



# Report of fact-finding mission to Sri Lanka

by

Country Information and Policy Unit

Immigration and Nationality Directorate  
Home Office  
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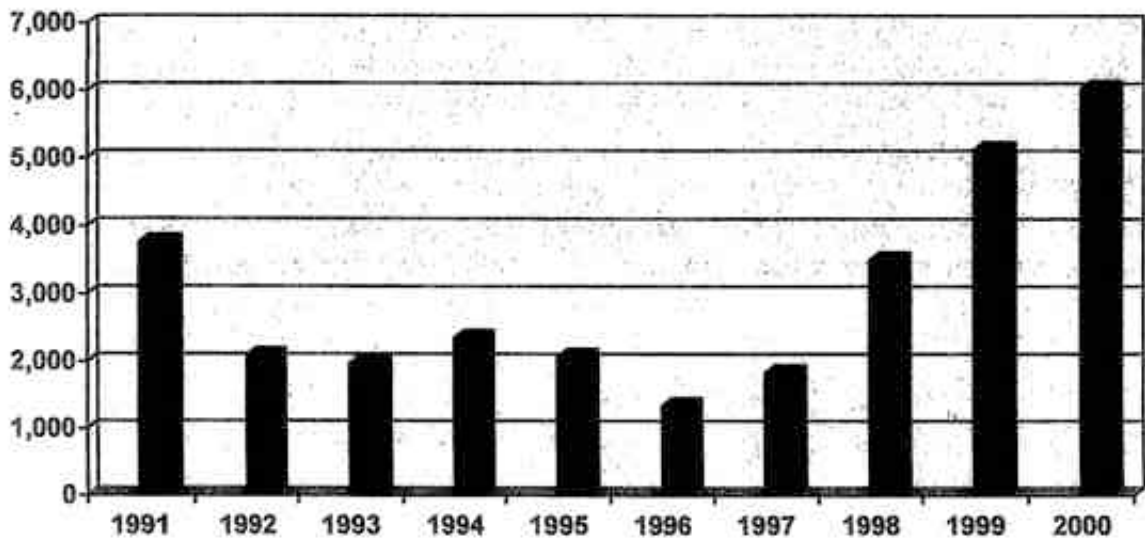
## 1. Introduction

### 1.1. Background

- 1.1.1. To inform decision-making on asylum applications by Home Office caseworkers and other officials involved in the asylum determination process, the *Country Information & Policy Unit (CIPU)* of the *Home Office Asylum and Appeals Policy Directorate (AAPD)* produce assessments on the countries which generate the largest number of asylum applications in the UK. These country assessments are publicly available documents and are published on the Home Office website (<http://www.homeoffice.gov.uk/>). By their nature each country assessment concentrates on the main issues that are most likely to arise in the asylum determination process. The information contained in these country assessments is not exhaustive, nor does it catalogue all human rights violations. They are compiled from a wide variety of sources that are listed at the end of each country assessment.
- 1.1.2. The CIPU country assessment dated April 2001 gives general background material on Sri Lanka and should be read in conjunction with this report.
- 1.1.3. The Democratic Socialist Republic of Sri Lanka, formerly known as Ceylon, lies in the Indian Ocean, south of India. The country covers an area of 65,610 square kilometres. It has a population of 19,144,875 (July 1999 estimate). The capital is Colombo. The population can be divided into the majority Sinhalese (74%), Tamils (18%), Muslims (7%) and Burghers, the descendants of colonialists (1%). The majority (69%) are Buddhist, 16% are Hindu, 8% are Christian, and 7% are Muslims. Three languages are spoken: Sinhala, Tamil and English. Tamil was made the second official language in 1988. The majority of Sinhalese are Buddhist and speak Sinhala; Tamils are mostly Hindu and speak Tamil. They are comprised of those Tamils who have a long history on the island, and "up-country" Tamils (roughly 30% of all Tamils) who are descendants of labourers brought from southern India to work on the plantations. Muslims speak mostly Tamil, but are distinguished by their religion. In most of the country the Sinhalese form the majority. Tamils are the largest community in the northern districts. "Up-country" Tamils live mainly in the hill country in the central part of Sri Lanka. In the east, Sinhalese, Tamils and Muslims are equally represented. In the rest of the country there are substantial Tamil and Muslim communities, although they are in the minority there.
- 1.1.4. The former British colony of Ceylon achieved independence in February 1948. Under the Constitution of 1972 the country became a republic with the name of the Democratic Republic of Sri Lanka. The government was headed by a Prime Minister accountable to a unicameral parliament. In 1978 a presidential system was introduced, with extensive executive powers being held by the President. Since independence in 1948, the primary conflict has been between Tamils and Sinhalese, as ethnic and religious divisions emerged. Because of their majority, the Sinhalese became more dominant, while the Tamils became increasingly

marginalised. The struggle for cultural affirmation, political representation, economic advancement and linguistic parity between Sinhalese and Tamils ended in violence and armed conflict. The overriding political issue in Sri Lanka became the demand by some Tamil groups for an independent Tamil state called "Eelam".

- 1.1.5. The number of applications for asylum made by Sri Lankan nationals in the United Kingdom has remained at a relatively high level over the last decade. Between 1991 and 2000, the lowest number of asylum applicants in any one year was 1,340 in 1996 whilst the highest was 6,035 in 2000. These figures are for principal applicants, and do not include numbers of dependants.



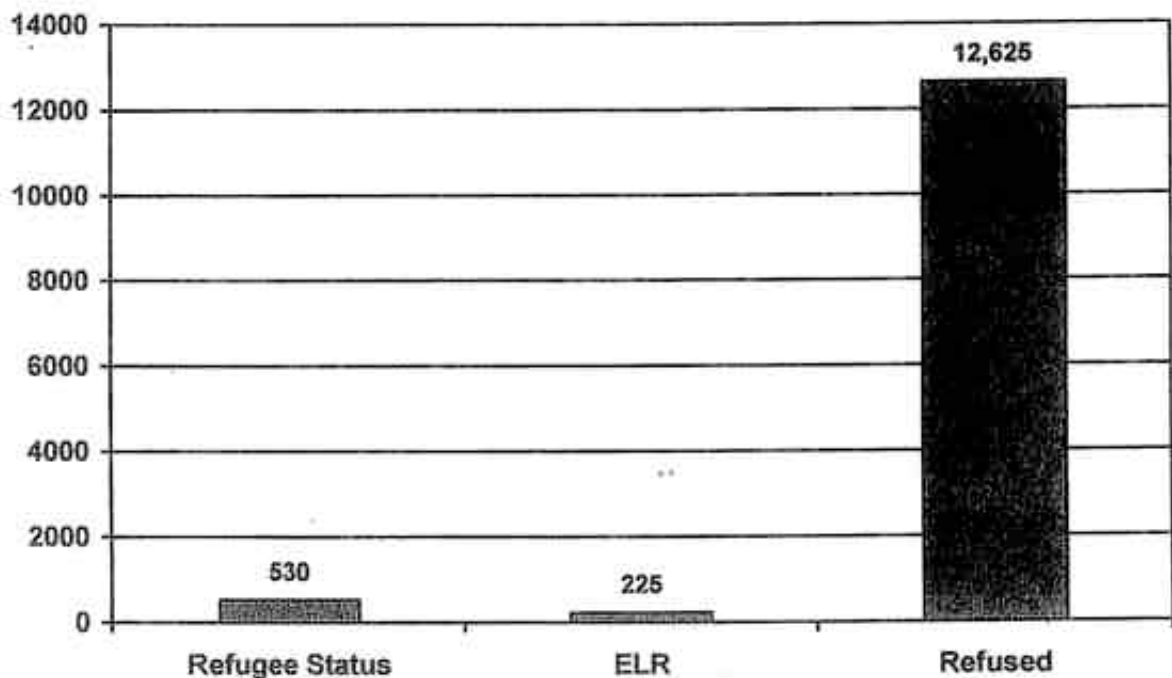
No of applications for asylum received in the UK by Sri Lankan nationals 1991-2000

- 1.1.6. Statistical information published by UNHCR shows that during 2000 there were 11,857 asylum applications made by Sri Lankans in the European Union. The main receiving countries were the UK who had 6,035 applications, France 2,117 and Germany 1,892.

Sri Lanka Asylum Applications in Europe 1999 & 2000

	1999	2000	Change
UK	5,130	6,035	+ 18 %
Germany	2,105	1,892	- 10 %
France	2,001	2,117	+ 6 %
Netherlands	856	975	+ 14 %
Austria	219	175	-20 %
Belgium	144	356	+ 78 %
Denmark	102	93	- 9 %
Italy	58	-	- 100 %
Sweden	25	152	+ 508 %
Finland	24	22	- 8 %
Greece	18	19	+ 6 %
Ireland	17	13	- 24 %
Spain	8	8	+ 0 %
Total EU	10,707	11,857	+ 11 %

- 1.1.7. Most Sri Lankan asylum applicants in the UK claim that they are Tamils and that they have suffered persecution as a consequence of their ethnic background and/or because they have been suspected by the Sri Lankan security forces of being involved with the terrorist LTTE (Tamil Tigers). In many cases the applicant says that they have scars which they attribute to having been previously tortured in Sri Lanka.
- 1.1.8. During the 5 years between 1996 and 2000, 13,380 Sri Lankan asylum applications in the UK were decided. 4% resulted in Refugee status being granted in accordance with the UK's obligations under the 1951 UN Refugee Convention. 1.7% resulted in the grant of exceptional leave to remain in the UK, whilst 94.3% of applications were refused outright.



- 1.1.9. Against this background the United Kingdom decided to conduct a fact-finding mission to verify the information contained in its country assessment and to collect additional information to assist in the determination of the increasing number of asylum applications from Sri Lankan nationals. The information collected concentrated on the typical profiles of Sri Lankan asylum applicants in the UK as outlined above.

## 1.2. Methodology

- 1.2.1. During its mission to Sri Lanka, the delegation held meetings with a number of representatives of Sri Lankan government bodies as well as non-governmental organisations and individuals in Sri Lanka. A list of those organisations consulted may be found at Section 8.
- 1.2.2. This report is intended for background purposes for those involved in the asylum determination process. The information it contains is not exhaustive, nor is it intended to be the "definitive" report on all Sri Lankan issues that arise in asylum claims in the United Kingdom, merely one of a number of tools to help in the decision-making process. It is intended that the report will be purely factual and non-partisan and will contain no opinions as to IND's policy towards Sri Lankan asylum claims.
- 1.2.3. The report also includes information from a number of written sources. These sources, where used, are appropriately attributed.
- 1.2.4. In the report, care is taken to present the views of the various spokespersons in an accurate and transparent way. Unless otherwise indicated, all statements within a paragraph are to be attributed to the source mentioned at the beginning of the paragraph. It is inevitable that this report will contain a number of seemingly contradictory statements. However, it should be noted that the report has been produced to reflect exactly what members of the fact-finding mission team were told in their meetings with the various interlocutors.
- 1.2.4. There will be occasions when information could be covered in more than one chapter. However, to avoid repetition, this information will usually appear only once, with a cross-reference if required.
- 1.2.5. The mission was carried out from 9 – 13 July 2001. The delegation of the mission comprised Andy Forbes of the Country Information and Policy Unit (CIPU), David Cheesman of the Integrated Casework Directorate (ICD), and Robin Farrant of the Integrated Casework Directorate (ICD), all of whom are employed by the Immigration and Nationality Directorate (IND), part of the Home Office in the United Kingdom. The delegation's terms of reference are attached as Annex 2.
- 1.2.6. The delegation wishes to express its gratitude towards those agencies, organisations and individuals that have contributed to the information presented in this report.
- 1.2.7. The report was finalised on 26 February 2002. Developments that took place between the end of the mission and this date have been included in the report, and the sources duly quoted. Before finalising the report, the mission's findings were shared and discussed in a meeting with UNHCR at their Headquarters in Geneva.

## 2. The situation for Tamils in Colombo and elsewhere in Sri Lanka

### 2.1. The political situation for Tamils

- 2.1.1. Tamils are well represented in parliament. According to the US State Department Country Report on Human Rights Practices 2000, issued February 2001, of the parliamentary members elected after the general election of October 2000, 23 were Tamil and 22 were Muslim.
- 2.1.2. Parliamentary elections were held in Sri Lanka on 5 December 2001. A Reuters news bulletin of 7 December 2001 gave the final results. The main opposition United National Party (UNP) obtained 109 seats, and therefore defeated the ruling People's Alliance (PA) headed by President Chandrika Kumaratunga, who came second with 77 seats. A BBC News OnLine report of 7 December 2001 confirmed that, as leader of the UNP, Ranil Wickremasinghe became the new Prime Minister, with Chandrika Kumaratunga continuing as President.
- 2.1.3. The results as outlined by Reuters (with the number of seats won in the 2000 parliamentary elections in brackets) were:-

United National Party (UNP)	109 (89)
People's Alliance (PA)	77 (107)
People's Liberation Front - Janatha Vimukthi Peramuna (JVP)	16 (10)
Tamil United Liberation Front (TULF)	15 (5)
Sri Lanka Muslim Congress (SLMC)	5 (4)
Eelam People's Democratic Party (EPDP)	2 (4)
Democratic People's Liberation Front (DPLF)	1 (0)
Tamil Eelam Liberation Organisation (TELO)*	0 (3)
All Ceylon Tamil Congress (ACTC)*	0 (1)
Sihala Urumaya	0 (1)
Independent group	0 (1)

\*Campaigning separately in 2000, but now allied to the TULF

## 2.2. National Identity Cards (NICs) and how Sri Lankans identify themselves

- 2.2.1. As outlined in the CIPU country assessment of April 2001, every Sri Lankan citizen must be able to identify him or herself on the street. To this end, all Sri Lankans are issued with a National Identity Card (NIC) on reaching their 16<sup>th</sup> birthday. In 1997 the Front Office was set up in Colombo with the task of assisting people from strife-ridden areas of Sri Lanka, including the northern and eastern areas, who have lost or are unable to produce for example birth certificates, and are therefore prevented from obtaining a NIC. The Front Office can also help people returning from abroad, including rejected asylum seekers, to obtain a NIC. A NIC must be submitted in order to obtain a Sri Lankan passport, and can also be asked for at any time on leaving Bandaranaike International Airport in Colombo.
- 2.2.2. The Family Rehabilitation Centre (FRC), an NGO with its main office in Colombo, said it is able to give assistance to those who need to obtain a NIC and advice is given on what documents are needed and how they can be obtained. One of the problems often encountered by people coming to Colombo from the North is that their documents have been burnt in attacks on their homes. The FRC can give advice on how to obtain birth certificates or obtain reports from village heads to enable people to obtain NICs. They have legal officers who can help with this process. Another NGO, the Forum for Human Dignity (FHD) also helps in this area. They can verify and then stamp an individual's photograph to confirm authenticity and they then send the applicant to the Front Office to obtain his or her card. The FHD commented that the Front Office was doing a very good job, however, the process was currently taking about two to three weeks.
- 2.2.3. An Attorney-at-Law that we consulted in Colombo told us that there was no uniform policy of police registration and others said that with the ending of the Emergency Regulations there was no requirement for people to register with the police. However, many people still appeared to do so and some of the policemen we spoke to suggested that it would be easier for people to register. The police did say that they were sometimes called to hostels by members of the public to investigate people who were new to the area and it was in people's own interests in such circumstances to register.
- 2.2.4. Some respondents told us that people often did not go to the police station to register themselves as they were likely to face harassment and be made to wait around for the process to take place. Even prominent Tamils told us that they had faced such difficulties when they had tried to register relatives who were visiting them. One NGO told us that lodge owners often went to register newcomers as they were less likely to face problems of harassment and delays with the police.
- 2.2.5. Special passes are required to travel to or from certain parts of the country. MOD clearance is required to get to Jaffna as well as a ticket to get on the flight from Colombo or the ship from Trincomalee.



