



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

3/5/04

**BACKGROUND PAPER
ON
REFUGEES AND ASYLUM-SEEKERS
FROM
SRI LANKA**

United Nations High Commissioner for Refugees (UNHCR)
April 2004

THIS INFORMATION PAPER WAS PREPARED BY UNHCR IN SRI LANKA AND CLEARED BY UNHCR HEADQUARTERS ON THE BASIS OF THE ORGANISATIONS WORK IN THE COUNTRY AND AT HEADQUARTERS. WHEN OTHER INFORMATION, SUCH AS INFORMATION FROM OTHER AGENCIES, NATIONAL IMMIGRATION SERVICES AND REPUTABLE HUMAN RIGHTS ORGANISATIONS HAVE BEEN USED, THEY HAVE BEEN CITED. ALL INFORMATION CONTAINED WITHIN THE DOCUMENT IS PUBLICLY AVAILABLE. THIS PAPER IS NOT, AND DOES NOT, PURPORT TO BE, FULLY EXHAUSTIVE WITH REGARD TO CONDITIONS IN THE COUNTRY, OR CONCLUSIVE AS TO THE MERITS OF ANY PARTICULAR CLAIM TO REFUGEE STATUS OR ASYLUM.

Table of Contents

I. INTRODUCTION.....	5
A. GEOGRAPHY, POPULATION, AND LANGUAGE	5
B. SOCIO-ECONOMIC SITUATION	6
C. INSTITUTIONS OF THE STATE AND GOVERNMENT	7
1. <i>The Police and Security Forces</i>	8
D. MAIN POLITICAL PARTIES	9
E. THE LIBERATION TIGERS OF TAMIL EELAM (LTTE).....	11
II. POLITICAL DEVELOPMENTS.....	13
A. MAJOR POLITICAL DEVELOPMENTS LEADING UP TO THE PEACE AGREEMENT	13
B. THE PEACE PROCESS	17
C. THE CURRENT POLITICAL CONTEXT.....	21
D. RESULTS OF THE ELECTIONS IN APRIL 2004	23
III. LEGAL CONTEXT.....	25
A. INTERNATIONAL LEGAL CONTEXT	25
B. NATIONAL LEGAL CONTEXT	27
1. <i>The Constitution</i>	27
2. <i>The Judiciary System</i>	28
3. <i>Human Rights Commission</i>	29
4. <i>Committee to Inquire into Undue Arrest and Harassment</i>	30
A. GENERAL RESPECT FOR HUMAN RIGHTS.....	30
B. RIGHT TO LIFE, PERSONAL SECURITY AND PHYSICAL INTEGRITY	32
1. <i>Extrajudicial, Summary or Arbitrary Executions and Disappearances</i>	33
2. <i>Death Penalty</i>	35
3. <i>Conditions in Prison</i>	35
4. <i>Recruitment Into the Armed Forces</i>	35
5. <i>Recruitment by the LTTE</i>	36
C. TORTURE AND OTHER INHUMAN AND DEGRADING TREATMENT AND PUNISHMENT	36
D. RIGHT TO FAIR TRIAL.....	38
E. RIGHT TO FREEDOM OF RELIGION.....	39
F. RIGHT TO FREEDOM OF EXPRESSION.....	40
G. RIGHT TO FREEDOM OF ASSOCIATION	41
H. RIGHT TO FREEDOM OF MOVEMENT.....	42
1. <i>Changes after the cease-fire agreement</i>	43
2. <i>Possibility of using the Internal Flight Option</i>	44
3. <i>Possibilities to Depart From Places Other Than Colombo</i>	44
4. <i>Returning Refugees</i>	44
1. <i>Education</i>	45
2. <i>Food</i>	45
3. <i>Health</i>	46
V. VULNERABLE GROUPS.....	46
A. ETHNIC MINORITIES	46
1. <i>Veddhas</i>	46
2. <i>Tamils</i>	46
3. <i>Tamils of Recent Indian Origin and Stateless Persons</i>	47
4. <i>Muslims</i>	47
B. RELIGIOUS MINORITIES	47
1. <i>Muslims</i>	48
2. <i>Christians</i>	49
3. <i>Others</i>	49
C. INTERNALLY DISPLACED PERSONS.....	50
D. WOMEN.....	51
E. CHILDREN	52



1. <i>Child Abuse, Child Prostitution and Sale of Children</i>	53
2. <i>Child Soldiers</i>	54
VI. UNHCR'S IDP OPERATION	55
A. INTRODUCTION.....	55
B. STRATEGY FOR 2004.....	56
1. <i>Objectives</i>	56
2. <i>Main Activities</i>	56
3. <i>Management Structure</i>	56
4. <i>Co-ordination</i>	57
C. UNHCR'S POSITION ON RETURN OF IDPS AND REFUGEES.....	57
VII. SRI LANKAN ASYLUM-SEEKERS AND REFUGEES	58
A. SRI LANKAN ASYLUM APPLICATIONS WORLDWIDE.....	58
B. DETERMINATION OF REFUGEE STATUS.....	58
ANNEXES	60
A. STATISTICS.....	60
1. <i>General Information</i>	60
i. Refugee population.....	60
ii. Asylum applications.....	60
iii. Asylum and refugee status determination.....	61
iv. Internally Displaced Persons (IDPs).....	61
2. <i>Statistics for 2003</i>	66
3. <i>Breakdown of IDPs per district</i>	66
B. MAPS.....	67
1. <i>Sri Lanka Atlas Map</i>	67
2. <i>Repatriation from India by District</i>	68
3. <i>Sri Lanka IDP Movements by District</i>	69
C. BIBLIOGRAPHY.....	70
1. <i>General Information</i>	70
2. <i>United Nations Documents</i>	70
i. UNHCR Documents.....	70
ii. Other United Nations Agencies, World Bank and the Sri Lanka Monitoring Mission.....	71
3. <i>Governmental and National Sources</i>	72
4. <i>Non-Governmental Resources</i>	73
5. <i>News Articles</i>	74
6. <i>Selected Websites</i>	75



List of Acronyms

AFP	Agency France Press
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CDR	Center for Documentation and Research (UNHCR)
CERD	International Convention on the Elimination of all forms of Racial Discrimination
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
EU	European Union
EIU	Economist Intelligence Unit
HRC	Human Rights Commission
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee for the Red Cross
IDPs	Internally displaced persons
LTTE	Liberation Tigers of Tamil Eelam
NGO	Non-governmental organization
PA	People's Alliance
PLOTE	People's Liberation Organization of Tamil Eelam
SLFP	Sri Lanka Freedom Party
UKIND	United Kingdom Home Office, Immigration and Nationality Directorate
UN	United Nations
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNP	United National Party
USDOS	United States Department of State
WGAD	United Nations Working Group on Arbitrary Detention
WGEID	United Nations Working Group on Enforced or Involuntary Disappearances

1. Introduction¹

A. Geography, Population, and Language

1. The Democratic Socialist Republic of Sri Lanka, formerly known as Ceylon, lies in the Indian Ocean, south of India. It consists of one large island and several surrounding smaller islands. The country covers an area of 65,525 square kilometers. Sri Lanka is surrounded by water on all sides and its closest neighbour is India to its North. Ceylon was a British colony from 1815 to 1948, when the island gained independence. It was renamed Sri Lanka on becoming a republic in 1972.² The capital, Colombo, is located in the western coast of the country. Colombo is the largest city in Sri Lanka with an estimated population of 2.2 million inhabitants. Other major cities in Sri Lanka are Gampaha, Kurunegala, Kandy, Galle, Ratnapura and Jaffna.
2. The latest estimates show that Sri Lanka has a population of 18,732,255, according to the Government Census of Population and Housing done in 2001.³ The population can be divided into the majority Sinhalese (74 per cent), Tamils (18 per cent), Muslims (7 per cent) and "others", ie. Burghers, the descendants of colonialists (1 per cent).⁴
3. A lot of myths exist about the arrival of the Sinhalese in the country. They are said to have come from Bengal approximately 2,500 years ago. It is important to differentiate between the Low-country Sinhalese in the south (around Colombo) and west and the Up-country Sinhalese, who live around Kandy. While the former were subjected to the colonization process, the latter kept their independence as a kingdom up to 1815 when the British conquered the Up-country. It was only in 1833 that Sri Lanka came under a unified administration for the first time.⁵
4. The 18% Tamil population equally falls into two categories. 12.6% belong to the Sri Lanka or Ceylon Tamils, living in the north and east of the country. Their ancestors came to the country from Tamil Nadu in Southeast India mainly as fishermen. The remaining 5.6% Indian Tamils immigrated after 1860, and were predominantly brought to Sri Lanka by the British rulers in order to work on the plantations in the Kandy hills in the central region.⁶
5. Colonial-era language policies favoring Tamils and other minorities over the Sinhala-speaking majority contributed to communal tensions that continued after independence.⁷ In 1956, the government made Sinhala the only official language of

¹ This UNHCR/CDR Background Paper on Sri Lanka is an update of previous background papers from November 1994, March 1997, March 1999, and June 2001. These papers, as well as all UNHCR and United Nations documents and the majority of documents cited in this paper may be found on the "Refworld 2003" CD-Roms (Issue 11) and online at www.unhcr.ch/refworld/, as well as at their respective websites, as indicated in the bibliography.

² The Economist Fact Sheet, Country Briefings – Sri Lanka, 5 December 2003.

