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UNHCR POSITION ON THE INTERNATIONAL PROTECTION NEEDS OF ASYLUM-SEEKERS FROM SRI LANKA

A. Introduction

1. Since the issuance of the last *Background Paper on Refugees and Asylum-Seekers from Sri Lanka*[1] by UNHCR in April 2004, there have been several major developments in the country which fundamentally affect the international protection needs of individuals from that country who seek, or have sought, asylum abroad.

2. The aim of this position is to provide an update on the situation and set out guidance on assessing various categories of asylum claims of individuals from Sri Lanka.

B. Update on Developments

(i) Political

3. The period of significant improvement in the situation in Sri Lanka, as a result of the Cease Fire Agreement[2] signed in 2002 between the Government of Sri Lanka and the Liberation Tamil Tigers of Eelam (LTTE), which led to peace negotiations[3] brokered by Norway, started to unravel in 2005. The assassination of Foreign Minister Lakshman Kadirgamar in August 2005 was attributed by the authorities to the LTTE. A state of emergency was declared which remains in force. Mr. Mahinda Rajapaske, won the presidential elections of November 2005[4] on a platform that included a pledge to seek a solution to the ethnic conflict within the context of a unitary state.

(ii) Armed Conflict and Security Situation

5. In 2004, there was a major internal uprising within the ranks of the LTTE forces in the East.[5] The uprising, led by "Colonel" Karuna, seriously weakened the LTTE and

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1 United Nations High Commissioner for Refugees (UNHCR), *Background Paper on Refugees and Asylum-Seekers From Sri Lanka*, April 2004, available on Refworld 2006 Issue 15, and on the UNHCR website at http://www.unhcr.org/home/RSDCOI/40d837f42.pdf.

2 *Agreement on a Ceasefire Between the Government of the Democratic Socialist Republic of Sri Lanka and the Liberation Tigers of Tamil Eelam*, available on the official website of the Sri Lankan Government's Secretariat for Coordinating the Peace Process (SCOPP), at http://www.peaceinsrilanka.org/peace2005/Insidepage/Agreements/agceasefire.asp.

3 See for more on the peace negotiations in 2002 facilitated by Norway, the above-mentioned website at http://www.peaceinsrilanka.org/peace2005/Insidepage/PeaceTalks/3rdsession.asp.

4 United Kingdom Home Office, *Sri Lanka: Presidential Election of 17 November 2005*, Country of Origin Information Bulletin No. 1/2005, November 2005, available at http://www.homeoffice.gov.uk/rds/pdfs05/sri_lanka_bulletin_011205.doc.

5 Trincomalee, Batticaloa and Ampara Districts.

exacerbated the overall situation of violence and human rights abuses. Accusations made by the main LTTE faction against the Karuna faction that it collaborated with government forces became a major impediment to the peace talks.[6]

6. Since January 2006 the security situation, in particular in the North and East, further deteriorated with a marked increase in hostilities. Repeated violations of the ceasefire occurred on both sides, and culminated on 25 April 2006 with a female suicide bomber detonating a bomb inside an army camp in Colombo, seriously injuring the Army Commander, Lt. Gen. Fonseka. The Air Force conducted air strikes in Sampur and more violence followed. Although to date neither the Government nor the LTTE have officially renounced the Cease Fire Agreement, there is consensus among the UN, NGO and civil society leaders, at both the local and international levels, that the violence which unfolded in the North and East[7] during the summer of 2006 is "clearly illustrative of non-international armed conflict".[8] There have been sparse and inconclusive talks between the Government and LTTE. Even the most recent encounter in Geneva during October 2006[9] did not produce any significant changes on the ground.

7. In the East, the outbreak of violence in Trincomalee District in July 2006 following the closure by the LTTE of the sluice gates at Maavil Aru, resulted in large-scale displacement.[10] At the beginning of August 2006, thousands of Muslims fled from Muttur to Kantale, and large numbers of Tamils fled from Muttur, Thopur and Sampoor into Trincomalee Town and Batticaloa District. In total, nearly 50,000 people were displaced in Trincomalee District by the end of the month.[11] The majority of the internally displaced Muslims have since returned to Muttur[12] but most of the internally displaced Tamils remain displaced.[13]

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6 UNHCR, *Background Paper*, para. 49-51, see above at footnote 1.

7 The North and East are defined as Jaffna, Kilinochchi, Mullaitivu, Mannar, Vavuniya, Trincomalee, Batticaloa and Ampara Districts. LTTE controls Kilinochchi and Mulaitivu Districts and parts of Mannar, Vavuniya, Trincomalee, Batticaloa and Ampara Districts

8 See the statement by ICRC's delegate-general for the Asia-Pacific region, Mr. Reto Meister in: International Committee of the Red Cross (ICRC), *Sri Lanka: ICRC extremely concerned about the human cost of conflict*, Press Briefing, 1 September 2006, available at http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/sri-lanka-press-breefing-010906?opendocument.

9 The parties agreed that the peace process would need to address the three following areas: (1) Human suffering; (2) Military de-escalation and reduction of violence; and (3) Political components leading up to a political settlement. See: Ministry of Foreign Affairs of Norway, *Statement by the Norwegian Facilitator, Geneva, 29 October 2006*, available at http://odin.dep.no/ud/norsk/aktuelt/nyheter/032171-430041/dok-bn.html.

10 BBC SHINALA.com, *Maavil Aru sluice gates open*, 8 August 2006, available at: http://www.bbc.co.uk/sinhala/news/story/2006/08/060808.water_open.shtml; Sri Lanka Broadcasting Corporation, *An end to the Maavil Aru water crisis is in view*. 1 August 2006, available at http://www.slbc.lk/he_news.asp?newsid=2543 ; Metha A. K., "The Fall of Sampor", *The Pioneer*, 5 September 2006, available at http://www.dailypioneer.com/columnist1.asp?main_variable=Columnist&file_name=mehta%2Fmehta94.txt&writer=mehta

11 See Internal Displacement Monitoring Centre, *Sri Lanka: escalation of conflict leaves tens of thousands of IDPs without protection and assistance*, 15 November 2006, p.12, http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/FFBBFDF012F17ADEC1257227004203D7/file/Sri+Lanka+-November+2006.pdf

12 See Section (iii) (c) on page 10.

13 Human Rights Watch, *Improving civilian protection in Sri Lanka*, 19 September 2006, p. 22 available at http://hrw.org/backgrounder/asia/srilanka0906/srilanka0906web.pdf

8. In the North, as of mid-August 2006, Jaffna Peninsula has been the scene of heavy fighting between the LTTE and government forces, particularly along the Northern Forward Defence lines. Curfews have been imposed throughout Jaffna District since 11 August, lifted only intermittently during the day. The main A9 road, linking Jaffna to the mainland, was closed in August.[14] The fighting in the peninsula has taken a heavy toll on civilians, with some 60,282 persons (15,935 families) newly displaced by mid-September.[15] Two months later, this number had been more than tripled. The combined impact of the curfews, restrictions on movements, fishing restrictions and closure of the A9 road has been especially harsh for civilians, restricting freedom of movement and livelihood activities. Despite the Government's efforts to supply Jaffna with essential food, medical supplies and other humanitarian assistance by sea, there are serious shortages and prices have increased dramatically.