### 3. The security situation

#### 3.1. General security situation in Sri Lanka

- 3.1.1. According to the US State Department Sri Lanka Country Report on Human Rights Practices 2000, issued February 2001, the Ministry of Defence controls all security forces (armed forces and police). The 60,000-member police force is responsible for internal security in most areas of the country and has also been used in military operations against the LTTE. The 120,000-member army (which includes the Army Volunteer Force), the 17,000-member navy and 18,500-member air force bear principal responsibility for conducting operations against the LTTE. The police paramilitary Special Task Force (STF) is also involved in the war. The more than 15,000-member Home Guards, an armed force drawn from local communities and responsible to the police, provides security for Muslim and Sinhalese village communities in or near the war zone. The government also arms and appears to direct various Tamil militias opposed to the LTTE, although at times these groups seem to act independently of government authority.
- 3.1.2. According to the report issued on 30 September 1999 by the Ministry of Foreign Affairs at The Hague, investigating agencies include the Operational Command of Colombo Security (OCC), the Directorate of Internal Intelligence (DII), the Directorate of Foreign Intelligence (DFI), the Criminal Record Department (CRD), the Criminal Investigation Department (CID) and the Terrorist Investigation Department (TID). The TID was set up in May 1998 as a new investigative agency of the police. The DII and DFI, until the summer of 1998, together formed the National Intelligence Bureau (NIB).
- 3.1.3. The members of the fact-finding mission team spoke to various respondents, and asked about the general security situation pertaining in Sri Lanka as a whole. It should be noted that the Sri Lankan government uses the term "cleared area" to describe an area under their control, and the term "uncleared area" to denote those areas under LTTE control.
- 3.1.4. An official from UNHCR stated that the overall security situation seemed to be deteriorating in areas where UNHCR have a presence. There was LTTE infiltration in Jaffna where there had been shooting incidents, and infiltration both ways in Mannar. There was PLOTE and TELO influence in Vavuniya. UNHCR operates in the uncleared areas and they generally have full access, although there may be problems if fighting is occurring in these areas.
- 3.1.5. The fact-finding mission team met with officials of the Negombo Division Police force. The main task in Negombo Division was to maintain law and order, solve various types of crime and administer justice. The SSP is in overall charge of Negombo Division, which has 8 police stations. A total of 3 superintendents work under the SSP. He is responsible for about 600 officers who in turn police approximately 600,000 people. There are problems with combatting terrorism

although these problems are mostly in the north and east of the country. There are small local disturbances such as bombings and the terrorists are known to have safe houses. Targets are mainly in Colombo but some cadres come through Negombo, meaning checks have to be made. Roadblocks are set up to stop explosives getting through and there are random checks of vehicles. Some terrorists are identified through information provided by the public. There are occasional cordon and search operations to flush out Tamil extremists. If found, these individuals are handed over to the Terrorist Investigation Department (TID). *See also: Section 3.3, & paragraph 4.3.3*

- 3.1.6. However, the main challenge for the police of Negombo Division was the fact that the crime rate was gradually increasing. This appears to be due to the ongoing civil war and the terrorism that goes with it. Robberies and violence are on the increase, and army deserters are responsible for some of this increase. If an army deserter is found he is normally handed over to the police or army.
- 3.1.7. Other respondents referred to the rise in crime levels. Officials from the Family Rehabilitation Centre referred to the fact that the crime rate had rocketed, and that the offences were being committed by both Tamils and Sinhalese.
- 3.1.8. Officials from the Centre for Human Rights and Development, an NGO based in Colombo, told us that the crime rate was increasing due to the availability of small arms. Army deserters were among those responsible, as they have access to these firearms. The worsening economic situation also meant that prostitution was on the increase. There was also political violence and the corrosive effect on institutions by political interference.
- 3.1.9. An official of the Danish Refugee Council in Anuradhapura told us that the security situation was back to normal and not as bad as before the general election of October 2000. Reference was again made to the rising crime levels although it was noted that this could be due to more reporting of crime.
- 3.1.10. The fact-finding mission team met with officers of the Security Forces in the Vanni. We were told of the security situation in the area. A Commander is responsible for the Districts of Puttalam, Mannar, Vavuniya and Anuradhapura. Mannar Island is under the control of the navy. We were informed that there were small groups of LTTE infiltrators who were creating incidents in cleared areas. They were carrying out raids on army camps and setting off claymore mines on the Mannar road. Suicide cadres had also infiltrated. The LTTE were still employing child soldiers, some as young as 13. They were also employing elderly Home Guards. The LTTE used to insist that every family in their regions of influence had to provide a member. (Information received after the fact-finding mission from the British High Commission in Colombo indicated that there were reports from inhabitants in the north and east, and NGOs operating in those areas, that the LTTE had re-started this policy from Autumn 2001 as part of a heavy recruitment campaign). Pro-government militias such as PLOTE, TELO, and the EPRLF were also causing problems. There were reports of these organisations taxing vehicles and extorting money, although this had lessened somewhat in the first 6 months of 2001. There were also periodic clashes between these groups.

- 3.1.11. The fact-finding mission team spoke to judicial officers in the northern town of Vavuniya. With regard to the general security situation in Vavuniya, they stated that the cleared area had been normal for some time. This compared with November 1999, when Vavuniya was little more than a "ghost town". We were again told that the crime rate was increasing mainly due to offences by army deserters. Approximately 20,000 had deserted and many have weapons which are now used to carry out these crimes. There was less crime in the LTTE-controlled areas as the punishments there were much more severe.
- 3.1.12. A Reuters news report of 2 December 2001 noted that the Sri Lankan authorities had launched a crackdown on army deserters who were blamed for much of the violence that had plagued the campaign for parliamentary elections. The Defence Ministry said that it had arrested 168 deserters and would tighten an island-wide dragnet around an estimated 10,000 others. The army had previously announced amnesties for deserters in a bid to woo them back to ranks depleted by heavy casualties from 18 years of fighting the LTTE.
- 3.1.13. Another Reuters article, dated 21 December 2001, reported that the Sri Lankan government was ready to offer an amnesty to recover the large number of automatic weapons and explosives which were illegally in the hands of politicians and criminals. It is thought that over 25,000 firearms are in illegal circulation. After the amnesty a major crackdown would be launched to recover whatever had not been surrendered.
- 3.1.14. Mr. Muyainideen, Acting District Secretary, Puttalam, stated that the general security situation in the area he deals with was satisfactory. IDPs had come to Puttalam for their safety. Mr. Nazeer, Project Director for the North West Province (which includes Puttalam District) came to the same conclusion and said that the main problem was tensions between local people and IDPs.
- 3.1.15. The fact-finding mission team spoke to someone familiar with the Jaffna area who described conditions there as highly insecure. Prices were also increasing. For instance, 1 litre of petrol cost 50 rupees in Colombo but 77 rupees in Jaffna. There were indications that the army was corruptly smuggling petrol through the EPDP to Jaffna. The army counters this by saying that petrol is smuggled to the LTTE through Vavuniya. The LTTE have their own mechanics, so would have no need to use members of the public for such work.
- 3.1.16. An official of Médecins Sans Frontières noted that in the Vanni, the threat of violence was ever present. The situation in Jaffna was quite bad with food, medical supplies and oxygen all in short supply. The EPDP was in control of much of Jaffna on behalf of the government. Both the Sri Lankan Army and the LTTE had carried out selective killings in Jaffna. There are no mine-clearing agencies in the country so both sides to the conflict do their own mine-clearing. There were 140 casualties from mines from January to June 2001.
- 3.1.17. A BBC News OnLine report of 10 September 2001 stated that the World Bank had announced that it would fund a programme to clear landmines from Sri Lanka's

embattled northern region. A spokesman said that Sri Lanka's mine casualties were the third highest in the world after Cambodia and Afghanistan. The director of the World Bank in Sri Lanka said that although it was not Bank policy to start any work before the end of a conflict, some irrigation and education projects had been successfully started in the area.

- 3.1.18. An official of Save the Children Fund in Colombo confirmed that all NGOs working in LTTE-held territory can only do so with the acquiescence of the LTTE.

### 3.2. Security situation in Colombo

- 3.2.1. Few of the respondents questioned commented on the security situation in Colombo. The Institute of Human Rights, a national NGO with its headquarters in Colombo, commented that the security situation in Colombo was very bad. Round-ups though had lessened since the suicide bombings had stopped.
- 3.2.2. According to press reports (*news.telegraph.co.uk - 20 July 2001*), on 19 July 2001, two people were killed, and 30 seriously injured when police fired on tens of thousands of demonstrators to prevent them from marching into Colombo to protest against the suspension of parliament announced by President Kumaratunga the previous week. It was Sri Lanka's largest anti-government rally since the President was elected in 1994. President Kumaratunga suspended parliament on 11 July 2001 when her governing alliance lost its majority in the 225-member legislature after she sacked a senior cabinet member who defected with six party members. The opposition accused her of avoiding a no-confidence vote that her minority People's Alliance government was likely to lose.
- 3.2.3. As outlined by BBC News OnLine reports of 29 July 2001 and 4 August 2001, on 24 July 2001 Tamil Tigers attacked the Katunayake Air Force Base and the adjacent Bandaranaike International Airport. Fourteen LTTE cadres and seven military personnel were killed. Eight military aircraft were destroyed at the air base, and another six passenger planes – half the Sri Lankan Airways fleet - put out of action at Bandaranaike International Airport. Three of these passenger planes were completely destroyed. Officials then announced that a new, senior-level committee had been established to oversee new security measures at the international airport. A government spokesman described the new steps to strengthen security as a bid to reassure international airlines and the travel trade. *See also: paragraph 6.1.2*

### 3.3. The use and prevalence of checkpoints

- 3.3.1. The fact-finding mission team explored the issue of the use and prevalence of checkpoints. Members of the team noted that there are a number of checkpoints around the country, with these being more prevalent in key towns and cities such as Colombo and Vavuniya. There are a number of fixed checkpoints, but the fact that some are movable serves to highlight the difficulties in dealing with this issue. Members of the fact-finding mission team observed checkpoints while travelling around Sri Lanka. There are two main checkpoints on the A9 road close to Vavuniya. Vehicles and occupants at these checkpoints are stopped and searched, as well as those on foot. Official travel passes have to be submitted for examination. People without passes are questioned in order to ascertain their identities and reasons for travel. Past the checkpoints, the road is then guarded by soldiers every hundred yards until arrival in Vavuniya. Vavuniya Town appears busy and thriving with street markets and stalls. People seem to be going about their everyday business, and in an air of apparent normality. There are also numerous checkpoints on roads leading into Colombo. Vehicles are stopped, occupants told to get out and their identity cards checked. But this does not mean all are stopped. Only a few are, compared to the numbers travelling through. In Colombo itself there are checkpoints on many of the roads, and vehicles are routinely stopped and searched when entering high security areas where there are, for instance, military bases or government offices.
- 3.3.2. In December 2001, a Reuters article reported that amid the new Sri Lankan government's peace efforts with the LTTE, all barriers, barricades and checkpoints in Colombo had been removed. It meant that residents in Colombo were free to move anywhere unimpeded for the first time in seven years.
- 3.3.3. People that we spoke to said that Tamils faced varying levels of harassment at checkpoints. This seemed sometimes to relate to how awkward the individual officer wanted to be but there were other factors that made it easier or more difficult to get past security checks. Many said that money was an important factor and that if a person were affluent and likely to have influence they would be less likely to have difficulty at checkpoints. Others said that showing other forms of identity, such as the fact that they went to a particular school or that they had a pass for Parliament, etc meant that they had little trouble in getting past checkpoints.
- 3.3.4. An attempt was made to establish whether an individual could travel by land from for instance Jaffna to Colombo, bypassing all checkpoints on the way. This often forms part of the basis of Sri Lankan Tamil claims for asylum in the United Kingdom. We were told that it was possible to travel by land all the way from Jaffna to Colombo, but it was emphasised that this would be very unlikely. The majority of people would not attempt this route through the jungle because it is very dangerous due to landmines. Bribery through checkpoints is possible but again unlikely: the procedure to get through Vavuniya to Colombo is highly

complex with regard to the pass system, and residents need someone who will stand surety for them in the South. Reports indicate that paramilitary groups will sometimes take bribes of approximately 15,000 rupees to get people through checkpoints. However, if a person were wanted by the authorities it would be more difficult to offer a bribe, as the Directorate of Internal Intelligence (DII), previously called the National Intelligence Bureau (NIB), would normally keep a record. Some checkpoints though would not have access to these records.

- 3.3.5. Other respondents told us that the complex pass system in operation in Vavuniya District caused problems with travelling around. We were told in particular of problems leaving and entering Vavuniya. There seems to be a continuing problem for Muslims attempting to travel south through the various checkpoints.
- 3.3.6. An official of the UNHCR in Colombo thought along similar lines. A critical issue for UNHCR is freedom of movement. With Jaffna it is the difficulty of moving from place to place, and with Vavuniya it is the complex pass system, the use of checkpoints, and the presence of the military. Passes can sometimes be obtained fraudulently, and movement can occur between government-controlled and LTTE-controlled areas. This is more difficult in uncleared areas. Travelling north the presence of checkpoints is very real.
- 3.3.7. Officers of the Security Forces in the Vanni told us that occasionally people are apprehended at Colombo having avoided all the checkpoints on the way, but this is extremely rare. Ordinary civilians do not take chances to bypass all the checkpoints from Vavuniya to Colombo. An attempt could be made by boat, but the Sri Lankan navy is likely to be encountered. In any case, anyone trying this route could only get as far as Negombo, not Colombo. Civilians will normally go through the proper channels; it is only the LTTE cadres who attempt to bypass the checkpoints.
- 3.3.8. Officers of the Security Forces in the Vanni also told us that 2 days per week, 700 civilians pass between the cleared and uncleared areas with help from the ICRC. LTTE cadres sometimes pose as ordinary civilians in order to cross into the cleared areas (Vavuniya residents have an ID card provided by the army, but the LTTE have produced copies of these).
- 3.3.9. Officers of the Security Forces in the Vanni stated that it takes 2-3 days to receive a pass to leave there. The army has recommended there should be 7 types of pass rather than the 21 types an individual originally needed. He admitted that there were delays in receiving a pass but denied that it was anything like the 3 months that is sometimes quoted.
- 3.3.10. The procedure followed to issue passes in Vavuniya Division (i.e. to enter Vavuniya, stay in Vavuniya, and leave Vavuniya) is explained in detail in the "Situation Report as at 31.05.2001 - Vavuniya District" issued by the Government Agent (who is also the District Secretary) of Vavuniya on 30 June 2001. In the Situation Report it is stated that Vavuniya District has 4 Divisions, 420 villages and 102 Grama Niladhari Divisions (of which 80 are in cleared areas). Paragraph 3.3.11 gives a description of the pass system in use at the time of our visit, as outlined in the Situation Report.

3.3.11. There are 20 locations from where passes are issued in Vavuniya Division and 15 categories of passes. These categories are described below: -

- a) Seven day pass – issued by various police posts, these are for persons who enter Vavuniya from outstations, who enter Vavuniya from uncleared areas, and for those who were on remand and released through the courts. If seven days is not sufficient, the pass can be extended to 14 days.
- b) Paper pass – if a seven day pass is not sufficient for a person to complete his/her requirement in Vavuniya, a paper pass will be issued without surety on an application made with the recommendation of the Grama Niladhari [village official or headman] of the area. If this validity is still not sufficient, a one month pass will be issued without surety on an application made with the recommendation of the Grama Niladhari and Divisional Secretary. If the Grama Niladhari recommends issue, but the Divisional Secretary does not, a paper pass will be issued for one month with a surety.
- c) One month card pass – these passes are valid only in Vavuniya and Mannar. Persons who have obtained the paper pass six times, can make an application to settle permanently. The one month card pass will be issued after obtaining a certificate from the Grama Niladhari of the area and the Divisional Secretary. Further enquiries are made by the Minor Offence Branch, and the Security Co-ordinating Unit to the effect that the applicant is not involved in terrorist activities, and after a permanent pass holder signs as surety with the photocopy of the permanent pass duly certified by the Grama Niladhari. The one month card pass is also issued to students of Universities who have come from abroad.
- d) Three month card pass – these passes are for those who have renewed their one month card pass six times or more. They are valid for Vavuniya and Mannar with a surety as in the case of a one month card pass. At every time of renewal of the one month and three month card passes the certificate of the sponsor should be produced.
- e) Three month open pass – these are only issued to persons who live permanently in Vavuniya and possess a three month pass after inquiries by the Minor Offence Unit and Security Co-ordinating Unit. They can travel south with these passes but have no right to settle elsewhere. A permanent pass holder should certify as surety. With regard to Government Servants, passes are issued on the recommendation of the Government Agent of Vavuniya without surety.
- f) One year pass – these are confined to Government Servants only, the three month passes being extended to be valid for one year. An application should be made along with a certificate from the Head of Department and on the special recommendation of the Government Agent of the District. The pass is also issued to the wife or husband and children of the public servant and is valid for Vavuniya and Mannar. After completion of one year the pass can be renewed with the above certificates.

