SRI LANKA'S EASTERN PROVINCE: LAND, DEVELOPMENT, CONFLICT

Asia Report N°159 – 15 October 2008

International Crisis Group
WORKING TO PREVENT CONFLICT WORLDWIDE

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

Sri Lanka's government must address the security needs and land-related grievances of all ethnic communities in its Eastern Province or risk losing a unique opportunity for development and peace. Muslims, Tamils and Sinhalese all feel weak and under threat, and recent ethnic violence could easily worsen. The government must devolve real power to the newly elected provincial council, end impunity for ongoing human rights violations and work to develop a consensus on issues of land, security and power sharing with independent representatives of all communities, including those from opposition parties.

The province is Sri Lanka's most ethnically complex region and has been at the heart of post-independence conflicts. It features a Tamil-speaking majority split equally between ethnic Tamils and Muslims, as well as a sizeable Sinhala minority who mostly moved there from the south under state irrigation and resettlement schemes. Lying at the intersection of competing Tamil and Sinhala nationalisms, the east has seen some of the worst of Sri Lanka's inter-ethnic violence and remains at risk for more.

For Tamil nationalists, the province is an integral part of the Tamil homeland, but has been subject to deliberate state attempts to change the ethnic balance and undermine its Tamil character. The October 2006 Supreme Court decision to separate the Eastern from the Northern Province, temporarily merged under the terms of the 1987 Indo-Lanka accord, and subsequent provincial council elections in May 2008 were a major blow to Tamil nationalists. For Sinhala nationalists, the province should be equally open to all Sri Lankans, and its hundreds of ancient Buddhist sites and rich Sinhala cultural heritage should be defended and preserved. The east is also home to an emergent Muslim nationalism, largely a product of Muslims' insecurity relative to Tamil armed groups and the Sinhala-dominated government.

The east remained tense throughout the 2002-2006 peace process, with the Liberation Tigers of Tamil Eelam (LTTE) killing many dissenting Tamils, forcibly recruiting children and continuing their harassment of Muslims. The east grew even more tense in March 2004 when the LTTE's eastern military commander, "Colonel Karuna", split from the Tigers and formed the Tamil Makkal Viduthalai Puligal (TMVP). The next few years of guerrilla warfare between the northern Tigers and Karuna's forces, with government support for the latter, contributed to the collapse of the ceasefire. The massive death and destruction caused by the December 2004 tsunami led to the displacement of hundreds of thousands and increased conflict over scarce land.

The government relaunched military action against the LTTE in July 2006. After a year-long campaign that saw large-scale destruction and the displacement of almost 200,000, mostly Tamil, civilians, the military forced the LTTE from their last stronghold in the east in July 2007. The government immediately promised restoration of democracy, devolution of powers to local and provincial politicians and development for the province.

The removal of the LTTE has brought benefits to all three communities. Development projects have begun and the economic benefits of relative peace have been felt by all communities. Recent violent clashes between Tamils and Muslims, however, are a sign of underlying insecurity aggravated by the flawed and ethnically divisive provincial council elections of 10 May 2008. Violence, intimidation and rigging significantly damaged the credibility of the results, which saw government parties win a narrow majority of seats. Their victory was due in large part to their alliance with the TMVP, which remains armed. Far from a champion of Tamil rights, the TMVP is a crucial part of the government's counter-insurgency campaign in the east and is credibly accused of abductions, extortion and political killings of Tamils. The province's new chief minister and TMVP deputy leader, S. Chandrakanthan, has so far worked well with pro-government Muslim ministers, but many Muslims continue to distrust the TMVP's intentions and see it as maintaining the LTTE's aggressive approach to Muslims. The July 2008 return to Sri Lanka of TMVP founder Karuna has further added to tensions.

Both Tamils and Muslims suspect the government plans to "Sinhalise" the east – through development projects that will bring in new Sinhala settlers, environmental regulations that will remove public lands from use by Muslims and Tamils and the recovery of ancient Buddhist sites. Development plans for Trincomalee district, in conjunction with a high security zone that has forced some 8,000 Tamils off their lands, are objects of particular suspicion. In Ampara district, there are serious tensions between local Muslims and Sinhalese, with the government ally and Sinhala nationalist Jathika Hela Urumaya (JHU) accused of working against Muslims interests.

The unilateral nature of the government's initiatives in the east encourages these fears. The acceptance of the de-merger of the north and east, the appointment of a new Sinhalese-dominated provincial administration, the major role of the military in civilian affairs, development plans that promise large-scale changes to the east, local government and provincial council elections – all have been imposed from Colombo. There has been little input from independent representatives of Tamils and Muslims, who constitute the clear majority of the province.

To build confidence, the government must quickly fulfil its promise to devolve real power to the Eastern Provincial Council. This should begin with – but go beyond – maximising devolved powers allowed under the Thirteenth Amendment, which established provincial councils but has yet to be effectively implemented anywhere in Sri Lanka. In addition, the government needs to work out common and transparent policies on a range of issues currently dividing the communities: physical security, the fair allocation of state land, the legitimate protection of religious sites and the equitable distribution of benefits from economic development. While the government needs to make the first move, opposition parties should express their willingness to engage in good faith negotiations. The Eastern Province needs development. It also urgently needs political reforms. Development without accompanying political and administrative reforms risks aggravating existing conflicts.

RECOMMENDATIONS

To the Government of Sri Lanka:

1. Devolve maximum power and provide adequate financial support to the Eastern Provincial Council by immediately making the necessary administrative and legal changes, as outlined in draft interim proposals submitted by the All Party Representative Committee (APRC) in January 2008, to enable the consistent and workable implementation of the Thirteenth Amendment.
2. Grant police powers to the Eastern Provincial Council only after the Constitutional Council is functioning and has appointed a new National Police Commission.
3. Ensure the security and nurture the confidence of the three communities of the Eastern Province by:
   a) demilitarising the TMVP and integrating those cadres not credibly accused of human rights violations into the police and the security forces, while affording TMVP officials and office holders effective police protection; and
   b) enforcing the law fully and without political interference, preventing further political killings and abductions and bringing to justice the perpetrators of major cases of human rights violations in the east, including the January 2006 killing of five students in Trincomalee, the August 2006 murder of the Action contre la faim workers in Mutur, the September 2006 murder of ten Muslim workers in Potuvil, and the February-March 2008 organised sexual assaults of women in Akkaraipattu.
4. Invite opposition parties, including the Tamil National Alliance (TNA) and civil society representatives, with guaranteed protection, to join a regional peace process to discuss the grievances of the three communities and seek consensus on the future of the east and viable forms of power sharing at all levels of governance.
5. Address continuing land disputes and their underlying causes by:
   a) establishing a land task force with independent representatives from all three communities and from development agencies to survey existing land disputes and allegations of Sinhalisation, clarify the rights of various parties involved and, to the extent possible, resolve ongoing disputes;
   b) creating divisional-level land committees, composed of representatives from the government, opposition parties, civil society and donors, who would monitor and mediate land disputes on an ongoing basis;
   c) ensuring that any process of registering and distributing abandoned, forcibly seized or newly opened state land (a land *kachcheri*) is administered in transparent and equitable ways with consultation from all three communities;
   d) establishing the National Land Commission called for under the Thirteenth Amendment to formulate national policy on land use and

development in the north and east and propose comprehensive legal reforms designed to ensure greater transparency and equity in the use and allocation of land;

e) devising transparent and equitable rules for the acquisition and distribution of land near archaeological and sacred sites; and

f) reducing further the size of the Mutur East-Sampur high security zone (HSZ) to make possible the resettlement of as many displaced residents as possible, and guarantee fair compensation and/or replacement land, with adequate infrastructure and livelihood opportunities, for those unable to return.

6. Ensure economic development in the east is equitable and inclusive and perceived as such by all communities by:

a) making a public commitment not to allow development to alter significantly the existing ethnic balance of the province;

b) assuring that the economic benefits of development are shared evenly by all three communities;

c) consulting widely with local communities and with representatives of opposition parties to ensure that development work responds to local priorities and to address widespread fears among Tamils and Muslims that development will lead to the "Sinhalisation" of the east; and

d) adopting preferential hiring for local workers in all development projects and ensuring that local businesses receive maximum possible benefits of development.

7. Adopt administrative structures and governance practices that assure all three communities their concerns are being fairly considered by:

a) ensuring that the provincial administration reflects the ethnic composition of the province at all levels of the civil service;

b) ending all executive appointments of retired military or police personnel to positions of civil administration in the Eastern Province;

c) de-ethnicising the divisional administrative system, beginning by rotating divisional secretaries (DS) between locations and ending the practice of having the DS be of the same ethnicity as the majority of the division; and

d) considering the adoption of an executive committee system for the Eastern Provincial Council and a system for rotating the position of chief minister between representatives of the three communities.

To the President of Sri Lanka:

8. Establish immediately the Constitutional Council, as required by the Seventeenth Amendment, and request it to nominate new members for all independent commissions.

9. Request the APRC to conclude its deliberations quickly and free from political interference and promptly finalise constitutional reform proposals.

To the Constituent Parties of the All Party Representative Committee (APRC):

10. Conclude deliberations quickly and publish final proposals for legal and constitutional changes necessary for effective devolution and power sharing.

To the United National Party (UNP):

11. Rejoin the APRC, insist on maximum devolution through the full and coherent implementation of the Thirteenth Amendment and state publicly willingness to support in parliament reasonable devolution and power-sharing proposals that go beyond the Thirteenth Amendment, once these are submitted by the APRC.

To the Chief Minister of the Eastern Province:

12. Prevent the extortion, abduction and intimidation of Muslims in the Eastern Province, take punitive action against offenders and publicly disclose such actions.

To All Opposition Political Parties:

13. Express willingness to join a government-sponsored, provincial-level peace process and land task force.

To the Tamil Makkal Viduthalai Puligal (TMVP):

14. End once and for all recruitment of underage cadres, demobilise those remaining members who are below eighteen and end all illegal activities.

To the Liberation Tigers of Tamil Eelam (LTTE):

15. Cease all political killings and attacks on security forces in the Eastern Province.

To the International Community, in particular India, Japan, the U.S., EU Member States, Norway, Canada, Australia and Switzerland:

16. Request the government to announce its timetable for making the legal and administrative changes necessary to achieve maximum devolution under

the Thirteenth Amendment and continue to stress the importance of constitutional changes and power sharing that go beyond the Thirteenth Amendment.

17. Assist the government in the demobilisation and reintegration of TMVP fighters, including a process to ensure that no TMVP members credibly accused of human rights violations join the security forces.

18. Actively support and defend the work of independent civil society organisations in the east, especially women's groups, human rights advocates and those working for inter-ethnic accommodation.

Colombo/Brussels, 15 October 2008

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I. INTRODUCTION

Since the government's success in driving out the Tamil Tigers in July 2007, the Eastern Province has been at the centre of Sri Lankan political debate. The "liberation" of the multi-ethnic east has been the main political achievement of President Mahinda Rajapaksa's government to date. It has hailed the local government and provincial council elections in March and May 2008 as marking the rebirth of democracy in the Eastern Province. It celebrates the transformation of former terrorists – the breakaway faction of the Tamil Tigers known as the Tamil Makkal Viduthalai Puligal (TMVP) – into a democratic political party. The government has promised to devolve power to the province under the constitution's Thirteenth Amendment and to undertake a major program of economic development and "post-conflict reconstruction".

The Eastern Province is central to both Tamil and Sinhala[1] nationalism, with each claiming the land for its own political project. For Tamil nationalists, the east is as essential to its "Tamil homeland" as the north. Together the provinces offer the promise of a space free from Sinhala political and cultural domination, where Tamils and Tamil speakers are a majority and where they can be physically and politically secure and their identity recognised. For Sinhala nationalists, the east has a rich Sinhala and Buddhist history waiting to be rediscovered and celebrated, and where Sinhalese have no less a right to be and act as a majority than anywhere else on the island.

Over the past 25 years, the east has witnessed terrible violence, destruction and political instability, as Tamil militants and government armed forces have fought for control, winning and losing territory at regular intervals. Tamil, Sinhala and Muslim civilians have all endured massacres, displacements, insecurity and economic deprivation. Communities have been torn apart – divided between and within each other, with deep divisions among Tamils, between Tamils and Muslims, and between both Tamils and Muslims and Sinhalese. Muslim "nationalism" – largely a response to being caught between violent Tamil and Sinhala nationalisms – has emerged in the east and continues to grow in strength, though it has yet to turn militant.[2]

With a total of about 1.5 million residents, the Eastern Province has three separate districts – Trincomalee, Batticaloa and Ampara – each with its own specific ethnic and political dynamics.[3] In Trincomalee, home to a strategically and economically important port, Muslims have now surpassed Tamils as the largest group, a significant change from before the start of the war in 1983. Bordering the Northern Province, it has always been the most militarily important and politically contested part of the east. In Ampara district, the southernmost of the three, Muslims are also the largest group, with Sinhalese a close second and Tamils a distant third. Batticaloa district is three quarters Tamil, one quarter Muslim. In the east as a whole, Tamils account for just over 40 per cent of the population, Muslims just under 40 per cent and Sinhalese just over 20 per cent.

[1] In everyday usage, Sinhala and Sinhalese are often interchangeable. In this paper, Sinhala will be used in all cases except when referring to the ethnic group as a collective noun, as in "the Sinhalese".

[2] For an analysis of the state of Muslim politics, with a special emphasis on Muslims in the Eastern Province, see Crisis Group Asia Report N°134, *Sri Lanka's Muslims: Caught in the Crossfire*, 29 May 2007. See also Crisis Group Asia Reports N°146, *Sri Lanka's Return to War: Limiting the Damage*, 20 February 2008; N°141, *Sri Lanka: Sinhala Nationalism and the Elusive Southern Consensus*, 7 November 2007; N°135, *Sri Lanka's Human Rights Crisis*, 14 June 2007; N°124, *Sri Lanka: The Failure of the Peace Process*, 28 November 2006.

[3] Precise and politically neutral population statistics for the east are not available. The 2001 census covered only Ampara, not Trincomalee and Batticaloa, and since then available statistics have been based on estimates done by local-level central government administrators. In part because these officers are almost always of the ethnicity of the majority population of their division, there are incentives for inflating the figures. According to the best estimates from these sources, the provincial population in 2006 was just over 1.6 million people. In 2007, a "special enumeration" conducted by the census department found the total population to be 1.46 million. Some researchers dispute its findings and claim significant numbers of people were not counted. See Appendix C for a table of available population statistics.

This report examines the current political and conflict dynamics in the east, with a special focus on conflicts over land and their relation to planned economic development and political reforms. It examines how best to ensure that economic and political development helps support a lasting solution to the overall conflict. It draws on interviews – with government officials, politicians, community leaders, aid workers, journalists and average Sri Lankans of all three ethnicities – conducted during visits to the east in July 2007 and March, April and July 2008.

II. HISTORIES IN CONFLICT

A. PRE-COLONIAL AND COLONIAL HISTORY

The pre-colonial and early modern history of the east is complex and contested. For more than 2,000 years it has been the site of changing forms of political control and shifting patterns of ethnicity and culture, with no lasting ethnic, linguistic or religious majority. Nevertheless, both Tamil and Sinhala nationalists have used historical arguments to support their contemporary political claims to "own" the east.

By the 1980s the east was at the heart of the militant Tamil nationalist struggle to create a separate state of Tamil Eelam. In their 1977 election manifesto, the Tamil United Liberation Front declared an area slightly beyond the present borders of the combined northern and eastern provinces to be "the exclusive homeland of the Tamils".[4] In support of such claims, nationalists cite the existence of the northern Kingdom of Jaffna and argue that it formed the core of a larger Tamil polity, distinct from areas governed by Sinhala rulers and stretching southward to include the present Eastern Province. They argue that the British first unified the island in 1833, and that the creation of separate provinces in the north and east recognised the "Tamil ethnic character" of the territories.[5]

History offers little support for the Tamil homeland thesis. In the mid-fourteenth century, at the peak of its 400-year history, the Jaffna kingdom did have influence almost as far south east as the city of Trinco-

[4] Statements in the 1950s by the Tamil nationalist Federal Party defended the inalienable right of the "Tamil *speaking* people" to the territories they had traditionally occupied in the north and east (emphasis added). A. Jeyaratnam Wilson, *Sri Lankan Tamil Nationalism* (Vancouver, 2000), p. 82. As Tamil militancy grew, so did Muslim reluctance to be included in a militant struggle on behalf of the entire Tamil-speaking people.

[5] Wilson, *Sri Lankan Tamil Nationalism*, op. cit., p. 1. Tamil nationalists also often point to the so-called "Cleghorn Minute" of 1799 – a report by Sir Hugh Cleghorn to the British government – as evidence that Sinhalese and Tamils have always been two distinct nations: "Two different nations from the very ancient period had divided between them the possessions of the land. First the Sinhalese inhabiting the interior of the country; its southern and western parts ... and secondly the Malabars who possess the northern and eastern districts. The two nations differ entirely in their religion, language and manners". Cited in Murugar Gunasingam, *Sri Lankan Tamil Nationalism: A Study of its Origins* (Sydney, 1999), p. 54.

malee, but only briefly.[6] There have been Tamil-speaking communities along the eastern seaboard for more than 1,000 years and established eastern Tamil rulers since at least the thirteenth century.

As many historians of Sri Lanka and Sinhala nationalist intellectuals frequently point out, the east was part of the Sinhala kingdoms of the so-called dry zone, centred in Anuradhapura and later Polonnaruwa, which reigned over the whole island with occasional interruptions from South Indian invaders from 150 BCE until 1215 CE. Today's Batticaloa and Ampara districts were under the control of south eastern Sinhala Ruhuna Kingdom ca. 300-200 BCE. There is evidence of significant settlement and political control, with numerous Buddhist temples and religious sites throughout the east,[7] most notably the temple complex at Dighavapi, dating from 150 BCE.[8]

The collapse of the Sinhala dry zone kingdoms in the thirteenth century opened the way for the slow "Tamilisation" of the east.[9] The Jaffna kingdom was able briefly to flourish and expand until the arrival of the Portuguese in the sixteenth century. This period also saw the arrival of the Mukkuvar caste from south India, who eventually gained political dominance in the Batticaloa region, and the development of a distinctive Muslim community "as a result of Arab and Indo-Muslim intermarriage with the Mukkuvars".[10] Meanwhile, the north and east of the island, including Trincomalee and Batticaloa, became a shifting and unstable buffer region made up of clusters of settlements, "some of them more Sinhala and some more Tamil in cultural inflection".[11] Sinhala kings had varying degrees of feudal influence over both Trincomalee and Batticaloa, but throughout "local-level politics was firmly in the hands of subregional chiefs of the dominant Tamil landowning caste....The inhabitants of the region were largely Tamil-speaking".[12] Sinhala and Buddhist presence in the east had all but disappeared by the thirteenth century, except for a small number of widely scattered Sinhala settlements in the forested areas at the foothills of central hill country.[13] Tamil or Muslim, Tamil-speaking settlements were concentrated in a relatively thin strip close to the coast.

While it is fair to say that the east, together with the north, do constitute the historical areas of habitation of Sri Lankan Tamils, today's Eastern Province has never been the exclusive homeland of either the Tamil or Tamil-speaking people.[14] History has been more complex than either Tamil or Sinhala nationalist narratives allow. Historically changing experiences of what it means to be "Sinhala" or "Tamil" and evolving practices of political authority and statehood defy attempts to use history to legitimate contemporary political claims over land.[15] Proving that "Sinhala" or "Tamil" kings had authority over a given piece of territory, or that it was inhabited by those who spoke earlier versions of today's Tamil or Sinhala, tells us little about who that land should belongs to today, or how it should be administered.

Given the power of nationalist ideas, the historical legacy in the east inherited by the newly independent Sri Lanka in 1948 proved explosive. While the Eastern Province was by then virtually entirely Tamil speaking, almost half the Tamil speakers were Muslim. Dif-

[6] K. M. de Silva, *Reaping the Whirlwind, Ethnic Conflict, Ethnic Politics in Sri Lanka* (New Delhi, 1998), p. 207; and G.H. Peiris, "An Appraisal of the Concept of a Traditional Tamil Homeland in Sri Lanka", *Ethnic Studies Report*, vol. IX, no. 1 (January 1991), p. 17. The Portuguese conquered the Jaffna Kingdom in 1619.

[7] Dennis McGilvray, *Crucible of Conflict: Tamil and Muslim Society on the East Coast of Sri Lanka* (Durham, 2008), p. 57; and Patrick Peebles, "Colonization and Ethnic Conflict in the Dry Zone of Sri Lanka", *Journal of Asian Studies*, vol. 49, no. 1 (1990), p. 37.

[8] That Buddhist remains can be found throughout the east is not necessarily evidence of Sinhala political control. Given its coastal location, Batticaloa and Trincomalee regions "would also have been accessible to immigrant traders and settlers from South India, many of whom would have been Buddhists as well, since both Tamil Nadu and Andhra were major centers of Theravada and Mahayana teaching for the third to the seventh centuries CE". *Crucible of Conflict*, op. cit., p. 57.

[9] "An Appraisal of the Concept of a Traditional Tamil Homeland in Sri Lanka", op. cit., p. 19-20.

[10] *Crucible of Conflict*, op. cit., p. 56. Other Muslims reached Batticaloa in the seventeenth century, after having been given protection by Sinhala kings in the face of Portuguese oppression on the western coast. Lorna Dewaraja, *The Muslims of Sri Lanka* (Colombo, 1994), pp. 60-65, 88.

