDPs were unprepared to return at the time due to concerns about lack of security in areas of origin, with ongoing shelling and large military presence, lack of infrastructure and basic facilities post conflict, a fear of forced recruitment of adults and children by armed groups, and concern about landmines and unexploded ordnance.

15. Nevertheless, many IDPs were forced onto buses and sent back against their will, while others were told that their rations would be cut off and their security no longer guaranteed unless they agreed to return. The return process was heavily militarised and the civil administrators present were largely marginalised. While the level of coercion of IDPs has reduced since those early phases of return, it still remains significant.

Economic and social rights, in particular the right to an adequate standard of living;⁸ the right to health;⁹ the right to education¹⁰ and the right to work¹¹

16. Internal displacement has had a significant, negative impact on displaced people's standard of living and access to basic services. Securing immediate subsistence needs such as food, water and housing has posed immense difficulties for them. For the most part their standard of living is far from adequate and has affected their chance to exercise other rights, for instance by compromising their access to education or healthcare or their opportunity to earn a living by work.

The right to adequate standard of living – housing

17. Many IDPs in Sri Lanka continue to live in cramped conditions in camps with poor sanitation facilities. In a number of instances they are in temporary shelters constructed with materials such as tin sheets which are unsuitable for the searing temperatures in the region.

18. Almost 5,000 IDPs in Kiliveddy area of Trincomalee district have been living for months in severely overcrowded transit sites designed only for two-week habitation. Many IDPs at Kiliveddy are unable to return to their homes after the government declared the Muttur East/Sampur area of Trincomalee district a High Security Zone (HSZ). However, while the government cordoned off Muttur East/Sampur for security reasons, it also declared the area to be a "special economic zone" open to large local and foreign investment. The government has not yet addressed the issue of compensation or resettlement for the 4,250 (largely Tamil) families who will not be able to return to their homes in Muttur East.

19. A government embargo on construction materials such as cement, steel and fuel in LTTE-controlled areas has forced aid agencies to halt or abandon construction of housing for IDPs in those areas. The price of cement has increased by 500 per cent in the LTTE-controlled areas and is beyond the reach of most people wanting to build shelters.

20. Some IDPs returning home under government-sponsored programmes continue to face problems with adequate housing. For example, several returns have been carried out during the rainy season with little readiness for the provision of shelter in areas of return. In some cases, returnees have no choice but to sleep under trees or share the least damaged shelters between several families.

⁸ UDHR Article 25.1 and ICESCR Article 11.1 as well as its impact on Articles 12, 13, and 6

⁹ UDHR Article 25.1 and ICESCR Article 12

¹⁰ UDHR Article 26.1 and ICESCR Article 13

¹¹ UDHR Article 23 and ICESCR Article 6 as well as Articles 7 and 9

The right to food – the fundamental right of everyone to be free from hunger

21. The conflict has caused a collapse of agricultural production and returnees have missed two agricultural seasons; many are fully dependent on food assistance. International agencies have attempted to provide seeds and agricultural tools to returnee families so as to allow them to re-start farming activities by the planting season, thus limiting their dependency on food aid.

22. Nonetheless, in March 2007, the World Food Programme (WFP) reported that the recent near-doubling of the IDP population had created a major humanitarian challenge for the agency. In some districts WFP had been forced to put on hold its mother-and-child nutrition and school feeding programmes so as to redirect limited resources to the newly displaced.

23. Nutrition surveys by the government and international agencies show rising levels of acute malnutrition in the northern Jaffna district as a result of conflict-related disruption of livelihoods and markets, the closure of the A9 highway, and security-related restrictions on farming and fishing. Food assistance for the internally displaced and other vulnerable groups was in short supply for months after the A9 closure, since WFP was only able to transport 20 per cent of the required rations to Jaffna.

24. Malnutrition has affected girls disproportionately in Sri Lanka as families tend to discriminate against them in food distribution; girls under five are almost 40 percent more likely than boys to be severely stunted.