- g) One year open pass – again these are confined to Government Servants only. This pass is issued only to persons who hold a three month open pass, and again on the special recommendation of the Head of Department and Government Agent.
- h) Temporary pass issued for emergency travelling – a file should be submitted to the Superintendent of Police and a letter should be included regarding the urgency. This pass can be issued for a maximum period of 7 days and with a surety.
- i) Elders pass – this pass is issued by the Divisional Secretariat, Vavuniya. They are issued according to instructions from the Department of Social Service to those elderly persons over 65 years of age residing in the Vavuniya area. On the recommendation of the Grama Niladhari of the area, such a pass holder could travel to the south without a surety.
- j) Travel pass – this pass is issued by the SANASA Police Post for travelling to the south for various purposes, permanent residence, and to go abroad. The Grama Niladhari and the Divisional Secretary of the area should certify the application, and a permanent pass holder should compulsorily sign as surety. The authorities then retain the permanent pass of the surety, and a photocopy of the pass is given to the surety. After a file is prepared by the Officer in Charge (OIC) of SANASA and forwarded to the Superintendent of Police, a computer pass will be issued for the number of days required. The maximum period this pass can be issued for is 3 months. Public servants can be issued with a travel pass without surety with the recommendation of the Government Agent or Additional Government Agent. The computer pass will be issued for travel to the south with the photograph and details of the pass holder, and a lodging pass for the period he/she has to stay will be prepared and sent to Colombo Information Technology Division and from there to the respective police authorities. Those travelling with this type of pass should, on reaching their destination, report within 24 hours to the relevant police station to obtain a lodging pass. The pass carried south will be kept at the police station. After the necessary period is over, the lodging pass should be produced to the relevant police station, and return should be made north before the due date. Travel passes for permanent residence and for university students should be submitted with relevant documents on recommendation of the Government Agent. Before the issue of this pass to a student, the Registrar of the relevant university is contacted to confirm whether the applicant has been selected. For seriously ill patients, a pass will be issued by SANASA on the recommendation of the District Medical Officer.
- k) Pass issued to stay out of the Welfare Centre – persons accommodated in Welfare Centres are issued a three month pass restricted to Vavuniya.
- l) Passes issued in camp for schoolchildren – a seven day pass is issued to schoolchildren who are accommodated in Welfare Centres, and is valid from 0600 hours to 1600 hours. At the end of the seven days, the pass can be renewed by surrendering it to the OIC.



- m) Pass valid for four days – this pass is issued at the Piramanalankulam checkpoint for those who come from an uncleared area on producing an application recommended by the Grama Niladhari and Divisional Secretary concerned. It may be extended for two weeks with the recommendation of the Grama Niladhari, with no surety required. It could be extended for another two weeks with a surety recommended by the Grama Niladhari and Divisional Secretary. After such extensions for three months, a one month card pass can be issued. This will be considered by the Minor Offence Branch and the Security Co-ordinating Unit. Six months from the date of receipt of a one month card pass, a three month card pass valid only to Vavuniya could be issued.
- n) Passes which are issued to Government Servants who are in the Welfare Centres – this pass is issued at the Sithamparapuram Welfare Centre to public servants, is valid for one month and is for Vavuniya only. This pass can be renewed monthly by the OIC of Sithamparapuram Welfare Centre.
- o) Permanent pass (issued by the Sri Lankan Army) – issued by the 211 Brigade HQ, Vavuniya. These passes are issued to persons who have been registered as voters by the Department of Elections for 3 years. Holders of these passes can travel to the south but have no right to permanent residence there. They have the right to travel within Vavuniya and all outstations. If the name is on the voters list, family members are also entitled to this pass. The pass is prepared in a similar way to a National Identity Card.

3.3.12. A BBC News OnLine article of 14 January 2002 reported that the Sri Lankan government had eased restrictions on the movement of civilians in and out of Vavuniya. The government had reportedly made it easier to obtain the passes and lifted the requirement of a guarantee for those seeking permits for longer stays.

### **3.4. The authorities' capacity and willingness to protect its civilians**

- 3.4.1. According to the US State Department Sri Lanka Country Report on Human Rights Practices 2000, issued February 2001, there are no adverse regulations governing the activities of local and foreign NGOs and the Sri Lankan government generally co-operates with NGOs, with members of Parliament, and with other officials frequently participating in seminars and other events concerning human rights and humanitarian affairs.
- 3.4.2. Differing views were expressed on this subject. Officials at the Criminal Investigation Department (CID) stated that there is a good job being done at detection of corruption within the CID. There is an assurance of honesty and integrity, and the CID only follows law and procedure. Any persons suspected of corruption within the CID are weeded out by the Intelligence Unit which operates from within the organisation. The CID can investigate any corruption claim in the police force. There are 2 layers in dealing with corruption: internal disciplinary procedures, and external investigation by the Attorney General's Office. This procedure is based on the British system. CID officers are taken from local police forces. There is strict vetting and potential officers must have a good basic knowledge of procedures of at least 5 years. The CID mandate is countrywide, and there are three other units – in Batticaloa, Jaffna and Vavuniya – all directly answerable to CID Colombo.
- 3.4.3. The question of human rights awareness and training was discussed in detail. An officer of the Security Forces in the Vanni told us that human rights training is part of the basic army training. Indeed, the ICRC has lectured on all aspects of human rights at the request of the army. There was presently human rights training being conducted for officers and soldiers in Mannar District. He added that human rights abuses were definitely decreasing due to increased human rights training and awareness. The army was still paying for mistakes from 1983. Stern action was being taken against the perpetrators and soldiers are aware that any abuses will not be tolerated. It helps that the HRC, ICRC and District Judges were all visiting detainees.
- 3.4.4. A BBC News OnLine report from 11 June 2001 quoted the commander of Sri Lanka's armed forces, General Lionel Balagalle, as appealing for help in teaching soldiers the Tamil language to facilitate communications with civilians in the conflict areas. He was speaking at the launch of a 10-day training course for senior army officers on human rights and humanitarian law. The commander admitted that the majority of Sinhala and Tamil youth had no common language, but said the army were trying to rectify this by giving soldiers 23 days of spoken Tamil language training. He appealed to the authorities and NGOs for help to enhance the training, citing language misunderstandings as one of the reasons for arbitrary arrest. The Sri Lankan army said it was offering more than 60 senior officers training in humanitarian law in conjunction with the ICRC, looking at areas like the laws of armed conflict and rules of engagement. The ICRC conducted a

similar training programme inside LTTE-controlled territory earlier in June 2001 in which about 70 LTTE cadres, both men and women, were educated about the basic rules of behaviour in combat.

- 3.4.5. An article appearing in the Sunday Times (of Sri Lanka) of 8 July 2001 reported that the SLA had launched a major drive to instil an appreciation of human rights and fair conduct. At a ceremony in June 2001, 60 of the most senior non-commissioned officers (NCOs) of the SLA pledged to abide by the rules of international humanitarian law in situations of armed conflict. This oath was taken at the conclusion of a ten day residential course on International Humanitarian Law and Human Rights conducted at the Sri Lanka Foundation Institute (SLFI). Major General Lohan Goonewardena, Deputy Chief of Staff of the SLA, said the pledge to observe the Rules of War would be introduced to the entire rank and file within two months. Every soldier and officer will take the oath before their commanding officer and a signed copy of the oath will go into their personal file. The course was organised by the ICRC, the University of Colombo, and the SLFI.
- 3.4.6. The judicial officers that the mission team met in Vavuniya also confirmed that human rights abuses had drastically reduced in the last 4 years. They conceded that of course there were violations here and there, but the HRC, AHC and CIUAH had all helped. The government was taking positive steps, and not as many people were now being taken in for questioning. A Magistrate can now visit army camps so abuses there were also on the decrease. The respondents noted that in their 21 years of service they had never experienced any government interference, and that a "free hand" is always given to the judiciary.
- 3.4.7. Negombo Division police officials stated that the senior officer for the area, the Senior Designated Officer, deals with any complaints from the public about the police. The police do not inform the HRC in all cases of arrest, but police HQ do inform the HRC of those arrested under the PTA. The HRC can also make "surprise" visits to police stations. Relatives or next of kin have to be notified of arrest by law, and those arrested are normally held for 24 hours and then produced before the court. Any police corruption is dealt with twice: once by an internal police investigation, and then by the courts of law. We were told however that police corruption cases were negligible, but like any organisation there were a minority of employees who were not law-abiding.
- 3.4.8. Negombo Division police officials explained that there is a police training college, and the training period for constables is 3 months, although this can vary somewhat. Police are recruited nationally, not locally. Any Sri Lankan national can apply to join the police force, including those of Tamil ethnicity, who are free and welcome to join.
- 3.4.9. Officials from the Forum for Human Dignity in Colombo agreed that the reason for the reduction in arbitrary arrest was the better training programmes for the authorities. This included training given by the ICRC, and the UK, US and Swedish governments. There had been training of the police with particular emphasis put on human rights. Police are now better aware of human rights issues but impunity still exists. However the police now think twice before arresting Tamils. Witnesses

are sometimes scared to come forward because they feel they will be harassed. Judges can also be as scared as witnesses can, but things are improving. The government may sometimes not want to antagonise officers. Therefore cases are often investigated but are then dropped by the Attorney General. But overall, the government appears keen to improve the human rights situation. Citizens generally know about the various human rights organisations and how to seek redress.

- 3.4.10. Officials from a human rights NGO informed us that human rights training, including that conducted by the ICRC, was occurring in army camps. Evidence of improvement in the human rights situation is not yet real though. The training was not filtering down to the lower ranks, and there was a clear need for the right attitudes to come from the top down. There was a lack of professionalism in their investigations by the police, and the judiciary does not always go further than it has to with the statute book.
- 3.4.11. Officials of the Family Rehabilitation Centre (FRC) in Colombo stated that police treatment of detainees depended on the individual police officer, but it is only on rare occasions that the police show their "gentler" side. An example of this appears in an article entitled "Caring Police" in the FRC newsletter volume A2 No. 4. In the article, the FRC stated that they were very appreciative of the humane manner in which the police dealt with one of their clients. After the massacre at Bandarawela Bindunuwewa camp on 24 October 2000, the FRC were one of the first organisations on the scene. The FRC noted that the survivors were well looked after, and the army had provided medicines for the victims. A public enquiry into this massacre was taking place during the fact-finding mission's visit to Sri Lanka, and one of the members observed part of the evidence of the first army officer on the scene. Questioning of witnesses was conducted (in the language of choice of the witnesses) by officers of the Attorney General's office. Supplementary questions could also be put to witnesses by lawyers from human rights organisations, representing the families. No criminal trials had commenced regarding this attack at the time of the visit to Sri Lanka.
- 3.4.12. Officials from the Home for Human Rights, a national based NGO with its head office in Colombo, stated that the Sri Lankan government was becoming more aware of human rights issues. An example was the establishment of the Ethnic Affairs Ministry, but overall it is still a slow process.
- 3.4.13. The fact-finding mission team met with a Judicial Medical Officer (JMO) in Colombo who explained the 3 main roles of a JMO.
- a) Clinical forensic medicine – these cases are referred by the police, Courts of Justice or child courts. Cases include assault, sexual abuse, traffic accidents etc.
  - b) Forensic pathology – this includes post mortem cases from accidents etc. The JMO also deals with skeletons taken from excavations of mass graves.
  - c) Forensic science studies – the laboratory in Colombo for this research is the central one for the whole country. Subjects for study are diverse.

- 3.4.14. Doctors receive 3 years of training in Sri Lanka and are then sent abroad for one year for further studies. There is one JMO for each Province but there is a definite shortage of JMOs and a lack of specialists. There was a fundamental lack of funds and JMOs were severely overworked. No government Minister visits and items required are often not sent. For example, 17 million rupees was paid for some mortuary coolers, and these still had not arrived by the time of our visit. Furthermore, there were 5 broken coolers with no funds for repair.
- 3.4.15. It was explained that a JMO will give an impartial service in all matters, and there have been no allegations challenging this impartiality. There is sometimes obstruction of cases and often witnesses cannot be found, but generally there had been no obstruction from the government.
- 3.4.16. The JMO informed us that the courts, police and HRC all refer cases, and every case of trauma is referred. At a Magistrate's Court, the JMO's report is normally sufficient, but if the case goes to the High Court, the JMO will go in person. The JMO has no powers as such, but will make sure that a report is completed in each case. The Attorney General then decides whether to take any action. The investigation by the JMO is not normally publicly disclosable, but can be if the case eventually goes to the courts, as all parties are entitled to a copy.
- 3.4.17. After the Bandarawela Bindunuwewa massacre, 11 bodies were brought to the JMO in Colombo and some of the bodies were still there when we visited. The JMO in Colombo said he deals with approximately 3,000 post mortems per year, and that approximately 10% of these were murders, with the remainder being accidents or suicides. We were told that Sri Lanka currently has the highest suicide rate in the world.
- 3.4.18. Mr. Muyainideen, Acting District Secretary, Puttalam stated that there were no arbitrary arrests or detentions in the Puttalam district. There were just a few problems in the Puttalam/Mannar border area.
- 3.4.19. Residents of the Tayib Nahar IDP camp in the Anaipillai Oothu area of Puttalam District confirmed that there were no problems from the security forces within the camp.
- 3.4.20. The fact-finding mission team met with a freelance newspaper correspondent in Vavuniya, where we were told about media restrictions. He explained that he had been a full-time journalist for 25 years and had worked for Reuters News Agency for 12 years. He noted that media restrictions are decreasing, but some monitoring is still happening.
- 3.4.21. One respondent told us that phone tapping is likely to be occurring, and there are some problems with freedom of movement.
- 3.4.22. According to press reports (BBC News OnLine of 30 May 2001), in May 2001 the Sri Lankan authorities ordered the lifting of military censorship on both the local and foreign media. Chief censor Ariya Rubasinghe said the government lifted the censorship because there was no practical need for it. The restrictions, which had been in force for nearly three years, had been severely criticised by international and local civil rights organisations. Sri Lanka's Foreign Correspondents' Association welcomed the decision, and said they hoped the authorities would not have to use it again.

### 3.5. The impact of emergency regulations

- 3.5.1. An Attorney-At-Law we met in Colombo explained that the Emergency Regulations (ER) lapsed on 5 July 2001, when the People's Alliance (PA) government lost their parliamentary majority. We were told that this lapse would make little difference, as detainees would now be held under the Prevention of Terrorism Act (PTA) instead. The PTA gives provision to arrest without a warrant. A detainee can be held for 72 hours then a magistrate can approve indefinite detention. Alternatively a detainee can be held for 18 months by order of the Ministry of Defence (MOD) until conclusion of the trial. There are no bail provisions under the PTA.
- 3.5.2. The Attorney-At-Law also talked about the impact of the Public Security Ordinance, which he felt had empowered the President more. She was now able to proclaim "high security areas" that are controlled by the army, and indeed, parts of Colombo had already been designated high security areas.
- 3.5.3. Officials from the national NGO, the Institute of Human Rights, concurred with the Attorney-At-Law's assessment. They stated that since the Emergency Regulations lapsed, inmates are now produced under the PTA instead. A magistrate cannot now bail such a detainee, who would need to be released, or remanded indefinitely.
- 3.5.4. At the meeting in Vavuniya with the freelance newspaper correspondent, he contended that the PTA was not as strict as the ER. Therefore the authorities had problems with what to charge detainees under. Under the ER, mere suspicion was enough to result in arrest and detention. Written permission is needed for arrest under the PTA from at least an Assistant Superintendent of Police. Within 72 hours the accused has to be produced before a magistrate.
- 3.5.5. At the meeting with judicial officers in Vavuniya, it was explained that among their caseload were 10-15 cases per day under the PTA or ER. Any confession has to be obtained by a police officer not below the rank of an Assistant Superintendent. 90% of indictments are as a result of confessions, with the defence normally alleging that the defendant has been induced to make such a confession. Judicial Medical Officers (JMOs) also state that most confessions are not voluntary. Verbal confession hinges on credibility, so each case is looked at individually. Most of the accused are from the uncleared areas, so could be considered suspected terrorists by the authorities. We were told that under the PTA, an accused is usually detained until indictment at the High Court. This is normally after about 7 months rather than 2-3 years as had happened previously, so some improvements have been made.