³ Sri Lanka Government, *Population Statistics from 2001*, Updated January 2004 (www.statistics.gov.lk)

⁴ Sri Lankan Government statistics, 9 December 2003 (www.priu.lk/www.priu.gov.lk/FourCountry/Indextc.html)

⁵ UNHCR/ACCORD: 7th European Country of Origin Information Seminar, June 2001

⁶ UNHCR/ACCORD: 7th European Country of Origin Information Seminar, June 2001

⁷ Freedom House, *Freedom in the world 1999-2000*, Sri Lanka, October 2000



Sri Lanka precipitating antagonism between the Tamils and the Sinhalese. Sri Lanka now recognizes both Sinhala and Tamil as official languages, and English is the national link language.⁸ Sinhala is spoken by more than 70 per cent of the population. Tamil was made the country's second official language in 1988.⁹ Some three million people in Sri Lanka speak Tamil.¹⁰

B. Socio-Economic Situation

6. Though severely restrained by the last two decades of conflict, Sri Lanka has managed to reduce the infant mortality rate from 48 to 17 deaths per 1,000 live births and increased average life expectancy at birth from 67 to 73 years during the period 1970-2001.
7. Nevertheless, Sri Lanka is a low-income country, and the gross domestic product per capita is approximately USD 880. Twenty five percent of the population still lives below the poverty line and human deprivation in conflict-affected areas is particularly high. Among the poorest households, only 38 percent have electricity, 55 percent sanitation, and 61 percent access to safe drinking water. These conditions discourage economic growth in poorer areas and exacerbate inequality within the country.¹¹
8. The service sector is the largest component of GDP (54%). In 2003, the service sector continued its strong expansion, fuelled primarily by strong growth in telecom and financial services. Public administration and defence expenditures have remained large. Tourism is a significant contributor to the economy, although it has not reached full potential due to continued worries about the conflict.¹²
9. Agriculture accounts for 20 % of GDP and provides an income to 33 % of the population. Tea, rubber and coconut are the dominant export industries. Rice dominates the non-plantation agricultural sector and accounts for one-fifth of total agricultural output. However, many of the people are subsistence farmers. In recent decades, manufacturing has also contributed for much of the country's economic growth.
10. Repatriated earnings of Sri Lankans working abroad continue to be strong. About 800,000 Sri Lankans work abroad, 90% in the Middle East. They send home about \$1 billion a year.¹³
11. Sri Lanka was one of the first developing countries to adopt a program of economic liberalization in conjunction with a structural adjustment program. These reforms, sustained over more than 20 years, have been strengthened over the last few years with an accelerated program of privatization, reform of the public service and greater liberalization of current and capital account transactions on the balance of payments.¹⁴ However, the civil conflict, which lasted for over two decades, drained resources to

⁸ Facts on File News Service, *Country Profile: Sri Lanka*, 2000

⁹ Europa Publications Limited, *The Europa World Yearbook*, Vol. II, March 2000

¹⁰ Barbara F. Grimes ed., *Ethnologue – Sri Lanka*, Summer Institute of Linguistics, 13th Ed., 1996.

¹¹ World Bank, *Sri Lanka Country Brief*, July 2003

¹² US State Department, *Sri Lanka Briefing Notes*, August 2003

¹³ Country Reports, Sri Lanka, July 2003

¹⁴ Regional Surveys of the World, Europa Publications, 2001

finance military activity and discouraged investment, acting as a major constraint on economic progress.¹⁵

12. In 2002 Sri Lanka's economy showed signs of recovery with a 2.5% growth in GDP during the second quarter of 2002. This revival could be attributed to the cease-fire agreement between the Government and the Liberation Tigers of Tamil Eelam (LTTE), normal weather conditions, uninterrupted power supply, recovery in exports, improved external trade, tourism and port activities, and restored investor confidence.¹⁶
13. In the spring of 2003 the forecasters at the Economist Intelligence Unit predicted that economic growth would be 5.5% in 2003, and that inflation would further decrease, having already gone down from almost 14% at the start of 2002 to some 10% at the end.¹⁷
14. Another concrete sign of external faith in the reconstruction efforts and the peace process was the donor conference held in Tokyo on 9-10 June 2003. More than US\$ 4.5 billion was pledged by the 52 participating nations (to be distributed over a four-year period), albeit most of the pledges were conditional on measurable progress in the peace process. The Conference encouraged the Government and the LTTE to discuss a provisional administrative structure to manage the reconstruction and development aspects of the transition process and to reach an agreement on a phased, balanced, and verifiable de-escalation, de-militarization and normalisation process.¹⁸
15. The optimistic forecasts, however, were dampened by the declaration of a state of emergency in November 2003 (see current political context), halting foreign investment and reminding investors of the fragile ground on which the growth has occurred. The situation remains unstable and the budget deficit of almost 10% of national output is proving hard to bridge.

C. Institutions of the State and Government

16. The President is the Head of State and exercises all executive powers. Under the 1978 Constitution, the President is elected by popular vote for a six-year term and must receive at least 50 per cent of all votes cast. The President is eligible for re-election after the first term.¹⁹ The president appoints the Prime Minister and members of the cabinet, and may dismiss parliament at will.²⁰ The current President is Mrs. Chandrika Bandaranaike Kumaratunga of the People's Alliance (PA), who was sworn in on 12 November 1994 and re-elected on 21 December 1999. The present Prime Minister is **Hon. Mahinda Rajapakse** (appointed on 6 April 2004) from the People's Alliance.
17. There is a unicameral legislature, composed of 225 members directly elected for six years by a system of modified proportional representation. According to the present constitution, the President has the right to dissolve Parliament and call for new elections before the end of the six year term, however not before the Parliament has

¹⁵ Ibid.

¹⁶ The Daily News, *Peace Process sparks economic recovery*, 1 October 2002

¹⁷ BBC, *Peace Pays in Sri Lanka*, March 18, 2003

¹⁸ The Tokyo Declaration on Reconstruction and Development of Sri Lanka, June 10 2003, p. 3

¹⁹ US State Department, *Country Report on Human Rights Practices—Sri Lanka 2002*, released March 2003

²⁰ Facts on File News Service, *Country Profile: Sri Lanka*, 2000.



sat for a full year. The last parliamentary elections took place in April 2004, following a political power-struggle between the President and then Prime Minister Ranjil Wickramasinga.

18. There are nine directly elected Provincial Councils and 24 administrative districts. Under the 13th amendment to the Constitution, passed in November 1987, extensive powers were devolved to the provincial councils, primarily with a view to meeting Tamil demands for greater autonomy.²¹

1. The Police and Security Forces

19. The Ministry of Interior controls the 60,000-member police force, which is responsible for internal security in most areas of the country, and has been used in military operations against the LTTE. The police paramilitary Special Task Force (STF) was also involved in the conflict.²²
20. In December 2003, the President announced that the administration of the police would be removed from the Ministry of Interior and fall under a newly created separate Ministry of Internal Security.²³ The new set-up of the Government following the April 2004 Parliamentary elections is not yet clear, and at present the President is in control of the Ministry of Interior.
21. The security forces fall under the Ministry of Defense. Before the peace process took place the 120,000- member army, which includes the Army Volunteer Force, the 17,000-member navy and 18,500-member air force bore principal responsibility for conducting operations against the LTTE.²⁴
22. The 15,000-member Home Guards, an armed force drawn from local communities and responsible to the police, provide security for Muslim and Sinhalese village communities in or near the conflict zone. During the conflict the Government also armed and directed various Tamil militias opposed to the LTTE, although at times these groups acted independently of government authority.²⁵
23. During the conflict both the security forces and the police were severely criticized by the UN Special Rapporteur on Civil and Political Rights, The UN Special Rapporteur on Torture and the UN Special Rapporteur on Women for extra-judicial killings, enforcing silence on the existence of mass-graves, 'disappearances', torture, including gang-rape and large-scale sexual and gender based violence against civilians.²⁶ In November 2003 the UN Committee on Human Rights stated that it remained concerned about persistent reports of torture and cruel, inhuman or degrading

²¹ EIU, *Country Report – Sri Lanka*, May 2001,

²² US State Department, *Country Report on Human Rights Practices– Sri Lanka 2002*, released March 2003

²³ Daily News, *Defence Portfolio Fattens*, 24 December 2003

²⁴ US State Department, *Country Report on Human Rights Practices– Sri Lanka 2002*, released March 2003

²⁵ US State Department, *Country Report on Human Rights Practices– Sri Lanka 2002*, released March 2003

²⁶ E/CN.4/2000/3/Add.1, Civil and political rights including questions of: disappearances and summary executions. Report of the Special Rapporteur, Ms. Asma Jahangir, E/CN.4/2000/9, Civil and Political Rights including Questions of Torture and Detention and United Nations Press Release, 14 March 2000.

treatment or punishment of detainees by law enforcement officials and members of the armed forces.²⁷ (See more under section on human rights).