[11] *Crucible of Conflict*, op. cit., p. 9.

[12] *Crucible of Conflict*, op. cit., p. 9.

[13] "An Appraisal of the Concept of a Traditional Tamil Homeland in Sri Lanka", op. cit., p. 20.

[14] Even in the face of widespread ethnic violence, there continue to be areas of the east of where hybrid forms of ethnic identity, neither wholly Tamil nor wholly Sinhala, can be found. Darini Rajasingham-Senanayake, "Identity on the Borderline", *Marga Monograph Series on Ethnic Reconciliation*, no. 9 (Colombo, 2001).

[15] Nationalist arguments rely on modern notions of ethnic identity and of political authority and statehood which are then read back anachronistically into the past. Tamil nationalists and the LTTE, wanting to stake a legitimate claim to statehood, require the past Tamil character of the east to have taken the form of statehood, which it clearly did not. Sinhala nationalists often make the same mistake from the opposite direction: because there were Sinhala kings that "ruled" the east, they say the east was and is therefore Sinhala.

ferences in culture, caste and political power between Tamils from Trincomalee and Jaffna and those in Batticaloa (including what would become Ampara district) were also waiting to find political expression. Finally, the band of sparsely populated Sinhala villages on the western edges of the province would later form the core of large-scale irrigation and settlement programs that would change the face of the province – and Sri Lanka's history as a whole.

B. MODERN HISTORY

1. Irrigation, settlement and demographic changes

Beginning under the British in the late nineteenth century and accelerating after independence, the Sri Lankan state irrigated and developed large areas of the dry zone, including extensive areas of the east. These initiatives resettled tens of thousands of landless peasants, mostly Sinhalese from the overpopulated areas of the south and west. The policies were designed to increase rice production and guarantee economic independence for the new state.[16] Such projects were promoted as a return to the glorious past of the ancient Sinhala kingdoms of the dry zone. The three pillars of traditional Sinhala Buddhist society – *wewa* (irrigation tank), *ketha* (paddy field) and *dagoba* (shrine or temple) – were consciously invoked to legitimise them.[17]

The first post-independence scheme was launched in 1949 by Prime Minister D.S. Senanayake. The Gal Oya project centred on the construction of the Senanayake Reservoir along the Gal Oya river and the subsequent clearing of land and irrigation of sparsely populated areas on the western edge of the Eastern Province.[18] 120,000 acres of land were made irrigable and some 20,000 settlers, mostly Sinhalese, were brought in.[19] A series of other similar schemes followed from the 1950s into the mid-1980s. The most important of these were the Allai and Kantalai projects in the Trincomalee district from the mid-1950s through the 1960s, and the Gomarankadawela and Morawewa schemes, also in the Trincomalee district in the 1970s and 1980s.[20]

The Tamil political elite was hostile to state-led settlement projects even before independence.[21] Tamil politicians, particularly the Federal Party,[22] saw government plans to open up large areas of the north and east to Sinhala peasant farmers as a direct threat to Tamils' majority status there. Such plans consistently formed one of the central issues discussed by Tamil and Sinhala political leaders during intermittent negotiations for a settlement of ethnic tensions. Both the Bandaranaike-Chelvanayakam Pact of 1957 and the Dudley-Chelvanayakam Pact of 1965 contained clauses granting autonomous control over land and resettlement issues for areas of the north and east and guaranteeing underprivileged Tamil speakers priority in colonisation schemes undertaken in the region. Neither agreement was implemented.[23]

According to Tamil politicians, the benefits of state-aided irrigation and colonisation schemes were distributed unfairly. Available statistics show that Sinhalese received the bulk of the newly available land.[24]

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[16] The colonial Land Commission of 1927 noted the excessive demand for land in the southern and western "wet zone" and recommended that crown land should be held in trust for landless peasants. The Land Development Ordinance of 1935 was designed to implement the recommendations of the 1927 Land Commission and remains one of the legal pillars of state land alienation and settlement schemes. Today more than 80 per cent of Sri Lanka's land is owned by the state. R.M.K. Ratnayake, "Country Case Study, Sri Lanka", paper, Regional Workshop on Land Issues in Asia, Phnom Penh, June 2002, p. 21.

[17] Nalani Hennayake, *Culture, Politics and Development in Postcolonial Sri Lanka* (Lanham, 2006), p. 109. See also Serena Tennekoon, "Rituals of Development: The Accelerated Mahavali Development Program of Sri Lanka", *American Ethnologist*, vol. 15, no. 2 (1988), pp. 297-8.

[18] These were mostly regions which already had Sinhala majorities. See "An Appraisal of the Concept of a Traditional Tamil homeland", op. cit., pp. 32-34.

[19] R. Muggah, *Relocation Failures in Sri Lanka: A Short History of Internal Displacement and Resettlement* (London, forthcoming), ch. 3.

[20] Ambitious attempts by elements in the government to use the Accelerated Mahaveli Development Program (AMDP) to settle some 40,000 Sinhala peasants in Maduru Oya in 1983 ultimately failed. See M.H. Gunaratne, *For A Sovereign State* (Colombo, 1988).

[21] The Tamil Congress, for instance, complained to the Soulbury Commission in the 1940s about these activities in the north and east. "Colonization and Ethnic Conflict in the Dry Zone of Sri Lanka", op. cit., p. 37.

[22] The party was known in Tamil as Ilankai Tamil Arasu Kadchi (ITAK), or "Lankan Tamil State Party".

[23] For more on these agreements, see Crisis Group Report, *Sri Lanka: Sinhala Nationalism and the Elusive Southern Consensus*, op. cit.

[24] Amita Shastri, "The Material Basis for Separatism: the Tamil Eelam Movement in Sri Lanka", *The Journal of Asian Studies*, vol. 49, no. 1 (February 1990), pp. 62-3. For a counter-argument, see "An Appraisal of the Concept of a Traditional Tamil homeland", op. cit., pp. 32-34. In the Gal Oya scheme, the chief beneficiaries were Sinhala colonists on the left and right banks of the project who were resettled from various towns in the south, west and centre of the island. The stated goal to benefit Tamil cultivators in the southern area of the

The Gal Oya project also involved the creation of state-owned plantations in the east to cultivate new cash crops, particularly sugar cane. Sinhalese settlers were the primary beneficiaries of the sugar cane production, which was sold at a state-guaranteed price. At the same time, the sugar cane cultivation reduced water supplies for less lucrative paddy production by Tamil and Muslim farmers.[25] Due to the layout of existing settlements and land use, the bulk of Sinhalese farmers over the years were settled to the west of existing Tamil and Muslim communities and thus closer to the water sources. That Sinhala communities have generally received more, and more consistent, water remains a frequent complaint among Tamil and Muslim farmers in the east.[26]

Supporters of the irrigation and settlement projects argue that beneficiaries were chosen according to their need for land, not their ethnicity, that the schemes had no significant discriminatory effects and that they were predominantly located in the less densely populated interior areas of the east, which are sites of historical Sinhala settlement.[27]

Whatever their intent, irrigation-based settlements brought major social and political changes. They contributed to the rapid post-independence increase in the Sinhala population in the Eastern Province, with a clear correlation between those areas with major irrigation and settlement projects and the overall population increase of Sinhalese. For example, in Trincomalee, the Sinhala population increased from 21 per cent in 1946 to 33 per cent in 1981. The Muslim population in the same periods remained fairly stable at approximately 30 per cent. Meanwhile, the Tamil population in Trincomalee decreased from 58 per cent in 1911, to 45 per cent in 1946, to 36 per cent in 1981. In Ampara, an administrative district carved out of the Tamil majority district of Batticaloa in 1963, Tamils became a minority of 24 per cent, with Muslims constituting 46 per cent and Sinhalese 29 per cent. By 1981, Sinhalese had increased to 38 per cent of the district, with Muslims at 42 per cent and Tamils at 20 per cent.[28]

The creation of Ampara district was one of a number of administrative and electoral changes that weakened minority, and especially Tamil, political power. Electoral boundaries were also redrawn to create new Sinhala majority districts in the east. In 1960, in the aftermath of Gal Oya and other colonisation schemes, the Digamadulla electorate was created through the amalgamation of the now heavily Sinhala-dominated divisions. In 1976, the Seruwila electorate was created in Trincomalee district out of a low-population area covering Sinhala-dominated divisions of Seruwila, Kantalai, Thampalagamam Morawewa and Gomarankandalawa. All these areas had witnessed an influx of Sinhala settlers as a result of colonisation projects.[29]

2. Violence and colonisation

With state-aided irrigation and settlement policies came increasing ethnic polarisation and violence. The first settlement-related violence in the east was in the Gal Oya region in June 1956, when Tamils settled under the Gal Oya Development Project were forced off their lands by Sinhalese angered at nationwide protests by Tamils against the "Sinhala Only" language bill.[30] As the ethnic conflict worsened and Tamil militancy grew in strength from the early 1980s onwards, settlements and settlers were increasingly militarised. Police and military posts were established to protect settlements in "border areas" between government-controlled areas and the lands of would-be Tamil Eelam. The government paid settlers to act as "home guards", with others recruited into the regular armed forces.[31] The lines between civilians and the military were blurred. Tamil militants began to consider settler communities legitimate targets for attacks. These, in turn, were used to justify military offensives against Tamil settlements adjoining Sinhala areas.

In some cases, settlements were established primarily for military, rather than development or agricultural,

proposed project seems not to have been achieved. K.N. Tharmalingham, "Sea of Despair at Nalaam Colony", in *Beyond the Wall*, Home for Human Rights, Quarterly Journal, July-September 2005, p. 28.

[25] Yuvi Thangarajah, "Ethnicization of the Devolution Debate and the Militarization of Civil Society in Sri Lanka", in Markus Mayer, Darini Rajasingham-Senanayake and Yuvi Tangarajah (eds.), *Building Local Capacities for Peace: Rethinking Conflict and Development in Sri Lanka* (New Delhi, 2003), p. 25.

[26] Crisis Group interviews, Tamil and Muslim farmers, Trincomalee and Ampara districts, March-April 2008.

[27] See for instance, "An Appraisal of the Concept of a Traditional Tamil homeland", op. cit., pp. 20, 26-27.

[28] Department of census and statistics. For a fuller history of population changes in the east, see Appendix C.

[29] "The Material Basis for Separatism", op. cit., p. 66; and Chelvadurai Manogaran, "Colonization as Politics: Political Use of Space in Sri Lanka's Ethnic Conflict", in C. Manogaran and B. Pfaffenberger (eds.), *The Sri Lankan Tamils: Ethicity and Identity* (Boulder, 1994), pp. 110-112. These electoral divisions ceased to exist after the adoption of the 1978 constitution.

[30] Tarzie Vittachi, *Emergency '58: The Story of the Ceylon Race Riots* (London: 1958); and "Colonization as Politics", op. cit., pp. 114-115.

[31] "Ethnicization of the Devolution Debate", op. cit., p. 30.

purposes. Settlements in the area of Weli Oya[32] functioned as a front line of defence for the Sri Lankan military as well as a means to divide the Northern and Eastern Provinces and weaken the viability of Tamil Eelam.[33] The settlement of hundreds of Sinhala prisoners at the Kent and Dollar Farms involved the forcible abandonment of many nearby Tamil villages.[34] The LTTE responded with its first massacre of Sinhala civilians when it attacked the prisoners in November 1984. This was followed by the further eviction of an estimated 2,000 Tamil families in 1985.[35]

The settling of armed Sinhalese in the east contributed directly to a string of massacres of Tamil civilians and the destruction of Tamil villages. In early June 1985, in the wake of the LTTE's massacre of more than 100 Sinhalese Buddhist pilgrims in Anuradhapura, every single Tamil house within walking distance of Sinhala villages in Seruwila division of Trincomalee was burned to the ground. Some 3,000 houses were destroyed and an unknown number of Tamils were killed.[36] Thousands of Sinhalese fled the Trincomalee area in 1986 after a string of massacres by the LTTE.[37] Today, Sinhalese and Tamil villagers remain displaced from villages throughout Trincomalee district.

3. The Indo-Lanka accord and the merger of the north and east

Under intense pressure from India, the Sri Lankan government signed the Indo-Lanka accord in 1987. Recognising the Northern and Eastern Provinces as "areas of historical habitation of Sri Lankan Tamil speaking peoples",[38] it called for the temporary merger of the two provinces, subject to a referendum in the east within a year. Incorporated into law through the Thirteenth Amendment, the accord established provincial councils with limited devolved powers. The LTTE ultimately rejected the accord and the Thirteenth Amendment – as did Sinhala nationalists. Other Tamil militant groups accepted the agreements despite being unhappy with the temporary nature of the merger.

Elections to the Northeast Provincial Council in 1988 saw the victory of the Eelam People's Revolutionary Front (EPRLF), a rival to the LTTE. The council was able to function only with the support of Indian peacekeeping forces and collapsed when the troops left in March 1990. Without an operative provincial council and ruled directly from Colombo, the north and east remained merged, with the required referendum postponed in a yearly presidential decree. This ended with an October 2006 Supreme Court judgment ruling the continued merger invalid on procedural grounds.[39]

C. Changing Tamil-Muslim Relations in Response to Militancy and War

Conflicts over land and security in the east have not just been between Tamils and Sinhalese. Muslims have suffered great violence at the hand of Tamil militant groups, especially the LTTE. Tamil militancy and the demand for a Tamil homeland provoked a reaction

[32] Weli Oya straddles the borders of Anuradhapura, Vavuniya, Mullaitivu and Trincomalee districts. Land was taken using powers granted to the Mahaweli Authority, but no water from the Mahaweli river and very little infrastructure was provided. Presented as though it were part of the Mahaweli "System L", Weli Oya was not included in the 1978 master plan for the Accelerated Mahaweli Development Project, but was hurriedly conceived and put into action only in 1984, after the outbreak of war. "From Manil Aru to Weli Oya and the Spirit of July 1983", University Teachers for Human Rights (Jaffna) (UTHR(J)), special report no. 5, 15 September 1993.

[33] Rajan Hoole, *Sri Lanka: The Arrogance of Power* (Colombo, 2001), pp. 199, 206-211, 323-26.

[34] "From Manil Aru to Weli Oya and the Spirit of July 1983", op. cit.

[35] 33 Sinhalese settlers were killed at the Dollar Farm and a further 29 at Kent Farm. *The Arrogance of Power*, op. cit., p. 206. In January 1998, eight Tamils were tortured and killed, allegedly by police and home guards from Sinhapura and Jayapura – newly established frontier settlements – after many other Tamils from the Thampalakamam division had been rounded up and assaulted. "The Outrage at Thampalakamam: the Hidden Reality", UTHR(J), info bulletin no. 16, 5 February 1998.

[36] Later in 1985 an additional 900 houses of Tamils in neighboring Sampur were destroyed in an attack by security forces that lasted three days and killed about 70 civilians. In September 1986, hundreds of Tamil houses in Trincomalee town were destroyed. Crisis Group interview, academic researcher, Colombo, September 2008. See also *The Arrogance of Power*, op. cit., pp. 323-343.

[37] Ibid.

[38] Indo-Lanka accord, 1987, clause 1.4.

[39] In the wake of the Indo-Lanka accord and the Thirteenth Amendment, a merged north and east gradually came to be assumed as the basis for any constitutional reform proposal or negotiated settlement. This was the case in the various constitutional proposals from the Kumaratunga government from 1995 to 2000, in negotiations with the LTTE in 2002-2003, and in the Tigers' Interim Self-Governing Authority proposal. The Supreme Court judgment de-merging the provinces and the subsequent May 2008 provincial council elections in the east have changed the terms of political debate significantly.

from Muslims which has altered the course of the conflict.[40]

Eastern Tamils and Muslims have deep and long-standing cultural ties, particularly in Batticaloa and Ampara districts. The two communities share the same matrilineal clan structure and marriage patterns, as well as other cultural and religious practices.[41] There are also long-established practices of joint paddy cultivation between Muslims and Tamils and other forms of economic cooperation and interdependence. In the early years of Tamil militancy, there was a significant degree of support from Muslims in the east, given the experience of language discrimination eastern Muslims shared with Tamils. Some young Muslims joined Tamil militant groups.

At the political level, however, Muslims worked closely with the Sri Lankan state. There were prominent Muslim politicians in the Sinhala-majority United National Party (UNP) and Sri Lanka Freedom Party (SLFP), and Muslims served in the police and military. Many Muslims were sceptical of the Tamil nationalist struggle, despite its initial presentation as a struggle for the rights of all Tamil-speaking people. Entirely controlled by Tamils and offering no recognition of a specific Muslim identity or specific Muslim concerns, Tamil nationalism had difficulty offering Muslims an equal place.

Unease with Tamil nationalism grew as many Muslims were forced to contribute money and other forms of support to the range of Tamil militant groups that emerged in the 1980s. An attempt by a Tamil militant group to extort money from Muslims provoked the first serious communal violence in April 1985.[42] Thus began a vicious cycle of violence and resistance, which ultimately dealt a major blow to the Tamil militant struggle. Muslims' growing fear of ending up in a Tamil-majority state in the north east led to greater Muslim resistance to Tamil militancy, which the government was quick to exploit. The induction of Muslims into the Civilian Volunteer Force and the work of some as informants and intelligence operatives provoked further LTTE attacks. The full break came in 1990, when the LTTE massacred more than 200 Muslims in mosques in Kattankudy and Eravur and drove many out of their villages in predominantly Tamil areas of the east. The LTTE's October 1990 expulsion of nearly 100,000 Muslims from the Northern Province was the most devastating of its anti-Muslim acts and remains a source of bitterness among Muslims throughout Sri Lanka.[43]

Violence from the LTTE and other Tamil militants strengthened eastern Muslims' turn to their own politics of autonomy. Founded in the mid-1980s, the Sri Lanka Muslim Congress (SLMC) quickly became the political voice of eastern Muslims, many of whom felt unrepresented by Muslim leaders in the two major national parties. The SLMC has from the late 1980s supported a Muslim autonomous region in the east.[44] Modelled on the example of the Union Territory of Pondicherry in southern India, the Muslim self-governing region would comprise the various non-contiguous Muslim settlement areas in the east and north.[45] Initially proposed to protect the rights of Muslims in a merged north eastern province, the plan was later used to gain greater recognition for Muslim interests in peace negotiations between the government and the LTTE.[46] The SLMC has already successfully campaigned for the creation of a number of Muslim-majority town councils and administrative districts, further separating Muslims and Tamils in the east and reproducing the same nationalist logic that has dominated Tamil and Sinhala politics.

D. FROM "PEACE" TO WAR TO ELECTIONS: 2002-2008

The 2002 ceasefire came under the greatest strain in the east, where it eventually collapsed.[47] While there

[40] See Crisis Group Report, *Sri Lanka's Muslims*, op. cit.

[41] These specific east coast cultural patterns helped reinforce the distinction between eastern Tamils and Tamils from the northern Jaffna peninsula, whose high-caste leadership generally looked down on Batticaloa Tamils for their lower caste and less Sanskritic Hindu rituals. See Dennis B. McGilvray, "Tamil and Muslim Identities in the East", *Marga Monograph Series on Ethnic Reconciliation*, no. 24 (Colombo, 2001), p. 5.

[42] Dennis B. McGilvray and Mirak Raheem, *Muslim Perspectives on the Sri Lankan Conflict*, East-West Center Policy Studies no. 41 (Washington, 2007), p. 21.

[43] *Muslim Perspectives*, op. cit., p. 22.

[44] Crisis Group telephone interview, Hassan Ali, General Secretary, SLMC, 9 July 2008.

[45] M.I.M Mohideen, *North-East Muslim Question and the Peace Process* (Colombo, 2006), p. 64.

[46] *Muslim Perspectives*, op. cit., pp. 26-7. The so-called "Oluvil Declaration" signed on 23 January 2003 by students and activists in the eastern town of Oluvil, was the first public endorsement of internal self-determination by eastern Muslims. It came at a time of high-profile peace negotiations between the government and LTTE. It is unclear how much the proposal will resonate with eastern Muslims in the event that the Eastern Province remains separate from the Northern Province.

[47] For analysis of the collapse of the Norwegian-brokered ceasefire, see Crisis Group Reports, *Sri Lanka: The Failure*

was some respite from active fighting, the east was far from peaceful. The LTTE made its most concerted attempt to tighten its political grip over Tamils and Muslims in the east, often violating the agreement in the process. Both suffered from LTTE extortion, abductions and political killings. Muslim and Tamil tensions were particularly acute, with violent clashes provoked by the LTTE in 2002 and 2003 in Mutur and Kinniya in Trincomalee district and in Valachchenai in Batticaloa.[48] Negotiations between the LTTE and Muslim civil society groups on the longstanding problem of tens of thousands of acres of Muslim agricultural lands under LTTE control began but ultimately stalled. Little land was made available.[49]

The March 2004 decision by the LTTE's eastern military commander, Vinyagamurthy Muralitheran, known as Karuna, to break from the Tigers threw the ceasefire into doubt. After a month-long standoff, the main branch of the LTTE attacked Karuna's forces, the Tamil Makkal Viduthalai Puligal (TMVP), and quickly re-took control of their areas in the east.[50] Karuna's fighters soon regrouped with support from the Sri Lankan military and began an increasingly effective guerrilla campaign. The Tigers' hold on the east slowly weakened. Having initially disbanded most of the fighters under his control, many of whom were underage, the Karuna group eventually began forcibly recruiting children again and engaging in a range of abuses characteristic of the LTTE.[51]

The shock and devastation of the Indian Ocean tsunami in December 2004, whose greatest destruction was in the east, briefly led to increased cooperation across ethnic lines and between the government and the LTTE. Tensions quickly returned, however, with disputes over land and aid distribution. The failure of a government-LTTE agreement to jointly manage tsunami recovery funds, continued attacks on the LTTE by the Karuna group, the November 2005 election of Rajapaksa on a platform critical of the peace process and the Tigers' decision to respond with violence all proved too much for the ceasefire agreement. In July 2006, the military launched a "humanitarian operation" to recapture a disputed irrigation channel. The war had begun. By mid-July 2007, the Sri Lankan military had succeeded in clearing the east of LTTE forces and its para-state structures for the first time in more than a decade.