## 4. Conditions of detention and imprisonment

### 4.1. Conditions for and control of arrests

- 4.1.1. As outlined in the US State Department Sri Lanka Country Report on Human Rights Practices 2000, issued February 2001, the judiciary in Sri Lanka is independent and properly constituted. The authorities are required by law to inform an individual of the reason for their arrest, and to produce him or her before a magistrate within 24 hours of arrest. In practice, this usually occurs within a few days.
- 4.1.2. The Human Rights Commission has to be informed of an arrest under the PTA within 48 hours and this is in the main being observed. More visits to police stations and prisons will cut down abuse of this rule. *See paragraphs 5.2.7 & 5.2.8*
- 4.1.3. Some NGOs we spoke to expressed the view that there is a high prevalence of arbitrary arrests and that these were increasing. However, others, such as the Forum for Human Dignity, felt that the situation had improved with regard to arbitrary arrest.
- 4.1.4. The police said that the senior officer for the area deals with any complaints against an officer. When a person is arrested the law requires relatives or the next of kin to be informed of the arrest and those arrested are normally brought before the courts within 24 hours. Where a person is arrested under the PTA the police headquarters also informs the HRC of the arrest and the HRC are entitled to make surprise visits to police stations. Terrorist suspects are handed over to the Terrorist Investigation Department (TID) by police officers.
- 4.1.5. Judicial officers in Vavuniya said that under the PTA any arrest warrant is kept at the police office and so the original would not find its way to the United Kingdom or any other country.

### 4.2. The occurrence of physical abuse/torture: the extent/nature of abuse/special groups/circumstances

- 4.2.1. According to the US State Department Sri Lanka Country Report on Human Rights Practices 2000, issued February 2001, the Sri Lankan government generally respects the human rights of its citizens in areas not affected by the conflict with the LTTE. However, the ongoing war continued to be accompanied by serious human rights abuses committed by both sides of the conflict.
- 4.2.2. Scarring is an issue frequently raised in the asylum claims of Sri Lankan nationals in the United Kingdom. However, in discussions in Sri Lanka, respondents

including local NGOs rarely mentioned scarring, and then generally only when the subject was brought up by members of the fact-finding mission team. The views of many of the NGOs, and indeed the police, was that scarring was not likely to be an overriding reason for arresting or suspecting someone, but if a person had been stopped or arrested for some other reason, the presence of certain types of scars could be a reason for holding or questioning them further. Most respondents felt that scarring was only one of many factors which could play a part in the authorities' decision to detain someone. The issue was also discussed at the EU CIREA informal experts meeting in Brussels on 25-26 June 2001, and it was discovered that scarring was particularly prevalent in asylum claims in the United Kingdom. Whilst scarring had been raised in asylum applications made to EU partner states, it was rarely an overriding factor, and certainly not to the extent that it appears to be in the United Kingdom.

- 4.2.3. The British High Commission told us that there has been a genuine and serious drive by the Sri Lankan authorities to improve human rights. The British High Commission has assisted the authorities by providing human rights courses for the armed forces, army commanders and police.
- 4.2.4. NGOs reported that torture appears to be part of the police culture and their view was that a complete change in this culture was needed. Some expressed the view that the public almost expect mistreatment if taken into police custody and we were told of a survey where about 10% of respondents said that torture was "necessary". However, the Family Rehabilitation Centre felt that the culture of torture is being addressed and they said that they held regular seminars on the prevention of torture in army camps or for the higher echelons of the police force. Human rights training is now part of the police curriculum.
- 4.2.5. One NGO considered that the worst areas for human rights abuses were Vavuniya, Batticaloa and Mannar. Another felt that the human rights situation is worse now and that the same pattern of torture was continuing but felt there would be no significant improvement whilst the civil war continued. They estimated that there were now 2,200 political detainees.
- 4.2.6. During the time that the fact-finding mission team were in Sri Lanka there were a couple of high profile cases in the press where women had alleged that they had been raped at checkpoints. Investigations into these instances were ongoing but they were a cause for concern for many of the NGOs that we spoke to. One of these NGOs felt that there was a definite increase in the reported instances of rape by the armed forces, but thought this might be because people were more aware of their rights. There had been no convictions following these complaints and they felt that the government appeared to be actively trying to shield perpetrators. They pointed out that human rights cases that did reach court were often transferred from the north to Colombo. This made travelling difficult for witnesses and the victim.
- 4.2.7. Another NGO we spoke to said that torture was still occurring in "special camps", and where complaints were investigated, these were often withdrawn without action being taken against the perpetrators or the victims being compensated.



- 4.2.8. One NGO consulted said that 90% of those detained under the PTA or Emergency Regulations were subjected to torture. Those tortured were not always produced before a medical officer until after the event meaning that any scars that had been caused by the torture might have faded. It was also suggested that police officers were able to conceal mistreatment by filling in medical forms themselves and then referring them to doctors for a signature. The view of this NGO was that torture occurred in police and army custody but not in prisons. Magistrates in Vavuniya were now able to visit army camps and they felt that abuses there were decreasing.
- 4.2.9. On a visit to the Colombo mortuary we were told that there was a large amount of torture in custody. Ninety per cent of these cases were attributed to torture against those held under the PTA in order to obtain confessions. It was estimated that about 100-150 cases of torture in these circumstances were referred per month. Of the cases referred to JMOs, about 90% were Tamils and 10% Sinhalese. The worst time for torture allegations was considered to be during the JVP uprising in 1988/89.
- 4.2.10. One respondent thought that it was difficult to prove that torture had occurred. This depended on the types of scars, burns or ligature marks that were present. However many cases were referred up to two years after the torture had been administered and so such marks could have faded before the examination. The most common forms of torture encountered by the JMOs are cigarette burns, suspensions, immersion of the head in a bucket of water and burns from polythene. Scars were seen from cigarette burns to the fingers or wrists, or from baton blows. Scars were also sometimes seen on the genitals. Scars that were attributed to battlefield injuries were not seen very often (about 5 per month).
- 4.2.11. Judicial officers in Vavuniya told us that JMOs often said that confessions obtained from those held under the PTA were not voluntary. Ninety per cent of such detainees claim they have been tortured. The courts in Vavuniya receive reports of torture from the JMO in Colombo. If such a report were received, any confessions made would be disregarded.
- 4.2.12. The prison system is based on the British model and the Prison Ordinance dates from independence. The authorities are looking to update this but the Commissioner General thought that the present system was adequate and that it required only minor adjustments. There is a possibility of remission of up to one third and the parole system is operated by the prison service. Additional days can also be added. The superintendent is also able to order solitary confinement for 3 days and there are two punishment diets, the first being rice with one vegetable, and the second rice and salt.
- 4.2.13. The prison authorities told us that over the last 5 years the prisons had become 300% overcrowded. There had been some small instances of rioting but the prison authorities had been able to bring this under control. There are currently about 17,000 people in prison. 9,000 of these are on remand and approximately 1,000 are held under the PTA. A further 100 approximately had been detained under the

Emergency Regulations but as these had now lapsed the detainees had been brought under the PTA.

- 4.2.14. The Prison Service has embarked on a six-year improvement project and part of this is moving facilities out of Colombo. A new facility has been built in Kandy.
- 4.2.15. Lawyers are allowed to visit prisons on any day except a Sunday. The UN Committee had also visited prisons and had found no evidence of torture being committed there. The government authorities also appoint a Board of Prison Visitors to each prison.
- 4.2.16. The ICRC, lawyers and various NGOs are all able to visit prisons freely. The ICRC head office in Colombo issues documentation stating that their staff have visited prisoners. They stated that no other Red Cross office was authorised to issue such letters.
- 4.2.17. The Human Rights Commission felt that there was a considerable need for improvement of prison conditions and that a great deal of investment was needed. They were also aware of some instances of tension and violence inside prisons.
- 4.2.18. The Institute of Human Rights (IHR) reported that prisons countrywide could be visited and that they normally visit prisons about once a week. Prisoners can send complaints to the IHR but prison guards check these letters before they are posted. IHR lawyers have free access and can go into cells. However, access to those held under the PTA or Emergency Regulations was not good. The IHR's view was that the prisons were overcrowded and prisoners' rights needed improving. They stated that torture did not occur in prisons but there was friction between prisoners. They felt that conditions were unhygienic with poor sanitation and lack of water facilities. Access to medical facilities was also thought inadequate. They reported that the prisoner's budget did not stretch far enough to purchase clothing and so they could help by providing white clothing (which is worn by convicted prisoners). Some aspects of prison life were, however, improving. In the last five years women inmates have been able to have their children under the age of five with them.
- 4.2.19. The Family Rehabilitation Centre deals with detainees in prison and also has no problems gaining access to them. Their view was that prison conditions are not good and need to be improved. The main problem was severe overcrowding. This resulted in convicted prisoners, those on remand, and those held under the PTA being detained together. They also reported that release on licence has been severely restricted. They also commented that most of those who were fined on conviction were unable to meet the cost of the fine. However, these problems were faced by the whole community and not just Tamils.
- 4.2.20. The Forum for Human Dignity also had clients who wrote to them from prison to raise their cases. Again they have free access to prisons. They felt the conditions in prison varied from place to place and often depended on the officer in charge.

### 4.3. Prevalence of round-ups and targeted groups

- 4.3.1. As stated in the CIPU Country Assessment of April 2001, there are estimated to be 150,000 Tamils from the north and the east in Colombo, in addition to the 250,000 Tamils who have been resident in the city for a long period. Sources differ as to the extent and frequency of round-ups, although the frequency increases at times of tension. All residents of Colombo, including Sinhalese are regularly stopped and checked, but most sources indicate that Tamils face a greater chance of being arrested in a round-up.
- 4.3.2. The British High Commission stated that there had been no reports of general round-ups of Tamils in Colombo in the weeks leading up to the date of the fact-finding mission.
- 4.3.3. The police in Negombo said that they had to make checks for terrorist cadres. They had roadblocks where there were random searches of vehicles for explosives. They also said that some terrorists were identified through information from the public. This could lead to cordon and search operations to flush out extremists. *See also: paragraph 3.1.5*
- 4.3.4. An Attorney-at-Law we met in Colombo told us that cordon and search operations still occurred but had reduced. In early July 2001, one such operation had been conducted around Tamil lodges in the Pettah district of Colombo. About 50 people had been arrested but most had been released shortly after.
- 4.3.5. Officials of the Home for Human Rights said that anyone who was a suspect might be arrested but this did not include all Tamils. They considered that the younger age group (16-35) was most usually targeted. They said that factors that could lead to arrest could include the length of time that a person had been in Colombo, the part of Colombo they were from or their socio-economic background. They also said that people made false accusations that led to arrest and so sometimes it could be the case that a person was arrested because a neighbour did not like them.
- 4.3.6. An official from the Forum for Human Dignity stated that in 1997 there had been an occasion when 3,000 people had been arrested in one day. However, arrests were now only carried out on information received and so the number of arrests had reduced. This also meant that the number of cordon and search operations had also reduced. They felt that this reduction had been felt countrywide and not just in Colombo. However, they also agreed that the wrong information was sometimes given to the police which could result in a person being arrested and tortured.

## 5. Human Rights Issues

### 5.1. The work of NGOs in Sri Lanka

- 5.1.1. There are numerous national and international non-governmental organisations (NGOs) that operate in Sri Lanka. The purpose of this next Section of the report is to explain some of the work these NGOs carry out, and the wide-ranging support given to ordinary members of the public.
- 5.1.2. UNHCR has a head office in Colombo. An official based there informed us that UNHCR has a field presence in various areas such as Jaffna, Madhu, Vavuniya and Trincomalee. They deal with 800,000 IDPs, with 720,000 getting food assistance (including 175,000 in government welfare centres and 12,000 outside the rules). In the cleared areas the role of the military has an important impact. Displacement occurs as a direct result of the fighting. There are serious problems with landmines, especially around Jaffna and Elephant Pass. There is also unexploded ordinance. Previously displaced people may return to their homes, but more displaced people are created as front lines are shifted; these front lines are then mined. Mine clearing was shut down after the conflict escalated in May 2000. There are presently 15 casualties per month due to land mines.
- 5.1.3. Members of the fact-finding mission team met with an official of the International Committee of the Red Cross (ICRC). Paragraphs 5.1.4 - 5.1.12 inclusive are taken from ICRC newsletters number 14 of March 2000 and number 18 of March 2001.
- 5.1.4. The ICRC is an impartial, neutral, independent humanitarian organisation, which has been mandated by the community of states to assist victims of armed conflict and internal violence. Since 1989, on invitation of the Sri Lankan government, the ICRC has been active in Sri Lanka in conflict areas carrying out its humanitarian activities such as the protection of detainees, re-establishing of family ties, providing assistance to the civilian population and by acting as a neutral intermediary whenever required.
- 5.1.5. Communications are often disrupted and direct contacts are rendered impossible. The ICRC in Sri Lanka endeavours to restore and maintain family ties by setting up and co-ordinating a network for the restoration of family links. The Red Cross Message service is meant for those who want to transmit an urgent message where the content of the message is confined to specific situations such as death, serious illness, and interviews (i.e. school or university admission/new job/asylum). The main beneficiaries are the internally displaced persons, and detainees who are held by the Sri Lankan security forces or the LTTE. In the year 2000, over 2000 messages were transmitted and delivered by the ICRC in various parts of Sri Lanka. The Red Cross Message is a standard form with space for about thirty lines of text along with the addresses of the sender and recipient. The contents of these unsealed messages are subject to censorship by the authorities at any time.

- 5.1.6. In Sri Lanka the ICRC organises, co-ordinates and facilitates the reunification of separated families either to or from the Vanni as well as from other parts of the island such as Jaffna and Vavuniya. The reunion must be with immediate relatives. However, family reunion with other relatives is accepted, depending on the circumstances, such as children under 15, unaccompanied females, elderly people (over 60s) or persons mentally or physically challenged. The relative of the person who wishes to be transported by the ICRC should have a permanent address in Sri Lanka. Exceptions are made for persons who want to be reunited in camps for internally displaced persons (IDPs) in the Jaffna peninsula, and Vavuniya region where the living conditions permit. ICRC delegates always make a thorough prior assessment of living conditions. Whenever a family reunion takes place with relatives in another country, the ICRC undertakes the responsibility for transferring the person concerned to an address specified in the south of Sri Lanka. Proper documentation is a requisite for the ICRC to undertake a family reunion case. In this way, the needs of the beneficiaries can be better assessed in order to determine whether they are truly in need of ICRC assistance. Necessary procedure (administrative/security clearances) before a family reunion takes place can take up to 3 months.
- 5.1.7. The ICRC also undertakes searches for the missing. In Sri Lanka the ICRC acts as a neutral intermediary. This means that the close relatives of those who have gone missing as a consequence of the conflict can proceed to any ICRC office throughout the country and first open a "tracing request". Thereafter this will be submitted to the relevant authorities allegedly responsible for the disappearance (i.e. the Sri Lankan forces or the LTTE). Eyewitness testimonies are collected by ICRC delegates. This involves persons who were present at the spot where the disappearance is purported to have occurred or who have witnessed any event after the disappearance, and whose information may be critical to clarify the fate of the persons being traced. Eyewitness accounts, which are communicated at times to ICRC delegates, are dealt with in a confidential manner. If an eyewitness agrees, the ICRC will then decide to transmit the information thus gathered to the relevant authorities for providing the ICRC with answers.
- 5.1.8. Another area of work for the ICRC is that of combatants missing in action, meaning all combatants who have disappeared in the course of military operations. The ICRC will submit the tracing requests to the concerned authorities such as lists containing names of missing servicemen provided by their respective commands. Names of those missing in action are always cross-checked with names of persons detained whenever ICRC delegates visit prisons or detention centres.
- 5.1.9. The ICRC plays a role of neutral intermediary between the fighting parties by transferring the mortal remains of fighters killed on the battlefield or because of the conflict. The ICRC transmits the requests and readiness of the party who has collected the mortal remains of fallen fighters to the opposing party. The latter will then decide whether to accept or not. When both parties agree upon such transfers, the ICRC thereafter seeks security guarantees from both sides in order to undertake its humanitarian tasks of transferring the mortal remains of combatants from the battle zone, either by land or sea.