24. The LTTE's Tamil Eelam "Police Force" has been in existence since 1991, and there are at least 16 such police stations in the LTTE controlled area. The LTTE also commits unlawful killings, and continues to be responsible for disappearances, torture, arbitrary arrest, detentions, and extortion.²⁸

D. Main Political Parties²⁹

25. The **United People's Freedom Alliance (UPFA)** is the name given to the new alliance between the Janatha Vimukthi Peramuna (JVP) and the People's Alliance (PA) who contested together in the 2004 elections. The **People's Alliance (PA)** is led by the Sri Lanka Freedom Party (SLFP) of Chandrika Kumaratunga. The alliance gained 105 seats in parliament in 2004, of which the JVP obtained 40 seats whilst the remaining 65 seats were acquired by the PA. This number is 8 seats short of requisite 113 needed to ensure a majority in parliament. There has been much speculation about the EPDP joining the alliance, but as they only obtained one seat, the present coalition is still short of a majority, making it difficult for the Parliament to act efficiently.
26. Solomon Bandaranaike founded the **Sri Lanka Freedom Party (SLFP)** in 1951. The SLFP won the general elections in 1956. Defeated in 1965, it returned to power between 1970 and 1977, conducting a program of socialist reforms. The party originally championed the Sinhalese majority. Since 1960, after the assassination of then Prime Minister Bandaranaike, his widow, Mrs. Sirimavo Bandaranaike, headed the party becoming the world's first elected woman Prime Minister. Her daughter, Mrs. Kumaratunga, succeeded as leader of the SLFP and continues as President of Sri Lanka.
27. The **Janatha Vimukthi Peramuna (JVP or People's Liberation Front)**, formed in 1964, is a Sinhalese Marxist party, which unleashed violent insurrections in 1970 and in 1988. They have twice tried to overthrow an elected parliament by violent, non-parliamentarian means. However, after having been effectively disarmed by the Sri Lankan security forces, between September 1989 and January 1990, the JVP re-organized itself as a legitimate political party. It won seats in the provincial council elections in 1999 and later in the 2000 and 2001 parliamentary elections. For the 2004 elections it formed an alliance with the PA and subsequently won 40 seats, drawing support from the rural areas. A militant Sinhalese group associated with the JVP is the Deshapriya Janatha Viyaparaya (DJV).
28. The **United National Party (UNP)**, founded in 1946, held power from independence to 1956, from 1965 to 1970, from 1977 to 1994 and from December 2001-February 2004. It has been the party of liberal economics and of ethnic parity. In December 2001 the party led a coalition called the **United National Front**, which obtained 109

²⁷ UN Human Rights Committee CCPR/CO/79/Sri Lanka, *Consideration of reports submitted by State parties under article 40 of the Covenant*, November 2003

²⁸ Among others: US State Department, *Human Rights Report - Sri Lanka*, 18 March 2003

²⁹ The following sources have been consulted for this paragraph: EIU, *Country Profile - Sri Lanka*, 2000; Regional Surveys of the World, *The Far East and Australasia 2001*, Europa Publications, 2001; UK Home Office Country Information and Policy Unit: *Sri Lanka Country Report - Sri Lanka*, October 2003.

seats in Parliament, defeating the ruling People's Alliance (PA) headed by the President, who came second with 77 seats.³⁰ As the leader of UNP, Ranil Wickremasinghe became the new Prime Minister in December 2001 and the subsequent cease-fire and peace talks that followed has largely been attributed to the UNP government. However, the UNP, lost the 2004 elections and now forms the main opposition party with 82 seats. Eight of these seats belong to the Ceylon Workers Congress (CWC) as they contested this election under the UNP on the understanding that they had the freedom to choose which party they will be affiliated to once the election was completed. There is currently much speculation as to whether the CWC will remain with the UNP or join the UPFA.

29. The **Ilankai Tamil Arasu Kachchi**, or Tamil National Alliance, was openly backed by the LTTE during the elections in April 2004. The party has stated that they will not align themselves with any party as they want to be seen as the sole political representatives of the Tamils of the North and East. This party is expected to function as the deciding factor in parliament - if all 22 were to vote in favour of and/or against a particular issue in parliament they could swing the vote either way. However, shortly after the election results were announced, many reports indicated that 18 of the TNA MPs had signed resignations stating that they will not participate in the Parliamentary process as they want to ensure that an interim administration is established prior to being political active. However, the TNA has since then participated in the parliamentary process.
30. The **Jathika Hela Urumaya** (the Buddhist clergy) is a new party formed prior to the 2004 elections. They have clearly stated that they will not support either party in Parliament, although they have offered their support to the Alliance on certain issues. They wish to remain an independent voice in Parliament to ensure that the values enshrined in the teachings of Lord Buddha are adhered to and to ensure that "the right thing" is done by the Government.
31. The **Ceylon Workers' Congress (CWC)**, founded in 1939, is the most powerful trade union-dominated political party of the so-called "Up-Country Tamils" (Tamils of Recent Indian Origin, see V. Vulnerable Groups, A.3). During the former Government they were aligned to the UNP, and contested the 2004 elections together with the UNP. The CWC won 8 seats in the elections. Prior to the elections, the party has clearly stated that they would be willing to form alliances with any party in power prepared to act for the benefit of the "Up-Country Tamils". The CWC is mainly supported by the tea-plantation workers, some of whom were recently granted Sri Lanka citizenship.
32. The **Sri Lanka Muslim Congress (SLMC)** (for a short period also called National Unity Alliance, was created in 1986 to promote the interests of the Muslim population in Sri Lanka. It won five seats in the December 2001 and in the April 2004 elections. It continues to be the main political channel for the Muslim population. The SLMC has argued to be recognized as a separate entity in the peace talks in order to safeguards their interest during the peace process. So far, this demand has been rejected by both the Government and the LTTE.

³⁰ BBC News Online, *Opposition asked to lead Sri Lanka*, 7 December 2001



to move forward with peace talks, the organisation is still considered a terrorist organisation and banned in the UK and USA.

43. The LTTE runs a parallel administration to that of the elected government. The political wing of the LTTE, founded in 1989, is the People's Front of the Liberation Tigers (PFLT). Through the ongoing peace process the LTTE has obtained some credibility as a "partner", but it continues to abuse and misuse the power it has over the people it controls.
44. In 2002 and 2003 the LTTE reportedly committed several unlawful killings, and was responsible for disappearances, torture, arbitrary arrest, detentions, and extortion. According to human rights groups such as Amnesty International and Human Rights Watch, the tradition of killing of political opponents (both Tamil and Singala) continues.
45. Evidence suggests that since the signing of the MOU, ex-LTTE members as well as members of other political Tamil organisations are increasingly at risk of being detained by the LTTE³¹.
46. The Eelam People's Democratic Party (EPDP) and Eelam People's Revolutionary Liberation Front (Varathar) EPRLF(V), at present the LTTE's two main political opponents, have together lost thirty-two members or supporters killed or missing since the signing of the MOU. This includes persons who had ceased active political involvement with the parties. The People's Liberation Organization of Tamil Eelam (PLOTE) has had at least fifteen members or former members killed or injured in the same time period. On May 13 2003 a single grenade attack on a volleyball game in front of the PLOTE office in Batticaloa killed five and injured six. TELO (Varathan), a breakaway unit of the Tamil Eelam Liberation Organization that worked with the elite police Special Task Force in eastern Sri Lanka, has reportedly had at least four members killed or missing.³²
47. Some persons who are fleeing the LTTE are likely to carry a LTTE letter (with signature, emblem and official stamp) summoning them to report to a specific camp at a set time and date. Persons carrying these letters who have not adhered to any of the summons are at risk of prolonged detention and in some instances, their lives. In these cases national protection has proven to be inadequate and in some cases these persons have sought international protection either through fleeing the country or through foreign embassies in Colombo.
48. In addition, the LTTE denies those under its control the right to change their government, does not provide for fair trials, infringes on privacy rights, and uses child soldiers, and discriminates against ethnic and religious minorities.³³ The LTTE also administers a parallel system of justice, including police, judiciary, detention centers and even a law faculty. Interestingly no laws can be approved without the blessing of the 'National Leader'. (See more under National Legal Context).

³¹ Human Rights Watch briefing paper on 7 August 2003 (<http://hrw.org/backgrounder/asia/srilanka080603.htm>) and Amnesty International Open Letter to the LTTE on 12 August 2003 (www.amnesty.org/library/Index/ENGASA370032003)

³² Human Rights Watch briefing paper on 7 August 2003 (<http://hrw.org/backgrounder/asia/srilanka080603.htm>)

³³ US State Department, *Country Report on Human Rights Practices—Sri Lanka 2002*, released March 2003

49. On 3 March 2003, a long-standing rift between the LTTE in the East and the LTTE in the North gained public attention when the second in command of the LTTE, V. Muralitharan, better known as Col. Karuna, broke away from the LTTE. In an open letter accused the LTTE leadership based in northern Sri Lanka of ignoring the interests of Tamils in the east, who put up much of the fighting force in the Tigers' three-decade campaign for a separate Tamil homeland. The rift was also said to originate from the fact that most of the senior leaders within the LTTE originate from the North and that many more LTTE cadres from the East have fought (and been killed) in the North than vice-versa. The stand-off between the two factions gained international attention and, amongst others, the BBC World Service reported that Karuna's faction had gathered more than 5,000 cadres from the East.³⁴
50. On 9th of April, the "main" LTTE faction launched an attack from the north-eastern port district of Trincomalee and quickly regained control over the town of Vakarai and several key coastal bases of the Col. Karuna. Karuna's breakaway faction withdrew to a point where security forces had unwittingly been placed right between the two warring factions.³⁵ Karuna's faction said nine of its fighters were killed and 10 wounded while another 300 surrendered or were captured by the main Tiger group. Military sources, however, placed the number of fatalities on both sides at about 20. At least two civilians -- an ambulance driver and a paramedic -- were also killed in the crossfire.³⁶
51. During the conflict, which only lasted for three days, over 11,000 persons were displaced from their homes in as they took "preventive" measures to move their families into safety. However, only a small number of those displaced took refuge in schools and public building. International organizations and the Sri Lankan army, who did not get involved in the conflict within the LTTE, assisted these persons.
52. One of the main results of the conflict was that over 2,000 recruits, of which over 50 % were children, who had been under the control of the LTTE's Eastern fraction were released or ran home. These recruits later approached international organizations seeking protection from forced re-recruitment (see chapter on recruitment).
53. The Tamil Rehabilitation Organization (TRO) is the "humanitarian" part of the organization and frequently claims to represent all Tamils. In the LTTE controlled areas the TRO acts as an umbrella organization and NGO's trying to set up offices in these regions complain that their programs are controlled and that they are unable to visit beneficiaries without the presence of TRO staff.

