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Sri Lanka: Situation in northern Sri Lanka, including information on internally displaced persons (IDPs), emergency regulations, mobility rights, security checks and treatment of women (December 2009 - January 2011)

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Internally Displaced Persons

Several international observers put the number of persons from the north who were displaced by the war's ending in May 2009 at nearly 300,000 (MRG 2011, 8; Denmark Oct. 2010, 7; UNHCR 5 July 2010, 1). These nearly 300,000 internally displaced persons (IDPs) were interned in camps largely located in the Vavuniya area (Denmark Oct. 2010, 7), the majority of them in "the notorious Menik Farm camp" (MRG 2011, 8). In November 2009, pressure from the national and international community led the government to begin "granting limited freedom of movement and releasing some people to join their families or to move to other camps in Vavuniya and Jaffna," reports Minority Rights Group International (MRG) (2011, 8).

This was followed by what the Colombo-based, "independent, non-partisan" Centre for Policy Alternatives describes as the "return and resettlement drives" of December 2009 (CPA Sept. 2010, 2, 10). By mid-June 2010, about 246,000 persons had reportedly been returned or released to their districts of origin; those unable to return to their homes (either because of landmines, government appropriation of land for its high security zones or no home or land to which to return) were living with "host families, relatives and friends" (UN 5 July 2010, 1-2).

More recently, a senior research fellow with the New Delhi-based Centre for Land Warfare Studies, citing figures provided by the government, reported that, as of December 2010, less than 10 percent of the IDPs remain to be resettled (Senior Research Fellow 28 Dec. 2010). According to the International Crisis Group's Sri Lanka Project Director, this amounts to more than 20,000 people (6 Dec. 2010). A representative from the Canadian office of the United Nations High Commissioner for Refugees (UNHCR) who was interviewed by the Research Directorate said that, in addition to the IDPs in the camps, there are another 66,330 in host communities (UN 7 Feb. 2011). An update released by the government on 7 January 2011 indicates that it has returned or released 242,234 IDPs from camps in the Vavuniya, Mannar and Trincomalee districts, and that 16,756 IDPs remain in relief villages in Kadirkamar, Anandakumarasawmi and Arunachalam, and in a Jaffna transit camp (Sri Lanka 7 Jan. 2011). The government also notes that the update does not include persons in transit to their district of origin (ibid.).

Resettling and Rebuilding the Northern Province

The Northern Province comprises the electoral districts of Jaffna and Vanni, both of which are made up of several administrative districts (MRG 2011, 8). In Jaffna, these include the administrative districts of Jaffna and Mannar and, within Vanni, the

Kilinochchi, Mullaitivu and Vavuniya districts (ibid.). The process of restoring the north, including the districts of Mullaitivu, Kilinochchi and Mannar, is "slowly" progressing, says the Senior Research Fellow (Senior Research Fellow 28 Dec. 2010). In April 2010, a reporter for the London-based *Guardian* newspaper who was visiting Kilinochchi, the Tamil Tigers' former "administrative capital," also observed that "life is slowly returning to Kilinochchi," although "[m]uch of the town remains ruined" (*The Guardian* 11 Apr. 2010).

Likewise, the Vanni Region Commander, speaking in September 2010 to the Colombo-based *Daily News* about the government's rebuilding efforts, points out that "electricity is being supplied everywhere, roads, schools, [and] houses constructed" (*Daily News* 28 Sept. 2010). The *Guardian* reporter in fact noticed that the government had installed "new electricity lines," resurfaced the A9 highway and given those returning from internment camps mosquito nets, basic kitchen supplies and corrugated tin for use as roofs (11 Apr. 2010).