- 5.1.10. A major area of ICRC work is that of visiting prison detainees. The ICRC has signed a Memorandum of Understanding (MOU) with the Sri Lankan government which allows ICRC delegates throughout the country, to visit persons arrested in connection with the conflict, in their respective places of detention. This MOU permits ICRC delegates to carry out their visits according to standard conditions followed by ICRC worldwide: to see detainees covered by its mandate, and have access to all places of detention; to speak to detainees privately; to compile a list of detainees during the visit; to repeat the visits as often as the ICRC considers necessary and see whichever detainee the delegate chooses. The ICRC visit all persons arrested in connection with the armed conflict in Sri Lanka, whoever may be the detaining authority. By doing so the ICRC endeavour to prevent detainees from "disappearing", to discourage ill-treatment of detainees and to ensure acceptable living conditions. Following prison visits, delegates discuss their findings with the detaining authorities for possible censoring. ICRC prison reports are confidential and are not intended for the public. They are confidential. In such a manner, the ICRC tries to establish a constructive dialogue with the authorities. Problems encountered during these visits are transmitted to the concerned authority thus facilitating possible improvements in the conditions of detention. Since 1990, the ICRC has visited 239 persons under LTTE custody. The ICRC also visits those detained in the northern Vanni area, among them military personnel captured on the battlefield.
- 5.1.11. When visiting a place of detention, the team of ICRC delegates first meets with the authority that runs the place of detention. They explain the purpose of the visit and exchange information about the conditions of detention. They then tour the premises of the jail. This is followed by private interviews with the detainees. The visit ends with a final meeting with the authority.
- 5.1.12. Family visits to places of detention are also organised by the ICRC, since very often the places of incarceration are quite far from the family home. The ICRC facilitates such family visits with the permission of the detaining authorities. For instance, in January 2000, a visit was organised to the Vanni for the families of Sri Lankan government personnel being held by the LTTE. The ICRC also enables families in the North and East to visit their relatives held in Sri Lankan government jails by financing their travel and lodging costs, whenever necessary.
- 5.1.13. Médecins Sans Frontières (MSF) also have their head office in Colombo. At a meeting with an official there, it was explained to us that MSF have been working since 1986 in Sri Lanka. They have offices in Point Pedro, Jaffna, Madhu and Batticaloa. They work in the conflict area close to the front line (for instance, Madhu, which is in LTTE-controlled territory). MSF run mobile clinics in Batticaloa and a displaced person's camp in Madhu. As their name suggests, Médecins Sans Frontières primarily deal with all aspects of medical care. In an emergency, MSF can transfer people into and out of uncleared areas. Mostly, this can be done within 4 hours, but sometimes emergency procedures can be completed within 30 minutes.
- 5.1.14. The MSF official told us that it is difficult to transfer a patient for medical treatment who is very ill from the north of the country to the south. But if procedures are

followed through, medical treatment in Colombo is adequate. If patients pay for specialists in Colombo and elsewhere, this will lead to better treatment.

- 5.1.15. The fact-finding mission team met with an official of Save the Children Fund (SCF) in Colombo. SCF have been operating since 1979 under Sri Lankan government permission. They operate in uncleared areas and also have representation in Anuradhapura, Mannar, Trincomalee, Jaffna and Mallavi. Programmes cover the whole country.
- 5.1.16. In the LTTE-controlled area of the Vanni, SCF implemented a Childhood Development Programme with help from the Ministry for Education. This is looking into the quality of care for children. There are pre-schools, for which SCF has trained over 300 pre-school teachers. Basics such as cups are provided for the children. Children's Clubs have been set up, providing opportunities to bring children together. Life skills are taught and there are facilities for recreation. Street theatre is used to demonstrate the dangers of sexual exploitation. The government has helped by setting up a National Child Protection Authority.
- 5.1.17. Turning to national NGOs, the fact-finding mission team met with the Sri Lanka Red Cross Society (SLRCS) in Vavuniya. We were informed that there is a SLRCS office in every District, so 25 in all. In the Vavuniya office, there are 9 staff and 13 volunteers. 927 members help raise funds and there are also youth and life membership schemes.
- 5.1.18. One of the main functions of the SLRCS is to transport civilian dead bodies from cleared to uncleared areas and vice versa. The deceased are taken to the families concerned. It is the ICRC that transfers those dead bodies that are combat-related. But if there are any incidents in the Vavuniya area, the SLRCS will deal with any civilian casualties.
- 5.1.19. The SLRCS also transports mail and educational examination papers between the cleared and uncleared areas. Training programmes are conducted in schools. There is also first aid training for NGOs and the public sector.
- 5.1.20. There is an officer within SLRCS (funded by the ICRC) that helps trace families within the country. This officer can help returning failed asylum seekers contact their relatives. The SLRCS can also help minors (who are failed asylum seekers and who wish to return to Sri Lanka) find their families. ICRC Head Office in Colombo is the only Red Cross office authorised to write letters on behalf of the displaced and those arrested by the army. These give the detainees or former detainees name, and when released etc. *See also: paragraphs 6.2.9 & 6.2.14*
- 5.1.21. Members of the fact-finding mission team met with officials of the Family Rehabilitation Centre (FRC). Paragraphs 5.1.22 to 5.1.24 inclusive refer to the discussions we had, with additional information provided by the FRC newsletter volume A/2 No: 4 which covers October – December 2000.
- 5.1.22. The FRC is a non-governmental, humanitarian, non-profit making service organisation established in May 1991, becoming fully independent in August 1992. No government funding is received, instead this is provided by DANIDA (Danish International Development Assistance) although no running costs are provided. Apart from the main office in Colombo, the FRC has 9 outreach centres in the

north and east, namely in Anuradhapura, Vavuniya, Mannar, Polonnaruwa, Trincomalee, Ampara, Batticaloa, Kalumnai and Monaragala.

- 5.1.23. The basic aim of the FRC is the provision of holistic care to those affected by armed conflicts in all areas of Sri Lanka, irrespective of ethnicity, religion and political ideology. The objectives are to assist persons suffering from physical and/or psychological distress with medical care, physiotherapy, counselling and other services; to network with relevant governmental and non-governmental organisations to further the process of rehabilitation in respect of socio-economic, mental health and other related services; to conduct training programmes for relevant persons in management of torture survivors, basic counselling skills, play activity for children, befriending skills etc; to carry out advocacy programmes on prevention of torture and to promote ethnic harmony, non-violence and peace. Any referrals are dealt with in confidence. The FRC has 6 "target groups" that they deal with: torture survivors; immediate family members of torture survivors; bomb blast victims; war widows; children of war including orphans, unaccompanied children and other children traumatised by the conflict; and other victims of extreme trauma.
- 5.1.24. The FRC conduct awareness programmes on the prevention of torture. In this respect, a visit was made to Kalutara Prison on 17 October 2000. This prison almost exclusively houses Tamils both convicted and awaiting trial under the PTA. Training programmes for prison officers have been conducted. For example, a "basic counselling concepts and skills" training programme was held on 23 October 2000 and 25 October 2000 with the Prisons Department at the Colombo Prisons Complex. 78 prison guards participated. The FRC felt that all such programmes they have run were highly participatory with continuous feedback and all were well received and positively evaluated.
- 5.1.25. The fact-finding mission team met with officials from the Home for Human Rights in Colombo. It was explained that the Home for Human Rights was a charity-based NGO that had been operating for 20 years. They rely on European funding. They have a predominantly Tamil-speaking client base.
- 5.1.26. We were told that the Home for Human Rights has a total of 40 staff including 14 lawyers and 3 counsellors. The caseload is enormous. An office in Vavuniya opened in June 2001 and 45 cases were referred in the first month. The organisation also has a Batticaloa office and a presence in Jaffna. Clients approach the Home for Human Rights directly, sometimes through word of mouth, or through human rights education programmes. The organisation has just conducted a 6-month human rights education programme around the country including Vavuniya.
- 5.1.27. The Home for Human Rights assists torture victims, and offers psychological counselling, and does community work. The length of monitoring depends on the case and the degree of trauma.
- 5.1.28. The fact-finding mission team met with officials from the Forum for Human Dignity (FHD) in Colombo. The FHD receives funding from the Canadian authorities, and Dan Church Aid who are based in Delhi, India. There are over 20 employees in the Forum for Human Dignity, and there is also an office in Jaffna, which is a main



sphere of operations. The client base from 1997 onwards has been between 3,000 and 4,000.

- 5.1.29. Legal aid is a main function of the Forum for Human Dignity. There is no monitoring of cases as such, apart from making sure clients reach their homes safely. Clients can also be referred to doctors. We were told that Tamils get financial assistance to start up in new areas and there are self-employment schemes and the rebuilding of reservoirs. There are government-funded training schemes.
- 5.1.30. The Centre for Human Rights and Development is another national NGO with its main base in Colombo. At our meeting with some of their officials we were told that the organisation was formed in 1997, and that there are 9 governors. The organisation deals with all aspects of human rights issues, not only on behalf of the Tamil population, but also the Sinhalese and Muslim communities, and "up-country" Tamils. The Centre for Human Rights and Development works closely with Tamil communities and organisations in other countries. They deal with landmark cases and give whatever assistance they can to victims of human rights abuses. A magazine is issued, and press conferences held. Human rights training programmes are run for facilitators in order to document victims of human rights abuses. Lawyers from the Centre for Human Rights and Development work with prisoners, who contact the NGO through their own lawyers.
- 5.1.31. The fact-finding mission team met with the Institute of Human Rights (IHR) at their office in Colombo. Founded in 1994, the IHR has 13 full-time employees who are all paid staff, 1 part time member of staff and 2 interns. The governments of Sri Lanka, Norway, Sweden and Canada provide funding with help also from the Asia Foundation. Paragraphs 5.1.32 – 5.1.35 inclusive refer to discussions the fact-finding mission team had with IHR officials, and information from an undated IHR publication on their general role and functions.
- 5.1.32. Legal assistance is the principal service offered by the IHR legal unit. Legal assistance is given to those detained under the provisions of the Emergency Regulations promulgated under the Public Security Ordinance or the Prevention of Terrorism Act. Assistance is also provided to the relatives of persons detained to ascertain the whereabouts of the persons arrested. Advice is also given relating to allegations of infringements of rights such as employment, equal opportunity to education, consumer protection, compensation, and child rights. The fourth strand of the legal unit deals with general advice on administrative and legal procedures. All these services are offered as a result of applicant phone calls, letters or walk-ins. The legal unit devotes a large proportion of its time to prison visits and following up on these visits. The aims and objectives of these visits are to systematically visit places of detention; to document and provide for specific action; to share information of cases with bodies such as the Consortium of Humanitarian Agencies and the Prison Forum to provide for further action; to represent detainees in court on issues where fundamental rights are infringed; and to address the welfare of detainees and the rehabilitation of ex-detainees.
- 5.1.33. The IHR is directly involved in the process of socio-economic rehabilitation of ex-detainees. These ex-detainees are assisted by means of providing access to vocational training, or by providing loans for self-employed income generating

activities. Assistance is also given to underprivileged children, the physically disabled, and vulnerable women who have been victims of the conflict in the south. Orphans and underprivileged children are provided with grants to help them with their education and nutrition. Help is also given to re-integrate these vulnerable groups into society.

- 5.1.34. The third main part of the work of IHR is that of human rights education. A diploma course is run. The programme of study, which lasts three and a half months, deals with a variety of topics concerning human rights. "Para" legal workshops are conducted island-wide in both Sinhala and Tamil, so as to spread knowledge of human rights together with a basic legal understanding throughout a wide cross-section of society. Fundamental rights, arrest and detention, bail, torture, Muslim law, child rights, labour law, women's rights, criminal law, international covenants and the Consumer Protection Act are a few of the topics covered in these workshops. The human rights awareness programme has been successful in achieving its objective of bringing awareness to the general public of human rights issues. The programme is conducted in Tamil or Sinhala depending on the area in which it is held. Among those benefiting from the human rights education provided by IHR are school-leavers, employers, police officers and the armed forces. Radio programmes in Tamil and Sinhala, designed to educate the listener in basic law and human rights, are broadcast live over the Sri Lanka Broadcasting Corporation on Thursdays at 7:30pm. We were told that citizens normally know their rights, apart from those in very remote areas. However, a problem is that even when people know about their rights they often do not know what to do next, as it is against their culture to complain. *See also: Section 3.4*
- 5.1.35. Officials of the IHR told us that they have a good reputation with the Sri Lankan government. Indeed, the National Integration Programme Unit (NIPU), which is a government body, provides financial assistance. Turning again to the rehabilitation unit of the IHR, work is done with ex-detainees, mostly young men and women. In the last 4-5 years, approximately 175 people have been helped, most of these formerly detained under the PTA or ER, and all from the east of the country. Vocational training is provided, but there are problems because potential employers know that they are dealing with ex-detainees. We were told that the IHR are the only NGO that deals with ex-detainees.
- 5.1.36. Members of the fact-finding mission team met with officials of the Danish Refugee Council (DRC) in their office in Anuradhapura. Paragraphs 5.1.37 to 5.1.43 inclusive refer to discussions at that meeting, with further information taken from the DRC Strategic Programme Document 2001-2005.
- 5.1.37. Apart from Sri Lanka, the DRC has a presence in 15 other countries. DRC's most significant donors in international activities are the EU, DANIDA (Danish International Development Assistance) and UNHCR. The DRC used to deal with the integration of refugees arriving in Denmark, but now this work has been delegated to local authorities, with the DRC assuming an advisory role.
- 5.1.38. The DRC has had a presence in Sri Lanka since 1998. In 1999 a head office was set up in Anuradhapura with the main programme starting there in June 2000. Later in 2000, a district office was established in Mannar town to support the implementation of DRC's programme in that District. There are 14 members of

staff in Sri Lanka (12 local, 2 international), plus 1 international volunteer. The budget is US\$1 million.

- 5.1.39. The DRC programme has two elements – socio-economic rehabilitation and capacity building. The immediate programme objectives are to strengthen the sustainable livelihoods of IDPs at individual, household and community levels; and to increase the local capacity to manage socio-economic rehabilitation.
- 5.1.40. Socio-economic rehabilitation is the underlying concept of the DRC programme and applies to all scenarios, while physical rehabilitation will depend on whether the situation is stable enough to build schools, irrigation canals etc. Rehabilitation activities aim at building local capacity, while capacity building activities aim at strengthening local organisations in rehabilitation work. There is partnership with other international organisations, leading to joint decisions. Work is also done with local partners - NGOs, community based organisations (CBOs) and government offices. An attempt is made to build the profile of these local NGOs and CBOs so that DRC input is needed less.
- 5.1.41. The DRC try to promote longer-term projects and community participation after listening to the needs of the local communities. With regard to social projects, support is given to CBOs such as women's groups, sports councils and the Royal Development Society.
- 5.1.42. The DRC supports training initiatives aimed at improving rehabilitation projects. There is pre-school teacher training. The DRC had initial in-house training in order to run human rights training courses. Human rights workshops have been conducted at a District level for local NGOs and government staff. The Department of Health has also invited the DRC to help in running workshops.
- 5.1.43. The DRC also deals with returnees from India. The package from the government amounts to 55,000 rupees. The DRC adds to this 15,000 –50,000 rupees per person.

## **5.2. The role and effectiveness of the Human Rights Commission and other government human rights bodies**

- 5.2.1. A meeting took place between members of the fact-finding mission team and officials of the Human Rights Commission in Colombo. We asked these officials to explain the role of their organisation, and then explored aspects of their effectiveness. Paragraphs 5.2.2 to 5.2.12 inclusive are attributed to officials we met at the Human Rights Commission.
- 5.2.2. The Human Rights Commission of Sri Lanka (HRC) was set up in 1997 under an Act of Parliament that combined the Human Rights Task Force (HRTF), that had dealt with issues surrounding the PTA and Emergency Regulations, and the Commission for Elimination of Discrimination, that had dealt with fundamental rights cases.
- 5.2.3. There are approximately 110 staff, plus mediators outside the regular staff. There are 4 legal officers and 30 investigative officers, with approximately 20 support staff. A total of 10 regional offices are run by regional co-ordinators. We were told that there was a definite lack of staff, but a restructuring was due to take place during September or October 2001. It was hoped that the restructuring would take away responsibility for fundamental rights cases, which was clearly a drain on resources. A new computer system was planned to be introduced in August or September 2001. This will include a detailed system of records of arrests, detentions, and transfers from one place of detention to another.
- 5.2.4. Referrals fall into 2 main categories. These are allegations of violations under the PTA or ER (approximately 40% of cases), and complaints relating to unequal treatment, i.e. fundamental rights cases (approximately 60% of cases). Victims, petitioners and NGOs all refer cases, as well as the Supreme Court. The complainant can have a copy of the report.
- 5.2.5. The HRC can only recommend action, they cannot enforce it. However a complaint can be made to the President. When dealing with a fundamental rights case, it is the government authority concerned that should take action, not the HRC.
- 5.2.6. There is a large backlog of cases in the courts. It is estimated that such a case would not require more than 3-4 hearings. First there is a preliminary hearing, the second hearing is for documents to be submitted, and thirdly there is the calling of witnesses. A case could take 3 years if properly prepared, though postponements are sometimes asked for.
- 5.2.7. The HRC have to be informed of an arrest under the PTA within 48 hours and this is in the main being observed. An officer can be prosecuted if he or she does not follow guidelines, though this is rarely enforced. There is a monthly meeting with the security forces to discuss these matters. A report is prepared detailing any discrepancies and repercussions are discussed, so it is in the interests of the security forces to co-operate.