The right to water

25. The increased number of IDPs has put a greater strain on the already inadequate water and sanitation services available to displaced communities in the north and east of Sri Lanka. Since a number of camps were situated in isolated spots, many IDPs had little access to clean water.

26. Government authorities have used water as a means to force people back to their areas of origin. In September 2006, the government closed down IDP camps, and turned off water supplies, leaving the displaced with no choice but to return, from Kantale to Muttur in Trincomalee district, despite warnings about premature return.

The right to the highest attainable standard of physical and mental health

27. The problems with access to areas in the north, particularly Jaffna, have affected the overall health and nutritional status of the IDPs and host communities. At many camps there are minimal health facilities and no systematic emergency response in place to address reproductive health needs.

28. Medical facilities are often difficult for people to reach in conflict-affected areas of the north and east, and involve travelling for hours and passing through numerous checkpoints. The facilities sometimes do not have adequate supplies of medicines and surgical kits. Mobile clinics are operational in some conflict-affected areas but are inadequate to deal with the magnitude of the humanitarian crisis.

29. The conflict situation has caused psycho-social distress among the population. An estimated two per cent could be in need of mental health services and the number of suicides is feared to increase; Sri Lanka has already one of the highest rates of suicides in the world.

The right to education

30. Displacement in Sri Lanka often has a profound impact on the education of children due to the closure of schools, lack of facilities and difficult environment in the camps. Young people's opportunity of completing education is also sometimes affected by the need to contribute financially to their families' survival. The education of girls, already a low priority, suffers further during displacement.

31. At the height of the conflict between the army and the LTTE in the east over the past year, more than a quarter of a million children experienced partial or complete disruption of their education. In Batticaloa district alone, the education of at least 135,000 students was affected. Many schools were closed as they were used as shelters for IDPs and others were damaged and destroyed in the attacks by government forces and the LTTE.

32. Conflict-induced economic hardship in the north and east parts of Sri Lanka have led to high student drop-out and absentee rates. Some children have foregone their education because they have been forced to assume adult responsibilities due to the conflict.

The right to work and fair conditions of work & to social security

33. Conflict and displacement have irreparable short and long-term economic and social consequences for those affected. They often directly interfere with people's opportunity to gain a living by work they have freely chosen and pursued. New employment and income-generating opportunities are hard to find during displacement, which makes it indispensable for the government to secure basic social security for those forced to flee from their homes. The short-term consequences such as loss of homes and property, employment or other survival and income-generating opportunities are further aggravated by the continuation of displacement.

34. The livelihoods of many IDPs in Sri Lanka have been affected by the government's creation of "high security zones" (HSZs) to protect strategic installations. The HSZs extend up to four kilometres from the fences of most military camps. Some observers claim the HSZs have an unreasonable impact on Tamil agricultural lands, particularly in Jaffna where an estimated 18 HSZs have led to many farmers losing access to their lands and livelihoods. The HSZs in the Jaffna peninsula occupy an area of over 60 square kilometres and have displaced over 109,000 people, with an additional 46,000 displaced since fighting broke out in Jaffna in August 2006. Severe restrictions imposed by the army have also limited the livelihoods of 17,500 fishing families, or nine per cent of the entire population of Jaffna.

Limited humanitarian access¹²

35. The humanitarian space in Sri Lanka has been steadily decreasing since 2006 and it has become increasingly difficult for agencies to respond to the needs of IDPs and other vulnerable groups. Aid workers have found themselves targeted in a brutal conflict and at least 30 humanitarian staff have been killed, or are missing and presumed dead, since January 2006. Humanitarian agencies are reporting an increasing number of intimidatory incidents and extortion attempts in Batticaloa district, perpetrated by the Tamileela Makkal Viduthalai Pulikal paramilitary group allied with the government.