Nevertheless, the Senior Research Fellow contends that the government could be doing better (28 Dec. 2010). He argues in his correspondence with the Research Directorate that resettlement is an enormous task and will take a "long time" (Senior Research Fellow 28 Dec. 2010). Although 396 square kilometres of land in the north has been cleared of mines since January 2009, there is still more that remains to be cleared (UN 28 Oct. 2010). The Swiss Foundation for Mine Action told the UN humanitarian news agency Integrated Regional Information Networks (IRIN) that it could take up to 20 years to finish clearing the mines in the north (UN 11 June 2010).

A variety of sources also indicate that resettlement requires the creation of economic opportunities and the construction of infrastructure and housing (International Crisis Group 6 Dec. 2010; IDMC 14 Jan. 2011, 5-6; Senior Research Fellow 28 Dec. 2010). A research fellow with the Chennai, India Center for Asia Studies says, for example, that there are hardly any jobs in the north (30 Dec. 2010). As well, the MRG reports that every house in the Kilinochchi, Mannar and Mullaitivu districts had been "damaged or demolished" during the fighting with the LTTE (MRG 2011, 3, 8). The UN estimates that, at the end of the war, as many as 160,000 homes in the north needed to be "repaired or rebuilt" and that "many of the more than 200,000 returnees" were living in "transitional or emergency shelter, including tents, tarpaulins, tin sheeting and improvised housing shelters" (UN 1 Oct. 2010). The Research Fellow likewise reports that "many" IDPs live beside the highways (Research Fellow 30 Dec. 2010) in what *The Guardian* calls "makeshift" shelters (*The Guardian* 11 Apr. 2010). As the Norwegian Refugee Council's Internal Displacement Monitoring Centre (IDMC) notes, there is an "urgent need ... for shelter and housing in the return areas, particularly with the beginning of the monsoon season" (IDMC 14 Jan. 2011, 5-6).

The problem with resettlement efforts, explains the Senior Research Fellow, is that the government lacks resources to help those who are in need (28 Dec. 2010). The International Crisis Group's Sri Lanka Project Director and the Executive Director of the National Peace Council (NPC), an independent non-governmental organization (NGO) based in Sri Lanka (NPC n.d.), indicate that the government is not providing enough resources to the returnees (International Crisis Group 6 Dec. 2010; NPC 26 Dec. 2010). All three men agree that the restrictions the government is placing on the NGOs that are offering assistance are hindering their effectiveness (ibid.; Senior Research Fellow 28 Dec. 2010; International Crisis Group 6 Dec. 2010).

As an example, both the MRG and a York University law professor, who is also a member of the advisory council of the Sri Lanka Campaign for Peace and Justice, point out that the government transferred its NGO Secretariat, the agency responsible for coordinating national and international relief and development activities (Sri Lanka n.d.), to the Ministry of Defence (Professor 20 Jan. 2011; MRG 2011, 13). The

Secretariat used to be with the Ministry of Social Services (UN 11 Aug. 2010; *Daily Mirror* 15 June 2010). The move, which the law professor describes as "the militarization of administration in the North" (Professor 20 Jan. 2011), reportedly took place sometime between April and July 2010 (UN 11 Aug. 2010; MRG 2011, 13). As a result, any NGO requesting permission to work in the north must get approval from the Ministry of Defence (ibid.; Professor 20 Jan. 2011; UN 11 Aug. 2010; Sri Lanka 16 July 2010). The UNHCR representative also says that NGOs proposing a project in the north will be granted approval for only one to three months at a time (7 Feb. 2011).

Emergency Regulations

A variety of sources report that, in May 2010, Sri Lanka's parliament voted to relax certain provisions in its emergency laws (UK 11 Nov. 2010, Sec. 12.11; *JURIST* 5 May 2010; AFP 5 May 2010). At the same time it extended for another month the state of emergency (*JURIST* 5 May 2010) that permits the continuation of its emergency regulations (ICJ Sept. 2010, 13). By scaling back existing laws, the government reduced the power of soldiers to carry out search operations and withdrew the right of police "to ask for details of householders in any part of the island," indicates Agence France-Presse (AFP) (5 May 2010). The period a suspect can be held in custody without being presented to a magistrate was also reportedly reduced to three months from the previous eighteen (AFP 5 May 2010; UK 11 Nov. 2010, Sec. 12.11).