- 5.2.8. Very exceptionally the HRC face obstruction at police stations or prisons. The HRC can make unannounced visits, so there is effectively 24-hour cover. The only problem that may arise is if there is a curfew in force in a particular area. More visits and surveillance will cut down abuse of the "48 hour" rule. It should be noted that police do not inquire into allegations of torture themselves. Instead, a doctor examines the detainee.
- 5.2.9. Complaints regarding unauthorised places of detention usually refer to those run by paramilitary groups in Vavuniya. But manual records are kept at the HRC's regional offices, and the regional co-ordinator receives immediate notification if someone is reported missing. There is access to Sri Lankan Army (SLA) camps but there are obvious problems with access to LTTE-controlled areas.
- 5.2.10. The HRC are able to operate a system of priority in some cases, for example those cases where torture in custody is alleged. The HRC has close links with the Attorney General who is informed if prosecution is needed for instances of torture.
- 5.2.11. The HRC also do work with IDPs (*see paragraph 7.1.13*).
- 5.2.12. Regarding the HRC's perception of their own effectiveness officials told us that the public had too much expectation when the HRC was initially set up. The HRC had inherited a backlog of 5,000-6,000 cases. But on the positive side, this backlog gave a chance to analyse and classify these cases. The backlog in July 2001 was somewhere between 600 and 1,000 cases with about 3,000 new cases received each year. Officials of the HRC thought that the public find the HRC useful, especially with fundamental rights cases. Public education in human rights and awareness programmes are conducted in the Regions. There is also a 24-hour telephone hotline that has been widely publicised.
- 5.2.13. Other respondents commented on the effectiveness of the various human rights bodies. The Home for Human Rights in Colombo stated that their organisation worked closely with the Anti-Harassment Committee (AHC), who they thought were effective.
- 5.2.14. The Forum for Human Dignity in Colombo also mentioned that the AHC were doing a very good job and that complaints are taken up immediately. The Forum for Human Dignity has a very good relationship with the AHC and the AHC is happy with the work the NGO are doing. Likewise, the Forum for Human Dignity feels that the AHC gets better results than the HRC who they think become more caught up in procedural matters. The AHC often take statements from the Forum for Human Dignity which help prevent further violations of human rights. For example, when it was apparent that forced labour was occurring in Batticaloa, the Forum for Human Dignity gathered information and sent it to the AHC, after which the forced labour immediately stopped.
- 5.2.15. An official of UNHCR felt that the effectiveness of the HRC was dependent on government funding which is clearly not sufficient. When cases were brought by the HRC it then depended on how strong the judiciary was.
- 5.2.16. The JMO whom we met in Colombo said that normally 3 cases per week are referred from the HRC. We were told that often when the case gets to the High Court it is dismissed and the perpetrators are acquitted.

- 5.2.17. Officials of the Institute of Human Rights in Colombo related that court cases are still withdrawn, even if they are referred to the HRC or AHC. They felt that the HRC was overworked because of the number of fundamental rights cases.
- 5.2.18. One NGO consulted said that although the government appoints officials to committees such as the HRC, results are insignificant. The HRC were not dealing with all cases. For example, there was no HRC office in Mannar, so abuses were occurring there. The HRC showed a lack of commitment in that they had powers to visit places of detention that they did not always use. This though could be due to a lack of resources. The predecessor of the HRC, the HRTF, was generally more effective as they appointed the right officials. The HRC's mandate was too broad and they should be allowed to concentrate on the most important of human rights abuses such as false imprisonment, mistreatment and torture.
- 5.2.19. An official of the Danish Refugee Council in Anuradhapura thought that the HRC in Vavuniya were effective, as the right staff had been appointed there.
- 5.2.20. The judicial officers whom we met in Vavuniya thought that although the public was now better informed of their human rights, they were not always aware of the functions of the HRC. The HRC could be said to be failing in that there had been no convictions following torture allegations.
- 5.2.21. Some human rights observers we spoke to commented that the HRC were caught up in too much bureaucracy. Another said that although the HRC visits detention centres, there is often no follow-up procedure. The regional offices were very co-operative but often there was no end result. Another thought that the HRC were lacking in their duties and that the situation was not helped by the fact that the HRC was government-run rather than being independent.

## 6. Leaving and entering Sri Lanka

### 6.1. Passport and document checks on leaving Sri Lanka

- 6.1.1. The CIPU country assessment of April 2001 contains a section on freedom to travel. The remainder of this paragraph is taken from that country assessment. The Sri Lankan Constitution grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to Sri Lanka". The Sri Lankan government generally respects the right to domestic and foreign travel. Every Sri Lankan citizen wishing to travel abroad must have a valid passport issued centrally by the Department of Immigration and Emigration in Colombo. Passport application forms are issued by District offices [kachcheri] and forwarded to Colombo. Applicants must submit a birth certificate, a National Identity Card, and photographs certified by a Justice of the Peace.
- 6.1.2. Paragraphs 6.1.2 to 6.1.7 inclusive detail observations made by members of the fact-finding mission team. Bandaranaike International Airport is adjacent to Katunayake Air Force Base off the main Colombo to Negombo Road. The physical security of the site is provided by the Sri Lankan Air Force but the police from Negombo District are responsible for policing matters. CID officers are present in the terminal to deal with illegal migration, as well as immigration and customs officials. *See also: paragraph 3.2.3*
- 6.1.3. On leaving the main road to approach the airport there are 2-3 checkpoints. Most traffic flows freely past these but random checks are conducted and members of the fact-finding mission team observed several lorries being stopped for checking. On arrival at the terminal building all vehicles are stopped at a fixed checkpoint. The driver's ID card was checked here and we were asked where we were going.
- 6.1.4. On entry to the terminal building all passengers have to show tickets and passports and baggage was screened by X-ray machine. Since 22 March 2000 only passengers are allowed into the check-in area which was screened off from the rest of the terminal. We had been told that this was as a result of pressure from European embassies whose Airline Liaison Officers (ALOs) had been worried that agents had previously been able to signal to officials to allow people to embark. This measure had gone some way to improving the situation and has halted the previous practice whereby agents could accompany passengers right up to the departure gate.
- 6.1.5. At the entrance to the screened check-in area, passengers have to show their ticket and are asked to confirm where they are going. Every passenger then had an item of baggage (either cabin or that going in the hold) searched by hand.
- 6.1.6. Tickets and passports were checked at the check-in desk before boarding cards were issued. Passengers then have to go through another control where they are required to pay embarkation tax. Receipt for payment is stapled to the passenger's ticket. Passengers then proceed through the embarkation control where Immigration Officers conduct a visual check of all passports. After this control

- there is a further check that appeared to be confirmation that embarkation tax had been paid before passengers are able to go into the departure lounge.
- 6.1.7. Entry to the gate area then requires production of a boarding card and this is checked again before boarding the buses to the aircraft.
- 6.1.8. The police at Negombo and the CID told us that tighter measures at the international airport being taken against people smugglers was meaning that this route out of the country was becoming harder. They had found that there were now an increased number of people leaving the country on ships. To counteract this, similar measures to those in place at the airports were now being put in place at the seaports. However, officials from the Ministry of Defence estimated that 95% of people smuggling still occurred at the airports. About every two months a visit is made to the airport to conduct a surprise check up on immigration officers.
- 6.1.9. Negombo police reported that people would go out from the beaches in the Negombo area on fishing boats and then board cargo ships heading for Western Europe. These can take large numbers of people and although the area is policed, the shoreline is very long.
- 6.1.10. A BBC News OnLine report of 5 August 2001 stated that the Sri Lankan navy had intercepted two fishing boats off the west coast of the island containing 116 illegal migrants. They were said to have been heading for Italy before poor weather forced them towards shore. A further boatload of 54 people was seized off Negombo. They were allegedly heading for Australia.
- 6.1.11. A further BBC News OnLine report of 11 January 2002 stated that the Sri Lankan navy had detained more than 100 people after it boarded two fishing trawlers in Negombo that were bound for Italy. Italian police had captured more than 250 Sri Lankan migrants the previous week, after the migrants had made a two-month voyage via the Red Sea and the Suez Canal.
- 6.1.12. An official from the Criminal Investigation Department (CID) stated that illegal migration was one of CID's biggest problems. Illegal migrants often left Sri Lanka using genuine documents to transit countries such as Singapore, Thailand, Nepal or the United Arab Emirates. They then destroyed their genuine documents and swapped them for forged ones. They then land in various European destinations and are taken from one country to another. He considered that the people smuggling operation was highly organised and that elements of it had the backing of the LTTE. He also said that there were some reports of Chinese nationals using Colombo as a transit point on their way to Europe.
- 6.1.13. Officials from the CID told us that an anti-smuggling bureau headed by the Superintendent of Police was set up in June 2001 following discussions with Heads of Missions at various Embassies in Colombo. This was operating at Bandaranaike International Airport and is manned 24 hours a day. We were told that the CID had had a very good recent detection rate of illegal migrants at the airport. However, they considered there was a need for greater detection of forged visas. People were paying sums of up to one million rupees for these.
- 6.1.14. An official at the Ministry of Defence (MOD) admitted that people smuggling had been an easy money earner for traffickers and that it was mainly the person being



smuggled who was caught. He said that the checking system at the airport was now well organised and that airlines were routinely taking photocopies of travel documents presented at check in, on flights direct to the UK. It was his opinion that most people left using genuine documents but he did point out that people were taking advantage of going to places such as Singapore where Sri Lankan nationals do not require a visa.

- 6.1.15. An official at the MOD considered that the main agents involved in people smuggling were in Sri Lanka, Thailand, Russia, Germany, the UK and Australia and his view was also that some of the smugglers had LTTE connections. He estimated it could cost 300,000 rupees to organise a trip abroad with up to another 300,000 being paid when the required destination was reached.
- 6.1.16. We were further told by the MOD that there is currently a committee sitting to consider more rigid steps for preventing people smuggling and a revision of the Immigrants and Emigrants Act was being considered.
- 6.1.17. An official from the Immigration and Emigration Department stated that passports are issued on production of a birth certificate and National Identity Card (NIC) or other documents such as a driving licence or company ID card with the NIC number on it. A same day service is available but the normal service produces passports in 10 working days. Exit permits are not required.

## 6.2. Reception and treatment of returned failed asylum seekers

- 6.2.1. In the CIPU country assessment of April 2001, reference is made to UNHCR's Background Paper on Sri Lanka published on 18 March 1999 for the European High Level Working Group on Asylum and Migration. In this Paper it was stated that Sri Lankan asylum seekers whose claims had been through full and fair procedures and found not to fulfil the refugee criteria may be returned safely to Sri Lanka. Where the individual has no valid travel documents, he/she should be assisted to obtain relevant documentation from the nearest Sri Lankan diplomatic post as such documents would greatly facilitate the person's arrival, travel and stay upon return to the country.
- 6.2.2. The CID told us that they had some problems associated with the return of Sri Lankan nationals from abroad. These problems arise where returnees do not reveal how they originally left Sri Lanka, where they went, whether they had committed any criminal act before leaving and whether they had given any support to the LTTE while they were away. The CID felt they were duty bound to take such people into custody and then produce them before the judicial authorities. They needed to be able to find a connection between the returnees and their relatives in Sri Lanka in order to prove their identity but they considered that the system in place was very fast and very transparent.
- 6.2.3. An official at the Immigration and Emigration Department confirmed that if the immigration officer was satisfied about a returnee's identity on arrival at the airport they would be admitted and allowed to proceed. The case may however be referred to CID if the immigration officer was not happy with the answers they had received to their questioning. Whether to refer a case to CID was up to individual immigration officers.
- 6.2.4. Sri Lankan nationals cannot now be returned on EU letters as the Ministry of Foreign Affairs stated they had had problems with some issued by EU member states. However, the authorities were willing to co-operate fully with the documentation of their own nationals who were liable for removal from the United Kingdom and were willing to provide emergency travel documentation promptly. Cases are referred to Colombo, if necessary, to check identity or documentation. One-way documents can be issued at Sri Lankan High Commissions abroad, but all passports are issued in Colombo.
- 6.2.5. The MFA stated that those returning on a temporary travel document were now allowed to retain it and the police at the airport kept a photocopy. This process had been in place for a few months and was as a direct result of representations from foreign embassies, regarding concerns about returnees being able to provide evidence of their identity prior to obtaining a NIC.
- 6.2.6. The asylum officer at the German Embassy in Colombo told us that about 200 Sri Lankan nationals are removed from Germany per year. These are removed in small numbers on scheduled flights and the German authorities do some monitoring to ensure the returnee arrives at the airport.

- 6.2.7. UNHCR confirmed that there is some passive monitoring of returned failed asylum seekers. There was also a formal agreement signed with the Swiss authorities in 1994. They said that if there were any problems with returns detected, then the UNHCR office would follow this up in dialogue with the government concerned.
- 6.2.8. Some of the NGOs said that they were able to help returnees. The Forum for Human Dignity can provide them with legal aid and we were told that they had recently helped two failed asylum seekers who had been returned from the United Kingdom and were said to be "mentally upset".
- 6.2.9. The ICRC funds a post in the Sri Lanka Red Cross Society that can help people trace families within the country. This officer can help failed asylum seekers contact their relatives. *See also: paragraph 5.1.20*
- 6.2.10. Various NGOs told us that they were able to assist people to obtain NICs on return. The Swiss Embassy operates a small hostel for about 15 people in Colombo where returnees can be housed temporarily on their return. Help is given to them in obtaining a NIC if necessary. *See also: Section 2.2*
- 6.2.11. An official from the Consortium for Humanitarian Affairs (CHA) said that the standard of living for returnees was tough and that they thought it would be difficult for people to resume normal life. There was no standard receiving mechanism and it was felt that most people left Sri Lanka again. The official stated that if it were known in advance that people were coming back then proper reception facilities could be put in place by NGOs including dealing with the law enforcement agencies. The official felt that there were no problems for Sri Lankan nationals resident in foreign countries returning to Sri Lanka, although there was some danger of extortion.
- 6.2.12. The issue of return of unaccompanied asylum-seeking children was explored and discussed. The British High Commission in Colombo advised that they could only trace children's parents if enquiries are made through local authorities. This would mean that the names of the children and parents would need to be disclosed to the authorities in Sri Lanka and so any tracing is not likely to be a viable option whilst asylum claims remain outstanding.
- 6.2.13. The British High Commission has also made enquiries with the Department of Probation and Child Care Services in Colombo. This Department confirmed that there are children's homes to provide care and protection for orphans and destitute children. These are scattered throughout the country and are run by voluntary organisations on behalf of the government. These provide facilities for education, religious faith and cultural identity. Whilst this Department would be willing to help try to trace children's parents it acknowledges that this is a difficult task. Clearance is also needed from the Ministry of Foreign Affairs for children to be received from the United Kingdom for placement.
- 6.2.14. The Sri Lanka Red Cross Society can also help minors who are failed asylum seekers wishing to return to the country to locate their families. *See also: paragraph 5.1.20*

### 6.3. Impact of amendments to the Immigrants and Emigrants Act

- 6.3.1. The Immigrants and Emigrants Act was first introduced in 1949. By way of introduction, the remainder of this paragraph is taken from the CIPU country assessment of April 2001. Section 45 of the Act lists various categories of people who are guilty of offences, which include anyone who forges, alters or tampers with any passport, or has in his possession any forged passport, or who uses such a document. Section 45 sets out the punishment, which consists of a fine, or a period of imprisonment, or both. Section 45A provides punishments for those found guilty of facilitating illegal entry into Sri Lanka. The Immigrants and Emigrants (Amendment) Act was passed in July 1998. During the passage of the Bill the Sri Lankan Immigration Minister told Parliament that the amendment was designed to combat "the crime of illicit trafficking of persons from Sri Lanka". The Minister stated that the diplomatic missions of various western countries had made representations to the Sri Lankan authorities about organised groups engaged in the business of securing illicit entry of Sri Lankans to their countries. The Amendment Act increased the fines and the term of imprisonment that may be imposed on those found guilty under the Act.
- 6.3.2. The Ministry of Foreign Affairs explained that the Immigrants and Emigrants Act had been amended to increase the penalties to better reflect reality, to make certain offences not subject to bail provisions, and to prevent the imposition of suspended sentences. Since 1998 punishments for certain offences have doubled with a mandatory custodial sentence of a minimum of six months or one year up to a maximum of 5 years and a fine from 50,000 rupees to 200,000 rupees. Those pleading guilty to being involved in people smuggling are likely to receive a minimum 12 month imprisonment.
- 6.3.3. The MFA and other agencies were now engaged in a comprehensive review of the immigration legislation. They were looking at enacting a specific offence of trafficking as none currently existed. They were also looking at the possibilities for extra-territorial jurisdiction although there were potential problems for double jeopardy and the difficulties around defining when a person was in possession of a forged document. Other areas being considered were more severe penalties for traffickers and providing pardons for those assisting the authorities in identifying the people smugglers/agents. Witness protection was also being given active consideration.
- 6.3.4. During a visit to Negombo Magistrates Court, where the majority of Immigrants and Emigrants Act prosecutions from the airport take place, we were told that only those arriving back in Sri Lanka using a false identity could be detained under the Act. This could include people who have used a false identity in a foreign country to apply for asylum and who have maintained that identity up until the point of removal. If the Sri Lankan authorities issue an emergency travel document in that identity and this is discovered on return then the person is liable to detention under the Act. People who are returned to Sri Lanka with passports containing forged visas, substituted photographs or passports obtained by giving false details are also liable to detention.