II. Political Developments

A. Major Political Developments leading up to the Peace Agreement

54. For more than two decades Sri Lanka was caught up in a civil conflict where at least 64,000 people have lost their lives.³⁷ The immediate origins of the conflict lie in

³⁴ BBC World Service, reporting on inter-Tamil fighting, 5 March 2003

³⁵ AFP, Sri Lanka Tigers in fresh offensive to remove renegades, 11 April 2004

³⁶ AFP, Sri Lanka Tigers in fresh offensive to remove renegades, 11 April 2004

³⁷ Keesing's Record of World Events, *Government Offensive*, Vol. 47, January 2001.

attempts by a Sinhalese dominated government in 1956, to reverse what was seen as the excessive influence of Tamils during the colonial era. Over the years, the failure of Tamil political parties to attain their aims by peaceful means led to demands for an independent Tamil state, to be known as Eelam – corresponding to the northern and eastern provinces, and to the formation of terrorist groups dedicated to achieving this goal.³⁸

55. One of the major points of controversy between successive Sri Lankan governments and the Tamils has been the question of the devolution of authority to regional units of administration. Some attempts to placate Tamil demands for greater regional powers were made in the past; including the establishment of 24 district councils elected in 1980, several proposals brokered by the Indian government since the early 1980s, and the 13th amendment to the Constitution establishing a system of provincial councils³⁹, and the devolution package proposed in 1997 by President Kumaratunga. However, from 1997 to the last election in December 2001 the process was essentially blocked with the Tamil separatist groups continuing to press for a single Tamil regional unit while the LTTE would accept nothing short of a separate Tamil state. A resolution was hard to achieve, also partly because a separatist state was also advocated for by Tamils living abroad and a strong sense of Tamil ethnic identity in the southern Indian state of Tamil Nadu.⁴⁰
56. In the years leading up to the peace agreement, the Tamil Tigers reacted against the increased military pressure from government troops by stepping up terrorist attacks on economic and civilian targets on the island. These included the bombing of the Central Bank, hotels and office complexes in Colombo's financial district, power stations, buses and trains and a sacred Buddhist temple in Kandy.⁴¹ In response, security forces arbitrarily detained and sometimes tortured thousands of young Tamils in security sweeps. The Tamil Tigers have also assassinated several political figures, including several moderate Tamil politicians, who had sought a compromise settlement that would have kept Tamil areas within Sri Lanka's borders.⁴²
57. Since UNHCR's latest country of origin information dates back a few years, a short overview of main events leading up to the peace agreement is given below.
58. In March 1999, the Sri Lankan army launched an offensive in the areas controlled by the LTTE in the Mullaitivu district of the Northern Province. The offensive, code-named 'Operation Rana Gosa' (Operation Sound of War), was to continue intermittently during 1999, along with other minor operations in the Northern Province, and had as an objective to reduce the area under the effective control of the LTTE.⁴³

³⁸ Please see previous UNHCR Background Papers on Refugees and Asylum seekers from Sri Lanka (1997,1999,2001)

³⁹ The northern and eastern provinces were merged into a single north-eastern province, pending a referendum, which has yet to be held, to decide whether the union should be permanent.

⁴⁰ Regional Surveys of the World, under "The Regional Dimension", Europa Publications, 2001

⁴¹ EIU, *Country Profile – Sri Lanka*, 2000

⁴² Lawrence Sáez, Sri Lanka in 2000, *Asian Survey*, Vol. XLI, No. 1, January/February 2001, and Freedom House, *Freedom in the World 1999-2000: Sri Lanka*, 2000. [Internet]

⁴³ Reuters News Service, *Sri Lanka Army Takes Rebel Area in New Offensive*, 7 March 1999. [Internet]

59. In July 1999, a suspected LTTE suicide bomber assassinated, in Colombo, the vice president of the TULF, Neelan Tiruchelvam, a leading peace campaigner and human rights activist. On 18 September 1999, the LTTE killed more than 50 civilians, near Ampara, allegedly in retaliation for the air force bombing of Puthukkudiyiruppu, which killed over 20 civilians and wounded 40 others. In November the same year, at least 37 civilians were killed in fighting at the Madhu Church during an exchange of shelling between Sri Lankan army and LTTE troops.⁴⁴
60. At the presidential elections, in December 1999, President Kumaratunga was re-elected for a second term in office, with 51.12 per cent of the vote. The leader of the UNP, Mr. Ranil Wickremesinghe, obtained 42.71 per cent of the vote. President Kumaratunga confirmed her mother, Mrs. Sirimavo Bandaranaike, as Prime Minister.⁴⁵ The campaign for the presidential elections was affected by the fights between the Government and the LTTE that inflicted a series of defeats on the Sri Lankan army, in Mannar early in September 1999⁴⁶, and in the north-eastern Vanni district, in October and November. As a result the LTTE regained control of large areas of territory that the government had secured between 1995 and 1997.
61. Neutral observers and the UNP candidate made allegations of widespread electoral violence, blatant malpractice and vote-rigging.⁴⁷ Earlier in December, President Kumaratunga escaped an assassination attempt by a suicide bomber, attributed to the LTTE, at a campaign rally in Colombo, killing 21 people and injuring 110. Almost simultaneously, a bomb killed 12 people and injured 70 others, at a rally in Colombo addressed by the opposition leader.⁴⁸
62. In her inaugural speech, the President called on Mr. Wickremesinghe and the UNP opposition to support her pursuit of peace, and expressed her willingness to talk to the LTTE as long as they renounced terrorism and secession. The LTTE leader, Vellupillai Prabhakaran, accused the President of being insincere, but maintained his willingness to enter into negotiations as long as "a situation of normality free from military aggression, occupation and economic strangulation of the Tamil nation" was guaranteed.⁴⁹
63. However, violence continued throughout 2000 with several assassinations and suicide attacks followed by the imposition of an all night curfew in Colombo.⁵⁰ Despite the violence, the Government of Norway accepted a request from the President and the LTTE to serve as mediator for the peace process and appointed Mr. Erik Solheim, as its peace envoy.
64. The hopes of a breakthrough were short-lived as fierce fighting for control of land access to the northern Jaffna peninsula intensified. In April 2000 the LTTE forced the Government troops to retreat from the heavily guarded Elephant pass, which commands the only land route into the peninsula.⁵¹ The Government of Sri Lanka

⁴⁴ USDOS, 2000 Country Report on Human Rights Practices – Sri Lanka, 26 February 2001.

⁴⁵ Facts On File News Service, Country Profile: Sri Lanka, 2000.

⁴⁶ The Economist, *Sri Lanka: Cries of Battle*, 25 September 1999.

⁴⁷ Regional Surveys of the World, Europa Publications, 2001

⁴⁸ Keesing's Record of World Events, *Injuries to Kumaratunga in Bomb Blast*, Vol. 45, December 1999.

⁴⁹ Paikiasothy Saravanamuttu, Sri Lanka in 1999, *Asian Survey*, Vol. XL, No. 1, January/February 2000

⁵⁰ See Background Paper on Refugees and Asylum seekers from Sri Lanka, pp 10-14 UNHCR, June 2001

⁵¹ Keesing's Record of World Events, *Heavy Fighting in Jaffna*, Vol. 46, September 2000.

responded to the escalating military crisis by imposing draconian security measures and giving sweeping powers to the armed forces and police. By mid-June, the LTTE advance, buoyed up by the capture of the Elephant Pass, had lost its early momentum and its threat to the government's control over Jaffna town and the Jaffna peninsula had clearly receded. By mid-September the army successfully compelled the LTTE to move out of some of the towns in the vicinity of Jaffna, and from Jaffna to the Vanni district, including Chavakachcheri, the second largest town in the Jaffna peninsula, and the naval base of Kilaly.⁵² However, on 29 September, it was reported that rebel counter-attacks had regained some lost ground.⁵³

65. In August 2000, Prime Minister Bandaranaike resigned, clearing the way for her daughter to appoint a successor who could campaign vigorously for the PA coalition in the run up to parliamentary elections. The parliamentary elections were held on 10 October 2000 and the ruling PA coalition won the highest number of seats (107). However, the PA had to seek the support of the moderate Tamil Eelam People's Democratic Party (EPDP) and the National Unity Alliance (NUA), a breakaway faction from the SLMC, to form a fragile coalition government with a combined total of 116 seats. The main opposition party, the UNP, won 89 seats. There were widespread allegations of electoral fraud, particularly concerning the PA and the EPDP. The election campaign was characterized by violence. The Center for Monitoring Election Violence reported 1,726 violent incidents in which at least 71 people were killed. In addition the LTTE conducted attacks on PA campaign rallies by suicide bombers in which at least 41 people died. In spite of the violence, voter turnout was reported to be as high as 80 per cent, and the teams of election monitors from the European Union concluded that despite local aberrations the electoral process was broadly free and fair.⁵⁴
66. On 25 October 2000, a Sinhalese mob attacked a detention camp for former LTTE soldiers at Bindunuwewa, near Bandarawela, killing 29 inmates. The state-controlled radio claimed that the prisoners had been planning a mutiny; the LTTE alleged that the massacre had been planned in collaboration with the security forces. In the following days, the police imposed a curfew in the area to control the escalating violence between Tamils and Sinhalese.⁵⁵ The Government ordered an inquiry into the event and in 2002 formal charges were brought against 41 people allegedly involved, of whom 19 were policemen.⁵⁶ In July 2003 two police inspectors and three local residents were sentenced to death for their involvement in the killings. The trial was seen as swift according to Sri Lankan standards and seen as a victory for human rights campaigners fighting against the impunity of the security forces.⁵⁷
67. On 27 November 2000, the leader of the LTTE, Mr. Prabhakaran, offered peace talks without preconditions with the Government of Sri Lanka. The proposal followed earlier contacts between the Norwegian peace envoy, Mr. Solheim, and Mr. Prabhakaran. While stating to be willing to attempt to reach a negotiated peace,

⁵² Regional Surveys of the World, Europa Publications, 2001

⁵³ Keesing's Record of World Events, *Heavy Fighting in Jaffna*, Vol. 46, September 2000.