Nevertheless, many emergency restrictions remain in place (AFP 5 May 2010; Sri Lanka Campaign 22 Sept. 2010, 10). Indeed, independent observers are on record as saying that emergency regulations and the *Prevention of Terrorism Act* (PTA) remain in effect (International Crisis Group 6 Dec. 2010; NPC 26 Dec. 2010; Senior Research Fellow 28 Dec. 2010). For example, the grounds by which the government has been able to detain the former LTTE cadres without trial for up to one year -- Regulation 19 of the Emergency Regulations of 2005 -- remains in force for anyone to whom it was applied before May 2010, when parliament reduced the detention period to three months (ICJ Sept 2010, 6). Regulation 22 also reportedly permits the detention of surrendered LTTE cadres for the purposes of rehabilitation for up to two years without judicial review or access to a lawyer (ibid.).

Prevention of Terrorism Act

The PTA continues to give the state wide powers to arrest and detain people for up to 18 months without trial (MRG 2011, 25; ICJ Sept. 2010, 6) under what the International Commission of Jurists (ICJ) calls "patently vague and overbroad grounds" (ibid.). Moreover, the Asian Human Rights Commission (AHRC) contends that the erosion of Sri Lanka's justice and accountability institutions has meant that security forces are not constrained by the legal limits of legislation such as the PTA (2010, 3, 6). The ICJ somewhat similarly explains that "the longstanding state of emergency powers in Sri Lanka has led to a situation in which the use of exceptional powers has become the rule" (Sept. 2010, 6), while the NPC executive director notes that the emergency regulations and the PTA have created "a climate of potential impunity which makes people everywhere apprehensive of being critical of the government" (26 Dec. 2010). As a result, says the AHRC, "extrajudicial disappearances and killings are commonplace" (AHRC 2010, 6). The MRG likewise maintains that the PTA remains "a tool for large-scale human rights violations against the Tamil population," claiming that arrests "take place constantly" and that torture is a "common police practice against PTA detainees," (MRG 2011, 25). It is a claim that is echoed in a September 2010 TamilNet news agency report, which also says the government continues to detain and torture "hundreds" of Tamil youth (19 Sept. 2010).

Mobility Rights

The government began lifting restrictions for citizens travelling on the A9 highway to and from Jaffna in December 2009 (*Daily News* 21 Dec. 2009; SLNF 20 Dec. 2009). The British High Commission in Colombo also reported in January 2010 that "Sri Lankans in possession of a National Identity Card (NIC) can travel freely to and from Jaffna" and that "Jaffna's islands are also open to free movement" (qtd. in UK 11 Nov. 2010, Sec. 28.31). As well, under pressure from the international community, the government decided to "'open'" the camps in December 2009 and permit IDPs to leave and travel almost anywhere within the country for specified periods of time (International Crisis Group 11 Jan. 2010, 3). To the Centre for Policy Alternatives (CPA), the decision to relax "the closed camp model" was connected with the presidential elections of January 2010 (Sept. 2010, 10).

Initially, IDPs in the camps were able to leave for between one and thirty days under a pass system, but by February 2010, the government announced that passes were valid indefinitely, although reports later surfaced that people either had to leave someone behind and could only take a small amount of luggage with them (IDMC 14 Jan. 2011, 45). In July 2010, the UNHCR reported that, because of the improved security situation, the government had relaxed restrictions on freedom of movement (UN 5 July 2010, 2). A Danish fact-finding mission, citing the UNHCR, likewise states that Sri Lankan citizens do not face any restrictions when travelling between districts and that, except for travel into the Vanni district or areas formerly controlled by the LTTE, "the country is open for travel from South to North" (Denmark Oct. 2010, 40). In December 2010, the NPC executive director also said in his correspondence with the Research Directorate that there are no impediments hindering the travel of Sri Lankan citizens (26 Dec. 2010).