36. The role of many international and national humanitarian agencies remains limited, with no space to challenge or discuss the nature and timing of returns. Agencies are expected to provide assistance and not

¹² According to international custom, parties to the conflict must allow and facilitate rapid and unimpeded passage of impartial humanitarian relief, i.e. Rule 55, and humanitarian relief personnel and objects must be respected and protected, i.e. Rules 31 and 32 (Rules as defined by the Study on Customary International Humanitarian Law, International Review of the Red Cross, Volume 87, Number 857, March 2005)

question any of the government's plans, creating dilemmas for them to choose between the humanitarian imperative to provide assistance while upholding the principle of not supporting involuntary returns.

37. Although large-scale combat ended in the east by July 2007, the government is still denying unrestricted humanitarian access to many agencies. In returnee areas of "no access," only the UN and ICRC have limited permission to work in certain locations. In returnee areas of "controlled access," UN agencies, ICRC and INGOs only have access after following set procedures. Some of the procedures involve agencies submitting project proposals to the government agent who in turn refers them to the regional military headquarters. After receiving approval from both, agencies can start assisting communities. Aid agencies are required to provide government authorities with personnel details, including places of residence and identification numbers for project staff, and registration numbers of all vehicles that will be deployed.

38. Humanitarian access remains particularly difficult in returnee areas in west Batticaloa district and in some communities and IDP camps in Trincomalee district. The access, however, has increased over the last few months and now at least 20 UN agencies and international and national NGOs have continuous entry to some of the returnee areas. Areas south of Kilinochchi district remain off limits to humanitarian agencies due to ongoing shelling.

The information above is drawn from the following sources, where it is fully referenced:

- the Sri Lanka country profile in the IDMC's online database
- the Sri Lanka Special Country Report "Civilians in the Way of Conflict: Displaced People in Sri Lanka" attached to the submission

This information, and more, is accessible at
<http://www.internal-displacement.org/countries/SRILANKA>

IV. IDMC's recommendations:

All parties to the conflict:

- Respect international humanitarian law and take measures to ensure that civilians are protected against the dangers arising from military operations, including forcible and arbitrary displacement;
- Permit unrestricted access by national and international humanitarian agencies to all those in need in areas controlled by each party.

The international community:

- Condemn breaches of international humanitarian law as well as human rights violations and abuses, including acts of forcible and arbitrary displacement of populations and their involuntary return by Sri Lankan forces and armed militant groups;
- Urge the government of Sri Lanka to improve the human rights situation in the country and accept the presence of a UN Monitoring Mission.

The members of the Human Rights Council:

- Raise the issue of violations and abuses of the human rights of internally displaced persons in Sri Lanka, by both the government and the LTTE, during upcoming sessions in 2008.

The Government of Sri Lanka

- Ensure that IDPs have channels to voice their protection concerns to authorities and international and national human rights agencies;

- Take measures to ensure that authorities end the practice of coerced returns, and that all return decisions depend on the informed consent of IDPs;
- Increase the role of civilian authorities and monitors in the return process, in the place of the army;
- Prior to IDPs' return, make sure that areas of origin are free from paramilitary groups, landmines, and other obstacles to safe return;
- End restrictions that appear to discriminate against members of minority communities, such as preventing returns to Muttur East while keeping the area open to investment;
- Ensure that all civilians displaced as a result of the government-designated high security and prohibition zones are compensated fairly, and fully involved in their resettlement;
- Take action to prevent the harassment of aid workers and to end the impunity of perpetrators targeting humanitarian workers, in order to make areas safer for IDP return and monitoring;
- Re-establish and maintain a secure humanitarian environment in Sri Lanka;
- Allow the National Human Rights Commission to function independently in monitoring the enjoyment of fundamental human rights by IDPs;
- Address the root causes of the conflict between the majority and minority populations of Sri Lanka without which the conflict and displacement will continue.

The Sri Lankan National Human Rights Commission:

- Monitor the human rights situation of IDPs and ensure that any action taken by the government is in full compliance with the informed consent of IDPs and the Guiding Principles on Internal Displacement.