- 6.3.5. If a returnee is suspected of connections with terrorist organisations then they might also be held under the PTA.
- 6.3.6. People who are charged under the Immigrants and Emigrants Act are not entitled to bail, although the Court of Appeal has discretionary Power to grant bail (Section 47(6) of the Act). The Forum for Human Dignity have said that returnees are now generally given bail as they are only charged under the Immigrants and Emigrants Act when forged or fraudulently obtained documentation is used. Others may be charged under the penal code or any other law and this can entitle them to apply for bail. The Commissioner General of prisons confirmed that some people were detected at the airport for possessing forged documents and so were remanded without bail.
- 6.3.7. We were told that the Magistrates Court in Negombo sets aside three days a week for immigration cases and that approximately 12 cases are heard per day. Cases take about three months to process. It was said that returnees who are arriving at the airport that are unable to establish their identity satisfactorily are brought before the magistrate within 24 hours and granted bail until CID have investigated their circumstances. CID drops almost all such cases once they have identified the person.
- 6.3.8. The British High Commission advised that there have been problems with the length of time it has taken for immigration cases to come to court. Negombo prison has a large number of detainees held under the Immigrants and Emigrants Act and earlier this year there were hunger strikes there in protest at the delays. Rioting has also broken out there for the same reason. Many of those held, however, are suspected of being involved in people smuggling and have been caught on their exit from the country rather than being returnees.
- 6.3.9. The Attorney General stated that there had been problems in dealing with people smuggling as individuals had avoided the attentions of the authorities and immigration officers, had been using false documents and because some police officials had been facilitators. He was concerned about the number of offenders in custody, especially women, as no bail was available under the Immigrants and Emigrants Act except from the Court of Appeal. He recognised that people did not have the money to go to lawyers to pursue that avenue but was aware that NGOs would take cases on. He explained that the intention was to prosecute facilitators not the individual being smuggled. Many of those arrested were released as victims but they refused to identify the ringleaders. He stated that if CID were able to identify and arrest the facilitator then the emigrant would be discharged if they gave evidence.
- 6.3.10. As far as those returning to Sri Lanka were concerned, the Attorney General pointed out that leaving without a valid document was a serious offence and should be investigated. Those who could not identify themselves satisfactorily on arrival were taken into custody, produced before a magistrate and then later discharged. He wanted people to be produced before the courts immediately. He indicated that there were Presidential concerns about the people smuggling problems. He was also concerned about official involvement in people smuggling, for example by immigration officers. He stated many refused to confess before the magistrate. If they did so they could act as a prosecution witness, but they refused.

The authorities did try to indict people where there was evidence but often reliance was placed on internal disciplinary procedures.

- 6.3.11. Enquiries by the British High Commission in Colombo after the fact-finding mission revealed that the Forum for Human Dignity has conducted a survey of those detained under the Immigrants and Emigrants Act in Negombo prison. They found that over 65% were poor people coming from far off villages and the majority were victims of agents who had issued them with false documents. The survey showed that in March 2001 there were 286 males and 60 females held under the Immigration laws but by May 2001 this had increased to 316 males and 65 females. Encouragingly, a joint effort by the magistrate and the Attorney General's Department to reduce the backlog of cases seemed to be taking effect and by 11 September 2001 the Forum for Human Dignity said that the figures had dropped to 148 males and 42 females.
- 6.3.12. The Ministry of Defence told us that there had been some success in prosecuting racketeers. In 2000 there had been 63 suspects produced before the courts. The number of people found to have bogus names in their passports or travelling on forged passports was 64 in 1999, 138 in 2000 and 82 from January until the end of June 2001. In 2000, 121 foreigners were detected leaving without visas and 190 Sri Lankans were found to be travelling on forged passports. Also in 2000, 38 foreigners were detected with forged passports and there had been 22 such detections in the first six months of 2001.
- 6.3.13. An official from the MOD thought that the Immigrants and Emigrants Act had helped deal with the problems as the fines imposed had doubled. There had also been assistance through Interpol supporting the various processes. He reported a major success in raiding a place where bogus passports were being made. Those present at the time were arrested, however, once more, he said that there had been problems in identifying the ringleaders as people were afraid that their families would be subject to reprisals if they gave information. But the official was quite clear that no torture was taking place at police stations as a result of offences under the Immigrants and Emigrants Act.

## 7. Internally Displaced Persons (IDPs)

### 7.1. Issues surrounding IDPs

- 7.1.1. Two members of the fact-finding mission, namely Andy Forbes and Robin Farrant, travelled out of Colombo on Thursday 12 July and headed north to the town of Puttalam. Puttalam is also the name of a District in the North Western Province.
- 7.1.2. The intention was to investigate issues surrounding internally displaced persons (IDPs). A meeting firstly took place with Mr. Muyainideen, the Acting District Secretary of Puttalam in order to set the scene and to gather some background information on the area.
- 7.1.3. Mr. Muyainideen explained that there are 16 Divisions in Puttalam District and a total population of 400,000. The majority of the population is Sinhalese although there are also large populations of Tamils and Muslims. Each Division has a Divisional Secretary, answerable to a District Head. The District Officer is the chief administrative officer appointed by the government to look after local populations. The District Secretary regulates government functions and deals with NGOs and international agencies.
- 7.1.4. Mr. Muyainideen informed us that the biggest problem in Puttalam District was unemployment. The national average is 15% but is slightly higher in Puttalam. There are also developmental problems, a lack of good housing and lack of capital for schools. Another major problem for the District according to Mr. Muyainideen was the influx of displaced people. In October 1990, 18,000 families (95% of whom were Muslim) left the Northern Province, and 13,500 families (about 75,000 individuals) settled in Puttalam District. This inevitably put pressure on already scant resources. It was thought that the problem would only be a temporary one, but it then became clear that the displaced families could not return home.
- 7.1.5. Mr. Muyainideen stated that 8,000 families were relocated in 85 small villages, with help being provided for these villages. There were previously 125 welfare centres, but there are now 40. There is 25,000 rupees government support for housing, 2,000 rupees for clothes, 1,000 rupees for implements and 4,000 rupees for self-employment. 1,280 rupees worth of dry rations per month are provided. Water is supplied to the IDPs but it is probably only about 40% of needs, and 60% of the people don't have local water. Sanitation is also inadequate.
- 7.1.6. Mr. Muyainideen told us that 78% of the potential working population of the displaced communities in Puttalam District were unemployed. IDPs can get turned down for jobs as preference is often given to local people. This inevitably creates tensions between local people and the IDPs, as all available resources have to be shared with the IDPs. The IDPs can travel out of the area to try to find work but these numbers are minimal. There appears to be a need for counsellors to go into camps to help relieve the tensions, although UNICEF is doing some work in this respect. Crime levels have increased due to the influx of the displaced peoples

and the crowded conditions. There are often as many as 25 families living on each acre of land.

- 7.1.7. Another main problem highlighted by Mr. Muyainideen is that the Sri Lankan government has no permanent settlement plans, only ad-hoc arrangements. In other words there is no permanent or planned policy. The provision of infrastructure in the 85 villages mentioned above is inadequate. But there have been some improvements: 45 school blocks have been put up by the government, as well as access roads in the settlements. NGOs also help in this respect. IDPs can still vote in their original home areas: they vote in Puttalam District, and the vote is then taken to the returning officer in their home District.
- 7.1.8. Mr. Muyainideen informed us that some of the families originally displaced have returned north. 300 families returned to Mannar town in the Mannar cleared area. Reasons for returning included for business, and for better schools.
- 7.1.9. A meeting then took place with Mr. Nazeer, Project Director for the North West Province. Mr. Nazeer's role involves monitoring the activities of 22 national NGOs as well as the international NGOs in the Province. Mr. Nazeer estimated that there are 14,000 IDP families in the Province, comprising 70,000 people overall with approximately 56 welfare centres still remaining. He further estimated that 95% of the IDP population was Muslim, but that there were also 2 Sinhalese villages.
- 7.1.10. International organisations that offer assistance include UNICEF, CARE International, and the Norwegian-based FORUT Campaign for Development and Solidarity. CARE International has provided 15 million rupees in the first 6 months of 2001. But as Project Director, Mr. Nazeer probably only gets one-fifth of the required government aid. 100 million rupees was planned for 2001, but the government had only promised 15 million rupees, with only 3.5 million rupees received up until the end of June 2001. In contrast, 40 million rupees was received in 1999. Mr. Nazeer confirmed that most IDPs are dependent on dry rations. Sanitary conditions need to be improved, but the government appears to be waiting for NGOs to do this.
- 7.1.11. Mr. Nazeer outlined some of the help that has been provided. 7,000 rupees has been provided for temporary huts. There is a marriage prosperity allowance of 25,000 rupees. There is a scholarship scheme – if 6 'O' levels are obtained with credit, then 500 rupees per month is given. 25,000 rupees is given to settle permanently on the basis of a technical report; 850 families have taken up this offer for resettlement in 3 "model villages". Electricity, roads, schools and drinking water have been provided, as well as a mosque being partly paid for.
- 7.1.12. Mr. Nazeer explained that before the Muslim displacement, the majority of the population in Puttalam town was Muslim which is why the area was chosen. But there are tensions with the local community exacerbated by 80% unemployment in the IDP camps. Some IDPs seek employment in the Middle East through employment agencies in Colombo. Fears persist within the local community that the ethnic balance will change if IDPs get permanent residencies.
- 7.1.13. IDPs can be helped by the HRC. The HRC in Colombo told us that action comes from a study of the problems. The State agencies concerned are summoned, the



problem is examined, there is mediation and then agreement. There have been some improvements in Puttalam in this respect.

- 7.1.14. UNHCR advocates relocation of IDPs out of welfare centres. They estimate that 75% of IDPs are currently with friends and relatives and that these IDPs are slightly better off. An estimated 1,500 rupees per month is provided in food assistance.
- 7.1.15. The Institute of Human Rights receive information on displaced persons from their 5 regional offices. The IHR are told whether those displaced persons that are being held in custody may have moved from one prison to another. Sometimes relatives of IDPs contact the regional offices direct.
- 7.1.16. Officers of the Security Forces in the Vanni also discussed the rehabilitation programme for IDPs. We were told that the army assists the Government Agent in running this programme. There are 20,000 IDPs in Vavuniya, 6,485 in Mannar, and a total of 76,000 in the uncleared areas. 169,000 IDPs are provided with food by the government in uncleared areas.

## 7.2. IDP camps visited

- 7.2.1. A visit was made to the Tayib Nahar IDP camp in the Aanaipillai Oothu area of Puttalam District. Paragraphs 7.2.2 to 7.2.8 inclusive detail conditions in the camp, described to us by the people that live there.
- 7.2.2. A total of 84 families from the Jaffna area live in the Tayib Nahar IDP camp. In October 1990 they were forced to leave their homes in the Jaffna District by the LTTE, sometimes with as little as 2 hours notice. Most possessions were left behind and the LTTE took over their properties. 35 of the richer inhabitants were taken into LTTE custody and have not been heard of since. Until 1994 the families were living in the Soltern Welfare Centre in Puttalam. However, on 17 July 1994, 138 of the displaced persons' huts were burnt down, prompting the move by 84 families to Tayib Nahar.
- 7.2.3. The Rehabilitation Ministry gives assistance of 7,000 rupees per family. Conditions in the camp are poor. There is no electricity, so there is crime at night, as well as a fear of attacks by snakes. There is no running water. During the monsoon season only, the inhabitants can walk a quarter of a mile to obtain water. Alternatively, water can be bought.
- 7.2.4. Schools are inadequate. There is a teacher but teaching is often done under trees because there is no roof on one school building. A total of 125 children from the Camp attend but there are also 42 school dropouts. Most of these 42 children, all under the age of 13, end up working. Often a birth certificate needs to be produced in order to attend school. If this is not available, the child has no access to schooling.
- 7.2.5. With regard to food assistance, rations are given through welfare programmes. 8 rupees per person per day is given. Food purchased includes rice, lentils, dhal and oil. The quality of the food is not good because of poor storage conditions.

- 7.2.6. Work normally involves labouring or is of the agricultural variety. There are no problems as such with finding this work, but difficulties arise such as the inability to speak Sinhalese. Consequently, 50% in the camp are without jobs. Some go to other areas of the country to search for work. Some go to Colombo to work as tailors or seamstresses. Most of the women in the camp are housewives, or do agricultural work.
- 7.2.7. There is a base hospital at Puttalam but we were told that hospital facilities are not adequate enough for local people let alone IDPs. There is no transport from the camp, so people have to walk to the hospital, or try to find transport from the main road.
- 7.2.8. Most of the people encountered in Tayib Nahar IDP camp hoped for better employment opportunities or simply wished to return to their home areas.
- 7.2.9. A visit was then made to Soltern 3 Welfare Centre in Puttalam District. A total of 65 families from the Jaffna area live there. These families are effectively encroaching on private land, so are there only temporarily, and can be ejected by the government at any time. As stated above, most huts here were burned down in 1994, but some families returned and built more. Paragraphs 7.2.10 to 7.2.14 inclusive detail conditions in the Welfare Centre described to us by the people that live there.
- 7.2.10. There is no electricity supply to the Welfare Centre. A pipeline provides the only water supply, but one is not enough. There are no toilet facilities and sanitation is poor, so the jungle has to be used for this purpose.
- 7.2.11. There is dry ration food assistance, but the rations are not enough. 12 kilogrammes of rice, 600 grammes of sugar, 1½ kilogrammes of dhal, plus coconut oil is provided per person per month. However, no sugar had been received between December 2000 and June 2001.
- 7.2.12. 75% of the children in the Welfare Centre do not attend school as there is a problem in obtaining the birth certificates that are required. Many of these were lost when the huts were burnt. However, children born in the Welfare Centre can now have their births registered.
- 7.2.13. There is no medical assistance within the Welfare Centre. Treatment is available at Puttalam hospital but shortages occur.
- 7.2.14. Employment prospects are not good. A lot of the available work is just day-to-day labouring. There is employment discrimination. Local people do not want to work for low wages, whereas IDPs have little choice but to. Local people also seem to get preference for jobs.