⁵⁴ Keesing's Record of World Events, *Vote-Rigging and Electoral Violence*, Vol. 46, October 2000.

⁵⁵ Keesing's Record of World Events, *Massacre in Tamil Detention Camp*, Vol. 46, October 2000.

⁵⁶ Reuters News Service: 41 indicated in Bindunuwewa camp massacre: 27 March 2002

⁵⁷ BBC Online: Police face death for Tamil murders, 1 July 2003



President Kumaratunga did not give an immediate response to the offer.⁵⁸ The LTTE nevertheless announced a month long cease-fire, which was extended to April 2001.

68. During the unilateral cease-fire, the Sri Lanka Army began an offensive on the Jaffna peninsula in an attempt to recapture the strategic Elephant Pass lost to the LTTE in April 2000. The offensive continued throughout the first months of 2001.⁵⁹
69. The observance of the cease-fire by the LTTE might have been an attempt to prevent the British government from banning the group as a terrorist organization and to seek to convince Western governments that the Government of President Kumaratunga was not sincere in its declared desire for peace.⁶⁰ This was unsuccessful as the British House of Lords approved an amendment to the Terrorism Act in March 2001 ratifying the proscription of the group in the country. The LTTE was believed to have relocated many of the functions of the group's international secretariat in London to its jungle base in the Vanni in Sri Lanka ahead of the ban taking effect.
70. On 25 April 2001, the government launched operation 'Agni Kela' (Ray of Fire), reportedly in a pre-emptive strike against the LTTE, in case the rebels used the cease-fire as an opportunity to rearm and regroup. The move is also believed to have aimed at weakening the Tamil Tigers in order to compel them to enter talks without setting further conditions. However, the government under-estimated the Tamil Tigers' strength, and ended the operation few days later, after suffering a high number of casualties.⁶¹

B. The Peace Process

71. Following the elections on 5 December 2001, control of the Parliament changed from the Peoples Alliance Coalition, which had governed since 1994, to the UNP coalition, who claims to have gained power by promising to bring peace to the Island. Strong support for the government party in the March 2002 local elections was generally seen as endorsement of the peace process. A poll conducted by the Social Indicator in February 2003 confirmed that an overwhelming majority (83.7%) of Sri Lankans believed peace could be achieved through peace talks.⁶²
72. On 25 December 2001 the new government of Sri Lanka reciprocated an earlier announced cease-fire by the LTTE. In an unexpected move, they also removed most barriers, barricades and checkpoints in Colombo only a few days after the commencement of the cease-fire. Residents of Colombo were free to move around unimpeded for the first time in seven years and the reports of major identity checks and arrest carried out in the Tamil areas of the city reduced significantly.
73. In January 2002, the government announced a major easing of an economic embargo on rebel-held areas in the north of the country, a key demand of the LTTE. A Defence Ministry statement said that nearly all goods could be traded, including food and medicines, apart from a small number of items such as arms, explosives and binoculars.

⁵⁸ Keesing's Record of World Events, *Offer of Peace Talks by Tamil Leader*, Vol. 46, November 2000.

⁵⁹ *Ibid*, *Government Offensive*, Vol. 47, January 2001

⁶⁰ EIU, Country Report – Sri Lanka, February 2001

⁶¹ The Economist, Sri Lanka: *Tiger Teeth*, 5 May 2001

⁶² Government of Sri Lanka, *Poll on Support of the Peace Talks*, 24 March 2003



At the same time restrictions were eased on the movement of civilians in and out of Vavuniya. The government made it easier to obtain passes and lifted the requirement of a guarantee for those seeking permits for longer stays.⁶³

74. On 22 February 2002, the government and the LTTE signed a formal Cease Fire Agreement (CFA). The preamble to the agreement states the overall objective is to find a negotiated solution to the ongoing ethnic conflict in Sri Lanka. Article 1 deals with an end of hostilities, separation of forces and the movement of the forces. Article 2 outlines measures to restore normalcy, including that, in accordance with international law, both parties abstain from hostile acts against the civilian population, including torture, intimidation, abduction, extortion and harassment. Furthermore both parties agreed to refrain from engaging in activities or propagating ideas that could offend cultural or religious sensitivities; review security measures and vacate occupied public buildings; ensure that arrests be conducted under due process of law in accordance with the Criminal Code and provide family members with access to those detained. The MOU also established the Sri Lankan Monitoring Mission to enquire into any violations of the agreement.⁶⁴
75. Several changes in every-day life during the subsequent months helped build public confidence in the peace-process. The easing of restriction of movements of goods, the LTTE's cultural wing holding (undisturbed) rallies in government controlled areas, the fact that captured LTTE cadres were sent back to the LTTE check-points as opposed to "rehabilitation centres" all contributed to build a positive momentum. One of the most noticeable, concrete achievements was the enhanced freedom of movement throughout Sri Lanka, which meant families could visit relatives, cultural sights became accessible and domestic airlines and tourist business opened up (see section on Freedom of movement).
76. On 29 July 2002, the SLMM issued a statement expressing their satisfaction with the progress of the cease-fire agreement, mentioning that the Sri Lankan Government and LTTE were getting closer to lasting peace. The statement went on to say that both parties had successfully refrained from military operations during the cease-fire, most fishing restrictions had been removed and freedom of movement for both parties and the public had been greatly enhanced, among other benefits.⁶⁵
77. On 4 September 2002, the government lifted its proscription on the LTTE, setting the way for peace talks. Six rounds of peace talks between the Government and the LTTE were held between September 2002 and March 2003. During the first round of talks the parties agreed to negotiate about the return of internally displaced and refugees to government-designated high-security zones, the rebuilding of the north and east, and landmine clearance.⁶⁶ According to Sri Lankan newspapers the LTTE announced at the end of the first round of talks that they were negotiating only for autonomy, and that fighting for an independent Tamil State would be a last resort.⁶⁷

⁶³ BBC News, *Sri Lanka eases Tamil embargo*, 2 January 2002.

⁶⁴ MOU between the Liberation Tigers of Tamil Eelam and the Government of the Democratic Socialist Republic of Sri Lanka, 22 February 2003.

⁶⁵ Reuters News Service, *Truce monitors applaud progress towards peace*, 30 July 2002.

⁶⁶ BBC News, *Sri Lanka's successful talks*, 19 September 2002.

⁶⁷ Daily News, *Willing to settle for regional autonomy. LTTE renounces demand for Eelam*, 19 September 2002.

78. Despite the progress, there were occasional back-lashes. In October 2002, 10 people were killed in eastern Sri Lanka in clashes. The head of the SLMM blamed irresponsible and destructive elements that were trying to destabilise the peace process.⁶⁸
79. During the second round of talks in November, it was decided that three committees would be set up to examine rehabilitation needs in war-hit areas, to push for military de-escalation, and to look at political questions at the heart of the 19-year civil war.⁶⁹ The first two meetings of the representatives of the Government and the LTTE to the Sub-committee on Immediate Humanitarian and Rehabilitation Needs in the North and East ["SIHRN"] took place in Kilinochchi, Sri Lanka, on 18 November 2002 and 15 December 2002. Also, the first two meetings between the Government and LTTE representatives to the Sub-committee on De-escalation and Normalisation ["SDN"] were held on 10 November 2002 and 14 December 2002.
80. At the end of the third round of peace talks in December 2002, it was announced that the Sri Lankan Government and the LTTE had agreed to share power in a federal system. Norwegian mediators said that the two sides had agreed on "internal self-determination based on a federal model within a united Sri Lanka". Under the deal, Tamils would have autonomy in the largely Tamil-speaking north and east of the country. However, for this to become reality, Parliament would have to approve changes to the Constitution, requiring a two-thirds majority.⁷⁰
81. The fourth round of peace talks in January 2003 focused on the humanitarian aspects of the post-conflict situation. An action plan for the resettlement of Jaffna was agreed upon. The first phase of settlement would be outside the High Security Zones (HSZs) (maintained by the Sri Lankan Army), the second phase within the HSZs. According to the plans some 90,000 families comprising nearly 320,000 people would be able to return to Jaffna. Significantly, the Government's chief negotiator also recognised that the Tamil people "have an unconditional right to resettle in their native places".⁷¹
82. In addition, both parties agreed to receive expertise from Ian Martin, the former boss of London-based Amnesty International, on improving human rights conditions on both sides.⁷²
83. One possible contributing factor to the progress made during the peace talks was the accompanying pledges made by several governments, including Japan, the EU, the UK, and the US. In a donor conference in Norway, in November 2002, more than US 70 million was pledged. During the peace talks it was agreed that the World Bank would be the custodian of the funds and administer a trust fund for the rehabilitation of the north and east of the country.⁷³

⁶⁸ BBC, *Norway to meet Tamil rebel leader*, 16 October 2002

⁶⁹ Government of Norway, *Peace talks between the Government of Sri Lanka and the LTTE - Significant steps to restore normalcy, improve security and address political matters*, 7 November 2002

⁷⁰ BBC, *Sri Lanka peace breakthrough*, 5 December 2002

⁷¹ Government of Sri Lanka, *High Security Zone dispute settled: Government, LTTE agree to settle civilians outside security zones*, 8 January 2003