9. With frequent confrontations between the parties to the conflict, which included aerial bombings, long-range shelling and claymore mines, the civilian population in the East and North face the risk of being caught in the crossfire. This has resulted in large numbers of civilian casualties and displacement.[16] By mid-November, 204,163 persons (56,272 families) had been displaced in government-controlled and LTTE-controlled areas.[17] These new displacements are in addition to the 312,712 persons displaced before the Cease Fire Agreement. Furthermore, over 16,000 Sri Lankans have fled to southern India since January 2006.

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[14] See: Government of Sri Lanka, *A9 re-open impossible with intensified attacks by LTTE on FDLs – says Cabinet spokesman*, 2 November 2006, available at http://www.priu.gov.lk/news_update/Current_Affairs/ca200611/20061102a9_re_open_impossible.htm.

[15] The most up-to-date statistics relating to internal displacement, as compiled by government agents and UNHCR field offices, are available on the website of UNHCR Sri Lanka; see "IDPs by Place of Displacement and Place of Origin as of 27 November 2006", available at http://www.unhcr.lk/statistics/docs/SummaryofDisplacement-7Apr-27Nov06.pdf.

[16] See the press release of the United Nations Office of the Resident and Humanitarian Co-ordinator in Colombo, Sri Lanka, *UN Demands Protection for Vaharai Civilians*, 12 December 2006; Sri Lanka Monitoring Mission, "The SLMM Condemns Murder of Kethesh Loganathan", press release, 30 August 2006. Whilst the total number of civilian casualties is not known, well-publicized examples include the killing of civilians in artillery attacks on a Muslim school in Muttur resulting in 17 civilian deaths, see the statement from the Sri Lanka Ministry of Defence as reported by the *Lanka Newspaper*, "LTTE terrorists kill seventeen Muslim civilians to avenge defeat – Muttur", 4 August 2006 available at http://www.lankanewspapers.com/news%5C2006%5C8%5C7978_image_headline.html. As many as 61 teenage girls were reportedly killed and more than 120 wounded when Sri Lankan air forces bombed a compound in the northern district of Mullaitivu, in LTTE-controlled territory on 14 August. See Tamilnet.de, "61 Schoolgirls Killed, 129 wounded in air strike", 16 August 2006, available at http://www.tamilnet.com/art.html?catid=13&artid=19224. A mine attack on a bus in Kebettigollawa in the Anuradhapura District on 15 June 2006 killed 64 civilians. This attack – which occurred in an area with an ethnic Sinhalese majority near rebel territory – was the worst involving civilians since the Cease Fire Agreement came into effect. The Sri Lanka Monitoring Mission (SLMM) and the Government held the LTTE responsible, and the next day, on 16 June, Sri Lanka's air force launched attacks on positions held by the LTTE in retaliation. See Tamilnet.be, "Sri Lankan attacks violate CFA, SLMM officials agree with LTTE in Trincomalee", 17 June 2006, http://www.tamilnet.com/art.html?catid=13&artid=18530.

[17] Mannar, Vavuniya, Trincomalee, Batticaloa and Ampara are divided in parts controlled by the LTTE and the Government; Jaffna is largely under Government control except for a few small islands with LTTE presence; Kilinochchi and Mulaitivu are under LTTE control.

10. There are indications that all sides are drawing civilians into the conflict, and not respecting individual's rights to seek safety and/or remain in displacement for as long as they deem it necessary for their own security. The Government has coerced displaced communities into going back to their homes before they were ready to do so for example in Jaffna and Muttur; and the LTTE has prevented communities from fleeing areas where their lives might be in danger from military attack for example in Vahari in Batticaloa District. The LTTE also has a practice of mandatory civil defence training, even in areas under government control. This includes the issuance of a training card as proof of participation. Non-possession of the training card in LTTE-controlled areas can lead to, among others, restrictions on freedom of movement. These may seriously impact the ability of individuals to secure a livelihood. In government-controlled areas, individuals suspected of having participated in LTTE training may be perceived as LTTE sympathizers, even if the participation was pressured.

11. There is evidence of increasing communal violence, and human rights violations affecting many communities including mob attacks and the burning of villages such as happened during the communal violence which followed the Trincomalee market bomb in April 2006. There are allegations that the Government has not always been even-handed in repressing or preventing such violence.[18] All sides have reportedly provoked fear among local communities, resulting in their flight from the areas concerned. Provocations have included threats, extrajudicial killings or dumping of bodies in public places (some tied, blindfolded and gagged with multiple stab wounds or beheaded), which also have the wider effect of increasing ethnic tensions.[19]

12. Humanitarian aid delivery is increasingly restricted due to bureaucratic hurdles, lack of humanitarian access and threats and attacks on humanitarian workers. In one of the worst acts of violence against humanitarian workers, 17 national staff members of the French organization, Action Contre la Faim (ACF), were killed in their office in Muttur

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[18] Human Rights Watch (HRW), *Sri Lanka: Government Must Respond to Anti-Tamil Violence. Security Forces Stand by During Mob Attacks in Trincomalee*, 25 April 2006, available at http://hrw.org/english/docs/2006/04/25/slanka13262.htm.