The military success came at a heavy human cost. At least 300 civilians were killed, and some 165,000 were displaced. Tamil civilians were repeatedly forced to flee just ahead of the shelling and bombing, caught between the army's offensive and the LTTE's desire not to let them escape. Tens of thousands were repeatedly displaced and remained in camps for many months following the fighting. When they returned home in 2007, many found their homes and land systematically looted, with all items of value removed.[52]

Karuna and his TMVP were crucial to the military's success, offering invaluable knowledge of the east and of LTTE strategy and defences. With the military victory and the need for a political strategy for the east, attention turned to the political potential of the Karuna group, now formally registered as a political party. The ground had been cleared for provincial council elections in the Eastern Province when the Supreme Court ruled the continued merger of the north and east unconstitutional on procedural grounds in October 2006.[53] The ruling and the subsequent elections in May 2008 dealt a major blow to the Tamil nationalist dream of a united north east Tamil homeland. The government was quick to take advantage of the new political space this created.

of the Peace Process, op. cit.; and *Sri Lanka's Return to War: Limiting the Damage*, op. cit.

[48] Champika Liyanaarachchi, "Muttur: Lessons Unlearnt", *Daily Mirror*, 23 April 2003; and Nirupama Subramanian, "LTTE and Muslims", *The Hindu*, 21 October 2003.

[49] Negotiations between the LTTE and the newly formed North-East Muslim Peace Assembly in 2003 established local-level dispute resolution procedures and facilitated the cataloguing of lands either owned or previously cultivated by Muslims in LTTE-controlled areas. The process collapsed after Karuna and his fighters left the Tigers. See *Muslim Perspectives*, op. cit., pp. 40-1.

[50] Robert Karniol, "Tamil Tigers Reassert Control", *Jane's Defence Weekly*, 21 April 2004.

[51] "Complicit in Crime, State Collusion in Abductions and Child Recruitment by the Karuna Group", Human Rights Watch, January 2007.

[52] Crisis Group interviews, aid workers and Tamil residents, Trincomalee and Batticaloa, March and April 2008. Numerous eyewitnesses reported seeing looted items being transported to and from army camps in the east.

[53] The procedural irregularity could have been overcome with a simple parliamentary majority. The opposition UNP offered its support to reinstate the merger, but the government preferred to let the ruling stand as it facilitated its political plans for an east free of the LTTE or other strongly Tamil nationalist parties.

III. "DEMOCRACY, DEVOLUTION, DEVELOPMENT"

Democracy, devolution and development constitute the three pillars of the government's strategy for the revival of the Eastern Province. The government's wager has been that elections, by bringing to power a "tri-national coalition" of the TMVP, pro-government Muslim politicians and the SLFP, will ensure enough stability for successful economic development, which in turn will support a sustainable peace.[54]

The victory of the government coalition in the 10 May 2008 provincial council elections has made it easier for the government to argue to the international community, in particular India, that it has a coherent political approach to complement its military strategy in the north. Hailing the election as "a watershed"[55] that delivered "a people's mandate for democracy over terrorism",[56] the government insists "the Province is on the threshold of rapid development, a win-win situation in which individuals of all communities can share".[57] Former terrorists have "renounced violence and entered the democratic process",[58] and the east now has a Tamil chief minister who is working together with Muslim politicians and with the central government. With the promise to grant powers under the Thirteenth Amendment to the Eastern Provincial Council, the government argues it is serious about some degree of provincial level autonomy, even as it further institutionalises the de-merger of the Eastern Province from the north. Limited devolution, democratic elections, and the development and peace they make possible will help inspire Tamils in the north that there is hope for a fair solution for them too, once the LTTE is defeated.

Can the government's strategy work? Life is markedly better in some ways for all three communities in the east after the defeat of the LTTE. The absence of war has allowed many to return to agricultural and economic activities that had been abandoned. For Sinhalese and Muslim civilians, it means freedom from fear of LTTE attacks and harassment. For Tamil civilians, it means not just the absence of war and the return to something resembling a normal life, but also freedom from LTTE abuses and repression. The government has launched an ambitious development program with international financing and some improvements in roads and infrastructure are already visible.[59]

Nonetheless, the government's strategy faces serious challenges.

- The government's close ties to and reliance on Sinhala nationalist parties opposed even to minimal devolution of power raise doubts about its willingness and ability to implement the Thirteenth Amendment.
- Small groups of LTTE fighters continue to target government security forces in the east. They receive some degree of support from Tamil civilians. Wary of the potential for further LTTE infiltration, the government maintains a large security presence and tight security restrictions in Tamil areas. These further alienate Tamils.
- The claim of the TMVP to be a democratic representative of the Tamil people is undermined not only by its undemocratic practices prior to and during local government and provincial elections, but also by its close links with the police and military and its involvement in counter-insurgency operations. Despite government promises to disarm all paramilitaries, it remains armed.
- There continue to be significant tensions between Tamils and Muslims over security and land, provoked in part by TMVP actions.
- There is no sign of any serious inter-ethnic confidence-building efforts by the government designed to address underlying causes of tension. All three communities remain insecure.

A. "DEMOCRATIC" ELECTIONS

"[A] one-time LTTE terrorist leader was recently elected to political office because we allowed him to enter the democratic process. He is not just an elected provincial member. He is the chief minister of that province. How many other countries have been able to

[54] The phrase "tri-national coalition" is borrowed from Sumanasiri Liyanage, "What Next?", *Montage*, 15 June-15 July 2008.
[55] "Overcoming created tensions to work together for peace", Secretariat for Coordinating the Peace Process (SCOPP), 23 May 2008.
[56] Rohitha Bogollagama (foreign minister), "A people's mandate for democracy over terrorism in the east of Sri Lanka", 9 June 2008.
[57] "Overcoming created tensions to work together for peace", SCOPP, 23 May 2008.
[58] Bogollagama, "A people's mandate for democracy over terrorism in the east of Sri Lanka", op. cit.

[59] The government estimates the program, known as *Nagenahira Navodaya*, or "Eastern Revival", will cost $1.8 billion, most of it to come from foreign sources. See www.neweast.lk. A forthcoming Crisis Group briefing will examine the role and responsibilities of donors in the development of the east.

achieve this in such a short time, holding elections and bringing militants in the political mainstream?" – President Mahinda Rajapaksa[60]

The 10 May provincial elections pitted the United People's Freedom Alliance (UPFA) – composed of President Rajapaksa's SLFP, the TMVP and a range of smaller Muslim parties – against the UNP, running in coalition with the SLMC.[61] Also contesting were the Janatha Vimukthi Peramuna (JVP) and a coalition of smaller Tamil parties, known as the Tamil Democratic National Alliance (TDNA).[62] The UPFA coalition won 52 per cent of the vote and twenty seats in the 35-seat council.[63] The UNP-SLMC ticket received 42 per cent of the vote and fifteen seats. The JVP and TDNA won one seat each.

While the government insists that the provincial elections were "monitored by local and foreign observers" who concluded that "the election was by and large free and fair",[64] the clear consensus of election observers and eyewitnesses in the east was to the contrary. Observers from three different civil society organisations reported a wide range of serious malpractices.[65] Election day saw widespread reports of intimidation of voters, obstruction of polling agents, ballot stuffing, voter impersonation and assaults on candidates and opposition supporters.[66] The TMVP, which remained armed throughout the campaign and on election day, was blamed for most of the incidents, but supporters of other UPFA parties and candidates were also said to be involved in some incidents.[67] In all but a few cases, the police did nothing to intervene, at times refusing to accept complaints.

It is impossible to calculate the exact impact of the reported violations on the election results or to know whether the UPFA would have won in a free contest.[68] While all elections since the establishment of the present system in the 1978 constitution have been marred by serious abuses, the May 2008 election by all accounts was one of the worst. The irregularities and violence that marred the election cast doubt on the legitimacy of those elected, and its results can hardly be considered a credible expression of the popular will. The opposition UNP and SLMC complained of "daylight robbery".[69] After the election commissioner refused to

[60] Quoted in Neville de Silva, "President wary of defence columns", *The Sunday Times*, 15 June 2008.

[61] Elections on 23 March for local government bodies in parts of Batticaloa district formerly controlled by the LTTE saw the overwhelming victory of the TMVP. Their only opponents in these elections were a coalition of small Tamil parties, including the Eelam People's Democratic Party (EPDP), Eelam People's Revolutionary Liberation Front (EPRLF) and People's Liberation Organisation of Tamil Eelam (PLOTE), and, in Muslim areas, the SLMC. See "Afraid even to say the word: Elections in Batticaloa District", Report of a joint civil society visit to Batticaloa, 26 February 2008.

[62] The largest Tamil party, the Tamil National Alliance (TNA) boycotted the election, citing the lack of security for their candidates and their opposition to elections in an Eastern Province divided from the Northern Province. In the words of TNA parliamentary leader R. Sampanthan, "I do not recognize a separate Eastern Province. [It] is a violation of the Indo-Lanka agreement. It is a violation of international treaties. It is the duty of the incumbent government to rectify the merger and bring about a proper merger". Shanika Sriyananda, "All three communities must put heads together; interview with R. Sampanthan, Tamil National Alliance", *Sunday Observer*, 29 June 2008.

[63] This included two bonus seats that go to the party with the highest number of votes. In addition to winning a large majority of Sinhalese votes, the UPFA secured a majority of Tamil votes in Batticaloa and split the votes of Muslims with the opposition.

[64] "A people's mandate for democracy over terrorism in the east of Sri Lanka", op. cit.

[65] See reports from People's Action for Free and Fair Elections (PAFFREL), the Centre for Monitoring Election Violence (CMEV) and the Campaign for a Free and Fair Election (CAFFE). Prior to the vote the government used a variety of tactics to skew the playing field in its favour, ranging from the misuse of state property and the state media in support of UPFA campaigning, to assaults and intimidation of opposition candidates and supporters. Citing a range of abuses, PAFFREL, previously seen as close to the government, stated that "it is not possible to conclude that this election was a free and fair election". "Third interim report on the Eastern Provincial Council Election", PAFFREL, 12 May 2008. CAFFE, accused by the government of supporting the opposition, spoke of "the fear psychosis that prevailed in the election" and concluded that the "sad truth is that the blatant use of power by the government coupled with the carrying of arms by the non-state armed groups took away the little power that people were left with". "Eastern Provincial Council Elections of 10th May 2008", CAFFE, May 2008.

[66] See "Interim Report on the Eastern Provincial Council Election", op. cit.; "Third interim report on the Eastern Provincial Council Election", op. cit.; "Eastern Provincial Council Elections of 10th May 2008", op. cit.; and "Media Communique on Election-related Violence, Eastern Provincial Council Election 2008", CMEV, 10 May 2008.

[67] PAFFREL noted that there was a "significant level of intimidation that obstructed the electoral campaigns of the opposition parties" due to armed TMVP influence. "Interim report on the Eastern Provincial Council Election", PAFFREL, 10 May 2008.

[68] The Election Commission does not release results for each polling station, so it is impossible to know how many total votes might have been affected by particular abuses or whether these would have been enough to change the overall winner.

[69] Kelum Bandara, "UNP-SLMC alliance blasts polls chief for 'daylight robbery'", *Daily Mirror*, 13 May 2008.

act on their complaints, the two parties filed a civil suit in the Supreme Court requesting the election results be nullified.[70]

The TMVP's results were particularly questionable. Campaigns for both the March local government elections and the May provincial council vote saw numerous reports of Tamil voters being threatened not to support the opposition, and the TMVP was known to have forcibly recruited many of their candidates and is alleged to have murdered at least one would-be candidate who refused to sign up.[71] Election day saw widespread claims of the TMVP intimidating opposition voters and party workers, impersonating voters and taking over polling stations to stuff ballots.[72]

The campaign was waged largely along ethnic lines, with many Tamils reportedly voting for the TMVP in order to prevent a Muslim candidate from becoming chief minister of the province. The UNP-SLMC coalition campaigned on a promise to name Rauff Hakeem, head of the SLMC, as chief minister in the event of their victory. The government, in turn, had promised the chief minister position to whichever UPFA constituent group – the Muslim list headed by minister MHM Hisbullah, or the TMVP, led by S. Chandrakanthan, better known as Pillayan – gained the most seats.[73] With the main Tamil party, the TNA, boycotting the election, and no well-known Tamil candidates on the opposition UNP ticket, Tamil voters wanting a strong Tamil voice in the provincial council had no other choice than the TMVP.

Ultimately the government, determined to appoint a Tamil as chief minister, named Pillayan and not Hisbullah, despite Muslim UPFA candidates winning more seats than Tamils. The decision angered many Muslims in the east, who felt they had been deliberately misled by the government. Nor were they happy about having the leader of a Tamil armed group at the head of provincial government. Many Tamils and Muslims in the east believe the government is happy to keep Tamils and Muslims at odds so as to prevent them from uniting to challenge the government's policies or press for real devolution of power.

B. THE THIRTEENTH AMENDMENT AND DEVOLUTION OF POWER

On numerous occasions since January 2008 officials have reiterated the government's intention to follow the recommendations of the All Party Representative Committee (APRC) and implement "relevant provisions in the present Constitution, in order to achieve maximum and effective devolution to the provinces in the short term".[74] More than eight months later, the government has not taken any of the steps necessary to devolve effective powers to the Eastern Province.[75]

Since provincial councils were first established under the Thirteenth Amendment in 1987, successive presidents and parliaments have consistently undermined their autonomy, exploiting the amendment's many ambiguities and contradictions.[76] Never allowed to enjoy any of the important powers apparently granted on paper, provincial councils and administrations have simply become another layer of bureaucracy and political positions, carrying out policies determined at the national level.[77]

[70] "SC Fixes Inquiry on Petition Challenging EPC Election Results", *Tamilnet*, 15 June, 2008.
[71] D.B.S. Jeyaraj, "How credible were the Batti polls?", *The Nation*, 23 March 2008; and Wilson Gnanadass, "Batti: Polls or Poles Apart?", *The Nation*, 27 January 2008, at http://www.nation.lk.
[72] "Media Communique on Election-related Violence", op. cit.
[73] It thus used the ethnic competition to generate increased turnout for pro-government candidates on both sides of the Tamil-Muslim divide. Hisbullah left the SLMC and joined the government only in March 2008, in between local government and provincial council elections, reportedly after being promised the office of chief minister. "Hisbullah crosses over to govt", BBC Sinhala, 1 April 2008.
[74] "APRC Proposals to President," 24 January, 2008, available at www.priu.gov.lk/news_update/Current_Affairs/ca200801/20080124aprc_proposals.htm. For an analysis of the politics of the APRC, see Crisis Group Report, *Sri Lanka's Return to War: Limiting the Damage*, op. cit., pp. 7-8. On 24 July 2008, a number of pro-devolution ministers publicly appealed to the government to grant the Eastern Province all powers under the Thirteenth Amendment, including powers over land, police and education. Don Asoka Wijewardena, "Govt. assures implementation of 13th Amendment", *The Island*, 25 July 2008.
[75] The government has not yet provided the provincial council the funding necessary to carry out functions. The ministerial committee appointed in February 2008 by the president to devise the precise actions needed to implement the Thirteenth Amendment, most of whose members are known opponents of devolution, has still not met.
[76] The clause granting the central government authority to make law on "National policy on all subjects and functions" has frequently been invoked to reclaim powers apparently devolved to provinces. See "Strengthening the Provincial Council System: Thematic Report of Workshop Deliberations", Centre for Policy Alternatives, May 2008, p. 19.
[77] For a valuable discussion of the obstacles to the effective functioning of provincial councils, see "Strengthening the Provincial Council System", op. cit. An earlier and even more devastating analysis of the failures of the provincial council system was laid out in "Provincial Councils: Operational

Given the limitations and contradictions of the Thirteenth Amendment, there are reasons to doubt things will be any different in the Eastern Province. Among the more important problems with the amendment:

- The degree of "devolution" is limited and full of contradictions. The most important of the powers apparently devolved to provinces – land, police and public order, and education – are curtailed by appendices to the amendment which introduce numerous exceptions and ambiguities. Invoking one such appendix, the central government has taken over management of many important schools by naming them as "national schools".[78]
- Land powers are circumscribed. Authority over land that is part of the major irrigation and settlement schemes of the dry zone has remained with the central government, as has "state land". The exact definition of "state land" remains uncertain, however. The National Land Commission called for by the Thirteenth Amendment and tasked with formulating policy on state land has never been constituted. In practice, alienation of any state land continues to require the approval of the president.
- While many important powers appear to be shared between the centre and the provinces, the central government has always treated these powers as if they are its own.[79] No province or provincial level politicians have ever been strong or independent enough to challenge this power grab.
- With very limited powers of taxation, provincial councils remain financially dependent on the centre. The annual budget recommendations made by the Finance Commission – established under the Thirteenth Amendment – have consistently been ignored and reduced by the centre. Recent attempts by some provincial councils to raise the taxes they presently levy have been vetoed by the government.[80]
- The governor of each province, appointed by and politically beholden to the president, has the power to reject provincial legislation and to dissolve provincial councils virtually at will.[81]
- The president has the authority to assume any or all administrative powers of a province and to delegate the powers of any provincial council to the parliament.[82]

"Full implementation" of the Thirteenth Amendment remains ambiguous at best.[83] Constitutional scholars have argued since its adoption that it does not provide a coherent or effective system of devolved power. Until further constitutional and legislative changes are made, any "devolution" of power under the Thirteenth Amendment will in fact only be a conditional gift, based on the willingness of the president, senior officials and wide range of government bureaucracies to relinquish important aspects of their power. Such "devolution" would maintain the patron-client relationship so characteristic of Sri Lankan politics and so contradictory to real provincial autonomy. Whether the government will prove capable of making even this shift remains open to question. Sceptics point to the strong influence of the JHU, which is opposed to the full implementation of the Thirteenth Amendment, and to the government's demonstrated preference for centralised and tightly controlled power.

Experience of Devolution", a 1996 report commissioned by the ministry of co-operatives, provincial councils and local government. The report was never published.

[78] Appendix III states that "Specified Schools will be National Schools, Special Schools for Service personnel and schools for specified development schemes." See "Strengthening the Provincial Council System", op. cit., p. 18.

[79] These powers are set out on the so-called "Concurrent List". In its January 2008 proposals to the president, the APRC noted that "implementation of subjects and functions devolved on the Provinces through the Concurrent List has not taken place at all due to the fact most of these subjects and functions were retained by the Centre as if they also belonged to the Reserved List". "APRC Proposals to President", 24 January 2008, op. cit.

[80] See Yohan Perera, "BTT to increase soon?", *Daily Mirror*, 16 July 2008; and Shamindra Ferdinando, "Plan to lessen PC dependence on Treasury dropped", *The Island*, 18 July 2008.

[81] Constitution of the Democratic Socialist Republic of Sri Lanka, Article 154K.

[82] Constitution of the Democratic Socialist Republic of Sri Lanka, Article 154L(1)a and Article 154L(1)b. Such power may be exercised "if the President is satisfied" that there has been a "failure in the administrative machinery".

[83] Given the overlapping and contradictory powers the amendment grants to the provinces and the centre, "'full implementation' is a policy option that would require consequential policy and legislative if not constitutional changes in order for the inherent logic of a devolved system of governance to have any chance of success". "Strengthening the Provincial Council System", op. cit., p. 18. The APRC's original twelve-page interim proposals of 22 January 2008 listed – and endorsed – a number of crucial administrative and legal changes necessary for effective implementation of the Thirteenth Amendment. These recommendations were removed, and the document reduced to two pages, before receiving the president's approval and being made public. The 22 January version entitled "Action to be taken by the President to fully implement relevant provisions of the present constitution as a prelude to the APRC proposals" has never been released.

IV. SECURITY, LAND AND THE GRIEVANCES OF TAMILS AND MUSLIMS

A. TAMIL VIEWS, FEARS AND GRIEVANCES

Everyday life has undeniably improved for many Tamils since the LTTE was forced to abandon their military bases and administrative apparatus in the east. In the areas formerly controlled by the Tigers, most of the more than 150,000 civilians displaced by the fighting in 2006-2007 have returned to their homes. With international assistance, they have begun to repair their damaged houses and fields and to rebuild their lives. Throughout the province, economic activity has increased, as the promise of stability has begun to lure new private sector investment and international development assistance. Free from any imminent threat of war and from LTTE taxation, harassment and child recruitment, Tamils in many parts of the Eastern Province have begun new lives – or simply returned to their old lives in peace.[84]

The victory over the Tigers was achieved at heavy human cost. The social and psychological effects from nearly a year of fighting, large-scale displacement and physical destruction, including widespread looting, continue to be felt. The previous decade of life under the LTTE also left its scars.