However, an adjunct professor at Philadelphia's Temple University who is also a fellow with the Sri Lankan-based Global Vision Center for Knowledge Advancement counters that "there are many restrictions on the social mobility of [the] general population ... and [of] the Tamils" (13 Jan. 2011). More specifically, sources suggest that people are not allowed to move freely in those areas of the country formerly controlled by the LTTE (Senior Research Fellow 28 Dec. 2010; Denmark Oct. 2010, 40), "especially aid workers" (Senior Research Fellow 28 Dec. 2010).

As previously mentioned, the Danish fact-finding mission's report of its interviews with the UNHCR indicates that travel to the Vanni district is also restricted (Denmark Oct. 2010, 40). The York University law professor similarly reports a source as saying that people cannot move freely in areas such as the Jaffna islands or the Vanni district, and that families must register their whereabouts with the military (Professor 20 Jan. 2011). Freedom of movement is apparently also restricted by the presence of army camps being built in northern Sri Lanka (*The New Yorker* 17 Jan. 2011, 49; Research Fellow 30 Dec. 2010), many of which are being designated as security zones (ibid.) and, as such, are off limits to all (Senior Research Fellow 28 Dec. 2010).

In addition, the law professor indicates that he was told that the military is charged with supervising the villages and keeping people under surveillance (Professor 20 Jan. 2011). The suggestion that the government is surreptitiously monitoring citizen activities is repeated by a variety of sources (International Crisis Group 11 Jan. 2010, 5; MRG 2011, 12-13; *The New Yorker* 17 Jan. 2011, 49; Adjunct Professor 13 Jan. 2011). A *New Yorker* reporter tells of an interview with two senior officers who admitted to infiltrating the Tamil population and installing electronic surveillance systems as a way to ensure that Tamil radicalism does not again take root (17 Jan. 2011, 49). The Adjunct Professor also claims that the government is monitoring the activities of the Tamil population in the north (13 Jan. 2011). More specifically, the MRG links the scrutiny to civil society activists and academics in Jaffna and Vanni, saying that they report being watched and even filmed, in some cases by "former

paramilitaries or military personnel who go undercover in civilian clothing" (MRG 2011, 12-13). The International Crisis Group Sri Lanka Project Director also indicates that "humanitarian and development activities," though permitted, are "closely monitored by the tens of thousands of troops deployed throughout the northern province" (6 Dec. 2010).

Checkpoints

In January 2010, the British High Commission noted fewer security personnel and a reduction of checkpoints in some areas of Jaffna (UK 11 Nov. 2010, Sec. 4.47). The Danish fact-finding mission of June and July 2010 was similarly told that there were few checkpoints in the Jaffna district (Denmark Oct. 2010, 10). By December 2010, research fellows and the NPC executive director consulted by the Research Directorate were indicating that there are still checkpoints in the north (Senior Research Fellow 28 Dec. 2010; NPC 26 Dec. 2010; Research Fellow 30 Dec. 2010), although fewer in number (ibid.; NPC 26 Dec. 2010; Senior Research Fellow 28 Dec. 2010). The Senior Research Fellow attributed the use of checkpoints to the government's belief that, although the security situation has improved in the last year, there remain Tamil Tigers who are at large (ibid.). He is echoed in this by an interview conducted by the *New Yorker* reporter with the security commander of Jaffna, who apparently said that the military's concern with the LTTE's potential influence on Tamil youth is why the army remains in the north (17 Jan. 2011, 49).