[19] Some of the most brutal examples in recent months include:
- the execution of 13 civilians (including a four year-old child and a four month-old child) on 13 May in Allaipiddy. See: Amnesty International (AI), *Sri Lanka: Amnesty International condemns killings of civilians*, AI Index: ASA 37/014/2006, 16 May 2006, available at http://web.amnesty.org/library/Index/ENGASA370142006?open&of=ENG-LKA;
- the brutal killing of a returnee family of four (a seven year-old boy, a nine year-old girl and their parents) in Vankalai, Mannar on 8 June 2006. See, for some more details, Home for Human Rights (HHR) Sri Lanka, *Details of few Extra Judicial Killings - Vankalai Massacre*, available at http://www.hhr-srilanka.org/hhr/news/summary.pdf;
- the killing of 11 Muslims whose bodies were found on 18 September 2006 at an irrigation system they had been repairing near Pottuvil in Ampara District. See *BBC News*, "Sri Lankan civilians found dead", 18 September 2006, available at http://news.bbc.co.uk/2/hi/south_asia/5355088.stm;
- the killing of eight Sinhalese farmers who were shot to death while working in their paddy fields in Trincomalee District in April. See HRW, *Sri Lanka: Government and Tamil Tigers Must Protect Civilians. U.N. Human Rights Monitoring Mission Urged*, 19 September 2006, available at http://hrw.org/english/docs/2006/09/19/slanka14215.htm); and
- the massacre of 13 Sinhalese construction workers who were building an irrigation canal in Welikanda, Polonnaruwa District on 29 May 2006. See South Asia Terrorism Portal, *Sri Lanka – Timeline: Year 2006*, available at http://www.satp.org/satporgtp/countries/shrilanka/timeline/index.html.

in early August.[20] On Wednesday 30 August, the Sri Lanka Monitoring Mission (SLMM) ruled that the Sri Lankan government forces were responsible for the killing of the ACF workers, describing the incident as "a gross violation of the CFA [ceasefire accord] by the security forces of Sri Lanka."[21]

13. Overall conditions in displacement sites are extremely poor.[22] There is severe overcrowding, a lack of adequate sanitation, shelter and water, and particularly in LTTE-controlled areas, limited access by humanitarian actors. Furthermore, the security situation is serious and there are reports of infiltration and forced recruitment by the LTTE and the Karuna faction in IDP camps.

(iii) Human Rights Situation

(a) Tamils[23] from the North and East[24]

14. In addition to the situation of widespread insecurity and the impact of the armed conflict in the North and East, Tamils in and from these regions are at risk of targeted violations of their human rights from all parties to the armed conflict. Harassment, intimidation, arrest, detention, torture, abduction and killing at the hands of government forces, the LTTE and paramilitary or armed groups are frequently reported to be inflicted on Tamils from the North and East.

15. Individuals suspected of having LTTE affiliations are at risk of human rights abuses by the authorities or allegedly government sponsored paramilitary groups.[25] In the same manner, those who refuse to support the LTTE and those who are perceived as supporters or sympathizers of the Government, risk serious violations of human rights from the LTTE. The LTTE views itself as the sole political representative of the Tamil

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[20] See, for more details, the website of Action Contre la Faim at http://www.actioncontrelafaim.org/scripts/victimes_srilanka.asp.; InterAction, *Fifteen Humanitarian Workers Killed in Sri Lanka*, 7 August 2006, available at http://interaction.org/newswire/detail.php?id=5303.; See Consortium of Humanitarian Agencies (CHA), *Fact Finding Mission – Muttur, Trincomalee District*, 6 August 2006, available at http://www.humanitarian-srilanka.org/Bulletin/PDFDocs/FACT FINDING MISSION.pdf.

[21] See for the full text of the SLMM ruling: BBC News, *Monitors' statement on Sri Lanka killings*, 30 August 2006, available at http://news.bbc.co.uk/2/hi/south_asia/5298748.stm. The ruling was "vehemently denied, condemned and regretted" by the Government of Sri Lanka; see ReliefWeb, *Sri Lanka: Govt. slams Ulf Henricsson's ruling on killing of aid workers in Muttur*, 30 August 2006, available at http://www.reliefweb.int/rw/RWB.NSF/db900SID/ACIO-6T6HGR?OpenDocument.

[22] Internal Displacement Monitoring Centre (IDMC), *Dire humanitarian situation for newly displaced in 2006*, October 2006, available at http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/A33A661E171C73F0C1257202003CAD87?OpenDocument (quoting UNICEF).

[23] The one million Hill Tamils or Tamils of Indian origin who live and work on tea, rubber and coconut plantations in the central part of Sri Lanka (Kandy, Nuwareliya, Matale, Badulla, Ratnapura) are not covered by this document.

[24] Jaffna, Kilinochchi, Mullaitivu, Mannar, Vavuniya, Trincomalee, Batticaloa and Ampara Districts.

[25] See, for several examples of killings and disappearances by paramilitary groups, alleged supported by the Government: United States Department of State, *2005 Country Reports on Human Rights Practices – Sri Lanka*, 8 March 2006, available at http://www.state.gov/g/drl/rls/hrrpt/2005/61711.htm.

population[26] and no dissent is tolerated. Tamils who are perceived as opposing the LTTE, including those suspected of being government informants, those who are active in other political parties, and even those occupying low-grade government positions, are at risk of assassination.[27]

16. Since the start of the ceasefire in 2002, the LTTE has been implicated in more than 200 targeted killings, mostly of Tamils viewed as being political opponents.[28] The LTTE has proven on numerous occasions that it can track down its opponents throughout the country, and kill them, as illustrated by the number of targeted killings and the increased number of claymore and other explosive devises discovered and detonated in Colombo and elsewhere in government-controlled areas.

17. Paramilitary units travel in unmarked white vans and are reportedly responsible for some of the disappearances which have increased dramatically in 2006. Sixty-two cases of disappearances in the North of the country have been registered by the Human Rights Commission of Sri Lanka over the past year. The Commission is also investigating the status of 183 other individuals who are still missing.[29] Apart from alleged state-sponsored paramilitary groups, the army, the LTTE, armed elements of the Eelam People's Democratic Party (EPDP, a Tamil opposition party with associations with the security forces), and the Karuna faction have also been implicated in abductions, disappearances, extrajudicial killings[30] and other forms of persecution. Special

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[26] See, among others, United Kingdom Home Office, *Country of Origin Information Report – Sri Lanka*, 31 October 2006, para. 3.04, available at http://www.homeoffice.gov.uk/rds/pdfs06/sri_lanka_021106.doc.

[27] See, for example, University Teachers for Human Rights (Jaffna) Sri Lanka, *Information Bulletin No. 41*, 14 September 2006, available at http://www.uthr.org/bulletins/bul41.htm, for information on LTTE killings in Jaffna during August.