⁷² Government of Sri Lanka, *High Security Zone dispute settled: Government, LTTE agree to settle civilians outside security zones*, 8 January 2003

⁷³ The World Bank, *World Bank invited to administer Sri Lanka reconstruction fund*, 14 January 2003



84. The fifth round of talks opened in Berlin in February 2003, but were slightly overshadowed by three Tiger rebels blowing themselves up when the navy cornered their trawler carrying an anti-aircraft gun. The sixth rounds of peace talks were held on March 18 – 21 in Hakone, Japan. Though progress continued to be made, and agreement was reached on issues such as human rights training for soldiers and LTTE cadres, the initial enthusiasm had dampened.
85. In the middle of April 2003 inter-communal clashes took place in Muthur, 270 kilometres (143 miles) Northeast of Colombo, between Muslim and Tamil mobs. The rioting was started by allegations that the LTTE had abducted two Muslim men - and left at least three people dead.⁷⁴ The violence ended following the government's imposition of a curfew and LTTE and Muslim leaders meeting to calm the situation. However, the clashes, which continued for a number of days, pointed to the ongoing fragility of the situation.⁷⁵
86. On 21 April 2003 the LTTE announced a unilateral decision to suspend the talks - after accusing the government of failing to deliver on "critical issues". Their concerns were detailed in their four-page letter to the Prime Minister, and included lack of progress in rebuilding war-affected Tamil areas and continuing disagreements about the High Security Zones in Jaffna. However, the letter made no mention of returning to war or pulling out of the cease-fire agreement. The LTTE declaration was seen as a tactical move, partly due to the fact that Washington did not invite the organisation to the pre-Tokyo Donor meeting hosted the previous week. However, it was nevertheless the most serious threat to the peace negotiations since the two sides opened formal face-to-face talks.⁷⁶
87. Despite the stalemate, a donor conference scheduled as far back as in February 2003 took place on 9-10 June in Japan. Referred to as the Tokyo Conference on Reconstruction and Development of Sri Lanka it gathered representatives from 51 countries and 22 international organisations. The participating donor countries and international organisations pledged to support Sri Lanka with an estimated US\$ 4.5 billion over the four-year period from 2003 to 2006. Most of the money is conditional on progress in reviving the stalled peace talks, full compliance with the cease-fire agreement, effective protection of human rights, and a verifiable de-escalation, demilitarisation and normalisation process.
88. The Government of Japan stated that it was disappointed by the absence of representatives from the Liberation Tigers of Tamil Eelam (LTTE). However, following the decision made by the Conference, the Government of Japan agreed to convey the outcome of the Conference to the LTTE and to urge the LTTE to quickly come back to negotiations with the Sri Lankan Government.⁷⁷
89. Following the Tokyo Conference several attempts were made by both sides to re-start the peace talks, but without success. The faltering process suffered further blows in late June when a suspected Tiger gunman shot dead a senior intelligence officer at a police station outside Colombo and LTTE rival Tamil politicians continued to be

⁷⁴ AFP, *Refugee crisis in Sri Lanka Muslim town after rioting*, 20 April 2003

⁷⁵ USAID, *USAID Field Report Sri Lanka*, 30 April 2003

⁷⁶ AFP, *Sri Lanka peace hopes dim as Tigers pull out of talks*, 24 April 2003

⁷⁷ Government of Japan, *Tokyo Conference on Reconstruction and Development of Sri Lanka*, June 2003

targeted and killed.⁷⁸ Inter-ethnic violence between Tamil and Muslims continued, especially in the north-eastern parts of the country, despite the peace process.

90. On July 17 the Government of Sri Lanka forwarded a "Discussion Document for the Provisional Administrative Structure" to the LTTE. The document was to serve as an outline for future negotiations with the LTTE while at the same time presenting concrete answers to some of their demands.⁷⁹
91. The LTTE responded by holding a ten-day meeting in Paris to formulate a response to the "Discussion Document". Top LTTE political and military officials, as well as prominent Tamil legal and constitutional experts attended the meeting. Media reports suggested that the talks were positive and that the group had developed a clear counterproposal that would be discussed with selected European governments before being passed to the Norwegian facilitators for forwarding to the government.⁸⁰ This counterproposal was submitted by the LTTE on 31 October 2003. The dramatic political events in November 2003 that followed, and the subsequent parliamentary elections, officially called for "reasons of State security" demonstrated the fragility of the peace negotiations. These events are detailed in chapter 2.3.
92. The lack of hostilities, the adherence to the cease-fire agreement and the general improvement in people's lives since the signing of the MOU has led many to believe that the peace process may be irreversible. However, many human rights organisations have complained that to date there has been little formal attention to human rights concerns in the context of the peace process, although the conflict has been driven by grave abuses of human rights on all sides.⁸¹ (See section on Human Rights).

C. The Current Political Context⁸²

93. The detailed draft for a power-sharing administration in Tamil-dominated zones in the north and east of Sri Lanka submitted by the LTTE on 31st October 2003 was the first LTTE crafted detailed plan for establishing and maintaining peace in these provinces. The proposal for an "Interim self-governing Authority" would give the LTTE near absolute control of the North and East provinces - including finance, security, justice and land - for at least five years, after which there would be an election. Nationalist opposition groups, such as the Sihala Urumaya, urged the government to not even bother debating the proposal.⁸³
94. The Sri Lankan Government, while acknowledging the wide gap between its own ideas and those of the LTTE, indicated a willingness to work through the differences in dialogue. They then asked Norwegian mediators to arrange new dates for peace talks.
95. Only a few days later, on the 4th of November, President Kumaratunga took over the Ministries of Defence, Information and Interior dismissed the respective Ministers and

⁷⁸ AFP, Sri Lanka: *Tamil Tigers hint at reviving peace talks amid killing spree*, 24 June 2003

⁷⁹ USAID, *USAID Field Report Sri Lanka*, July 2003

⁸⁰ USAID, *USAID Field Report Sri Lanka*, August 2003

⁸¹ Human Rights Watch, *Human Rights and the Peace Process*, July 2002

⁸² Due to the events being very recent, the main sources cited are media reports and/or press-statements.

⁸³ USAID, *USAID Field Report Sri Lanka*, October 2003

suspended Parliament.⁸⁴ The President claimed that the government's soft stance on the LTTE had jeopardised national security. Troops were ordered onto the streets to secure key installations in the capital and the level of insecurity rose, especially in the North and the East, where more military personnel were flown in. The following day the President declared a state of emergency.⁸⁵

96. Political observers, as well as the international press, called the move "opportunistic" linking the President's actions to the fact that the Prime Minister was on a state visit to the US. At the same time, it can be seen as a "now or never" opportunity to regain some of the powers that had been eroded since the 2001 elections due to the fact that the Government was clearly in the lead of the peace process, often overshadowing the President.
97. The next day, on the 6th of November, the Prime Minister returned from his state visit and President Kumaratunga declared the state of emergency over. There was some uncertainty as to whether or not a state of emergency had actually been declared in the first place, with the Ministry of Tourism publicly denying it was ever declared, the President announcing that it was declared but never implemented and the state-owned media ignoring the issue altogether. While the international media continued to report on the political crisis in the country, the President called for a cabinet of national unity that would include ministers from her own party, currently in opposition.⁸⁶
98. Amongst the confusion, the Prime Minister declared that he would hand over the reins of the peace process to the President, as he no longer controlled the key ministries. During the following days, the Government stated that they were ready for snap-elections to resolve the crisis.⁸⁷
99. The crisis received international attention with regional powers such as India and Japan calling for a quick solution, while the International Monetary Fund warned confidence in the economy could suffer.⁸⁸
100. Though the LTTE leadership kept a low profile during the crisis, the LTTE leader Velupillai Prabhakaran met with the Norwegian mediators about a week after the President's announcements. The Norwegian Deputy Foreign Minister Vidar Helgesen reported after his meeting that the LTTE felt they needed some clarity about who was in charge of the peace process and that the LTTE sought guarantees from the Norwegians that the government would stay committed to the cease-fire agreement.
101. On Friday the 14th of November the Norwegian mediators stated that Sri Lanka's peace process was on hold until the country's political crisis was resolved, despite the fact that the cease-fire agreement was being respected.⁸⁹
102. Towards the end of November the President revealed a plan to share the responsibilities of the Defense Minister, through a seven-page document that was

⁸⁴ Government of Sri Lanka, *Media statement from the Office of the President*, 4 November 2003

⁸⁵ AFP, *Sri Lanka peace talks postponed indefinitely, govt ready to face polls*, 10 November 2003

⁸⁶ BBC News, *Timeline Sri Lankan Crises*, 14 November, 2003

⁸⁷ BBC News, *Timeline Sri Lankan Crises*, 14 November, 2003

⁸⁸ Reuters, *Sri Lankan president defends herself as showdown looms*, 6 November, 2003

⁸⁹ BBC News, *Timeline Sri Lankan Crises*, 14 November, 2003

subsequently highlighted in the state-owned media. The offer was made after the LTTE warned that they would invoke their right to self-determination if the political power struggle scuttled the internationally acclaimed peace bid. The Prime Minister was reportedly furious at having the message passed through the media and rejected the offer.⁹⁰

103. Despite several “talks” between the President and the Prime Minister and committees set up to solve the crisis the stalemate dragged on. Talks between representatives of the Prime Minister and the President continued early in February, but to no avail. On 7 February, the President dissolved parliament and called for a general election on April 2, way ahead of the next parliamentary elections which were due to be held in 2007. The President also appointed one of her closest confidants, Mr. Lakshman Kadirgamar, as Minister for Information and Daily Communication, placing him in control of the state media. A few days later the President dismissed 39 non-cabinet and deputy Ministers, including Dr Jayalath Jayawardene, the Minister for Rehabilitation, Resettlement and Refugees.
104. Highlights of the following weeks of election campaigning included:
 - the JVP making an apology for its past atrocities;
 - a group of Buddhist monks deciding for the first time to form a party to contest the election, a move condemned by some of the country's most senior monks;
 - repeated allegations of state media bias towards the SLFP-JVP alliance, prompting the Elections Commissioner to appoint a board to take over the media only days before the election;
 - the President declaring that the alliance is prepared to talk to the LTTE and that the peace process would continue under an SLFP-JVP alliance.
105. During the election campaign, the LTTE announced it would back the Tamil National Alliance (TNA) in the elections. Two days later, a Tamil candidate running for the UNF in Batticaloa was shot and wounded. Upon his admission to hospital, the candidate blamed the attack on the LTTE and said he would identify his attackers. The next day, two men posing as visitors entered the hospital and shot him dead. Several other incidents of election violence followed, leaving six candidates dead in the Eastern parts of the country. Despite the violence, the elections were held as scheduled.
106. Shortly after the Parliament elections on 2 April 2004, Sri Lanka's President, Chandrika Kumaratunga, phoned the Norwegian Prime Minister to request that Norway continue its role as impartial third-party facilitator in the peace process between the Sri Lankan government and the LTTE.⁹¹ The Norwegians are currently waiting for the LTTE to second the request in order to restart peace negotiations.