1. Security concerns

The most pressing concern for Tamils in the east is security. With the LTTE still operating in the east, the province retains a heavy military, police and paramilitary presence, and Tamils must undergo regular checking, roundup, and surveillance. Disappearances and politically motivated killings continue on an almost daily basis.[85] "Anytime, anything can happen", says one young Tamil man in Trincomalee. "A guy with a helmet and gun could come in the door and do anything. If you call the police, will they come? I don't think so".[86] In Alayadivimbu, the Tamil section of the predominantly Muslim town of Akkaraipattu, residents complained of a rash of late night house break-ins and sexual assaults in February and March of 2008, allegedly by the Police Special Task Force (STF).[87]

In southern Trincomalee district, the entire village of Eechilampattu, formerly under the control of the LTTE, has been taken over by the army. The owners say that when they returned to their village after months of displacement in mid-2007, they found all their houses, nestled under a grove of trees, occupied. Their personal belongings – including doors and household items – were entirely gone. They now live in tents and makeshift dwellings in the backyards and fields of their friends and relatives nearby, within sight of their occupied houses.[88] They complain of regular harassment and intimidation by the army, who suspect them of links to the LTTE.

The heavy security apparatus creates other problems for Tamils. Restrictions on fishing – particularly in and around Trincomalee harbour – hit Tamil fishing communities hard. Similar, more ad hoc, restrictions on cattle herding, firewood collecting and other traditional livelihoods are imposed in the name of security. Both Tamils and Muslims complain such restrictions are relaxed or not applied at all to Sinhala fishermen and farmers.[89] A High Security Zone (HSZ) established in the eastern half of Mutur division, south of Trincomalee harbour, has pushed an estimated 8,000 Tamils off their land without due legal process.[90]

[84] Amantha Perera, "Children of the east: a cautious optimism is creeping back into Sri Lanka's Eastern Province, at least among the younger generation", *Himal Southasian*, July 2008.
[85] From May through August 2008, 107 people were killed in political violence in the east. "Overview of the Human Security Situation in the North East", Foundation for Coexistence, September 2008.
[86] Crisis Group interview, Tamil NGO worker, Trincomalee, April 2008.
[87] Some 50 women are alleged to have been assaulted over the course of a few weeks. The doctor who examined some of the survivors reportedly came under intense pressure not to corroborate their stories publicly. Just prior to the break-ins and rapes, the STF had searched all houses in the Tamil side of town and photographed and videotaped every resident. Multiple eyewitnesses reported having seen a senior STF commander taking part in the late-night searches and assaults. The STF and the commander denied involvement, but after extensive lobbying – including through local Muslim politicians – he was transferred. Some residents of Alayadivembu and Akkaraipattu also said the same individual had been assigned to the Shastraveli STF camp in Potuvil at the time of the murder of the ten Muslim labourers in September 2006. Crisis Group interviews, Tamil and Muslim residents, Alayadivembu and Akkaraipattu, March and August 2008.
[88] "Yes, we're angry, but we can't do anything about it....We raised the issue with UNHCR and the Human Rights Commission and also made a police entry – all the people did. When we left the area, the only people here were the Army. There was no chance for anyone else to come in". Crisis Group interview, residents, Eechilampattu, Trincomalee, April 2008.
[89] Crisis Group interviews, residents of Trincomalee and Batticaloa, March-April 2008.
[90] Crisis Group interviews, humanitarian agency workers, Trincomalee district, April and August 2008. For a more detailed

"We are facing lots of problems", says one student in Batticaloa, "but we're afraid to say anything. There's no freedom. We can't speak openly about our problems. If you contradict someone in power or with a gun, you might get shot. It's better to be silent".[91]

2. Lack of political voice

Eastern Tamils, like Tamils throughout Sri Lanka, have little effective political voice. They have no representatives who are in touch with their concerns, are willing to represent them in public and have enough clout to affect policy. TNA members of parliament from the east, elected in 2004 on a pro-LTTE platform, are unable to travel to the east due to threats to their lives.[92] They have also chosen not to risk taking political positions independent from the LTTE. As a result, they are largely irrelevant to political developments in the east. While some believe they still retain significant support, their decision not to contest the local government and provincial council elections in the east threatens to permanently weaken their hold over voters.

Smaller independent or pro-government Tamil parties, like the EPDP, EPRLF and PLOTE, have little popular support. A coalition of the three parties won six seats on the Batticaloa municipal council; a separate independent Tamil coalition won a single seat on the provincial council.

Many – though certainly not all – Tamils continue to express quiet admiration and support for the LTTE, though more in Trincomalee than in Batticaloa and Ampara. They see the LTTE as the only group able to force the Sri Lankan state to take Tamil rights and interests seriously. Yet while the Tigers' guerrilla forces are increasingly active in the east, they have shown little ability to influence recent political events.

Beaten down by years of war, displacement and political repression from government forces, the LTTE and other armed groups, Tamils in the east are, for the time being at least, politically defeated. Many are resigned to their fate. "Even Tamils are so tired of this war, they just want it over", said one Tamil activist in Trincomalee. "We started the struggle for our rights, but if we lose, we are prepared to live as slaves, as second-class citizens".[93]

3. TMVP: the slow march to democratisation?

Could the TMVP succeed where other Tamil parties have failed and effectively represent the interests and defend the rights of eastern Tamils? While the TMVP claims to represent the interests of eastern Tamils, the party had no official political platform for the recent elections and campaigned instead merely on their ability to distribute government resources and foster development.

Tamils so far do not seem convinced. While Karuna had a significant degree of support among Batticaloa Tamils when he first broke from the LTTE, the subsequent years of child recruitment, extortion and political killings took their toll. Today the TMVP has no meaningful degree of support among Tamils. Speaking privately, virtually no Tamils express their support for the TMVP. "Not even 10 per cent of Tamil people in the east would vote for the TMVP in a free and fair election", said one long-time Batticaloa peace activist.[94]

As government officials and supporters of the TMVP point out, the party received a clear majority of votes cast from Tamil polling divisions, both at the local government and provincial council elections. This is true, even if one discounts for some significant degree of ballot stuffing and other forms of rigging. How do Tamils in the east explain this apparent contradiction between private opinion and public behaviour? Fear played a major role – both as a result of direct threats not to vote for the opposition and as a product of years of indoctrination and lack of freedom under the LTTE, where freedom of choice simply was not an option.[95]

But the TMVP's victories mixed fear of retribution with other ingredients. The TMVP skilfully, and in many cases forcibly, recruited respected local person-

discussion of the high security zone and related economic development issues in Trincomalee, see section V. B. 2.

[91] Crisis Group interview, Tamil student, Batticaloa, March 2008.

[92] In addition to the 24 December 2004 murder of the TNA MP for Batticaloa, Joseph Pararajasingham, numerous lower-ranking TNA office holders or candidates have been killed in the east over the past four years, beginning with TNA parliamentary candidate Rajan Sathiyamoorthy, killed 30 March 2004, in Batticaloa.

[93] Crisis Group interview, human rights activist, Trincomalee, April 2008.

[94] Crisis Group interview, Batticaloa, March 2008.

[95] "TMVP threatens UNP campaigners in Battialoca", *Sri Lanka News First*, 1 May 2008. The turnout rate and vote percentage for the TMVP was significantly higher in areas formerly controlled by the LTTE than in Batticaloa town and other Tamil areas controlled by the government during the years of war. The TMVP got very few votes from Tamils in Trincomalee, or in other areas beyond those which are physically controlled and monitored by TMVP cadres.

alities to run as their candidates.[96] In the words of one local peace activist, "the TMVP ran on people not policies....The top vote getters [in the local government elections] were quite popular village-level personalities. The government says it was a victory for the party. Not true. It was a victory of personality".[97] Some voters no doubt also harboured a small bit of hope that the TMVP might be more accountable and easier to work with once in office and no longer just a pro-government paramilitary.[98] No other viable Tamil candidates stood in the provincial elections. Finally, if eastern Tamils wanted resources to flow to the east, it made sense to vote for the TMVP. An opposition victory would have meant much reduced government support for eastern reconstruction.[99]

Nonetheless, the TMVP's relationship to Tamils remains largely a coercive one.[100] The party's use of violence and intimidation on election day and an upsurge of violence afterwards made this clear. At least some of the victims were said to have refused to cooperate with the TMVP during the elections.[101] Clashes between the TMVP and Muslim groups, and between the TMVP and the chief political rival in the east, the EPDP, have involved shootings and abductions on both sides.[102] A series of abductions of young women in the Batticaloa area were also widely believed to be the work of local TMVP cadres.[103] While disappearances and abductions in the east had diminished prior to the election, they continue to be regular occurrences. Finally, the TMVP, like the LTTE before them, are accused of the systematic extortion of businesses and the wealthy in areas of their control.[104] According to numerous officials of humanitarian agencies working in the east, the TMVP was responsible for massive looting of UN and international NGO warehouses.[105]

In a positive development much heralded by the government, the TMVP released 39 underage fighters to UNICEF in April 2008.[106] According to UNICEF's records, however, some 61 underage recruits remain with the TMVP, along with an additional 66 recruited as children but now come of age. At least fourteen underage fighters were recruited or re-recruited between May and September 2008.[107] No TMVP officials involved in the forced recruitment have been arrested or prosecuted.[108]

4. Liberating the TMVP?

For the TMVP to make its transformation into a democratic political party meaningful, its relationship with the Sri Lankan government and military will have to change. The TMVP was an invaluable ally in winning back the east from the Tigers, and it continues to play a crucial role in the government's counter-insurgency operations. The election of the TMVP provided the government with significant political capital. The

[96] In some cases, those who refused to accept the invitation were killed. D.B.S. Jeyaraj, "How credible were the Batti polls?", *The Nation*, 23 March 2008, at www.nation.lk/2008/03/23/special5.htm.

[97] Few candidates who ran on the TMVP ticket were members of the party.

[98] Crisis Group interviews, Batticaloa residents, Batticaloa, March 2008.

[99] The fact that the government was unlikely to put major resources into an Eastern Province ruled by the opposition was well known to voters and posed a major challenge for the UNP and SLMC. Some political analysts otherwise known to be critical of the government used this fact to argue that, all things considered, a government victory in the east would be best. See Sumanasiri Liyanage, "UPFA/TMVP victory – best option for the east", *Daily News*, 9 May 2008.

[100] For some of the many credible reports of the TMVP's involvement in child recruitment see, "Country Reports on Human Rights Practices 2007", U.S. Department of State, 11 March 2008; "Sri Lanka: Karuna Group and LTTE continue abducting and recruiting children", Human Rights Watch, 29 March 2007; and "Report of the Secretary-General on children and armed conflict in Sri Lanka", UNSC S/2007/758, 21 December 2007, pp. 8-9, at http://daccessdds.un.org/doc/UNDOC/GEN/N06/667/18/PDF/N0666718.pdf?OpenElement.

[101] Among these were two policemen shot at in Batticaloa who had worked days earlier in a polling centre in Chenkaladi and prevented vote rigging by TMVP there. "Eastern Provincial Council launched with the killing of a police officer", *Lanka-e-news*, 13 May 2008.

[102] The EPDP has accused the TMVP of murdering a number of its members. See "TMVP 'killed' EPDP member", BBC Sinhala, 27 June 2008, at www.bbc.co.uk/sinhala/news/story/2008/06/080627_epdp_body.shtml.

[103] Crisis Group interviews, human rights activists, Batticaloa and Colombo, March, May and September 2008.

[104] The TMVP and the STF are also both known to extort a percentage of fish caught by Batticaloa fishermen. Crisis Group interviews, aid workers, Colombo, August 2008.

[105] One major humanitarian agency reports that it lost $200,000 worth of supplies in 2007 and that losses continued in 2008 though at a slower rate, Crisis Group interview, chief of mission, international humanitarian agency, Colombo, May 2008.

[106] "UNICEF commends second TMVP release of children", *The Island*, 26 April 2008, at www.island.lk/2008/04/26/news30.html.

[107] Underage recruitment database, UNICEF, 31 August 2008.

[108] Past government denials of any knowledge have been replaced by press releases praising the TMVP for releasing some children.

TMVP, in turn, is highly dependent on the government for both political and financial support.[109]

At the same time, government and security forces remain wary of the TMVP, though to varying degrees. In some locations in the Eastern Province, local TMVP leaders are known to have good relations with area commanders of the STF. In other locations, both the STF and the army are deeply mistrustful of the TMVP and will occasionally act to rein it in.[110] Numerous reports from the ground attest to the significant autonomy local TMVP leaders seem to have and the different relationships they are able to establish with nearby military commanders, police and Tamil and Muslim communities.

The government is known to have supported Pillayan's 2007 takeover of the TMVP from Karuna.[111] Eyewitnesses report that in November 2007 "Pillayan and his men were escorted into town and installed in power in Batticaloa by the STF".[112] Yet it is clear that significant sections of the TMVP remain loyal to Karuna, with continuing tensions between the different factions.[113] Both Pillayan and Karuna publicly profess to be committed to working together, but the relative peace between the different factions has begun to fray since Karuna returned to Sri Lanka in July 2008.[114]

Underlying the government's ambivalence towards the TMVP is a basic uncertainty about who the TMVP is and what its leaders might want, either politically or militarily. While the government needs its military and political services, it finds it hard to trust armed Tamil ex-militants, preferring the TMVP to remain functional but politically weak.[115] To date, therefore, it has worked to build it up while keeping it divided.

Recent statements by Karuna and the opening policy statement by Pillayan upon taking over as chief minister suggest some elements in the TMVP may be interested in pushing for more political power and for a more political agenda.[116] So long as their relationship with the government remains unchanged, however, it seems unlikely that the TMVP will be able to develop an independent political agenda able to represent eastern Tamils' interests with respect to economic development, land, security and identity.

If the government is serious about encouraging the democratic transformation of the TMVP, one crucial step is its demilitarisation. Those TMVP cadres who wish to – and who have no known record of human rights violations – should be quickly absorbed into the military and police and placed under regular lines of command.[117] At the same time, the police must be

[109] It has long been reported that the TMVP receives cash support from the government. With the TMVP's entry into local and provincial government, this relationship has now been formalised.

[110] Crisis Group interview, international humanitarian worker, Batticaloa, March 2008.

[111] Sonali Samarasinghe, "Plot to get rid of Karuna was hatched at a Presidential Suite in Geneva", *The Sunday Leader*, 11 November 2007. In the words of one senior journalist, "Karuna has political beliefs and ambitions and the intelligence to pursue them successfully. Pillayan is entirely the government's creature and will remain within their control". Crisis Group interview, Colombo, July 2008.

[112] Crisis Group interviews, international humanitarian workers, Batticaloa, April 2008. See also "The Second Fascist Front in Sri Lanka – Towards Crushing the Minorities and Disenfranchising the Sinhalese", UTHR(J), special report no. 29, 21 February 2008.

[113] Crisis Group interviews, human rights activists, Colombo, August 2008. See "The Second Fascist Front in Sri Lanka", op. cit.; and "Impact of the Batticaloa conflict and the situation of Muslims", *Groundviews*, 16 June 2008, at www.groundviews.com.

[114] In November 2007, Karuna left for Britain with the help of a false passport provided by the government. "Gotabhaya gave me passport", BBC Sinhala, 25 January 2008, at www.bbc.co.uk/sinhala. In December 2007 he was arrested in Britain, convicted of immigration offences and jailed for five months. Karuna returned to Sri Lanka in July 2008. On 7 October 2008, the government appointed Karuna to a vacant seat in parliament. The appointment was immediately challenged in court. The government has repeatedly had to mediate tensions between Pillayan and Karuna. See Shamindra Ferdinando, "TMVP advised against bid to create divisions among top leaders", *The Island*, 25 July 2008; and Kelum Bandara, "Pillayan-Karuna rivalry exacerbates", *Daily Mirror*, 26 September 2008. A grenade attack on a TMVP office in Batticaloa was widely attributed to Karuna's forces. Chris Kamalendran, "Pillayan, Karuna Meet to Heal Rift", *Sunday Times*, 28 September 2008.

[115] Rumours continue to circulate that some LTTE members still loyal to the main faction led by Prabhakaran have infiltrated the TMVP. "Impact of the Batticaloa conflict and the situation of Muslims", op. cit.

[116] "Pillayan gets thumbs up for policy statement", *The Nation*, 15 June 2008.

[117] The government has sent mixed signals on disarming the TMVP. On 11 June 2008, the foreign secretary told representatives of the European Commission that "it was the government policy that only the Sri Lankan government security forces and the police had the legitimate right to bear arms. He reiterated that all armed groups including the LTTE must be disarmed". In a 16 June 2008 public statement, the head of the government's Peace Secretariat stated that the government would not disarm the TMVP – citing the LTTE's many murders of many disarmed members of the EPDP and other Tamil political parties during the ceasefire – but would instead prevent them carrying arms in public or using them

ordered to enforce strictly all laws and put an end to the TMVP's criminal activities. Demobilised political cadres should be given robust police protection, as should all politicians and senior civil servants in the east. Demilitarising the TMVP would have immediate and very practical effects. It would force the TMVP to have to earn the support of Tamils by addressing their political concerns; reduce the threat the TMVP poses to Muslims; reduce Sinhala fears about devolving powers to the Eastern Provincial Council; and make it safer to devolve police powers to a TMVP-controlled Eastern Provincial Council.

Unless the government changes tack, grants real power to the Eastern Provincial Council and gives the TMVP the space to pursue its own political agenda, there is a real risk that the TMVP, like the LTTE before it, will seek to gain credibility as the defender of Tamil rights by encouraging tensions with Muslims. To date, Pillayan and Hisbullah have been able to work relatively well together and have managed to contain inter-communal tensions. With many Tamils believing they are losing ground to Muslims politically and economically,[118] and with land in increasingly short supply for both communities, however, there is a deep reservoir of mistrust to exploit.[119]

B. MUSLIM VIEWS, FEARS AND GRIEVANCES

1. Lack of land and the underlying sources of land conflict

By far the greatest concern of Muslims in the Eastern Province is lack of land. Muslims make up some 38 per cent of the population in the east but have access to a much smaller percentage of land, whether calculated in terms of acreage owned or held with government permits, or in terms of land included in Muslim-majority Divisional Secretary (DS) divisions.[120] The majority of eastern Muslims live in densely populated administrative divisions, with no room for expansion. "Muslims are limited now to a very thin belt of habitation along the coast. Where are the lands going to come from for cultivation, housing, development?" asks one Muslim activist.[121]

The source of the problem is that much of the land Muslims could cultivate or settle on is located in territory outside their control. During the war, large areas of land that Muslims had been cultivating – and in some cases living on – became inaccessible because they fell within territory controlled by the LTTE. In some cases, the LTTE directly seized the land and distributed it to local Tamils. In other cases, the land remained unused, but was considered unsafe. Muslim organisations calculated that nearly 62,000 acres of land belonging to Muslims was either illegally occupied or abandoned for security reasons.[122] Some of this land is still inaccessible due to security concerns, and ownership remains uncertain in many cases.

More than 80 per cent of land in Sri Lanka is owned by the state, which remains for most people the only realistic source for residential and agricultural land in the east. Most state land is provided through permits governed by the Land Development Ordinance.[123] To

offensively. This later compromise might work if the police were willing and able to enforce the law and prevent the TMVP from using their weapons for criminal activities. To date this has not been the case. See "EC Condemns LTTE Terrorism and Reiterates Support for Sri Lanka's Sovereignty", Ministry of Defence, Public Security, Law and Order, Sri Lanka, 12 June 2008, at www.defence.lk; and "Letter to the Editor – The Sunday Leader", SCOPP, 16 June 2008, at www.peaceinsrilanka.org.

[118] Muslims should soon overtake Tamils as the largest ethnic community in the east, thanks to their higher birth rates and the displacement of so many Tamils by the war.

[119] A hand grenade attack on worshippers outside the Kattankudy mosque on 29 September 2008 wounded more than twenty.

[120] Divisional Secretary divisions are the administrative units that make up districts and are known as "DS divisions". According to one source, "In the Eastern Province the Muslim population is approximately 38% according to current statistics. However land area coming within administrative divisions they live in is less than 4 per cent of the land mass of the entire province". "Peace Process and Muslim Consensus: Concerns, Interests and Recommendations", M.H.M. Salman (ed.), Peace Secretariat for Muslims, 2008, p. 39. While a precise figure cannot be calculated, Crisis Group estimates the correct figure is closer to 14 per cent.

[121] Crisis Group interview, representative of the Peace Secretariat for Muslims, Colombo, May 2008. Muslim settlements are concentrated in densely populated towns along the coast – Kinniya and Mutur in Trincomalee district, Katthankudy, Eravur and Valachenai in Batticaloa district, and Kalmunai, Sammanturai, Akkaraipattu and Potuvil in Ampara district.

[122] "Register of Muslim Lands Forcibly Occupied by the Tamils in the Eastern Province of Sri Lanka: Ampara District Register (Vol. 1-5)", Muslim Rights Organisation, 2003.