[28] HRW, *Improving Civilian Protection in Sri Lanka. Recommendations for the Government and the LTTE*, HRW Backgrounder No. 1, 19 September 2006, available at http://hrw.org/backgrounder/asia/srilanka0906/.

[29] Amnesty International, Asia-Pacific Regional Office, *Sri Lanka: New Eyewitness Statement Heightens Fears of "Disappearance"* (Appeal), available at http://asiapacific.amnesty.org/apro/aproweb.nsf/pages/appeals_srilanka_ua23006. See also: Asian Human Rights Commission, "*Sri Lanka: White vans without number plates; the symbol of disappearances reappear*", Statement AS-213-2006, 13 September 2006, available at http://www.ahrchk.net/statements/mainfile.php/2006statements/729/.

[30] Taipei Times, More death as war looms in Sri Lanka, 17 May 2006, available at http://www.taipeitimes.com/News/world/archives/2006/05/17/2003308600, Inter Press Service News Agency, Fresh Killings Put Geneva Talks in Jeopardy, 12 April 2006, available at http://ipsnews.net/news.asp?idnews=32869, Amnesty International, Sri Lanka – A climate of fear in the East, 3 February 2006, http://web.amnesty.org/library/Index/ENGASA370012006?open&of=ENG-LKA, *The Sunday Leader*, "Link between Karuna and military intelligence in killing", 5 September 2004, accessible via Tamilcanadian.com at http://www.tamilcanadian.com/page.php?cat=131&id=2501, Human Rights Watch, *Sri Lanka: New Killings Threaten Ceasefire*, 28 July 2004, available at http://hrw.org/english/docs/2004/07/27/slanka9153.htm. Some examples of these killings in 2006 include:

- The brutal execution of 17 Action Contre la Faim (ACF) national staff (16 of whom were Tamil) in Muttur on 4 August.
- The specific targeting of Tamil Welfare Centre leaders, NGO workers, community workers and trades people suspected of LTTE affiliations, including the leader of Sabapathipillai Welfare Centre in Jaffna killed on 3 September; the killing of a Seva Lanka NGO employee in Vadamaratchi, Jaffna District on 1 September; the abduction of the husband of a WFP staff member from his house in Jaffna on 10 September; the brutal killing of husband and wife community workers in Mirusvil, Jaffna, and their neighbour on 31 August; the shooting dead of a

Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, who visited Sri Lanka from 28 November to 6 December 2005, stated in his report that extrajudicial killings are "symptomatic of the widespread use of police torture, the failure to rein in abuses committed or tolerated by the military"[31], and of the "systematic efforts by various armed groups, and particularly the LTTE, to kill Tamils who refuse to support the LTTE and to provoke military retaliation."[32]

18. Young Tamil men and women continue to be at risk of forced recruitment by the LTTE and/or Karuna faction in the North and East of the country. While the LTTE reportedly relies on forced recruitment in areas under its control, the Karuna faction is reported to undertake forced recruitment in government-controlled areas.[33] Although both the LTTE and the Karuna faction deny allegations of forced recruitment, there is considerable pressure on every family to contribute at least one fighter. Since the escalation of hostilities in the East, there has been an increase in open recruitment by the

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World Concern national staff member in Trincomalee on 11 September; the shooting of a Tamil Member of Parliament (MP) in Batticaloa Church on 24 December and the shooting of the MP's appointed successor in a secure area of Trincomalee on 7 April.

- The disappearance and suspected killing of Fr. Jim Brown, parish priest of Allaipiddy in Jaffna, on 20 August. Fr. Jim Brown was actively involved in helping 850 parishioners escape Allaipiddy and seek refuge at St. Mary's Church in Kayts during the bombardment of the town on 13 August.
- The shooting of a 74 year old man in Allaipiddy on 30 April and the execution of 13 civilians in Allaipiddy including a four year-old child and a four month-old child on 13 May.
- The brutal killing of a returnee family of four in Vankalai, Mannar, including two seven and nine year-old children.
- The extrajudicial killing of five students on the beach in Trincomalee town on 2 January.
- The killing of two employees of the Tamil daily newspaper *Uthayan* on 2 May and the killing of the Trincomalee correspondent of *Sudar Oli* (who had reported on the student killings) on 18 August.

[31] United Nations Commission on Human Rights, *Extrajudicial, summary or arbitrary executions, Report of the Special Rapporteur, Philip Alston. Addendum: Mission to Sri Lanka (28 November to 6 December 2005)*, E/CN.4/2006/53/Add.5, 27 March 2006, para. 3, available at http://www.ohchr.org/english/bodies/chr/sessions/62/documents.htm. There seems to be a culture of almost "total impunity" in Sri Lanka which erodes confidence between communities, and between civilians and the Government (including the armed forces). See, for example, the spokesperson for the international truce monitors in Sri Lanka, as quoted in: BBC News, *Sri Lankan MP killed in Colombo*, 10 November 2006, available at http://news.bbc.co.uk/2/hi/south_asia/6134848.stm. While priority has been given to several serious cases in which the security forces have been implicated, due to the unwillingness of eyewitnesses to come forward, there is "little indication" that prosecutions will be forthcoming in these or any of the other recent cases, if there is evidence that the security forces may be responsible; see HRW, *Improving Civilian Protection*, see above footnote 28, p. 53.

[32] United Nations, Economic and Social Council, Commission on Human Rights, 62nd Session, *Civil and Political Rights, Including the Question of Disappearances and Summary Executions*, Report of the Special Rapporteur Philip Alston, 27 March 2006, E/CN.4/2006/53/Add.5, *ibidem*, para. 3, available at http://daccessdds.un.org/doc/UNDOC/GEN/G06/121/16/PDF/G0612116.pdf?OpenElement.

[33] Amnesty International (AI), *Sri Lanka: Waiting to go home – The plight of the internally displaced*, 29 June 2006, AI Index ASA37/004/2006, available at http://web.amnesty.org/library/index/engasa370042006. "Statistics from the United Nations Children's Fund (UNICEF) on underage recruitment", as of September 2006, indicate that there are 1576 outstanding cases of underage recruitment by the LTTE. Of these, 650 are under the age of 18, and 926 were recruited while under 18 but have now passed that age [...] The average age of these child soldiers is 16 years. As of 30 September 2006, UNICEF reports 111 outstanding cases of underage recruitment by the Karuna faction, all of them boys. See UNICEF, *Sri Lanka – Monitoring of underage recruitment*, available at http://www.unicef.org/srilanka/Monitoring_and_Reportin2.pdf

Karuna faction, including in displacement sites. Families of those forcibly recruited are often afraid to report these abductions for fear of reprisals. Many people have fled the North and East to escape competing pressures from both the LTTE and the Karuna faction and in fear of retaliation if they do not comply. Retaliation could be of a severe nature, which may include torture and other forms of human rights abuses of sufficient severity as to amount to persecution.