According to the Temple University adjunct professor, the checkpoints are operated by security forces and the Tamil paramilitaries (13 Jan. 2011). The York University law professor explains that, although the checkpoints are no longer used for routine or generalized screening, there is a "heightened scrutiny of Tamils, especially younger Tamil males" (Professor 20 Jan. 2011). The Adjunct Professor likewise reports that the security forces and Tamil paramilitaries operating the checkpoints are "particularly ... tough" with Tamil youth or Tamils suspected of being tied to the LTTE (13 Jan. 2011). The law professor also points out that, except on occasion in Jaffna and Batticaloa when, for example, senior government officers or politicians visit the areas, the military has reduced the practice of detaining people through "random 'cordon and arrest' exercises" (Professor 20 Jan. 2011). The British High Commission similarly noted an end to the "cordon and search operations" that had been practiced during the war (qtd. in UK 11 Nov. 2010, Sec. 4.47).

As for the procedures carried out at the checkpoints, a fact-finding mission conducted by the United Kingdom soon after the end of the war found, after interviewing government officials, local human rights activists and international NGOs about checkpoints in the Colombo and Gampaha districts, that security forces were looking for identification and weapons and so would check people, their cars and their personal belongings, "often" asking them to open their bags (UK 22 Oct. 2009, 33). Those interviewed said that Tamils were subject to more questioning than other individuals (ibid.). A UNHCR protection officer also said that Tamils from the north and east were asked for their police registration certificate as well as their identification card (ibid.).

However, even though the number of checkpoints has been reduced, argues the Research Fellow, it makes little difference since there is a heavy military presence in the north (30 Dec. 2010). A number of sources in fact make note of the military's significant presence in northern Sri Lanka (NPC 26 Dec. 2010; UK 11 Nov. 2010, Sec. 4.51 and Sec. 4.53; Denmark Oct. 2010, 8 and 9). Both the Danish fact-finding mission and the *New Yorker* report Sri Lankan authorities as saying they intend to maintain a permanent military presence in the north (Denmark Oct. 2010, 8; *The New Yorker* 17 Jan. 2011, 49). This presence, what the law professor calls an "environment of militarized control" (Professor 20 Jan. 2011), is described by the NPC executive

director as oppressive to the Tamils since the military is comprised of the "majority ethnic Sinhalese" (26 Dec. 2010).

Security Situation

Both the Senior Research Fellow and the NPC executive director, corresponding with the Research Directorate in December 2010, maintained that there have been no reports of violence in the north (NPC 26 Dec. 2010; Senior Research Fellow 28 Dec. 2010). However, the Temple University adjunct professor, writing to the Research Directorate on 13 January 2011, reports that the situation in northern Sri Lanka "has been progressively deteriorating" with kidnappings of Tamils, rapes and abductions becoming the "general reality since the end of the war in 2009" (13 Jan. 2011). The York University law professor also said that "it appears that, rather than random cordon and arrest, elements of the security forces are engaged in targeted abductions and killings" (Professor 20 Jan. 2011).

In fact, reports of violence in the Jaffna district began to appear in the media early in January 2011 (AP 6 Jan. 2011; TamilNet 4 Jan. 2011; *ibid.* 13 Jan. 2011; *Hindustan Times* 11 Jan. 2011; *Tamil Guardian* 13 Jan. 2011; *The Sunday Leader* 16 Jan. 2011). The news stories tell of a growing fear among citizens as the number of murders and abductions occurring in Jaffna has risen (*ibid.*; *Tamil Guardian* 13 Jan. 2011; TamilNet 4 Jan. 2011; *Hindustan Times* 11 Jan. 2011). The rise in crime has occurred in spite of the increased military presence (*ibid.*; AP 6 Jan. 2011) of about 50,000 government troops (*ibid.*). Victims include social and political activists, business people and public figures, claims the *Tamil Guardian* (13 Jan. 2011).