[123] LDO permits can be converted into grants after one year of residential occupancy or three years of cultivation, provided certain conditions have been met. Numerous other laws govern the distribution and acquisition of land by the state. Long-term leases and grants can be given out by the central government – through the land commissioner general and the president – under the terms of the State Land Ordinance. Other lands, acquired by the state through land reforms, can be sold through the Land Grants (Special Provisions) Act. Most state land, however, is already under the jurisdiction of different central government departments – eg, forests, archeological, sacred areas, etc. This "reserved" land is only available for

receive land under a so-called "LDO permit", one must get the approval of one's own divisional secretary and ultimately the provincial land commissioner.[124] In the east, the bulk of available state land lies in Tamil or Sinhala majority divisions, administered invariably by Tamil or Sinhala divisional secretaries. Given the powerful role that divisional secretaries have in allocating state land, Muslims have faced problems. In practice, it is very difficult to receive land outside your own division. The scarcity of land in Muslim DS divisions has led to numerous land disputes, as Muslims have had to find land in non-Muslim divisions. Just as Muslims complain they are trapped within too little land, so Tamils and Sinhalese in various parts of the east complain of Muslims "encroaching" onto "their" land.

"Earlier, DS divisions were mixed Tamil and Muslim", explains one Muslim politician in Batticaloa, "but Muslims were not treated fairly, so they asked for and got their own divisions. The problem is that a very small amount of land was demarcated for Muslim divisions. In Batticaloa, Muslim divisions only cover 2 per cent of the land".[125] New, separate Tamil and Muslim divisions have their own administrative offices, schools and even hospitals. This was partly in response to Muslims' sense that they were not receiving their fair share of state resources, with Sinhalese controlling the government in Colombo and Tamils dominating the civil service in the east. It was also a response to growing insecurity, with both Muslims and Tamils fearing to cross into the other's territory to make use of government services.[126]

While supported by Muslims, they came at a great cost, since the borders of Muslim-majority divisions did not take into account future expansion. In the words of one senior Muslim minister, "It certainly looks like Muslim DS divisions are drawn in a way that gives them less land per capita than others. Muslims feel their voices aren't heard by delimitation commissions. We want a clear rule for how lands are distributed to people in Sri Lanka. By population? By natural borders? We don't know. There's no clarity in the procedures for demarcating boundaries".[127]

Twenty years of destruction and insecurity, as well as displacement by the tsunami, have brought with them a host of administrative problems that contribute directly to ethnicised land disputes. Violence made much of the east unavailable for government demarcation and allocation. As a result, the boundaries of a number of DS divisions have not been properly demarcated, so it's not clear which division controls the land and therefore, in practice, which ethnic group will have access.

Displacement has also meant that in numerous cases people from different ethnic groups have competing claims to the same land.[128] Many deeds and title documents have been lost and destroyed. Much land has been handed down informally without clear deeds or titles, permit land has been illegally sold to people believing they now have proper ownership, and many of those displaced have failed to renew their permits or leases. In general, there is a lack of clear and apo-

distribution through LDO permits with special permission of the relevant ministry. Finally, the Land Acquisition Act gives central government bodies wide powers to acquire private lands for "public purposes" at fair cost. Crisis Group interviews, assistant land commissioner, Trincomalee, April 2008, and senior government official, Colombo, July 2008. For useful discussion of land law in relations to the war, the tsunami and displacement, see "Landlessness, Land Rights in Post-Tsunami Sri Lanka", Centre for Policy Alternatives, 16 November 2005; and "Land and Property Rights of Internationally Displaced Persons", Centre for Policy Alternatives, February 2003.

[124] Once the divisional secretary has been approached for land, a complicated process is set in motion that involves the divisional secretary, divisional land officers, the divisional (or in some case the district-level) land use planning committee, the provincial land commissioner, the land commissioner general in Colombo and finally the president. Once a new plot of land for distribution has been approved, recipients of land for residential and agricultural purposes are selected through what is known as a land *kachcheri*. Under this process, the names of prospective recipients are made public with two weeks given for any objections to be filed. Once the land is distributed, permits are granted only if recipients have occupied and begun to improve the land within three months.

[125] Crisis Group interview, Muslim politician, Kattankdudy, March 2008.

[126] Crisis Group interview, Muslim doctor, Sainthamuruthu, March 2008. Splitting mixed divisions into separate Muslim and Tamil divisions was also in the collective self-interest of the bureaucrats and politicians who pushed for change, since it increased the number of positions to be filled and jobs to be given out.

[127] Crisis Group interview, government minister, Colombo, April 2008. Boundaries for divisional secretariat divisions are drawn by a delimitation committee, which is appointed by the ministry of public administration, on cabinet approval. Decisions of the committee require ratification by parliament. Crisis Group interviews, politicians and civil servants, April 2008.

[128] Since most land falls in non-Muslim majority divisions, these bureaucratic difficulties put increased pressure on Muslims. For an overview of some of these problems, especially as they affect the displaced, see "Land and Property Rights of Internationally Displaced Persons", Centre for Policy Alternatives, February 2003, p. 56.

litical land records.[129] Difficult administrative problems all too easily become ethnic conflicts.

2. Land conflicts between Tamils and Muslims

There are ongoing land disputes between Tamils and Muslims in Batticaloa district. In Ottamavadi, on land once controlled (but never built on) by the LTTE, the TMVP has built houses and temples for more than 1,000 Tamils. Muslims accuse the TMVP of deliberately attempting to block Muslim expansion. One Muslim businessman from the area complains, "we can't raise a fuss because it would cause a fight. This is the same set of people who attacked Muslims in Valachchenai, burned the market and killed two Muslims – only now they're with the TMVP not the LTTE. And the Army is nearby and giving them support. We've brought the issue to the attention of government politicians but no action has been taken".[130] Tamil activists argue that in fact the land was once Tamil and that it is the Muslims who have been steadily encroaching onto Tamil land in the Valachchenai and Ottamavadi areas. "Tamils living in these areas are very insecure and fear things will get worse".[131]

Tamil activists argue that Muslims have benefited from having powerful Muslim politicians in the government, especially Hisbullah. In the village of Ariyampathy, just south of the Muslim town of Kattankudy, they accuse him of using post-tsunami housing projects as a way of settling additional Muslims without the approval of the Tamil district secretary. Muslims, in turn, complain that Ariyampathy's DS has tried unfairly to block the local Mosque Federation's attempt to settle tsunami-affected residents. "The unwritten law", they say, "is that state land is for Tamils".[132]

In nearby Karbala, both Tamils and Muslims claim to have valid deeds and permits for the land, arguing that the others' are forged.[133] Muslims say they were pushed off the land in 1985; when Muslims arrived in January 2006 to build on empty land they claimed to own, the TMVP threatened them and took down the fences they had put up. Tensions escalated in 2006 with the murder of a Tamil grocery owner, allegedly after failing to heed Muslim warnings to move his business. After the TMVP retaliated by firing on the local mosque, injuring three people outside, two Tamils were shot, one of whom died, in an attack that local Tamils blamed on Muslims. Two weeks of violence in May and June 2008 between TMVP cadres and armed Muslims in Kattankudy, Batticaloa and Eravur, which left more than a dozen dead, were rooted in the Ariyampathy dispute. The TMVP local commander, Shantan, whose murder triggered the inter-communal violence, was from Ariyampathy and was behind the violent resistance to Muslims moving in.[134]

3. Lack of security

Caught between Tamil militant or paramilitary groups and Sinhalese-controlled "security forces", Muslims frequently complain that they are without their "own" security.[135] "Tamils have the LTTE and now the TMVP, Sinhalese have the state and its security forces. But who protects the Muslims?"[136] The history of massacres, expulsion, extortion, abduction and harassment carried out by different Tamil armed groups has left Muslims with a deep sense of vulnerability.[137] Attacks in May and June 2008 by the TMVP on Muslims in Kattankudy, Batticaloa and Eravur have rein-

[129] The double registration of deeds in district land registries is common throughout Sri Lanka, and there is widespread perception that deeds and titles are as often fraudulent as valid. This renders almost any deed or title document suspect, especially in the context of an ethnicised dispute.

[130] Crisis Group interview, Muslim businessman, Ottamavadi, March 2008.

[131] Crisis Group interview, Tamil NGO workers, Batticaloa, March 2008.

[132] Crisis Group interview, Muslim politician, Kattankudy, March 2008.

[133] One Muslim activist explains that "younger Tamils haven't seen Muslims in the area for twenty years, so they naturally think Muslims are stealing the land when they see Muslims arrive and put up fences". Crisis Group interview, Kattankudy, March 2008.

[134] D.B.S. Jeyaraj, "The killing of T.M.V.P. leader Shantan in Kaathaankudi", *Tamilweek*, 31 May 2008. Tamil civilians passing through Muslim areas were attacked by mobs, as were Muslim shopkeepers in the Tamil-dominated town of Batticaloa were.

[135] The government's strategy of supporting the TMVP, which has actively harassed and intimidated Muslims, while also supporting Muslim politicians in the east, has not helped build trust between the two communities. Many Tamils cite the support that some Muslim politicians give to, and receive from, the government as evidence of pro-Muslim government bias. Many Muslims see the links between the government and the TMVP – now no longer hidden – as proof that the government is with the Tamils, at least on land issues (even as they recognise that Tamils are the most frequent victims of TMVP abuses).

[136] Crisis Group interview, Muslim intellectual, Batticaloa, March 2008.

[137] At the same time, eastern Muslims have received the protection of government security forces since the beginning of the war and Muslim home guards, working with government forces, were responsible for numerous massacres of Tamils in Batticaloa in the 1990s. See "Peace activism, suicidal politics and civil society", UTHR(J), briefing no. 4, 4 December 2001; and "Sri Lanka", Human Rights Watch World Report, 1992.

forced the widely held belief that there is no real distinction between the LTTE and the TMVP when it comes to the treatment of Muslims.

Tamils, too, feel vulnerable, and both the LTTE and the TMVP have used land disputes to consolidate their support among them. According to one Tamil activist in Batticaloa, "both sides are feeling insecure, but the TMVP is using this to gain power. They say they are coming in to protect Tamils. This isn't true, it's pretend, just a way of gaining power". At the same time, he adds, "we (Tamils) have to be very careful. Without the LTTE here, there's a danger of Muslims taking over".[138]

Restiveness among Muslims in the east will only grow stronger should the TMVP continue to choose – and be allowed by the police – to use violence against Muslims. Many in the east are asking just how long non-violent protest will remain Muslims' chosen mode of political expression. One retired Tamil civil servant in Potuvil argues Muslims "have learned a lesson from the LTTE. They realise if they turn to arms their community will be destroyed. I don't think the Muslims will respond violently".[139] Most Muslims would agree, but the sentiment is not universal. A Muslim civil servant from Potuvil argues: "The youth are very frustrated. Yes, they could turn to arms. Something has to happen".[140] Others – more often Tamils than Muslims – believe that an organised but secret Muslim armed group, commonly known as "Jihad", already exists and has for years been trained by both the Sri Lankan and Pakistani governments.

That there are multiple groups of Muslims with weapons is beyond doubt. The violent attacks against Sufi devotees in Kattankudy in 2004-2007 made clear that there are at least some ultra-orthodox Islamists who are armed and willing to use violence. In addition, there have been armed Muslim "home guards" throughout villages in the Muslim east for the past two decades; some have put their guns to unofficial purposes at times. There are also persistent and increasingly detailed reports that a small cadre of armed Muslims have been trained by the Karuna group, in cooperation with government intelligence organisations, over the previous few years.[141] The military apparently used some of them to attack Karuna loyalists as part of the pro-Pillayan coup towards the end of 2007.[142] Finally, there are armed Muslims involved in criminal activities, some of whom have come to work for pro-government Muslim ministers, who used them to attack SLMC supporters and candidates during the local government and provincial council elections.

There is no evidence yet of any organised structure that links armed Muslims together with any larger ideological purpose, much less for any coordinated political resistance. Muslim attacks against Sinhalese in the east are unheard of, and Muslim violence against Tamils remains rare and almost always reactive.[143]

The immediate danger, instead, comes from the small, floating population of Muslim men who are armed and available for use by the military, intelligence services and pro-government politicians; "Jihad" is most likely a catch-all phrase used to refer to these and any other Muslims who have weapons. Many Tamils and Muslims in the east are convinced that sections of the security forces use violence and intimidation by Tamil ex-militants and groups of armed Muslims to foster tensions between the two communities. Neither, however, is allowed to grow strong or independent enough to challenge the government's agenda.

4. Lack of political power

Muslims continue overwhelmingly to channel their frustrations and anger through established political processes and by democratic means, but there are signs their confidence in the political route is wearing thin. The years of struggling to gain access to a fair amount of land, of being caught between warring armies and armed groups, and of being excluded from negotiations over the central political issues affecting the east all have contributed to a widespread sense of political powerlessness.

Many Muslims continue to complain about the undue power of Tamils in the provincial administration, especially with respect to the distribution of educational benefits. Muslims also feel at the mercy of district and divisional secretaries, who work for Sinhala-dominated governments at the centre.[144] There has never been a Muslim district secretary in any of the three eastern districts. The top officers of the police,

[138] Crisis Group interview, Tamil NGO worker, Batticaloa, March 2008.
[139] Crisis Group interview, Potuvil, March 2008.
[140] Crisis Group interview, Potuvil, March 2008.
[141] "The Second Fascist Front in Sri Lanka", op. cit.
[142] Ibid.

[143] As one Tamil who believes in the existence of Jihad explains, "Jihad isn't primarily directed against Tamils. It's like a security guard for Muslims. They do what they think is needed to protect Muslims". Crisis Group interview, Tamil NGO worker, Batticaloa, March 2008.
[144] A number of Muslim and Tamil divisional secretaries and high-ranking provincial administrators have recently been transferred, reportedly for not following orders from Sinhala district secretaries in Trincomalee and Ampara.

the STF and the army stationed in the east are and always have been Sinhala (with the occasional exception of some mid-level Muslim police officials).

Muslims certainly have some degree of political clout at the centre, and, in the current context, significantly more than Tamils. Both when the SLMC was in power at the centre under previous governments, and now even more under Rajapaksa's regime, individual Muslim politicians in the east have had the ability to win Muslims some degree of state patronage. But neither Muslim politicians and their local mafias working with the government, nor the SLMC challenging the government from outside, have been able to address the underlying power dynamics or change the overall policy of governments on land, security and political power sharing. The particular form of thuggish patronage politics characteristic of a number of the biggest Muslim politicians in the east, and encouraged by the central government, is as much a sign of the community's weakness as it is of strength. It is certainly not conducive to harmonious relations between Muslims and Tamils. The failure to be included in negotiations with the LTTE – whether on the ceasefire agreement, during peace talks in 2002-3, or over post-tsunami aid distribution – also left many Muslims angry and hurt.

V. FEARS OF "SINHALISATION"

Fears of "Sinhalisation" are widespread among Tamils and Muslims. Many are convinced there are plans for large numbers of new Sinhalese to be settled in the east in an attempt to dilute Tamil and Muslim political power and weaken their claims to the land. For Tamils the primary fears concern the Trincomalee district. For Muslims the worries centre mostly on Ampara. "Quite clearly the Sinhalisation agenda of the Rajapaksa Government in the Eastern Province is very much at work", argues senior TNA parliamentarian R. Sampanthan.[145]

Government decisions have encouraged these fears. Some are symbolic. These include the choice of the Lion (representing Sinhalese) as the symbol for the new flag of Ampara district, which is majority Tamil-speaking, and the government's regular reference to its development initiatives under its Sinhala name *Nagenahira Navodaya* rather than the English "Eastern Revival". Government support for renovation of ancient Buddhist ruins and construction of new Buddha statues throughout the east has led to particular land disputes and has contributed to feelings of cultural colonisation among many Tamils and Muslims.[146]

More politically substantial have been the appointments of a number of retired military officers, all Sinhalese, to senior administrative posts in the newly demerged Eastern Province.[147] The placement of retired military officers in senior administrative positions throws into relief the continued presence and influence of the military throughout the province: army, navy and police STF units continue to line all major roads; large areas remain off limits for civilians for security reasons; regulations written and enforced by the military continue to restrict the work of fishermen and farmers, as well as the activities of humanitarian NGOs. In addition, the vast majority of new recruits to the Eastern Province administration have been Sinhala.[148] Says one Trincomalee Tamil rights activist:

[145] R. Sampanthan, parliamentary speech on "The national conflict and the Tamil question", 23 July 2008.
[146] For detailed discussion of some of these disputes, see Appendix D.
[147] This includes the governor, Rear Admiral Mohan Wijewickrama, the district secretary of Trincomalee, Major General Ranjith de Silva and Trincomalee district co-ordinating director of the ministry of resettlement and disaster relief services, Rear Admiral H.R. Amaraweera.
[148] Crisis Group interview, government servants, Trincomalee, April 2008. Tamils in Batticaloa and Trincomalee complain that their basic language rights are frequently de-

"The government has already filled the Eastern Province administration and power centres with Sinhalese. Tamils know they won't get their rights".[149] The lack of consultation with elected Tamil parliamentarians or senior and mid-level Tamil and Muslim provincial administrators about the government's development plans has fuelled fears of Sinhalisation, which the government has made little effort to assuage.

Short of a major change in the government's approach, it is unlikely the new provincial council will have the resources and political will to claim its own share of power and begin to set its own autonomous policy agenda for the region. The fact that the provincial council largely relies on the central government's administrative apparatus to implement policy gives further cause to doubt its independence.[150]

A. MUSLIM-SINHALA LAND DISPUTES IN AMPARA

Many of the same factors that contribute to land disputes and violent conflict between Tamils and Muslims in Batticaloa and Trincomalee districts are also at work in Ampara, where the direct conflicts are primarily between Muslims and Sinhalese. Ampara Muslims, as in the rest of the province, face a serious shortage of available land. Comprising about 40 per cent of the population of Ampara, Muslims hold a much smaller percentage of the land in the district.[151] Some three quarters of the land in Ampara district is in divisions that are almost entirely Sinhala.[152] Most conflicts over land in Ampara centre on Potuvil, a division of some 35,000 people.[153] The borders between Muslim-dominated Potuvil and its Sinhala neighbour to the west and south, Lahugala, are still not clearly marked. This, combined with the ethnic nature of the two divisions and the scarcity of arable land, has led to ongoing conflicts between Sinhalese and Muslims.[154]

Here, too, land disputes are often intertwined with Muslims' sense of physical insecurity. In this case, however, Muslims feel vulnerable not to Tamil armed groups but to Sri Lankan security forces, in particular the STF. Many Muslims allege the STF is being used to prevent Muslims' from using state land that is made available to Sinhalese. "There are lots of military camps in the area", explains one local Muslim civil servant. "This makes people afraid to raise their concerns and complaints. All the STF camps have links to political parties, with a web of political connections. They believe the land has to be protected for the Sinhalese".[155] Muslim fears are heightened by a series of land-related events involving government security forces, Sinhala politicians and militant Buddhists, whose involvement has had the effect of transforming what might be everyday border and land disputes into ethnically and politically charged conflicts.

South of Potuvil lie the ancient ruins of the Shastraveli Buddhist temple. Nearby is an STF camp. Accord-

nied – at checkpoints manned by Sinhala-speaking troops, when applying for jobs with companies and NGOs who require Sinhala and English skills, or even in the police station in Batticaloa, where complaints continue to be taken down in Sinhala. Crisis Group interviews, Tamil students, Batticaloa, March 2008.

[149] Crisis Group interview, Tamil human rights activist, Trincomalee, April 2008.

[150] See A.M. Navaratna-Bandara, "A military pathway to nation building", *Groundviews*, 15 July 2008, for a useful analysis of the weakness of the provincial council system.

[151] Crisis Group interview, representative of the Peace Secretariat for Muslims, Colombo, May 2008. Muslim leaders have claimed that Muslims hold only 4 per cent of the land in Ampara district. Crisis Group calculations show that at least 14 per cent of the land falls within the six divisions that are overwhelmingly Muslim, though it is impossible to come up with a definitive figure.

[152] This is based on Crisis Group calculations and confirmed by the Ampara district secretary. Crisis Group interview, August 2008.

[153] Potuvil division was created in 1987 when Panamapattu division was divided along lines of ethnicity. The bulk of its land, much of it covered by forests, and almost all of the Sinhalese population became Lahugala division. The much smaller Potuvil division ended up with a population that was 80 per cent Muslim and 20 per cent Tamil. Also included within Potuvil division are a small number of Tamil-speaking Sinhalese families in the village of Panama and a few Sinhalese families in Potuvil town.

[154] One such ongoing dispute concerns a 500-acre area known by Muslims and Tamils as Kirankovai and by Sinhalese as Pansalgoda. Farmers and politicians from both communities claim the land as theirs, and divisional secretaries from both divisions have granted permits to farm the same land. The dispute was further complicated when the forest department announced in 2003 that the land belonged to them. The forest department is part of the environment ministry, which since January 2007 has been headed by JHU ideologue Champika Ranawakka. The land was declared off limits and the Muslim farmers were ordered to leave. Numerous meetings have been held with various government officials, and government ministers from various Muslim parties are said to have challenged Ranawakka on the issue. The legal status of the land remains uncertain. Crisis Group interviews, retired Muslim civil servant, civil society activists and government officials, Potuvil and Colombo, March and August 2008.