19. Children, in particular, are at risk of violation of their human rights through military recruitment.[34] Underage recruitment is reported to take place in both LTTE and government-controlled areas, the latter allegedly by the Karuna faction.[35] It should be emphasized that underage recruitment itself is a serious violation of children's rights and amounts to persecution.[36]

20. Following the suicide attack on the Army Commander Lieutenant-General Sarath Fonseka on 25 April 2006, the authorities have returned to pre-ceasefire security arrangements. As a result, many checkpoints have been re-instated on the main roads and in the towns in the North and East or in Colombo, making it particularly difficult for Tamils to travel in government-controlled areas. For those who were born in LTTE-controlled areas (this is indicated on the National Identity Card), it is difficult to cross the checkpoints and they face varying levels of harassment.[37]

21. Restrictions on freedom of movement have also had a negative impact on humanitarian access and delivery of assistance. Whilst some supplies are reaching the civilian populations through government convoys or boats, as well as through UN and ICRC convoys, there are severe shortages of food, fuel, medical supplies and other essential items throughout the Jaffna Peninsula and in LTTE-controlled areas (in Kilinochchi, Mulaitivu, parts of Mannar, Vavuniya, Trincomalee and Batticaloa Districts).

22. Government forces are not present in LTTE-controlled areas in the North or East; hence individuals from the North or East who seek the protection of the Government would

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[34] See UN News Centre, *UN adviser finds Sri Lanka's children 'at risk from all sides' in the bloody conflict*, 14 November 2006, available at http://www.un.org/apps/news/story.asp?NewsID=20606&Cr=sri&Cr1=lanka..

[35] HRW, *Improving Civilian Protection*, see above footnote 28, p. 36-37.

[36] See for more on this: Convention on the Rights of the Child (CRC, 1989), Articles 38 and 39; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000); General Comment No. 6 (2005) on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin, part (h); and Security Council Resolution 1612 (2005) of 26 July 2005. The Optional Protocol to the CRC prohibits the forcible recruitment of children under the age of 18 years into the armed forces, and it also prohibits the involvement of children under the age of 18 years in direct hostilities. Article 4 of the Optional Protocol prohibits other armed groups (not related to the State) from the recruitment and use in hostilities of children under the age of 18.

[37] U.S. Department of State, *Country Reports on Human Rights Practices 2005 – Sri Lanka*, 8 March 2006, with particular emphasis on the passage stating "*While Tamils were no longer required to obtain police passes to move around the country, they were frequently harassed at checkpoints*", available at http://www.state.gov/g/drl/rls/hrrpt/2005/61711.htm.; The United Nation Development Fund, *Country Profile – Sri Lanka*, available via the WomenWarPeace.org website at http://www.womenwarpeace.org/sri_lanka/sri_lanka.htm, Refugee International, *Sri Lanka: Humanitarians Under Fire*, 18 September 2006, available at http://www.refugeesinternational.org/content/article/detail/9448/?PHPSESSID=5cfliegen3C.

need to travel to government-controlled areas.[38] Apart from the insecurity related to the armed conflict, the LTTE has also restricted movements of civilians out of the LTTE-controlled areas, thus preventing them from moving into government-controlled areas. Even if an individual reaches government-controlled areas, it does not necessarily mean that she/he will be able to secure the protection of the authorities, particularly if the individual is being targeted for attack by the LTTE, given the LTTE's capacity to track down and target its opponents throughout the country.

b) Tamils from Colombo

23. Tamils in Colombo and its outskirts, where there are large Tamil communities, are at heightened risk of security checks, arbitrary personal and house to house searches, harassment, restrictions on freedom of movement, and other forms of abuse[39] since the imposition of new security regulations in April and December 2006[40].

24. Under emergency regulations, the police are empowered to register all persons within the jurisdiction of each police station. These regulations, which were enacted during the height of the conflict in the 1990s, remain in place and require all residents to register with their local police station. Such registration, which is taking place in Colombo, enables the police to have accurate information on the ethnicity and location of all inhabitants of Colombo.

25. Tamils in Colombo are especially vulnerable to abductions, disappearances and killings. Such actions are allegedly conducted by the paramilitary "white vans" suspected to be associated with the security forces,[41] as well as by the Karuna faction and the LTTE. According to press reports, some 25 Tamils were abducted in Colombo and its suburbs between 20 August and 2 September 2006, with only two of these people confirmed

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[38] See above, footnote 7.

[39] On the allegations of detention and torture following the introduction of the Emergency Regulations see the United Nations Convention Against Torture and Other Inhuman or Degrading Treatment or Punishment, Committee Against Torture, *Considerations of Reports Submitted by State Parties under Article 19 of the Convention*, 29 March 2004, available at http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/763efd6dc17f7d10c1256f350053fe3f/$FILE/G0442277.pdf; Amnesty International, New Emergency Regulations - erosion of human rights protection, 1 July 2000, available at http://web.amnesty.org/library/Index/ENGASA370192000?open&of=ENG-LKA.

[40] The emergency regulations were firstly enacted in 2000; see: Amnesty International, *New Emergency Regulations - Erosion of human rights protection*, AI Index: ASA 37/019/2000, 1 July 2000, available at http://web.amnesty.org/library/Index/ENGASA370192000?open&of=ENG-LKA. Subsequently, the emergency regulations were strengthened on 13 August 2005 following the assassination of the Foreign Minister Lakshman Kadirgamar, an ethnic Tamil, and have been amended on various occasions since then. See the US Department of State, *Background Note on Sri Lanka*, October 2006, available at http://www.state.gov/r/pa/ei/bgn/5249.htm. The last modification of the emergency regulations occurred on 6 December 2006, with the issuance of the Regulation No. 7/2006 on Prevention and Prohibition of Terrorism and Specified Terrorist Activities, available in Refworld at http://www.unhcr.org/home/RSDLEGAL/457fc2014.pdf. Other pieces of Sri Lankan legislation, are available in Refworld on UNHCR's website at http://www.unhcr.org/cgi-bin/texis/vtx/rsd?search=legal&source=REFLEG&ISO=LKA

[41] See above footnote 31.

released. The whereabouts and fate of the rest remain unknown.[42] Young Tamil professionals including several women[43], businessmen, as well as Tamil political figures and activists with a pro-Tamil stance[44] can be specifically targeted.