D. Results of the Elections in April 2004

⁹⁰ AFP, *Sri Lanka PM rejects defence compromise, peace process in doubt again*, 29 November 2003

⁹¹ Government of Norway, Press release: Sri Lanka's president asks Norway to resume its role in the peace process, 23 April 2004

107. Sri Lankan politics since independence in 1948 have been largely democratic. Two major parties, the United National Party (UNP) and the Sri Lanka Freedom Party (SLFP), have generally alternated rule.
108. In January 2004 Sri Lanka's political landscape changed when the country's main opposition party The Sri Lankan Freedom Party (SLFP), signed a pact with Sinhala nationalist People's Liberation Front (JVP). The President dissolved Parliament in February 2004 and general elections were held on 2 April 2004, way ahead of the scheduled parliamentary elections due in 2006.
109. Of a total of 368 incidents of violence and malpractice on Election Day recorded by the election monitors from the Center of Monitoring Election Violence (CMEV), the largest number of incidents were recorded from the Digamadulla (44), Kandy (33), Kurunegala (31) and Jaffna (28) Districts⁹².
110. The two main formations (UNP and UPFA) account for 60% of all incidents, confirming a pattern of violence and malpractice throughout the campaign. In terms of complaints made, the UNP total was 31 (8%) as opposed to the UPFA's 47 (13%). The police made a total of 54 complaints (15%), 30 or 56% of which are against the UPFA and the UNP combined.⁹³
111. Despite pleas of election rigging and requests to have the elections in the North and East annulled as a result of intimidation of Tamil voters, the election was the most peaceful in recent Sri Lankan history. The final reports of the number of incidents and election related violence is still being compiled by the various monitoring bodies. However, the results were approved and the current composition of Parliament is as follows:
112. United People's Freedom Alliance [alliance between the Peoples Alliance (PA) & the Janatha Vimukthi Peramuna (JVP)] - 105 seats
United National Party (UNP) - 74 seats
Illankai Tamil Arasu Kachchi (TNA) - 22 seats
Jathika Hela Urumaya (JHU) - 9 seats
Sri Lanka Muslim Congress (SLMC) - 5 seats
Ceylon Workers Congress (CWC, contested with UNP) - 8 seats
Up Country People's Front (UCPF) - 1 seat
Eelam People's Democratic Party (EPDP) - 1 seat
113. Since none of the main parties obtained a majority, Sri Lanka is looking towards a period of power-sharing where many contested issues will be hard to solve in Parliament. The election of the speaker of Parliament on 22 April, where the opposition won the closed ballot election after two rounds of ties may be indicative of how difficult it will be to reach necessary consensus.
114. On the positive side, all shades of the Sri Lankan society are now represented in Parliament, including the LTTE whose vocal and open support for the TNA during the

⁹² Center for Monitoring Election Violence, 2004 General Election Campaign, Interim Report, 7 April, 2004.

⁹³ Center for Monitoring Election Violence, 2004 General Election Campaign, Interim Report, 7 April, 2004.



campaign period secured many votes for the TNA candidates in the North and the East.

115. The Principal Government Officials after the elections in April 2004 are:
Prime Minister—Mahinda Rajapaksha
Foreign Minister—Lakshman Kadirgamar
116. Many other Ministers, such as the Ministry of Defence and the Ministry of Internal Security remain under the control of President for the time being. A new ministry has been established to deal with development in the north and east. This new Ministry of Relief, Rehabilitation and Reconciliation will take over all the staff and functions that were previously undertaken by the Resettlement and Rehabilitation Authority (RRAN), the Office of the Commissioner General and the Ministry for Rehabilitation, Resettlement and Refugees (which functioned as UNHCR's main interlocutor within the Sri Lankan Government). Mr. S. Jayasinghe has been appointed as the Secretary and this new Ministry is expected to cover eight districts in the north and east, as well as parts of Polonnaruwa, Puttalam and Anuradhapura. This new ministry is intended as an interim measure as the President proposes to convert it into an Authority in the near future.

III. Legal Context

A. International Legal Context

117. Sri Lanka has been a member of the United Nations (UN) since 14 December 1955. Since then, it has become a state party to many of the major international instruments relating to human rights as listed below.

United Nations Instrument	Date of ratification or accession
Convention on the Prevention and Punishment of the Crime of Genocide (1948)	12 October 1950
Geneva Conventions 1949 (IV)	28 February 1959
Slavery Convention as amended by the Protocol	21 March 1958
Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery	21 March 1958
Convention against Discrimination in Education (1960)	11 August 1983
International Covenant on Civil and Political Rights (ICCPR, 1966)	11 June 1980
Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR, 1966)	3 October 1997
International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966) ⁹⁴	11 June 1980
International Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1965)	18 February 1982
International Convention on the Suppression and Punishment	18 February 1982

⁹⁴ Sri Lanka has limited the scope of investigations of complaints relating to infringement of human rights to the period after 3 January 1997.

of the Crime of Apartheid	
International Convention on the Elimination of all Forms of Discrimination against Women (CEDAW, 1979)	5 October 1981
Optional Protocol to CEDAW (1999)	15 January 2003
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, 1984)	3 January 1994
Convention on the Rights of the Child (CRC, 1989)	12 July 1991
Optional Protocol on Children involved in Armed Conflict	8 September 2000
Convention for Suppression of Trafficking (1950)	15 April 1958
2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Protocol I)	13 December 2000
2000 Protocol against the Smuggling of Migrants by Land, Sea and Air (Protocol II)	13 December 2000

118. In addition Sri Lanka has adhered to many Conventions regarding labour, such as, ILO Convention No.105 of 1957 on Abolition of Forced Labour, ILO Convention No. 100 of 1951 on Equal Remuneration, ILO Convention No. 111 of 1958 Discrimination (Employment and Occupation), ILO Convention No. 138 of 1973 on Minimum Age, ILO Convention No. 182 of 1999 on Worst Forms of Child Labour, ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise, ILO Convention No. 98 on Right to Organise and Collective Bargaining. Sri Lanka is also a party to the International Convention on the Rights of All Migrant Workers and their Families, which came into force in July 2003.
119. It is important to note that Sri Lanka is not yet a party to the following United Nations instruments:
- Convention relating to the Status of Refugees (1951)
 - Convention relating to the Status of Stateless Persons (1954)
 - Convention on the Reduction of Statelessness (1961)
 - Protocol relating to the Status of Refugees (1967)
 - Second Optional Protocol of the International Covenant on Civil and Political Rights Aiming at the Abolition of the Death Penalty (1989)
 - The Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (signed but not ratified)
 - Optional Protocol to the Convention Against Torture
 - Ottawa Mine Ban Treaty
 - The International Criminal Court Treaty
120. By ratifying the first Optional Protocol to the ICCPR Sri Lanka has acknowledged the competence of the Human Rights Committee to receive complaints from individuals. By ratifying the Optional Protocol to CEDAW Sri Lanka has also acknowledged the competence of the Committee on the Elimination of All Forms of Discrimination Against Women to receive and consider individual communications.
121. Sri Lanka has not recognized the competence of the Committee Against Torture to consider individual complaints made in accordance with article 22 of the Convention. Neither has Sri Lanka recognized the competence of the Committee on the Elimination of Racial Discrimination to receive and consider individual complaints.