[155] Crisis Group interview, Muslim civil servant, Potuvil, March 2008.

ing to multiple sources in Potuvil, the Lahugala divisional secretary has been requested by the JHU and other Sinhala nationalist politicians to declare hundreds of acres near the ruins as temple lands or a sacred area. This would prevent Muslims farmers from using land they have cultivated for years. There have been public protests against this move by Muslims in Potuvil and Muslim farmers have reportedly stopped cultivating land in the area out of fear of the nearby STF camp.[156]

Immediately after the tsunami, the STF erected a large statue of the Buddha just outside their Potuvil camp.[157] They also helped erect a new Buddha statue in nearby Ullai, just south of Potuvil in the resort area of Arugam Bay. Muslims took this latter statue as a particularly hostile and provocative gesture as there were only a handful of Sinhala fisherman and their families from the southern province living in the area on a seasonal basis.[158] In September 2006, Muslim protests were sparked by the burial of a Sinhalese body in the Muslim cemetery in Ullai by Sinhalese who had earlier begun to settle on land Muslims claimed as theirs. The protestors had heated words with the commander of the Shastriveli STF camp, whom they criticised for favouring the Sinhalese and not taking action against the encroachment.[159]

On 18 September 2006, ten Muslim labourers who had gone to repair a portion of the Radella irrigation tank the day before were found murdered. Muslims immediately suspected the STF; the government and police publicly blamed the LTTE, even before conducting investigations. Protests in Potuvil against the STF and the commander of the Shastriveli camp were met with force, with Muslims shot by police.[160] Muslims in Potuvil continue to blame the STF for the murders.[161] They are widely taken to have been "a warning to Muslims to get out of the area".[162]

B. "DEVELOPING" TRINCOMALEE

Fear of impending "Sinhalisation" of the east has centred on Trincomalee district. Featuring the second largest natural harbour in the world, the military and commercial importance of Trincomalee town has long been recognised[163] and has made it central to the LTTE-government struggle for control over the north and east. Located at the intersection of the eastern and northern provinces, Trincomalee district has been the site of deliberate attempts by Sinhalese nationalists, with support from the government, to break the contiguity of a Tamil-speaking north east by settling additional Sinhalese.[164] Due in large part to irrigation settlements, the ethnic balance shifted considerably over the last century, with Sinhalese increasing from 4 per cent of the population in 1911 to a high of 33 per cent in 1981 and to their current figure of roughly 24 per cent.[165]

Many Tamils and Muslims are worried that current government plans for the economic "development" of the Trincomalee district will be used to settle additional Sinhalese and strengthen centralised – and effectively Sinhala – control over the district. The actions of the current district secretary for Trincomalee – retired General Ranjith de Silva – have contributed to these fears. Close to the Rajapaksa administration and the

[156] Crisis Group interview, Muslim civil servant, Potuvil, March 2008.

[157] Located just at the entryway to the bridge that had linked Potuvil town to Arugam Bay, Ullai and Panama, the statue's construction forced the redesign and lengthening of the U.S.-funded replacement bridge at an additional cost of $1 million. Says one Muslim resident, "What is the purpose of erecting a statue on the road where there are no permanent Sinhala residents? There are the kinds of action by which they provoke people....This has happened only with the help of some politically powerful group. Otherwise the STF couldn't have erected this statue". Crisis Group interview, March 2008.

[158] A new and quite large school for Sinhalese children in the area was build by an Italian NGO and the area renamed Sinhapura. According to a number of Muslim sources in Potuvil, the small community of migrant Sinhala fishermen have been allowed to build permanent structures in Ullai on land Muslims claim as theirs. Crisis Group has been unable to find any evidence of Sinhalese encroachment in Ullai, though it is widely believed among Muslims in Potuvil.

[159] "The Choice between Anarchy and International Law with Monitoring", UTHR(J), special report no. 23, 7 November 2007.

[160] Easwaran Ratnam, "Curfew in Ampara as Muslims clash with STF", *Daily Mirror*, 21 September 2006.

[161] Suspicions against the STF were strengthened by the treatment of the lone survivor, who was forcibly relocated to a hospital in the Sinhala town of Ampara and prevented from talking to his family or to ceasefire monitors for days, even as he was quoted by the government implicating the LTTE in the attack. Police investigations have since gone no further. The Potuvil-Radella murders are one of the sixteen cases being investigated by the Udalagama Commission of Inquiry. For more on the commission, see Crisis Group Report, *Sri Lanka's Human Rights Crisis*, op. cit., pp. 22-24.

[162] Crisis Group interview, representative of the Peace Secretariat for Muslims, Colombo, May 2008.

[163] Trincomalee has been of interest to foreign powers, with the Indian government particularly concerned to prevent other foreign powers from gaining access to or control over the harbour.

[164] For a narrative of one such attempt, see Malinga H. Gunaratne, *For a Sovereign State* (Colombo, 2005).

[165] Figures from the department of census and statistics. In 1946, before independence and before the major irrigation projects, Sinhalese already made up 21 per cent of Trincomalee's population.

military, de Silva is known for his hostility to NGOs and mistrust of Tamil and Muslim civil servants who work below him.[166]

1. Seeds of war: inter-communal tension and violence in Trincomalee, 2005-2006

Beginning in mid-2005, a series of provocative and ultimately violent incidents raised tensions between Tamils and Sinhalese in the district, contributing directly to the outbreak of war in July 2006. On 15 May 2005, a large statue of the Buddha was erected on public land without legal authorisation in the centre of Trincomalee town, reportedly by JVP-linked organisations, with the backing of elements of government security forces.[167] Erected secretly in the middle of the night, the statue was seen by Tamils as an aggressive assertion of Sinhala power and symbolic colonisation of the area, especially in light of a series of other Buddha statues that had recently been constructed in the area.[168] The statue's sudden appearance led to protests from local Tamils and counter-protests by the JHU, JVP and local monks. A legal challenge was ultimately stymied after the chief justice intervened.[169]

Tensions turned violent beginning in December 2005 with a series of assassinations of Sinhalese and Tamil political activists. These were accompanied by the start of an LTTE campaign of ambushes and claymore mine attacks on government security forces throughout the north and east. The government and its Tamil paramilitary allies responded with their own campaign of violent counter-insurgency. On the evening of 2 January 2006, five Tamil students were executed in the centre of Trincomalee town, in an area fully controlled by the police.[170] On 7 April the local TNA leader V. Vigneswaran, who had led the opposition to the Buddha statue, was murdered.[171]

On 12 April 2006, after a bomb in the Trincomalee market left five dead, organised gangs of Sinhalese attacked and burned Tamil shops and homes. For more than two hours the police and military stood by and allowed the attacks to continue.[172] In the end, more than twenty people were killed, over 30 businesses and 100 houses destroyed, and thousands displaced.[173] The rioting sparked attacks on Sinhala civilians by the LTTE and counter-attacks on Tamils throughout the Trincomalee district.[174] Months of sporadic violence ultimately led to the displacement of more than 20,000, mostly Tamils.[175]

Tensions in the ethnically mixed agricultural areas south of Trincomalee town and harbour increased as the government and the LTTE moved towards war.[176] The newly assertive military tightened its grip on the area, increasing its forces and cutting off roads and

[166] De Silva is also said to mistrust Pillayan and to be resisting the new provincial council. Crisis Group interviews, government servants, aid agency officials and NGO workers, Trincomalee and Colombo, April, May and August 2008.

[167] Trincomalee town is roughly 70 per cent Tamil, but the area around the bus stand has numerous Sinhala businesses and is the gathering point for Sinhala taxi-drivers. The navy, whose eastern headquarters are in Trincomalee, is reported to have assisted. Crisis Group interviews, Trincomalee residents, July 2007 and April 2008. See also, "PNM, Navy, the CJ and the Buddha statue in Trincomalee", UTHR(J), special report no. 29, 21 February 2008, Appendix II. The JVP has denied any involvement.

[168] Most obvious is the large statue, built on government land in Fort Frederick, site of naval headquarters, which now overlooks the centre of Trincomalee.

[169] The district court ordered its removal, but after a JHU-backed countersuit against the attorney general, the Supreme Court intervened and brokered a "compromise" that allowed the statue to remain. The statue remains behind barbed wire with armed guards and inaccessible to worshippers. "PNM, Navy, the CJ and the Buddha statue in Trincomalee", op. cit., Appendix II.

[170] Despite many eyewitnesses and clear evidence of state involvement in the killings, no one has yet been charged in the case. See Crisis Group Report, *Sri Lanka's Human Rights Crisis*, op. cit., pp. 8, 17.

[171] Vigneswaran had just been named by the TNA to fill the parliamentary seat of Joseph Pararajasingham, murdered in Batticaloa on 24 December 2004. D.B.S. Jeyaraj, "Trinco Tamil Forum leader Vigneswaran assassinated", *Tamil Week*, 7 April 2006.

[172] The speed and organised nature of the violence has been read as evidence of premeditation. The police took action only on the intervention of President Rajapaksa, who had received a personal call from the prime minister of India. D.B.S. Jeyaraj, "Anatomy of Violence that shocked Trincomalee", *The Sunday Leader*, 23 April 2006.

[173] "Call for immediate action on Trincomalee situation", press release, ad-hoc coalition of civil society organisations, 21 April 2006, at www.cpalanka.org.

[174] These included reprisals, abduction and evictions by military and home guards. Crisis Group interview, businessman, Trincomalee town, 6 July 2007. See also, "Hubris and Humanitarian Catastrophe", UTHR(J), special report no. 22, August 2006.

[175] "Consolidated report on Trincomalee displacement following the escalation of violence starting April 11, 2006", Joint Team of Trincomalee United Nations and Non Governmental Organisations, 29 April 2006. Between 15,000 and 20,000 refugees from Trincomalee district ultimately arrived in Tamil Nadu, India.

[176] Since the 1970s, the area has been fed by waters of the Allai irrigation scheme, which introduced large numbers of Sinhala settlers. Tamil and Muslim cultivators in the area have long complained of unequal treatment in the provision of irrigation water and facilities.

supplies to LTTE-held Mutur and Eechilampattu. The LTTE, under pressure from hungry farmers, closed the Mavil Aru irrigation channel that supplied water to Sinhalese farmers in order to pressure the government.[177] Just as an agreement to settle the dispute had reportedly been reached between the LTTE and local Buddhist monks, the military attacked and took control of the sluice gate in what was termed a "humanitarian operation" to release the irrigation water.[178] The LTTE counter-attacked in Mutur and the war had begun. Fighting in nearby Mutur led to the worst single case of violence against civilians in Sri Lanka's latest round of warfare, when seventeen workers for the French humanitarian aid organisation Action contre la faim (ACF) were executed in their office compound.[179]

2. Mutur East-Sampur high security zone

Fighting in 2006 displaced virtually the entire Tamil population of southern Trincomalee district. As the process of resettlement was underway, the government used its emergency powers on 30 May 2007 to declare large parts of Mutur division, centred on the town of Sampur, as a high security zone (HSZ).[180] This has denied more than 10,000 people access to their homes and land, forcing them to remain in camps or with relatives.[181] The forced eviction of so many people has been met with strong protests from rights activists and Tamil politicians. The government has offered two areas for their relocation, but the displaced and their advocates consider the land too small, of poor quality and lacking adequate opportunities for employment or livelihoods.[182] In July 2007, the Supreme Court rejected a civil suit against the HSZ alleging discrimination and violation of freedom of movement.[183] The government has now begun to settle people in some parts of the high security zone, but without formally declaring these areas outside the zone.[184] This leaves returning families in legal limbo and in fear; security forces are empowered to arrest or shoot anyone found within the HSZ without specific authorisation.[185]

While the residents remain unable to return, the government has contracted the state-owned National Thermal Power Corporation of India to build a 500MW

[177] According to some interpretations, Tamil cultivators were also angry at being excluded from an Asian Development Bank (ADB)-funded project to provide drinking water to area farmers. After gaining ADB approval to extend the project to LTTE-held villages, the government decided in early July 2006 to implement the project to government-held areas only, sparking Tamil protests and the closure of the irrigation channel. R. Hariharan, "Sri Lanka: Mavil Aru Operation and After – An Analysis", South Asia Analysis Group, paper no. 1908, 12 August 2006, at www.southasiaanalysis.org/papers20/paper1908.html.

[178] Easwaran Rutnam, "Serunuwara at flashpoint: angry villagers threaten to take tough action", Daily Mirror, 28 July 2008.

[179] There is significant circumstantial evidence implicating government security forces in the murders. For more on the ACF killings, see Crisis Group Report, *Sri Lanka's Human Rights Crisis*, op. cit., pp. 8, 17. See also "Unfinished Business of the 5 Students and the ACF Cases", UTHR(J), special report no. 30, 1 April 2008.

[180] Democratic Socialist Republic of Sri Lanka, Gazette Extraordinary No. 1499/25, 30 May 2007. The HSZ is declared under powers granted by section five of the Public Security Ordinance. The area declared off limits originally covered eleven Grama Niladhari divisions; it has now been reduced by almost half. For a useful overview of the Mutur East-Sampur HSZ and some of the legal and policy issues it raises, see Bhavani Fonseka and Mirak Raheem, "A brief profile of the Trincomalee High Security Zone and other land issues in Trincomalee District", Centre for Policy Alternatives, May 2008.

[181] Government officials estimate that 6,121 people will ultimately be unable to return to their homes after the resettlement process is complete. Crisis Group telephone interview, Rear Admiral H.R. Amaraweera, district coordinating director, ministry of resettlement, Trincomalee, October 2008.

[182] Only a handful of families have accepted the offer of relocation. UN and humanitarian NGOs working with the Mutur and Sampur displaced have so far refused to assist the government in relocation. The government has been accused of pressuring families to accept the relocation in Ralkuli and Pallikudiyiruppu by threatening to withhold government benefits if they remain in the camps. Crisis Group telephone interviews, government servants and aid workers, Trincomalee district, August and October 2008.

[183] The Supreme Court accepted the attorney general's argument that adequate procedures were in place for individuals to petition authorities for resettlement. "A brief profile of the Trincomalee High Security Zone", op. cit., pp. 10-11.

[184] The exact boundaries of the HSZ as demarcated in the Gazette notification have never been clear. For details of those areas where people will be allowed to settle, see "A brief profile of the Trincomalee High Security Zone", op. cit., p. 16. The government has offered no public explanation of why so much land is needed for security purposes. The strategic position of the land south of the Trincomalee harbour and the need to protect against future LTTE infiltration are clear, but the amount of land seems more than what is necessary for that task. When asked in writing by Crisis Group to explain the necessity of such a large area of land for the HSZ, government officials refused to answer. Speaking privately, officials involved in the coal-power project suggest that the HSZ could safely be reduced significantly. Crisis Group interview, government officials, Colombo, May 2008.

[185] Government officials have dismissed such worries, citing the existence of high security zones in residential areas in Colombo and Kandy. In these cases, however, the Gazette explicitly allows such residents to remain; in the Mutur East-Sampur HSZ, this is not true. Crisis Group interview, Rear Admiral H.R. Amaraweera, Trincomalee, April 2008.

coal power plant on 700 acres of the HSZ.[186] No environmental impact study has been conducted, however, and residents around the site express fears that pollution from the plant will affect their crops and their health.[187] "The way they grab land in Sampoor, now apparently for two coal power stations without any kind of process, is very ominous", says one long-time rights activist. "In the end it amounts to a process of creeping genocide".[188]

No one disputes the central government's legal right to take over private land for various public purposes.[189] In such cases, however, the acquisition must be made public and the owner notified and given a chance to appeal.[190] In the case of the Mutur East-Sampur HSZ, these procedures have not been followed. Few of those affected have been given compensation for their land or been offered a process by which they could assert their claims over the land.[191] The Trincomalee district secretary has been quoted by numerous sources as claiming that in fact the Tamils of Mutur and Sampur had been living illegally on the land and have no rights to compensation.[192] Parliamentary members of the TNA and advocates of the displaced families have vigorously disputed these claims.[193]

The imposition of the HSZ, combined with other ad hoc security restrictions in the area, has imposed severe economic hardship on many Tamils and Muslims. Many locations formerly open to fisherman, cattle-grazers and those who live by selling firewood collected from the local forests are now inaccessible. Restrictions on fishing were relaxed prior to the May 2008 provincial council elections, but were immediately re-imposed after the government's victory.[194]

3. Trincomalee development plans and the fear of "Sinhalisation"

Large areas of Trincomalee district were declared a special economic zone (SEZ) on 16 October 2006.[195] The zone covers much of the area to the north, west and south of Trincomalee harbour and bay, including portions of the Mutur East-Sampur HSZ. In addition, an urban development plan for the Trincomalee area was announced in January 2007 by the urban development authority.[196] Together, the two plans designate large areas of Trincomalee for specific types of economic and infrastructural development.[197]

Equitable, transparent and inclusive economic development would be welcomed by all communities in Trincomalee. The government's plans and the early stages of their implementation, however, especially in the context of Trincomalee's history of ethnic violence, have raised worries among Tamils and Muslims that "developing" Trincomalee will in fact mean "Sinhalising" the region.

[186] The project is a joint venture with the state-owned Ceylon Electricity Board and is expected to cost $500 million. The area is listed in government maps of the special economic zone from January 2006 as an eco-tourism zone. The Indian government had initially expressed opposition to building the plant in Sampur, expressing disquieting the displacement of so many Tamil families. M.R. Narayan Swamy, "India's Sri Lanka power project runs into Tamil storm", IANS, 10 May 2008.

[187] Crisis Group telephone interview, Mutur residents, August 2008.

[188] Crisis Group correspondence, Rajan Hoole, July 2008.

[189] The Land Acquisition Act is the primary legislation empowering government seizure of private land. Numerous other laws allow the government to claim and distribute public lands.

[190] "A brief profile of the Trincomalee High Security Zone", op. cit., p. 21, note 18.

[191] According to Rear Admiral H.R. Amaraweera, district coordinating director, ministry of resettlement, the Trincomalee district secretary is in the process of legally acquiring lands. Those with proof of ownership have been offered compensation, but few have accepted. Crisis Group interview, Trincomalee, October 2008. Many of the displaced seem reluctant to accept compensation for fear it could be used to legitimate their displacement. Crisis Group interview, government official, Colombo, October 2008.

[192] Crisis Group interviews, development agency officials, Colombo, April 2008; and "Trauma in the Vanni", UTHR(J), information bulletin no. 46, 8 July 2008.

[193] R. Sampanthan, parliamentary speech on "The national conflict and the Tamil question", 23 July 2008. It can often be hard to prove one's title or permit to the land, especially if government officials are determined to pursue a policy that requires other uses of the land.

[194] Some Muslims in Kinniya and Mutur believe the restrictions are in part designed to punish them for voting overwhelming for the opposition UNP-SLMC coalition. Crisis Group telephone interviews, August 2008.

[195] Democratic Socialist Republic of Sri Lanka, Gazette Extraordinary No. 1467/03. Issued under authority of the Board of Investment Act No. 4 of 1978, SEZs allow for tax breaks and other incentives designed to encourage investment and stimulate economic development. The SEZ covers 675 sq. km.

[196] "Development Plan for Trincomalee Metro-Urban Development Area", ministry of urban development and water supply, 2007.

[197] Already under construction is an "industrial estate" in Kapalthurai. Major road-building projects have been under way for more than a year. Well on its way to completion is an outer ring road that will encircle the Trincomalee town and harbour, stretching from Nilaveli on the north coast, crossing the Habarana-Trincomalee road and ending at Ilakkantai on the coast south of the harbour and currently within the HSZ.

Many worry that the bulk of new business and employment opportunities will go to Sinhalese businesses and workers from outside Trincomalee and that Sinhalese areas will be targeted for development and expansion at the expense of Tamil and Muslim areas.[198] The lack of local consultation in devising plans and the disregard for proper procedures with respect to ongoing government seizures of land in Trincomalee have lent credence to these fears. Already a large amount of land along the edges of the new ring road has been taken without due process and without compensation being offered.[199] Many worry that the government will settle Sinhalese along the new ring road, either covertly or in the name of economic development. Some claim that this process is already underway.[200] Tamil and Muslim politicians and activists cite numerous locations where Sinhalese are alleged to have been newly settled, including along the Kantalai-Trincomalee road and in a housing development for military families in the north west town of Rotawewa.

To date there is no decisive evidence of a government policy to bring in large numbers of new Sinhalese, just allegations and many worrying signs. Government officials have made no serious effort to respond to allegations of plans to Sinhalise the east, other than occasional pro forma denials.[201] Nonetheless, without stronger statements denying such plans and a public commitment by the government to be transparent in its land and development decisions, reasons for worry will remain. The history of state-assisted irrigation and "colonisation" projects in the east and their effects on the ethnic balance are alive in the minds of many Tamils and Muslims. The central government presently has full powers over land in the east and with it the power to grant permit land to new Sinhalese settlers. Illegal encroachment, especially along roadsides, has been encouraged by past governments and is one of the most frequently mentioned means by which the government would be able to Sinhalise the district.[202] Such moves could be done relatively quietly, especially with mid- and lower-level Tamil and Muslim government servants in the east fearful of objecting to government plans or of being seen to discuss plans with others.[203]

The Eastern Provincial Council would seem to have little power to prevent such moves. The government's development plans were drawn up well in advance of the council coming into being, and there is no sign the council will be given any significant say over what is developed or how. Nor does the government seem willing to cede real power over land to the council. Given the ambiguities and contradictions in the Thirteenth Amendment, even its "full" implementation may not lead to any real reduction of the central government's power over land.

[198] Jobs generated by previous economic development initiatives in Trincomalee have often gone disproportionately to Sinhalese. This has allegedly been the case at the Prima Flour Mill, the Kantalai Sugar Factory, the Mitsui/Fuji Cement Factory and the Mineral Sands project at Pulmoddai. Crisis Group interviews, Tamil businessmen and community representatives, Trincomalee town, July 2007 and April 2008.