26. In addition, a number of well-known pro-Tamil journalists have been abducted and/or killed.[45] The Free Media Movement's (FMM) submission to the inaugural session of the UN Human Rights Council documented numerous instances of journalists assaulted, harassed and threatened, and cited continued attacks on press freedoms in Sri Lanka over the six month period between January and June 2006. According to the report, in the first six months of 2006, there have been increases in search operations at media institutions, arrests of journalists and other forms of harassment, particularly the targeting of Tamil media institutions and media workers.[46] A statement by UNESCO[47] condemning the killing of Sinnathamby Sivamaharajah, the managing director of Namathu Eelanadu, a Tamil-language newspaper, in Vellippalai on 20 August 2006, stated that four journalists had been killed in Sri Lanka since the beginning of 2005.

c) Muslims from the East (Trincomalee and Batticaloa Districts)

27. Muslims are particularly vulnerable to human rights abuses from parties to the conflict. For example, certain Muslims are targeted by the LTTE, such as those suspected of being government informers and those who are perceived as opposed to the LTTE.

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[42] See for more details: TamilNet [pro-Tamil website], *Abductee found dead in Colombo*, 2 September 2006, available at http://www.tamilnet.com/art.html?catid=13&artid=19463

[43] Among those abducted was a young Tamil woman working as a computer engineer for the Maharaja Television Company (MTV) who was the niece of a Tamil politician of the United National Party (UNP) as well as three Tamil employees of the airline AeroLanka – which runs flights from Colombo to Jaffna. The Chairman of AeroLanka charged that the law enforcement authorities had done nothing to investigate the abductions and no information about the missing employees had been received. Complaints about the incident were lodged with the ICRC and the Sri Lankan Human Rights Commission. The Actuarial Manager of Union Assurance in Colombo, who was the son of the former Tamil Inspector of Police, was abducted and killed.

[44] On 12 August 2006, unidentified gunmen assassinated Ketheshwaran Loganathan, the deputy secretary general of the Government's Secretariat for Coordinating the Peace Process (SCOPP) and former director of the Colombo-based Centre for Policy Alternatives. Earlier, on 8 August, a car bomb attack on Mr. S. Sivathasan, a senior member of the Eelam People's Democratic Party and former MP, killed the politician's bodyguard and a three-year-old child who happened to be standing near the roadside. Sivathasan and five other civilians were injured in the blast.

[45] Dharmeratnam Sivaram, a senior journalist and outspoken editor of the pro-Tamil website TamilNet was killed. His bound and gagged corpse was found with a bullet wound in the head inside the high security zone surrounding the Parliament in May 2005. On 29 August, a high profile Tamil journalist, Nadarajah Guruparan, news manager of the privately owned Sooriyan FM radio station, was abducted in Mt Lavinia. He was later released the following day after widespread protests, including from President Mahinda Rajapaksa.

[46] Free Media Movement, Sri Lanka, *Media Freedom and Freedom of Expression: Heading for a Crisis in Sri Lanka Note Prepared for the Inaugural Session of the UN Human Rights Council*, 20 June 2006, available at http://www.freemediasrilanka.org/index.php?action=con_news_full&id=217&section=news.

[47] United Nations Educational, Scientific and Cultural Organization (UNESCO), *Director-General condemns murder of Sri Lankan newspaper managing director Sinnathamby Sivamaharajah*, 28 August 2006, available at http://portal.unesco.org/ci/en/ev.php-URL_ID=22702&URL_DO=DO_TOPIC&URL_SECTION=201.html. UNESCO quoted the Committee to Protect Journalists (CPJ) on this; see CPJ, *Sri Lanka: Tamil newspaper editor killed in Jaffna*, 21 August 2006, available at http://www.cpj.org/news/2006/asia/sri21aug06na.html.

Furthermore, Muslims residing near LTTE-controlled areas, or areas contested by the LTTE, in Eastern Sri Lanka are at risk of forced displacement, threats and killings due, in particular, to being caught in the cross-fire during armed hostilities. Those who flee generalized violence in LTTE-controlled areas have the possibility to move to government-controlled areas, however, there may be difficulties encountered in finding means of transport and safe routes.

28. In August 2006, 50,000 civilians, including Muslims and Tamils, fled Muttur due to heavy fighting in the area. According to reports, Muslims fleeing from Muttur were subjected to a number of serious human rights violations during flight.[48] On or around 4 August, hundreds of Muslim civilians were fleeing the fighting in Muttur and moving towards Kiliveddy town when they were diverted by the LTTE into an area under its control. The army was alerted to the LTTE presence and immediately began to shell the area, killing civilians as well as LTTE cadres, and causing everyone to flee. The fate of at least 32 men, almost all of them Muslims, is unknown, although some reports indicate that they were executed by the LTTE.

29. Groups of displaced Muslims have come under particular pressure from community leaders and politicians, as well as senior government officials and security forces to return to their places of origin as quickly as possible. This was illustrated when Sampoor was taken by government forces in early September 2006, precipitating a sudden rush by community and political leaders to return the displaced to Muttur just days after the shelling between the LTTE and government forces had ended and before the situation was sufficiently stabilized. Police officers and government officials toured the displacement sites making public announcements promoting return. Government buses were provided to transport Muslims back to Muttur and deadlines for return were issued by government authorities. The displaced populations were told that displacement sites would be closed, food and water cut and basic assistance stopped, giving them no option but to return. While most Muslim families returned willingly to Muttur, some had serious reservations. Muslims who wished to remain in displacement sites for safety purposes faced opposition from government officials and security forces. UNHCR received some reports of individuals who were physically forced by government officials and security forces to return.

d) Sinhalese from the North and East

30. Given the situation of generalized violence in the North and East, Sinhalese civilians in these areas are equally vulnerable to aerial bombing, shelling and other military activity, and with the possibility of being harmed by Improvised Explosive Devices (IEDs) or claymore mines. There are also targeted threats aimed at members of the Sinhalese communities living in border villages – next to LTTE-controlled areas, or in areas