## 8. Individuals and organisations consulted

- British High Commission, Colombo
- Officials of the Family Rehabilitation Centre, Colombo
- Officials of the Home for Human Rights, Colombo
- Officials of the Forum for Human Dignity, Colombo
- UNHCR, Colombo
- A Judicial Medical Officer, Colombo
- Officials of the Sri Lanka Human Rights Commission, Colombo
- Police authorities, Negombo
- Officials of the Criminal Investigation Department, Colombo
- Ministry of Defence, Colombo
- Officials of the Institute of Human Rights, Colombo
- Ministry of Foreign Affairs, Colombo
- An Attorney-at-Law, Colombo
- International Committee of the Red Cross, Colombo
- Médecins Sans Frontières, Colombo
- Save the Children Fund, Colombo
- Officials of the Centre for Human Rights and Development, Colombo
- Officials of the Consortium for Humanitarian Affairs, Colombo
- Commissioner General of Prisons, Colombo
- Attorney General, Colombo
- An MP of the All Ceylon Tamil Congress, Colombo
- Officials of Survivors Associated, Colombo
- Officials of the Immigration and Emigration Department, Colombo
- Acting District Secretary, Puttalam
- Project Director, North Western Province, Puttalam
- Residents of Tayib Nahar IDP camp, Aanaipillai Oothu Area, Puttalam
- Residents of Soltern 3 Welfare Centre, Puttalam
- Officials of the Danish Refugee Council, Anuradhapura
- Officials of the Sri Lanka Red Cross Society, Vavuniya

- Officers of the Security Forces of the Vanni, Vavuniya
- Judicial officers, Vavuniya
- A freelance newspaper correspondent, Vavuniya
- Government Agent, Vavuniya District
- Attended evidence hearing looking into the Bandarawela Bindunuwewa massacre

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## 10. Abbreviations

AAPD	Asylum and Appeals Policy Directorate
ACTC	All Ceylon Tamil Congress
AHC	Anti Harassment Committee
ALO	Airline Liaison Officer
BBC	British Broadcasting Corporation
CBO	Community Based Organisation
CHA	Consortium for Humanitarian Affairs
CID	Criminal Investigation Department
CIPU	Country Information and Policy Unit
CIREA	Centre for Information, Reflection and Exchange on Asylum
CIUAH	Committee to Inquire into Undue Arrest and Harassment
CRD	Criminal Record Department
DANIDA	Danish International Development Assistance
DFI	Directorate of Foreign Intelligence
DIG	Deputy Inspector General
DII	Directorate of Internal Intelligence
DRC	Danish Refugee Council
EPDP	Eelam People's Democratic Party
EPRLF	Eelam People's Revolutionary Liberation Front
ER	Emergency Regulations
EU	European Union
FCO	Foreign and Commonwealth Office
FRC	Family Rehabilitation Centre
HO	Home Office
HQ	Headquarters
HRC	Human Rights Commission
HRTF	Human Rights Task Force
ICD	Integrated Casework Directorate
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person

IHR	Institute of Human Rights
IND	Immigration and Nationality Directorate
JMO	Judicial Medical Officer
JVP	Janatha Vimukthi Peramuna
LTTE	Liberation Tigers of Tamil Eelam
MFA	Ministry of Foreign Affairs
MOD	Ministry of Defence
MOU	Memorandum of Understanding
MSF	Médecins Sans Frontières
NIB	National Intelligence Bureau
NIC	National Identity Card
NIPU	National Integration Programme Unit
NCO	Non-commissioned Officer
NGO	Non-governmental Organisation
OCC	Operational Command of Colombo Security
OIC	Officer in Charge
PLOTE	People's Liberation Organisation of Tamil Eelam
PA	People's Alliance
PTA	Prevention of Terrorism Act
SLA	Sri Lankan Army
SLFI	Sri Lanka Foundation Institute
SLRCS	Sri Lanka Red Cross Society
SSP	Senior Superintendent of Police
STF	Special Task Force
TELO	Tamil Eelam Liberation Organisation
TID	Terrorist Investigation Department
UK	United Kingdom
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
US	United States

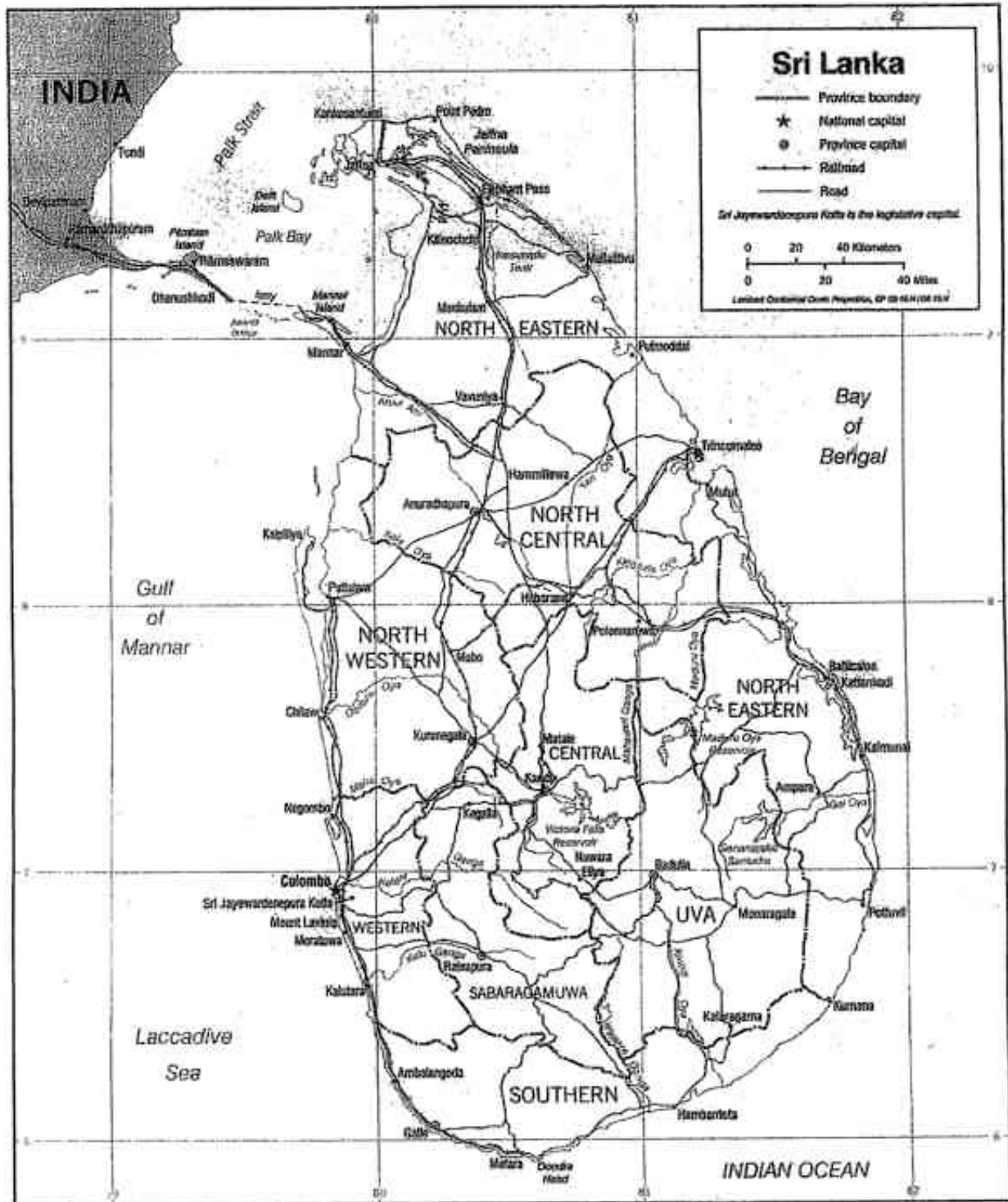
## 11. ANNEXES

**ANNEX 1: Maps**

**ANNEX 2: Terms of reference**



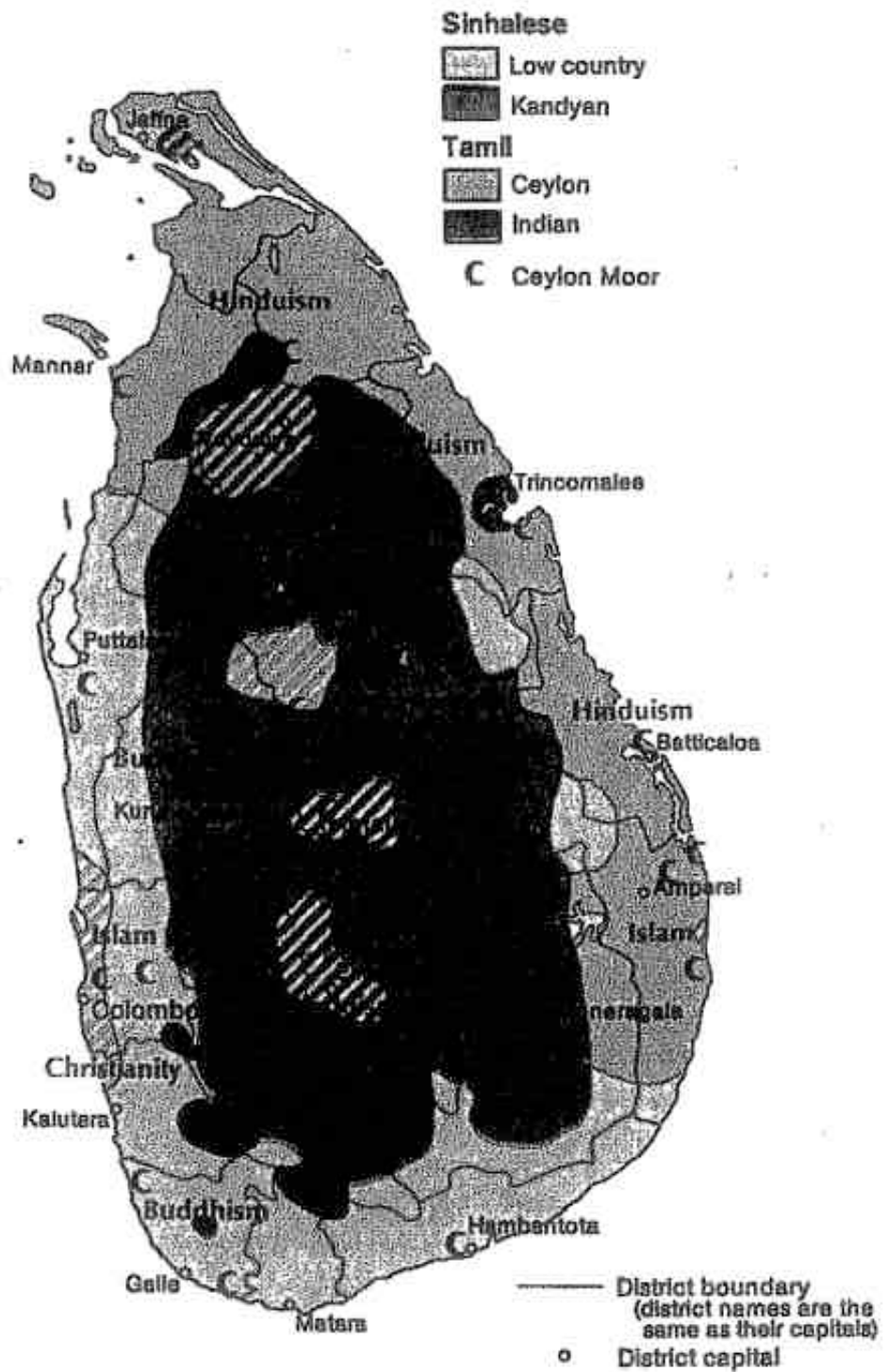
ANNEX 1. MAPS

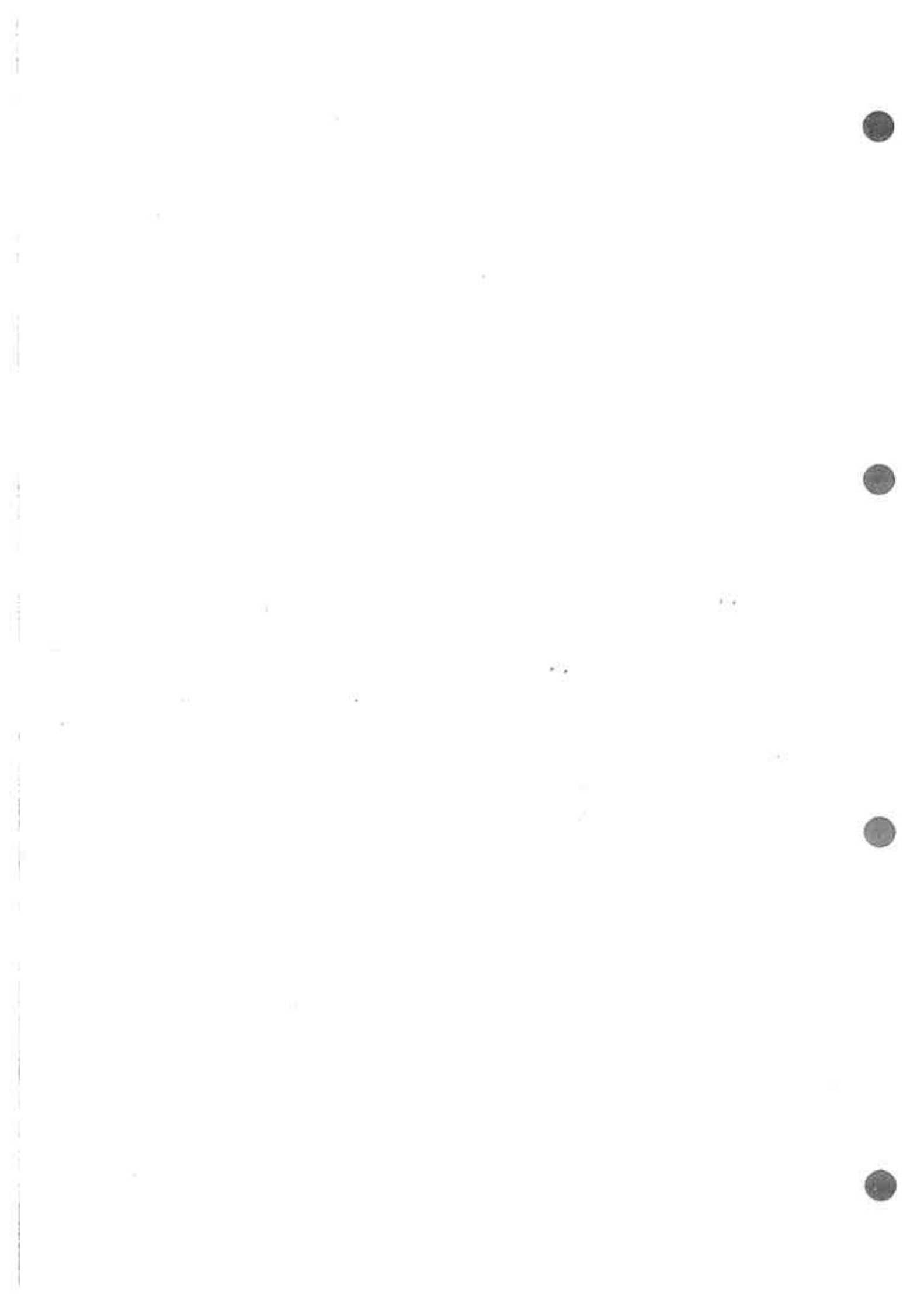


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### Ethnic communities and religions





## ANNEX 2. TERMS OF REFERENCE

To gather information on a number of matters in Sri Lanka with a bearing on the consideration of asylum applications, in particular:

1. **The situation for Tamils in Colombo and elsewhere in Sri Lanka**
  - The political situation for Tamils
  - National Identity Cards (NICs) and how Sri Lankans (especially Tamils) identify themselves
2. **The security situation**
  - General security situation in Sri Lanka
  - Security situation in Colombo
  - The use and prevalence of checkpoints
  - The authorities' capacity and willingness to protect its civilians
  - The impact of emergency regulations
3. **Conditions of detention and imprisonment**
  - Conditions for and control of arrests
  - The occurrence of physical abuse/torture: the extent/nature of abuse/special groups/circumstances
  - Prevalence of round-ups and targeted groups
4. **Human Rights Issues**
  - The work of NGOs in Sri Lanka
  - The role and effectiveness of the Human Rights Commission and other government human rights bodies
5. **Leaving and entering Sri Lanka**
  - Passport and document checks on leaving Sri Lanka
  - Reception and treatment of returned failed asylum seekers
  - Impact of amendments to the Immigrants and Emigrants Act
6. **Internally Displaced Persons (IDPs)**
  - Issues surrounding IDPs
  - IDP camps visited