[199] Crisis Group interviews, Mutur residents, April and August 2008. The Centre for Policy Alternatives reports that a "buffer zone" of 300m on either side of the ring road has been enforced, but that those who live or cultivate lands near the road have been provided no information about the legal basis on which their land has been taken. "A brief profile of the Trincomalee High Security Zone", op. cit., p. 16.

[200] Sources allege that a new road being built from Seruvila to Polonnaruwa, which is not yet open to the public, already has new Sinhalese living alongside it. Crisis Group telephone interview, government servant, Trincomalee district, August 2008.

[201] In a September 2007 parliamentary debate, Minister of Public Administration Karu Jayasuriya denied accusations by TNA MP Sampanthan that the government had plans to carve a new Sinhala-majority district out of the north west corner of Trincomalee.

[202] Prior to 1995, governments would periodically "regularise" illegal encroachment by given encroachers valid permits or title to the land. Since a regulation issued by the lands ministry in June 1995, this is no longer permitted. It could, however, be made possible again with a simple administrative decision, without parliamentary approval.

[203] No government officials with anything critical to say would speak on the record when interviewed for this report. Those officials who would speak off the record were unanimous in their criticism of what they termed the dictatorial and punitive style of the Trincomalee district secretary. A number of Tamil and Muslim senior civil servants in Trincomalee have been demoted or transferred for objecting to the district secretary's actions or to government policies. Crisis Group interviews, Trincomalee and Colombo, April, July and August 2008.

VI. GRIEVANCES AND FEARS OF EASTERN SINHALESE

In a July 2008 speech to parliament, Environment Minister and JHU stalwart Champika Ranawakka denied TNA allegations that plans to Sinhalise the east were underway. In fact, Ranawakka argued, there were fewer Sinhalese in Ampara today than in 2001, even as the Muslim population had grown.[204] Sinhalese in the east, he argued, had suffered greatly over the past decades of war.[205]

There is no question that Sinhalese living in the Eastern Province suffered greatly during the years of war, and many continue to feel isolated and under siege. In the east they are in the unusual position of being a minority, and their particular interests and security concerns have never been given much attention in past attempts at finding a negotiated settlement to war and ethnic conflict. Even today their concerns receive little public attention. Except for election campaigns, they complain, politicians rarely visit them or give them adequate resources. NGOs, too, offer them little, and are seen as favouring Tamils.[206]

Memories of massacres carried out by the LTTE and local Tamils against Sinhalese in villages bordering Tiger-controlled areas of the east are also still fresh in the minds of many Sinhalese.[207] Tensions with local Tamils remain, though fears of the LTTE have receded now that their presence has been reduced to small bands of guerrillas in the Ampara and Batticaloa jungles. Nor are the LTTE's 1990 murder of some 500 Sinhala and Muslim police in the east, and Karuna's involvement in the attacks, forgotten.[208] While some Sinhalese in Ampara are confident that the TMVP – and even the LTTE eventually – can be transformed into a democratic party, others remain suspicious. "It is these people who killed us then", said one villager speaking of Pillayan and the TMVP, "but now he is a politician....At the moment we have no problem, but ... they are now watching us and studying how things are being done ... and when the time comes they will join the others and come to attack us".[209]

Perhaps the biggest fear among Sinhalese in the east – especially in Ampara – concerns the growing economic power and political aspirations of Muslims. Muslims are widely believed to be taking over increasing amounts of land, with the ultimate aim to gain political control of the district. "Muslims want Ampara to become a majority Muslim area and then a separate administrative unit", said one Sinhala journalist in Ampara town.[210] Many Sinhalese argue that tensions among the different communities in Ampara emerged only after the SLMC, led by eastern Muslim leader M.H.M. Ashraff, came into power in 1994. "Due to the LTTE problem", explained one Sinhala journalist in Amapara, "Sinhala people had to leave their lands and come to Ampara town. Muslims unfairly bought the land cheaply or occupied the land illegally. The same happened to innocent Tamils. Muslim civil servants doctored the documents. When people complained to the GA [Government Agent], it was useless because of the political power of Minister Ashraff".[211]

For some Sinhalese, Muslim "encroachment" on "Sinhala" land has a historically deeper meaning. The east as a whole, and especially Ampara district, is

[204] Referring to numbers from the 2007 Special Enumeration by the Census Department, Ranawakka claimed that there were 7,500 fewer Sinhalese and 19,000 additional Muslims in Ampara district.

[205] Kelum Bandara and Yohan Perera, "No Sinhalization in east: Champika Ranawaka", *Daily Mirror*, 24 July 2008. This is, of course, no guarantee that Sinhalese numbers will not grow in the future. From a Sinhala nationalist perspective, it can be an argument for why at least those Sinhalese who left the east should be encouraged to return. Their right to return is clear, but unless it is done transparently and through a process that involves trusted representatives of all three communities, it is likely to stir up further mistrust.

[206] For a brief analysis of the grievances of Sinhalese in the east, see Kumar Rupesinghe, "Enhancing Human Security in the Eastern Province", in *Waging Peace: Selected Papers of Kumar Rupesinghe 2002-2008* (Colombo, 2008), pp. 405-6. As Rupesinghe argues, a full treatment of the topic would require recognising the distinct concerns of Sinhalese in Ampara, in Trincomalee and Kanthalai, and in Weli Oya and northern Trincomalee district.

[207] Nineteen villagers were killed in Mangalagama in 1995 and more than 50 in an attack in Gonagala. Crisis Group interviews, Sinhala villagers, Mangalagama and Gonagala, Ampara district, July 2008.

[208] "Government to investigate 18 year-old massacre", *Daily Mirror*, 14 June 2008. Since Karuna's return to Sri Lanka little has been heard from the government on the investigation.

[209] Crisis Group interview, Sinhala villager, Mangalagama, Ampara district, July 2008.

[210] Crisis Group interview, Sinhala journalists, Ampara town, March 2008.

[211] These problems are said to have continued under Ashraff's successor, Rauff Hakeem, and his wife, Minister of Housing Ferial Ashraff. Some even believe that "the next war could be with Muslims, because of Hakeem's desire to have the Eastern Province under his control. Secretly they are getting ready, preparing militarily....Hakeem says he only wants an administrative unit, but this is his first step towards a separate state". Crisis Group interview, Sinhala journalist, Ampara town, March 2008.

understood as being Sinhalese and Buddhist from ancient times.[212] Speaking of the famous Dighavapi Temple, for instance, many believe not only that "Muslims have forcibly occupied the land around the Temple", but also that "the whole area is full of Buddhist remains, which show that it was a Buddhist area. Sinhala people have reliable evidence that the land is theirs, embedded in guard stones planted by ancient kings. These ruins have been destroyed and vandalised by Muslims. Muslims invaded 600 or 700 years ago, under the Portuguese. But before this, the area was Sinhala".[213] Such beliefs support the call by the JHU to preserve the "Sinhala heritage" of the east.[214]

Distinct from, but at times complementing, the JHU belief that the east belongs to the Sinhalese is the argument that the east belongs to and should be open to all, regardless of ethnicity. The JVP, for instance, argues that land should be distributed on the basis of need without attention to "ethnic proportionality".[215] In support of this, the JVP and others argue that overpopulation has led to an acute shortage of land for development projects. With the available land lying in the north and east, these areas cannot be reserved for any particular communities. Just as Tamils have no right to claim the entire north and east, Muslims have no right to claim an amount of land in the east in proportion to their local population figures. For some associated with the JHU, "ethnic enclaves" – that is, a Muslim majority area in the east – can be blocked only by the increased settlement of Sinhalese: "unless moves are made to increase Sinhala settlements in the district ... politically-instigated minority groups in the East" may attempt "to bring about a Kosovo-type situation".[216]

Nonetheless, it is important to distinguish the fears and grievances of Sinhalese living in the east from the ways these are taken up by Sinhala nationalist politicians and militant monks. Sinhalese in the east have often shown themselves able to accommodate Muslim and Tamil land needs, in part because they have to live with the consequences of confrontational approaches and policies. "In Dighavapi, for instance, Muslims, Tamils and Sinhalese were more than capable of dialogue to resolve the issue, but it became a problem once politicians got involved".[217] "There's a lot of local-level interethnic accommodation", comments one scholar who has studied religious conflicts in the east. "Traditional settlement patterns show that communities have been able to work together. But this tradition has broken down due to politics and rising Buddhist nationalism, Tamil nationalism and increasingly Muslim nationalism".[218]

Still, among many Sinhalese in the east there is a deep sense of entitlement to the land, even if not translated into support for the confrontational politics of the JHU. It remains difficult for most Sinhalese to imagine the Eastern Province as a different sort of territory, not fully open to Sinhalese as is the rest of the country, and where the Sinhalese are and might remain a minority.[219] So long as this sense of entitlement continues and Tamils and Muslims are given no effective means by which to act as majorities in at least some areas, it is hard to see how future conflicts over land and power in the east can be avoided. The need for a meaningful process of inter-community dialogue, in which the grievances and fears and history of suffering of all three communities can be discussed in a supportive environment, remains crucial to long-term stability of the east.

[212] For more on the tensions related to the preservation and renovation of ancient Buddhist sites in the east, see Appendix D.

[213] Crisis Group interview, Sinhala journalists, Ampara town, March 2008. Some Sinhalese even date the "Buddhist", if not the Sinhala, nature of Ampara, from the time of the Buddha's mythical visits to Sri Lanka 2,500 years ago.

[214] The JHU's name – Jathika Hela Urumaya, or National Sinhala Heritage – takes on particular meaning in the east, where their commitment to "protecting" the "Sinhala heritage" has real effects. The JHU's voter base, however, is not among rural Sinhalese in the eastern or north central provinces but in the south western suburban middle class.

[215] Crisis Group interview, Somawansa Amarasinghe and Vijitha Herath, JVP leaders, Colombo, July 2007. Ethnically neutral/blind policies in a state where the Sinhalese are the majority and the central government controls land use means Sinhalese should be able to be the majority in all regions, including the east. In practice and over time, then, the JVP position is hard to distinguish from the JHU's.

[216] Janaka Perera,"Deeghavapi case and ethnic enclaves", *SinhalaNet*, 30 June 2008.

[217] Crisis Group interview, journalist, Ampara town, July 2007.

[218] Crisis Group interview, Professor Tudor Silva, Colombo, May 2008.

[219] When asked to explain why their Tamil neighbours would have wanted to attack them so cruelly, for instance, Sinhala villagers in Mangalagama and Gonagala could only imagine it must have been greed for their land. There seemed little room for the thought that they could be seen by Tamils or Muslims as agents of a state-sponsored plan to conquer the east and deny them their rightful land. Crisis Group interviews, July 2008.

VII. FUTURE SCENARIOS

A. POLICY VACUUM

Instead of the government articulating a clear set of policies designed to reassure all three communities, there is a dangerous vacuum of ideas and plans. Strangely for a topic that has been the centre of political conversation for the past two years, there is little discussion – either in the east or among those in Colombo who set policies for the area – about what a sustainable, long-term solution to the east's particular set of violent conflicts would require. Nor is there talk of how the resolution of the east's conflicts would fit into a resolution of the national conflict as a whole. Tamils are largely politically silent, caught between the TMVP unwilling to challenge the government and the TNA unwilling to challenge the LTTE. Muslims have been consumed by complex political infighting and in the immediate tasks of defending their lives and lands.

The government speaks in general terms about the value of democracy, devolution and development. It has said almost nothing specific about its particular vision of a multicultural and multireligious east. It has offered no public statement of how it aims to address the central issues in contention in the east: access to and control of land, the distribution of political power, government resources and economic opportunities and each community's need for physical and cultural security. Nor has it made any serious attempts at confidence-building measures or offered assurances about demographic stability.

What the government promises is "development", but without explaining what will be developed, where, by whom, how, in whose interest and under whose control. What the east needs is development that is seen as equitable and that responds to the needs of, and is determined through the decisions of, local communities. At present, there is no discussion of what such development would look like.

By all appearances, the government is trying to unilaterally resolve the most contentious political issues at the heart of a more than 50-year history of violent conflict, without negotiating with independent Tamil and Muslim representatives and without clearly spelling out its vision of the "new east". "The clear sense you get from the government is that the east was won through war, not a negotiated settlement, and that the winner of the war has the authority to determine policies and assert its identity".[220]

[220] Crisis Group interview, international development official, Colombo, May 2008.

B. TACTICAL QUESTIONS

In the words of a senior representative of an important international development agency in Colombo, "the government is gambling that it can bring development and stability to the east without addressing the grievances of local communities, much less the underlying causes of the conflict".[221] The hope seems to be that a combination of development dollars, political manipulation and, if necessary, repression will be enough to pacify the otherwise restive populations of the east. Could such an approach work?

It is possible the government's strategy could succeed, but it will require finessing a number of difficult tactical issues. Not least of these is the success of the government's military campaign in the north. The government's approach in the east is contingent on the LTTE being fully contained in the north, if not comprehensively defeated. Should the LTTE be able to re-enter the east to any significant degree, all bets are off. August and September 2008 saw an increase in LTTE attacks on security forces and TMVP camps in the east.[222]

Within the east, the government must carry off a very careful and complex balancing act between Tamil, Muslim and Sinhala interests, parties and ideologues. Much depends on how effectively worn down Muslims and Tamils of the east are today. Will Muslims accept continued second-class status and deals handed to them by Muslim ministers? Will Tamils accept continued repression from a TMVP with no independent political power? Will each community allow itself to be played against the other and fight over limited resources? And how will each community respond should the JHU and/or the government attempt a significant settlement of Sinhalese?

To date, the government has shown itself skilful at dividing its opposition and playing different communities and their representatives against each other. It is possible the government can maintain an adequate level of stability through a combination of coercion, division and cooptation. More specifically, its challenge is to:

- maintain relative peace between Tamils and Muslims and prevent the emergence of serious Muslim militancy by, first, limiting TMVP provocations and guaranteeing Muslim security and, second,

[221] Crisis Group interview, development agency official, Colombo, June 2008.

[222] Yohan Perera, "LTTE is becoming active again in the East", *Daily Mirror*, 6 October 2008.

resolving, or at least managing, Muslim-Tamil land disputes, if not their underlying causes;

- contain the conflict between Pillayan and Karuna and prevent it from feeding Muslim-Tamil tensions, creating additional hardships for Tamils and undermining the already weak legitimacy of the provincial council;
- contain Muslim anger and the threat of militancy by holding in check Buddhist militant agitations and land grabs in Ampara; and
- prevent the LTTE's re-emergence not merely through TMVP-backed counter-insurgency efforts but also by allowing the TMVP enough autonomy and resources to provide Tamils tangible benefits.

So far the government-led alliance between Pillayan's TMVP and various Muslim politicians led by Hisbullah has been holding, though periodic acts of violence have kept Muslim-Tamil tensions high.[223] Growing tension between Pillayan and Karuna could complicate this arrangement. With respect to Tamils, the government faces a difficult but not impossible balancing act. On the one hand, it needs the TMVP's repressive capabilities to root out LTTE sympathisers and infiltrators. It also needs the TMVP not to challenge development policies that are worrying Tamils in Trincomalee and Ampara.[224] On the other hand, in order to keep Tamils from growing too restive and lending support to the LTTE in the east, the provincial council must be given at least some measure of power and authority over development. This has yet to happen, and there are reports that Pillayan and his supporters on the council are growing restive,[225] even as the LTTE has increased its attacks in the east.

C. REALITY CHECK

However passionate the government's public commitment to democracy, devolution and pluralism in the east may be, there remain grounds for scepticism. As yet, there is no irrefutable evidence of a conscious policy to change the demographic balance of the province through the settlement of new Sinhalese. The government has offered no guarantees on this issue, however. Critics point to the important role the strongly Sinhala nationalist JHU plays within the central government and its confrontational policies in the east to "restore" Buddhist sites and apparent use of environmental regulations to control state land. With the government's endorsement of the de-merger of the north and east, its strong attachment to the unitary state and its island-wide promotion of Buddhism, it would seem to consider Sri Lanka an essentially Sinhala and Buddhist nation.

The government's promise to devolve effective power to the Eastern Provincial Council and thus to the local majority formed by Tamils and Muslims also seems in doubt. The government has yet to clarify how it defines the "full implementation" of the Thirteenth Amendment or how and when that will take place. Its practice in the rest of the country has been characterised by extreme centralisation of power and (often violent) intolerance of dissent. It has mastered the use of divide-and-rule strategies when dealing with opposition and minority political parties. It is hard to be optimistic that meaningful power will be devolved to the provincial council in the east.

That said, the Eastern Provincial Council is still young and its establishment certainly creates an opportunity to prove the government's critics wrong. To do this, the government would, at a minimum, have to:

- make the necessary administrative and legal changes to ensure that the Eastern Provincial Council is granted maximum powers available under the Thirteenth Amendment, while supporting the development of independent institutions able to monitor the council's performance. The ultimate aim should be for real power to be available to political leaders and parties with independent constituencies and power bases – unlike the present TMVP whose power rests on its guns and the support it gets from the central government and security forces. Genuine power sharing will require that land, police and financial powers be granted to the provincial government, with adequate safeguards established for the rights and interests of the Sinhalese minority. No police powers should be granted, however, until the Constitutional Council is reestablished and a new National Police Commission appointed;
- demilitarise the TMVP, integrate into the police and military those fighters in its armed wing with no outstanding allegations of human rights abuses,

[223] Since gaining power in the provincial council, the TMVP and pro-government Muslim leaders have found common ground in attempts to silence their political rivals in the SLMC and TNA through various means.These include grenade attacks and staged strikes against the TNA MP from Ampara and moves to suspend the SLMC chairman of the Kattankudy Urban Council and investigate other SLMC councils. Kelum Bandara, "EP: Probe into four more local bodies", *Daily Mirror*, 1 October 2008.

[224] The TMVP's influence remains largely restricted to Batticaloa district, where Sinhalisation is less of a possibility.

[225] Crisis Group interviews, journalist and academics, Colombo, October 2008.

while providing effective police protection for TMVP members against attacks from the LTTE, and end human rights abuses committed as part of the government's counter-insurgency in the east; and

- establish a provincial "peace process" involving the government, the TMVP and, with guarantees of protection, opposition parties – including the TNA – and independent community representatives. The aim should be to assure Tamils and Muslims that there are no plans for the "Sinhalisation" of the province by working towards common and transparent policies on land, security, development and livelihoods, while laying the groundwork for national-level negotiations on constitutional reform and power sharing.

The central government, working closely with the Eastern Provincial Council, representatives of local communities and donor agencies, should also take steps to prevent land disputes from generating more serious inter-communal conflict and political instability.

- The government should establish a land task force with independent representatives from all three communities and from development agencies to survey existing land disputes and allegations of "Sinhalisation". The task force would aim to clarify the rights of various parties involved, reduce mistrust and, to the extent possible, resolve ongoing disputes, including those caused by the failure to demarcate boundaries between DS divisions. The task force could work in tandem with divisional-level land committees, composed of representatives from the government, opposition parties, civil society and donors, who would monitor and mediate land disputes on an ongoing basis.
- The land task force could lay the groundwork for a land *kachcheri*, by which abandoned or forcibly seized land, as well as newly opened state land, could be distributed in transparent and equitable ways. The *kachcheri* should follow a full audit of all disputed land. It would require careful management to avoid producing new conflicts or being manipulated by politicians and armed groups.[226]
- For longer-term reform of land policies, the government should at long last establish the National Land Commission called for under the Thirteenth Amendment. It would be mandated to formulate national policy on land use and development in the north and east, with an eye to future land requirements and fair use by all communities. It should propose comprehensive legal reforms designed to ensure greater transparency, equity and coherence with respect to the use and allocation of land, including possible changes in the powers of divisional secretaries.

[226] The idea of a land *kachcheri* has been advocated by Kumar Rupesinghe and the Foundation for Co-Existence. See "Addressing the land question in the east: the way forward", at www.kumarrupesinghe.org/Pages/Full-Article.aspx?ArticleID=166.

VIII. CONCLUSION

The past year has seen positive developments in the east. The military defeat of the LTTE has meant the end of war and has allowed most of the displaced to return to their homes and begin to rebuild their lives. It has also opened up the space for much-needed economic development and, in principle, for the repair of damaged inter-ethnic relations. To achieve the stability necessary for sustainable development, however, and to build the foundations of a lasting political settlement, the government must begin to address the fears and grievances of each community, especially those of Tamils and Muslims. For this it will have to overcome three basic contradictions in its current approach to the east.

First, the foundation for the current process of political and economic change in the east was laid by the Supreme Court's decision to de-merge the Northern and Eastern Provinces. The de-merger was, however, imposed on Tamils without any consultation. It violates one of the basic planks of the Indo-Lanka accord and runs counter to the central tenets of Tamil nationalism. It is bitterly resented by almost all politically active Tamils, including those opposed to the LTTE. The government will have to work hard to assuage Tamils' fears that the de-merger of the north and east has denied them their right to autonomy and power sharing. A sustainable resolution of Sri Lanka's war and ethnic conflicts could well require revisiting the question of a merged north and east.