[48] Amnesty International, *Amnesty International calls for urgent action to protect civilians*, 18 August 2006, AI Index: ASA 37/022/2006 (Public), available at http://web.amnesty.org/library/Index/ENGASA370222006?open&of=ENG-LKA; Human Rights Watch, *Improving Civilian Protection in Sri Lanka*, see above footnote 28; Centre for Policy Alternatives (CPA), *Report on Field Visit to Kantalai and Serunuwara (Trincomalee District, Eastern Province, Sri Lanka)*, 25 August 2006, available at http://www.cpalanka.org/research_papers/Kantalai_Serunuwara_Report.pdf.

where they are the minority in more ethnically diverse areas, especially in the East. On 15 June 2006, a claymore mine attack which targeted a bus in the border village of Kebettigollawa in Anuradhapura District killed 68 – mainly Sinhalese – civilians, including 14 children. The attack occurred in an area with an ethnic Sinhalese majority bordering LTTE-controlled territory. The SLMM and the Government held the LTTE responsible.

31. In another apparently targeted attack, six Sinhalese farmers were shot to death while working in their paddy fields in Trincomalee District on 23 April 2006. The LTTE was blamed for the massacre of 13 Sinhalese construction workers building an irrigation canal in Welikanda, Polonoruwa District on 29 May 2006.[49]

32. Sinhalese fleeing generalized violence generally enjoy protection in government-controlled areas. Nonetheless, those targeted by the LTTE will find it difficult to obtain adequate protection from the Government, since the LTTE has shown that it can track down and kill its opponents in various areas in the country.

C. Assessing International Protection Needs

33. Given the prevailing situation of widespread hostilities, insecurity and human rights violations in the North and East of Sri Lanka, it is UNHCR's view that the situation there can be characterized as one of generalized violence and events seriously disturbing public order. All three ethnic groups, Sinhalese, Muslims and Tamils are affected by the situation of generalized violence and armed conflict. The analysis has shown that many, in particular those with the profiles set out above, may be specifically targeted by state and non-state agents. In Colombo, Tamils have been targeted while those with certain profiles are liable to suffer serious human rights transgressions. Therefore, UNHCR recommends that all asylum claims of individuals from Sri Lanka be examined carefully under fair and efficient refugee status determination procedures.

34. More particularly, UNHCR recommends as follows:

(a) Tamils from the North or East

(i) All asylum claims of Tamils from the North or East should be favourably considered. In relation to those individuals who are found to be targeted by the State, LTTE or other non-state agents, they should be recognized as refugees under the criteria of the 1951 Convention, unless the individual comes within the exclusion criteria of the 1951 Convention.

[49] Department of Government Information, *Government condemns massacre of civilians by the LTTE*, 30 May 2006 available at http://www.news.lk/index.php?option=com_content&task=view&id=172&Itemid=51; Sri Lanka Democracy Forum, INFORM, *Report on Fact-finding Visit to Welikanda: June 2, 2006*, available trough MOJU at http://moju.lk/2006/06/15/report-on-welikanda-killings/. Centre for Policy Alternatives, Peace Support Group, *Call for end to killings and return to negotiation for peace in Sri Lanka*, 22 June 2006, p.2 available at http://www.cpalanka.org/psg/22_June_2006.doc

(ii) Where individual acts of harassment do not in and of themselves constitute persecution, taken together they may cumulatively amount to a serious violation of human rights and therefore be persecutory.

(iii) Where the individual does not fulfil the refugee criteria under the 1951 Convention, a complementary form of protection should be granted in light of the prevailing situation of armed conflict and generalized violence in the North and East.

(iv) *Internal flight alternative*[50]
In relation to individuals who flee targeted violence and human rights abuses by the LTTE, there is no realistic internal flight alternative given the reach of the LTTE and the inability of the authorities to provide assured protection.

In relation to individuals who flee targeted violence or human right abuses by the authorities or paramilitary groups, there is no internal flight alternative given the reach of the authorities or paramilitary groups. Relocation alternatives to LTTE-controlled areas are not viable options, given that these areas are extremely difficult to access, and that there is a situation of generalized violence, forced recruitment, armed conflict and widespread serious violations of human rights.

In relation to Tamils from the North or East fleeing generalized violence, there is no internal flight alternative within the North or East given the situation of armed conflict. Nor would it be possible and/or safe to travel to other areas in light of the closure of the A9 highway to civilians, lack of other travel routes, and the risks entailed in travelling out of the North and East. Tamils who are able to reach Colombo could be vulnerable to the arbitrary arrests, detention and other forms of human rights abuses Tamils have faced there. It may be noted that Tamils originating from the North and East, in particular from LTTE-controlled areas, are perceived by the authorities as potential LTTE members or supporters, and are more likely to be subject to arrests, detention, abduction or even killings.[51] In relation to the issue of whether an internal flight alternative exists in the Central Highlands for Tamils from the North and East, it should be noted that Tamils from the North or East are linguistically and culturally different from Tamils in the Central Highlands. Not only would it be difficult for them to have a normal livelihood in the highlands without their own community support, they could also be easily identified, risking arbitrary and abusive treatment by the authorities and/or LTTE.

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[50] UNHCR, *Guidelines on International Protection: "Internal Flight or Relocation Alternative" within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*; HCR/GIP/03/04; 23 July 2003, available at http://www.unhcr.org/home/RSDLEGAL/3f2791a44.pdf.

[51] The Economist, *Beyond euphemism*, 17August 2006, available at http://www.economist.com/displayStory.cfm?story_id=7803599 ; see also the analysis contained in Korf B. and Tudor Silva K, *Poverty, Ethnicity and Conflict in Sri Lanka*, Center for Development Research, University of Bonn, 28 February 2003 Available at http://www.chronicpoverty.org/pdfs/2003conferencepapers/KorfSilva.pdf.

(v) No Tamil from the North or East should be returned forcibly until there is significant improvement in the security situation in Sri Lanka. The fact that internally displaced persons are receiving assistance in certain areas in Sri Lanka should not give rise to the conclusion that return to such areas is safe or reasonable.

(b) Tamils from Colombo

(i) If subjected to targeted violations of human rights by the LTTE, the authorities, or paramilitary groups, Tamils from Colombo should be recognized as refugees based on the criteria under the 1951 Convention unless the individual comes within the exclusion criteria of the 1951 Convention.