Questions about how such crimes could take place in view of the area's security has led to speculation that "Sri Lanka Army-backed paramilitaries" are behind the abductions and murders (*Tamil Guardian* 13 Jan. 2011), which have been described by some as "extra-judicial killings" (*Hindustan Times* 11 Jan. 2011). The TamilNet news agency and the weekly Colombo-based newspaper *The Sunday Leader* report that suspicious Jaffna residents accuse the Eelam People's Democratic Party (EPDP), a pro-government paramilitary group (*Asian Tribune* 14 Jan. 2011), of being responsible for the increase in crime (*The Sunday Leader* 16 Jan. 2011; TamilNet 4 Jan. 2011). In a subsequent TamilNet report, a "high-ranking military officer" is quoted as saying that a "military intelligence" team led by Sri Lanka's Defence Secretary is behind the killings and abductions in the north (TamilNet 13 Jan. 2011). However, the government denies the involvement of any security personnel, saying instead that "some unscrupulous group" is trying to "tarnish" its image and create the impression that Jaffna is not safe (Sri Lanka 27 Jan. 2011). To stop the wave of crime in Jaffna, the government announced that it would be "increasing random checks, snap roadblocks and night patrols" (*ibid.*).

Situation of Women

According to the International Crisis Group, "[w]omen have suffered in distinctive ways both in the camps and since resettlement" (11 Jan. 2010, 5). The Crisis Group indicates that there have been "numerous credible reports of prostitution networks in the camps which function with the knowledge and involvement of Sri Lankan security forces" (International Crisis Group 11 Jan. 2010, 5). There have also been claims that a "significant" number of women in the camps have been raped or sexually assaulted (*ibid.*; UN 5 July 2010, 7; Diakonie et al. Feb. 2010, 3). In December 2009, for example, a British medic who had been detained for four months spoke to the weekly *Observer* newspaper upon her release about witnessing guards sexually abuse young Tamil girls (20 Dec. 2009). The government apparently acknowledged the reports of physical and sexual abuse, but maintained both that these could not be substantiated and that the abuse was perpetrated by other detainees (*The Observer* 20 Dec. 2009). In addition to the allegations of sexual abuse,

the UNHCR also reports that the "partial breakdown of social structures caused by the protracted conflict," has led to an increase in incidents of domestic violence against women and children in the camps (UN 5 July 2010, 7).

The situation of the returnee women, particularly the "large number of female-headed households," also "raises additional protection concerns," reports the International Crisis Group (11 Jan. 2010, 5). A survey conducted by the Center for Women and Development, a non-profit group based in Jaffna, shows that there are about 40,000 female-headed households in the northern region, including more than 20,000 in the Jaffna district (UN 9 Sept. 2010). With men absent -- either because they were killed during the war or taken into custody by the military (ibid.; IDMC 14 Jan. 2011, 4; MRG 2011, 9) -- these women must support themselves and, in some instances, their extended families (UN 9 Sept. 2010). Yet the MRG says that "[m]ost ... have little or no employment opportunities, livelihood or income generation support" (2011, 9). As a result, say a number of sources, women are being forced into selling sex to obtain money and supplies (International Crisis Group 11 Jan. 2010, 5; Research Fellow 30 Dec. 2010; MRG 2011, 10).

In addition, women returnees said that they felt afraid and unsafe in the presence of the large contingent of security forces (International Crisis Group 11 Jan. 2010, 5; CPA Sept. 2010, 15; IDMC 14 Jan. 2011, 4). The Danish fact-finding mission also writes of being informed by the UNHCR that women reported feeling vulnerable because of the "military atmosphere" (Denmark Oct. 2010, 25). However, a European Union delegation, with whom the Danes also spoke, credited the army with "showing a fairly disciplined attitude" towards the women (ibid.). Related to concerns about their safety is the lack of private toilet facilities in the return areas (GICHD Aug. 2010, 12; UN 11 Mar. 2010, 5). As the UN indicates, women have to use "isolated and possibly hazardous locations to protect their privacy" (ibid.). In areas, clarifies the Geneva International Centre for Humanitarian Demining (GICHD), that "in most cases remain mine-contaminated" (Aug. 2010, 12).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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