Second, the government will have to adopt more transparent and inclusive forms of decision-making, moving away from the secretive, often coercive, divide-and-rule politics that allowed it to win political control of the province. All communities must be made full partners in the development of the east and efforts made to overcome years of mistrust, including that which many Tamils and Muslims feel towards the government. Particular efforts are needed to reassure Tamils and Muslims, through transparent and equitable land policies, that there are no plans to Sinhalise the east. To build trust between Muslims and Tamils, the government will have to rein in the TMVP and ensure security for all communities while holding accountable those responsible for the worst of the east's recent atrocities, in Mutur, Trincomalee and Potuvil.

Finally, the means by which the government is developing the east must be made consistent with its promises of devolution of power. Development plans for the Eastern Province were prepared by the central government before the Eastern Provincial Council was established and are currently being implemented from the centre using its own administrative apparatus. While some degree of consultation with newly elected officials in the east is taking place, eastern people and the Eastern Provincial Council need to be given meaningful decision-making power over the social and economic transformations that "development" will bring. At a minimum, effective powers over land and adequate financial resources must be granted to the provincial council. The council, and other provincial representatives, must then be allowed to reformulate development plans as they see fit. Ultimately, meeting the legitimate aspirations of Tamils and Muslims in the east will require going beyond the Thirteenth Amendment, which continues to vest ultimate authority on all issues to the centre.

Colombo/Brussels, 15 October 2008

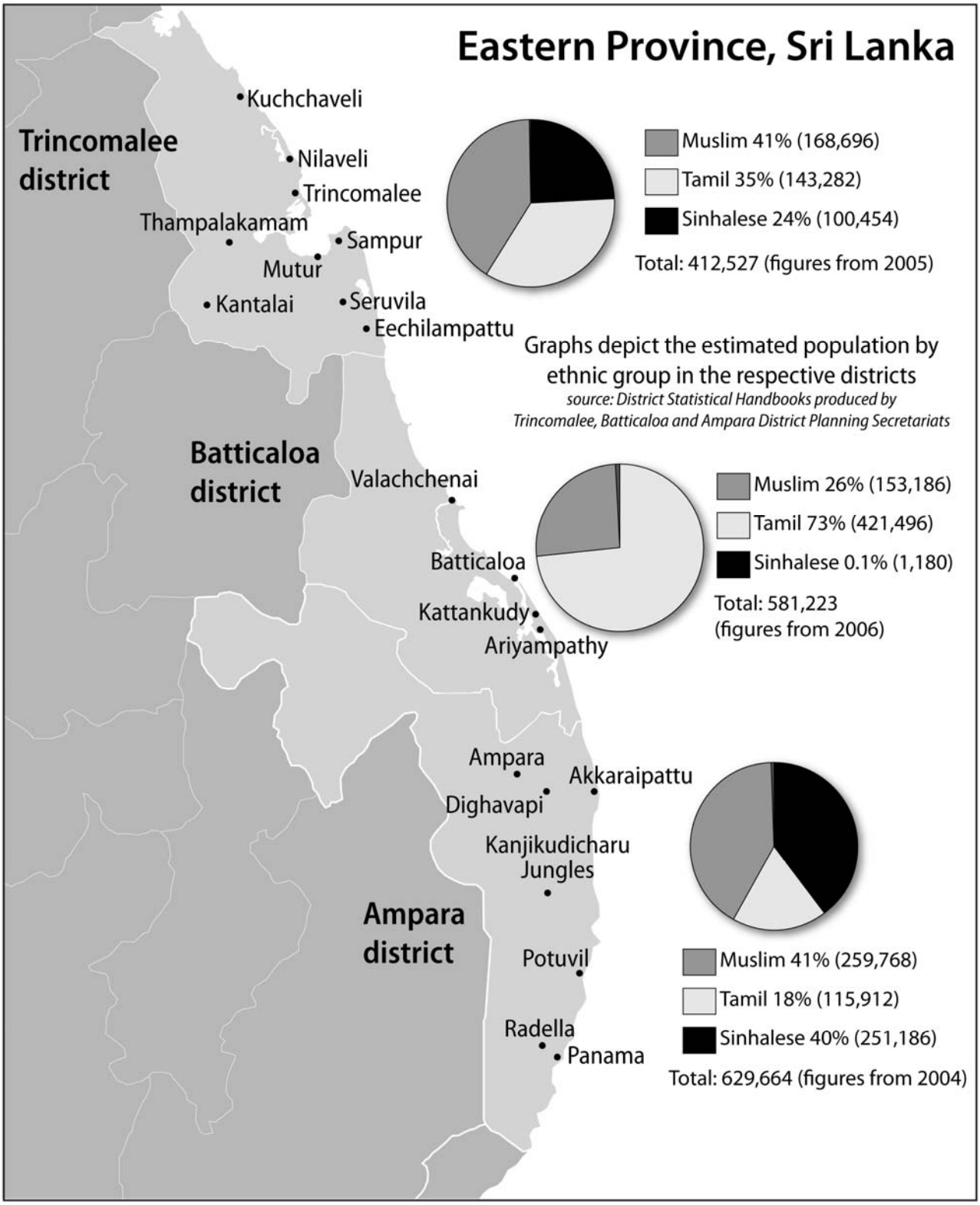
APPENDIX A

MAP OF SRI LANKA

This map has been adopted by the International Crisis Group from Map No. 4172 Rev 2. (January 2007) by the Cartographic Section of the United Nations Department for Peacekeeping Operations. Eastern Province highlighting and district names have been added.

APPENDIX B

MAP OF THE EASTERN PROVINCE WITH POPULATION STATISTICS



APPENDIX C

POPULATION STATISTICS

All figures, unless otherwise indicated, are from the Sri Lankan Department of Census and Statistics

[1] Figures from District Statistical Handbook

[2] Figures from 2007 Special Enumeration, Department of Census and Statistics

Trincomalee

	Sinhalese	Tamil	Muslim	Total
1901	547 (3%)	12,516 (58%)	8,493 (38%)	
1911	1,138 (4%)	17,233 (58%)	10,354 (35%)	29,677
1921	1,501 (5%)	18,586 (56%)	12,881 (39%)	33,321
1946	15,706 (21%)	33,795 (45%)	22,136 (29%)	75,926
1963	39,925 (29%)	54,452 (39%)	40,775 (29%)	138,553
1971	54,744 (29%)	71,749 (38%)	59,924 (32%)	188,245
1981	85,503 (33%)	93,132 (36%)	75,870 (30%)	255,948
2001	NA	NA	NA	NA
2005[1]	100,454 (24%)	143,282 (35%)	168,696 (41%)	412,547
2007[2]	84,766 (25%)	96,142 (29%)	152,019 (46%)	334,363

Batticaloa

	Sinhalese	Tamil	Muslim	Total
1901	6,152 (4%)	78,604 (55%)	54,426 (39%)	
1911	5,771 (4%)	83,948 (55%)	60,719 (39%)	153,938
1921	7,243 (5%)	84,665 (54%)	63,166 (40%)	156,201
1946	11,850 (6%)	102,264 (50%)	85,375 (42%)	203,186
1963	6,715 (3%)	141,110 (72%)	46,038 (24%)	196,189
1971	11,548 (5%)	181,527 (71%)	60,889 (24%)	256,721
1981	11,255 (3%)	237,787 (72%)	78,875 (24%)	330,333
2001	NA	NA	NA	NA
2006[1]	1,180 (0%)	421,496 (73%)	153,186 (26%)	581,223
2007[2]	2,937 (0%)	381,984 (75%)	129,045 (25%)	515,857

Ampara

	Sinhalese	Tamil	Muslim	Total
until 1963	NA	NA	NA	NA
1963	61,996 (29%)	50,497 (24%)	97,621 (46%)	211,732
1971	82,280 (30%)	62,290 (23%)	126,365 (46%)	272,605
1981	146,943 (38%)	79,237 (20%)	161,736 (42%)	388,970
2001	236,583 (40%)	109,903 (18%)	244,845 (42%)	592,997
2004[1]	251,186 (40%)	115,912 (18%)	259,798 (41%)	629,664
2007[2]	228,938 (37%)	112,006 (18%)	268,793 (44%)	610,719

Eastern Province

	Sinhalese	Tamil	Muslim	Total
1901	3%	56%	39%	
1911	6,909 (4%)	101,181 (55%)	71,073 (39%)	183,615
1921	8,744 (5%)	103,251 (54%)	76,047 (39%)	189,522
1946	27,556 (10%)	136,059 (49%)	107,511 (40%)	279,112
1963	108,636 (20%)	246,059 (45%)	184,434 (34%)	546,474
1971	148,572 (21%)	315,566 (44%)	247,178 (34%)	717, 571
1981	243,701 (25%)	410,156 (42%)	316,481 (32%)	975,251
2001	NA	NA	NA	NA
2004-6	352,820 (22%)	680,690 (42%)	581,680 (36%)	1,623,434
2007[2]	316,614 (22%)	590,132 (40%)	549,857 (38%)	1,460,939

APPENDIX D

DIGHAVAPI TEMPLE, BUDDHIST SITES AND LAND DISPUTES

The best known and most politically explosive land dispute in Ampara district centres on the ancient Buddhist site of Dighavapi, located between the predominantly Sinhala town of Ampara and mostly Muslim town of Akkaraipattu. Believed by many to have been visited by the Buddha himself, Dighavapi temple was built in second century BCE as part of a thriving Buddhist region. The exact boundaries and definition of "Dighavapi" are in dispute. Since the 1980s the temple sacred area has officially been defined as covering 585 acres. Many Buddhists, however, believing that "Dighavapi" extends many miles beyond the temple grounds, view any Muslim settlers or cultivators in the general area as encroachers threatening the Buddhist nature of the site. It has been the site of land disputes and political agitiation since the 1970s. The JHU, including Environment Minister Champika Ranawakka, has made opposition to Muslim settlement near Dighavapi one of its chief causes.[227]

In January 2008, the government declared the temple grounds a sacred area.[228] This designation entails providing certain minimum facilities for devotees, and President Rajapaksa has promised the Buddhist clergy to undertake "several infrastructure development projects" including roads, a rest house for pilgrims, further archaeological excavations and a museum.[229] Many Muslims in the area, however, fear there are more extensive plans for development that will remove land from their use.[230] While there is some degree of tension between Sinhalese and Muslims in the area, there is also a history of cooperation and interdependence, which could be strengthened if managed carefully.

Both Sinhala and Muslim fears have been heightened, however, by the recent civil suit filed by senior members of the JHU and Buddhist clergy, challenging the decision of the housing ministry, to allocate 500 new houses for Muslim survivors of the tsunami on state land in the general area of Dighavapi. The suit argues that the Dighavapi temple depends on Buddhists in the nearby villages and that "steps taken to colonise the area with non-Buddhists would result in a violation of their fundamental rights".[231] On 26 May 2008 Supreme Court restrained government authorities from distributing any of the newly built houses until further hearings are held.

Built on state land by NGOs with money from the Saudi government, the housing project is in fact in the village of Norochcholai, more than 10km from the temple grounds and in a different DS division from Dighavapi.[232] Government officials argue there was little other land available for tsunami survivors in Akkaraipattu division and that with Tamils and the few Sinhalese in the district affected by the tsunami already resettled, it would be unfair to deny Muslims the housing allocated for them.

Dighavapi is the best known of literally hundreds of locations in the east where remains of ancient Buddhist temples and shrines can be found. These have been catalogued in a recent book by JHU parliamentary leader and ideologue Ven. Ellawala Medhananda Thera.[233] The JHU and other Sinhala nationalist groups, as well as some local Sinhala organisations in the east, have made the preservation and protection of the Sinhala and Buddhist heritage in the province one of their primary political objectives. The government has announced its support for such efforts in numerous ways.[234]

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[227] "Minister probes 'Arab Village' in Deeghavapi", *SinhalaNet*, 28 August 2008, at www.sinhala.net.

[228] Gazette of the Democratic Socialist Republic of Sri Lanka, no. 1533/8, 23 January 2008.

[229] "Deegavapi to be made a sacred site", *SinhalaNet*, 21 February 2008.

[230] Crisis Group interviews, Akkaraipattu, March 2008. Minister Ferial Ashraff assures that "what the ministry of sacred areas is doing now is merely developing the area that's already been demarcated. There's no question of taking over additional lands". Crisis Group interview, Colombo, May 2008.

[231] S. S. Selvanayagam, "'Deeghavapiya' housing project – Court issues stay order", *Daily Mirror*, 27 May 2008.

[232] "Some clarification on Deegavapiya – From Ferial Ashraff", *LankaNewspapers.com*, 10 June 2008, at www.lankanewspapers.com/news/2008/6/29050_space.html.

[233] *The Sinhala Buddhist Heritage in the East and the North of Shri Lanka* (Colombo, 2005) lists hundreds of Buddhists ruins, rock carvings and stone inscriptions throughout the north and east.

[234] The Seruvila Temple, located in southern Trincomalee district, has been declared a UNESCO World Heritage Site after government lobbying, and funds have been allocated to build a new access road and expand the Temple's facilities. The government has also announced steps to build an "International Cultural Centre" for the Thoppigala area in west

Many Tamils and Muslims fear that the rediscovery and "preservation" of Buddhist sites in the east is one crucial means through which the government and Sinhala nationalist politicians are trying to reassert their control over the east and eventually bring in new Sinhala settlers. In the words of one Tamil activist, "Wherever there's a peepal tree and a Buddha statue, we're in trouble".[235] The government has not yet stated how it intends to handle the inevitable conflicts over land and religion that such "preservation" efforts are likely to provoke. Even if the government leadership has no plans to use Buddhist sites as a pretext for the Sinhalisation of the east, they are already under significant pressure from their nationalist allies in and outside government to make good on their promises of support.

In Potuvil town, the Muhudu Maha Vihara, a government archaeological site with remains of an ancient Buddhist temple, is already the source of considerable tension.[236] Many residents complain that the monk in charge of the site broadcasts recorded Buddhist chants over temple loudspeakers in a deliberate attempt to provoke his Muslim neighbours. Buddhist activists from outside Potuvil, however, complain that Muslims have encroached onto the land allocated by the archaeological department to the site and attacked the monk.[237]

One example of the kind of "Sinhalisation" that Tamils and Muslims fear concerns a hilltop near the small port of Illankathurai-Muhutuvaram in Trincomalee district. Known as Lankapatuna to Sinhalese, the hilltop features scattered remains that Buddhist activists believe is the famous Samudragiri Temple, where the treasured tooth relic of the Buddha was brought to Sri Lanka from India some 1500 years ago.[238] The rocky hilltop has long been a site of worship by local Tamils, who consider it a seat of the Hindu god Murugan. When under LTTE control in 2002, the existing Hindu shrine, built amidst the ancient Buddhist remains, was the scene of ceremonies attended by the senior local Buddhist monk and senior Sri Lankan police official from the area. After Sinhala engineers visited the area in 2002 and proclaimed it to be the site of the lost Samudragiri Temple, local Tamils and the LTTE destroyed the surviving Buddhist remains in the hopes of preventing a new Buddhist temple from being built.[239]

Once the LTTE were forced out of the area, the military destroyed the Hindu temple, and construction was begun on a new Buddhist temple. A small shrine room was inaugurated at a ceremony that featured the chief justice, senior monks and military officials.[240] The area has become a pilgrimage site for Sinhalese, especially those living elsewhere in the Trincomalee district. Tamils from the immediately surrounding areas, however, are denied access to the site, as it lies within a closely restricted security zone. Hindu devotees who wished to bathe in the nearby sea in an annual ritual had to file a civil suit to gain permission by the military to enter the restricted area.[241]

Batticaloa and promises that "steps will be taken to conserve Buddhist archaeological objects in the area". "Funds to develop Seruwila sacred site", *Daily News*, 10 March 2008; and Chamikara Weerasinghe, "International Cultural Centre for Thoppigala", *Daily News*, 13 August 2008. There are also Buddhist sites in Thiriyaya in Trincomalee and in Pulukunavi in Batticaloa that activists are pressing the government to renovate.

[235] Crisis Group interview, Tamil human rights activist, Trincomalee, April 2008.

[236] The temple is from the Mahayana Buddhist tradition, rather than the Theravadan tradition that is dominant in Sri Lanka. The temple was likely established by pilgrims from southern India, and thus a "Tamil Buddhist" temple.

[237] Crisis Group interviews, Potuvil residents, March and July 2008. The resident monk reportedly was physically assaulted in April 2008. Crisis Group interviews, temple security officers, Potuvil, July 2008. See also "Protect Buddhist temple land in the east", *SinhalaNet*, 4 April 2008, at www.sinhalanet.com.

[238] *The Sinhala Buddhist Heritage in the East and the North of Shri Lanka*, op. cit., pp. 190-3.

[239] After protests at the LTTE's action by the JVP leader Wimal Weerawansa in 2003, the then minister of cultural affairs announced in parliament that the archaeological department could find no evidence to verify the Samudragiri legend or establish the date of the remains. "Can the East be Won through Human Culling?", UTHR(J), special report no. 26, 3 August 2007, Appendix 5.

[240] Crisis Group interview, civil society activist and researcher, Colombo, May 2008.

[241] "Devotees granted permission to perform religious rituals in FR case", *Daily Mirror*, 30 July 2008.

APPENDIX E

GLOSSARY OF ABBREVIATIONS

APRC All Party Representative Committee established in July 2006 by President Rajapaksa to prepare proposals for constitutional reforms and devolution of power. The three major opposition parties – UNP, JVP and TNA – are not members.

GA Government Agent, highest-ranking central government official for each district. Formally known as the District Secretary, sometimes called the DS, but not to be confused with a Divisional Secretary, also called DS.

DS Division Divisional Secretary division, the government administrative unit below the district and run by the Divisional Secretary, also known as the Assistant Government Agent, or AGA.

EPDP Eelam People's Democratic Party, founded in 1987, and led by its founder and former Tamil militant Douglas Devananda, currently the minister for social services and social welfare in the Rajapaksa government.

HSZ High security zone, created around the country from the mid 1990s onwards and located around army camps and strategic locations. The largest of these are in the Northern and Eastern Provinces. They allow security forces primary use of the area, and in the case of the HSZs in the north and east, do not allow civilian access.

JHU Jathika Hela Urumaya, National Sinhala Heritage party. Known from 2000 to 2004 as Sihala Urumaya (Sinhala Heritage), it promotes a strong Sinhala nationalist ideology, promises corruption-free politics and has nine members of parliament, including eight Buddhist monks.

JVP Janatha Vimukthi Peramuna, People' Liberation Front, the largest and longest-standing Sinhala nationalist party. Originally a splinter group of the Maoist Wing of the Ceylon Communist Party in 1965, it led armed insurgencies against the state in 1971 and 1987. Its more nationalist and pro-government wing led by Wimal Weerawansa broke from the party in April 2008 to form the Jathika Nidahas Peramuna (National Freedom Front), reducing the JVP parliamentary seats from 38 to 27.

LTTE Liberation Tigers of Tamil Eelam, the dominant Tamil nationalist militant group founded in 1967 and led by Velupillai Prabhakaran. It claims to fight for the rights of Tamils and seeks to establish a separate state in the north and east of the country.

PA People's Alliance, coalition of political parties led by SLFP. Formed in 1994 and successful in the presidential and parliamentary elections of 1994 and again in 1999 and 2000. Eclipsed by the formation in 2004 of the new SLFP-led coalition, United People's Freedom Alliance (UPFA).

SLFP Sri Lanka Freedom Party, centre-left party founded in 1951 by S.W.R.D Bandaranaike after breaking with the UNP. It instituted socialist economic policies in the 1970s. In power under Bandaranaike's daughter, President Chandrika Kumaratunga, from 1994 to 2005 as the main constituent party of the People's Alliance coalition, it is now led by President Mahinda Rajapaksa.

SLMC Sri Lanka Muslim Congress, the largest party representing Muslim interests but now split into numerous factions. Its leader, Rauf Hakeem, resigned from National Parliament in order to contest in the Eastern Provincial Council elections with UNP. This alliance won fifteen seats of the 35 council seats.

STF Special Task Force, established in 1983 as an elite special force unit of the Sri Lanka Police. Most of its units are currently stationed in the Eastern Province, where they have been accused of serious human rights abuses.

TMVP Tamil Makkal Viduthalai Puligal, armed group formed when LTTE's eastern military commander, Vinayagamoorthy Muralitharan, alias "colonel" Karuna, broke ranks in March 2004. Concentrated in the Eastern Province, with leadership shared between Karuna and his former deputy S. Chandrakanthan, known as Pillayan. It contested the Eastern Provincial Council elections as a registered political party in alliance with the UPFA and secured the majority of seats on the council. Pillayan was sworn in as chief minister of the Eastern Province in May 2008. Karuna was made a member of parliament on 7 October 2008, filling a vacant seat held by the UPFA.

TNA Tamil National Alliance, a coalition of smaller Tamil parties that support the LTTE, currently with 22 members in parliament, seven of whom represent the Eastern Province.

UNP United National Party, centre-right political party formed in 1946 and currently the main opposition party. It was founded by D.S. Senanayake and is at present led by Ranil Wickremasinghe, prime minister from 2001 to 2004.

UPFA United People's Freedom Alliance, coalition formed in January 2004 and led by the SLFP and JVP, it won the parliamentary elections in April 2004. Since December 2006, the JVP has been in opposition, though it remains a strong supporter of the government's war. The UPFA, without the JVP but in coalition with the TMVP, won twenty of 35 seats on the Eastern Provincial Council in May 2008.

APPENDIX F

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 135 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

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October 2008

APPENDIX G

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