(ii) Where individual acts of harassment do not in and of themselves constitute persecution, taken together they may cumulatively amount to a serious violation of human rights and therefore be persecutory.

(iii) *Internal flight alternative*
Where a Tamil from Colombo is the subject of targeted violation of human rights by the LTTE, the authorities or paramilitary groups, no internal flight alternative is available anywhere in the country. As mentioned earlier, the LTTE has a proven capacity to track down its targets anywhere, and there is a lack of assured protection by the authorities. In case of State or paramilitary persecution, alternative relocation to the predominantly Tamil areas in the North and East (including those under LTTE control) is not a viable option for any Tamil from Colombo given the difficulties and risks entailed in travelling to the North or East, in light of the closure of the A9 highway to civilian traffic, the need to pass through the numerous checkpoints, the situation of generalized violence and conflict, as well as other human rights abuses such as forced recruitment in LTTE-controlled areas. Furthermore, any travel to the North or East is likely to raise the suspicions of the authorities that the individual is a member of LTTE, thereby placing them at risk of arrest, detention, abduction and killing.[52]

(c) Muslims

(i) If subjected to targeted violations of human rights by the LTTE, the authorities, or paramilitary groups, individuals of Muslim faith should be recognized as

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[52] Internal Displacement Monitoring Centre, *Sri Lanka: escalation of conflict leaves tens of thousands of IDPs without protection and assistance*, 16 November 2006 available at http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/FFBBFDF012F17ADEC1257227004203D7/$file/Sri+Lanka+-November+2006.pdf; see also the analysis of Stokke K., *Building the Tamil Eelam State: emerging state institutions and forms of governance in LTTE-controlled areas in Sri Lanka*, Routledge, part of the Taylor & Francis Group, Third World Quarterly, Volume 27, Number 6, September 2006, pp.1021 – 1040; International Movement Against All Forms of Discrimination and Racism, *Statement from Sri Lankan Groups on the Situation of Muslims*, 21 September 2006, available at http://www.imadr.org/project/srilanka/Statement_for_Geneva.pdf; Human Rights Watch, *Sri Lanka: Political killings escalate*, 16 August 2005, available at http://www.hrw.org/english/docs/2005/08/15/slanka11630.htm.

refugees based on the criteria under the 1951 Convention, unless the individual comes within the exclusion criteria of the 1951 Convention.

(ii) Where individual acts of harassment do not in and of themselves constitute persecution, taken together they may cumulatively amount to a serious violation of human rights and therefore be persecutory.

(iii) Where the individual flees generalized violence from the North or East, the availability of the internal flight alternative should be assessed. Where internal flight is not available, and the individual does not fulfil the refugee criteria under the 1951 Convention, a complementary form of protection should be granted.

(iv) *Internal flight alternative*
Where the Muslim individual is targeted by the State, LTTE or other non-state agents, there is no internal flight alternative, in light of the reach of the agents of persecution and the inability of the Government to provide assured protection in government controlled areas.

In relation to those who flee generalized violence from the North or East, the availability of an internal flight alternative should be assessed in light of UNHCR's Guidelines[53] as regards the relevance and reasonableness of the area of relocation, bearing in mind that there are possibilities of relocating to government-controlled areas. However, consideration should also be given to the general intolerance of the authorities toward displacement of large numbers of Muslims , as in such situations, the authorities are liable to take action to return them prematurely to potentially unsafe areas without respecting the wishes of the individuals concerned. Therefore, should the individual relocate to areas where there are large numbers of internally displaced Muslims, it would not constitute an internal flight alternative for the individual concerned.

(d) Sinhalese

(i) In relation to Sinhalese, those who are targets of persecution from the LTTE or other non-state agents, unless excluded, should be accorded recognition as refugees based on the criteria of the 1951 Convention.

(ii) In relation to Sinhalese who flee generalized violence, their claims should be assessed taking into consideration the applicability of an internal flight alternative. Where internal flight is not available, and the individual does not meet the refugee criteria under the 1951 Convention, a complementary form of protection should be granted.

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[53] UNHCR, *Guidelines on International Protection: "Internal Flight or Relocation Alternative" within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*; HCR/GIP/03/04; 23 July 2003, available at http://www.unhcr.org/home/RSDLEGAL/3f2791a44.pdf.

(iii) *Internal flight alternative*
In relation to individuals who are targets of persecution from state or non-state agents, there is no internal flight alternative due to the reach of the LTTE (even in non-LTTE controlled areas), other non-state agents of persecution, and the inability of the authorities to provide assured protection.

In relation to those who flee generalized violence, the availability of an internal flight alternative should be assessed in light of UNHCR's Guidelines[54] as regards the relevance and the reasonableness of the area of relocation while taking into consideration the possibility of alternative relocation to government-controlled areas.

(e) Internally Displaced Persons

Since January 2006, unrest, inter-ethnic communal incidents and military action have led to displacement in all communities in the North and East of the country. As of mid-November, over 200,000 persons had been internally displaced in government-controlled and LTTE-controlled areas. Staying in public buildings and with host communities, the displaced are located in areas where safe and regular access by humanitarian agencies not always guaranteed. The persistent hostilities are worsening the humanitarian situation. Although the Government and various national and international actors have mounted a relief effort to deliver assistance to the civilian population, the situation remains critical as delivery of aid is often hampered due to insecurity and impeded access to these displaced persons[55].

The fact that internally displaced persons are receiving international assistance in certain areas in Sri Lanka should not give rise to the conclusion that return to such areas is safe or reasonable.

(f) States not Parties to the 1951 Convention

Where states are not parties to the 1951 Convention and do not have refugee status determination systems, individuals originating from Sri Lanka and who are in need of international protection, as indicated above, either because of a well-founded fear of persecution in the meaning of Article 1(A)2 of the 1951 Convention, or because of a situation of generalized violence with no internal flight alternative, should be protected against forcible return, and be permitted lawful stay as well as possibilities to exercise their basic rights under relevant national laws until the situation in Sri Lanka improves substantially.

(g) Asylum-Seekers previously found not to be in Need of International Protection

For those asylum-seekers from Sri Lanka whose claims were previously examined and were found not to be in need of international protection, UNHCR

[54] *Ibid.*
[55] Statement on behalf of the IASC CT dated 4 August; UN Statement dated 9 November

recommends a review of their claims in light of the new circumstances as described in this position.

This position will be updated as substantial changes to the situation take place in Sri Lanka.

UNHCR
December 2006