B. National Legal Context

1. The Constitution

122. The current Constitution was promulgated on 7 September 1978.⁹⁵ Since then, Sri Lanka has been a democratic republic with an active multiparty system. It is an independent member of the Commonwealth of Nations. Political power has alternated between the conservative United National Party (UNP) and the leftist Sri Lanka Freedom Party (SLFP).⁹⁶
123. The Constitution guarantees fundamental rights and freedoms to all citizens, including freedom of thought, conscience and worship and equal entitlement before the law.⁹⁷ Buddhism has the foremost place among religions and the state has a duty to protect and foster Buddhism.⁹⁸ Sinhala and Tamil are the two official languages, with English functioning as a link-language.⁹⁹
124. The 1978 Constitution introduced a presidential system of government, by which the President, directly elected for a six-year term, exercises all executive powers, is above the law and non accountable to the Parliament.¹⁰⁰ The President may summon, prorogue or dismiss Parliament at will, however, not before a year has elapsed since the previous general election.¹⁰¹ Sri Lankans can change their government through elections based on universal adult suffrage. The 225-member parliament is also directly elected for a six-year term, through a mix of single-seat, simple / plurality districts and proportional representation. While elections are generally free, they are marred by irregularities, violence, and intimidation. The independent Centre for Monitoring Election Violence recorded 2,734 incidents of election-related violence during the December 2001 parliamentary election campaign, including 47 murders and more than 1,500 assaults, threats, and other abuses.¹⁰²
125. Among the amendments to the Constitution, in August 1983, the sixth amendment imposed a ban on the advocacy of separatism; and, in 1987, the 13th amendment established a system of provincial councils.¹⁰³
126. The Human Rights Commission and the Committee to Inquire into Undue Arrest and Harassment are mechanisms the Government has established to ensure enforcement of constitutional provisions in addition to access to the courts.¹⁰⁴

⁹⁵ The Constitution of the Government of Sri Lanka, Official Legal Information Centre of Sri Lanka (www.lawnet.lk), posted 2000

⁹⁶ Freedom House, *Freedom in the World 2003: Sri Lanka*, July 2003

(www.freedomhouse.org/research/freeworld/2003/countryratings/sri-lanka.htm)

⁹⁷ Constitution of the Democratic Socialist Republic of Sri Lanka, Articles 8-31.

⁹⁸ *Ibid*, Article 7.

⁹⁹ *Ibid*, Articles 32-33.

¹⁰⁰ EIU, *Country Profile – Sri Lanka*, 2000

¹⁰¹ UN International Human Rights Instruments, Sri Lanka - Core Document forming part of the reports of State Parties HRI/CORE/1/add 48, November 1994

¹⁰² Freedom House, *Freedom in the World 2003: Sri Lanka*, July 2003

¹⁰³ Regional Surveys of the World, Europa Publications, 2001, p. 1212.

¹⁰⁴ US State Department, *Country Report on Human Rights Practices – Sri Lanka 2002*, released March 2003

127. The UN Human Rights Committee in November 2003 raised concern that Sri Lanka's legal system still does not contain provisions which cover all of the substantive rights set forth in the Covenant on Civil and Political Rights, or all the necessary safeguards required to prevent the restriction of the rights under the Covenant. It regretted in particular that the right to life is not expressly mentioned as a fundamental right in chapter III of the Constitution of Sri Lanka, even though the Supreme Court has, through judicial interpretation, derived protection of the right to life from other provisions of the Constitution.¹⁰⁵

2. The Judiciary System

128. The legal system of Sri Lanka is a highly complex mixture of English common law, Roman-Dutch law, Muslim law, and customary laws. The basis of criminal law is the English common law. After the British Empire colonized Sri Lanka, British laws were gradually applied throughout the nation. Sri Lanka has an adversarial system of justice.¹⁰⁶
129. The judiciary in Sri Lanka is independent and properly constituted. The judicial system consists of the Supreme Court, the Court of Appeal, the High Court, District Courts, Magistrates' Courts and Primary Courts. The last four courts are Courts of the First Instance. Appeals lie from them to the Court of Appeal and from there, on questions of law, or by special leave, to the Supreme Court. The High Court deals with all criminal cases, and the District Courts with civil cases. There are also Labour Tribunals to decide labor-based disputes.
130. The Attorney-General is the principal law officer of the state. The District Attorney and State Counsels in his department conduct prosecutions. However, the bulk of prosecutions in minor cases are instituted in the Magistrates' Courts by the officer in charge of a police station.¹⁰⁷ In criminal cases, defendants are tried publicly by jury. They are informed of the charges and evidence against them, and Counsel of their choice may represent them. They also have a right of appeal against sentence. The Government provides Counsel for indigent persons who are to be tried on criminal charges in the High Courts, and the Court of Appeal, but not in other instances; private legal aid organizations also exist.¹⁰⁸
131. The LTTE has its own self-described court system. The structure of the LTTE courts consists of district courts (civil and criminal), a high court, a court of appeal, "special courts" and the Supreme Court, consisting of three judges appointed by the "National Leader". The judiciary also drafts laws, however they are enacted as law only after having been approved by the "National Leader".¹⁰⁹
132. The LTTE courts operate without codified or defined legal authority and essentially act as agents of the LTTE rather than as an independent judiciary. The courts reportedly impose severe punishments, including execution. During 2002 the LTTE

¹⁰⁵ The UN Human Rights Committee, *Concluding observations issued at its seventy-ninth session, CCPR/CO/79/LKA*, November 2003

¹⁰⁶ N.H.A. Karunaratne, *World Fact book of Criminal Justice Systems – Sri Lanka*, 1993.

¹⁰⁷ N.H.A. Karunaratne, *World Fact book of Criminal Justice Systems – Sri Lanka*, 1993.

¹⁰⁸ Most notable the Legal aid Foundation, which is part of the Bar Association of Sri Lanka

¹⁰⁹ The LTTE: *The Judicial System of Tamil Eelam*, Its structure, functions and duties of officials in charge, 2002

expanded the operations of its court system into areas previously under the Government's judicial system in the north and east. With the expansion, the LTTE demanded all Tamil civilians to stop using the Government's judicial system and only rely on the LTTE's legal system.¹¹⁰

133. The parallel systems do not co-habitate easily and neither recognises the other. For example, a member of the LTTE intelligence wing, wanted by the police in connection for abduction, rape and murder of a 17 year-old girl in December 2003, was reportedly being kept away from the police under the pretext that he was under the arrest of the LTTE police. According to the media, the LTTE did not want him to be caught by the government police, as they would have made him reveal information about the LTTE intelligence. Hence the LTTE courts had sentenced him to death, after he confessed guilty to the crime.¹¹¹

3. Human Rights Commission

134. The Human Rights Commission of Sri Lanka (HRC) was established by Act No. 21 of Parliament of August 1996, which came into force on 17 March 1997.¹¹² It started work in 1997. The Commissioners can be removed by Parliament only under special circumstances. The HRC is funded by Parliament through the Presidential Office.¹¹³ The Human Rights Commission also receives funding from other sources for particular programs, such as UNHCR (for IDPs), UNICEF (child rights), and the World Bank (access to justice) as well as individual countries.
135. The HRC has a wide mandate to deal with illegal detention, torture, disappearance and murder. Its main task is to monitor compliance with the guidelines for arrest and detention under the emergency legislation and the Prevention of Terrorism Act and to confirm that detainees do not suffer abuses.
136. The HRC is mandated to visit the various detention centers without notice, as well as to investigate disappearances.¹¹⁴ In addition, it has a responsibility to educate the public and forces, to advise on any administrative or other changes that may be necessary to avoid abuses of human rights and fundamental freedoms, and to recommend steps to implement international commitments. The Commission has wide powers of investigation and collecting evidence. It is expected to interact in many ways with the courts of Sri Lanka, and can recommend actions to combat violations but cannot punish.¹¹⁵ The HRC has been criticized for ineffectiveness and has over 4,500 cases of alleged human rights abuses pending.
137. In September 2003 the Human Rights Commission issued a three-year strategy for the years 2003-2006. The Commission acknowledged that successful implementation of

¹¹⁰ US State Department, *Country Report on Human Rights Practices- Sri Lanka 2002*, released March 2003

¹¹¹ Divaina, Cadre wanted for the rape and killing of girl, 30 December 2003

¹¹² Amongst others: Danish Immigration Service, *Report on Fact-Finding Mission to Sri Lanka, 14 November to 5 December 1998*, January 1999, Chapter II-E.

¹¹³ Asia-Pacific Forum of National Human Rights Institutions, *The Human Rights Commission of Sri Lanka*, 2001.

¹¹⁴ Danish Immigration Service, *Report on Fact-Finding Mission to Sri Lanka, 14 November to 5 December 1998*, January 1999, Chapter II-E.

¹¹⁵ Asia-Pacific Forum of National Human Rights Institutions, *The Human Rights Commission of Sri Lanka*, 2001.



the strategy would require a substantial increase of its core funding from the state budget and support from the international community.

138. The priorities for the next three years were identified as follows:

- (a) to assist the Sri Lankan peace process as set out in the Hakone agreement
- (b) to move from a complaints-driven agenda of work to a more proactive work plan
- (c) to develop a focus on torture, rule of law and other serious human rights abuses by authorities
- (d) to strengthen the Commission's role as the country's official expert human rights body
- (e) to develop the capacity to undertake research, policy and lobbying activities in identified priority areas
- (f) to strengthen the efficiency, effectiveness and overall organizational competence of the Commission
- (g) to improve conditions for staff, including by instituting a comprehensive human resource strategy training program
- (h) to develop "public-friendly" procedures and practices that are sensitive and responsive to the needs of the public.

139. At the end of 2003 the HRC reported that it had received a total of 7,984 cases through its network of offices. Of these 560 related to alleged torture, 457 to harassment, 339 to arrest and detention and 382 to property matters. Other complaints related to recruitment, promotions, school admission, government inaction etc. All cases are still under investigation.

4. Committee to Inquire into Undue Arrest and Harassment

140. In 1998, a Committee of Inquiry into Undue Arrest and Harassment (CIUAH) was established. The Committee includes senior opposition party members and Tamil representatives. It examines complaints of arrest and harassment by security forces and assists those alleging abuse by military or police.¹¹⁶ Since the signing of the MOU, and the setting up of the Sri Lankan Monitoring Mission, the committee has lost some of its importance.

IV. Review of the Human Rights Situation

A. General Respect for Human Rights

141. During the civil war government security forces, state-backed Sinhalese and Muslim civilian militias, and armed Tamil groups, particularly the LTTE, committed massacres, disappearances, extra-judicial executions, rape, and torture against civilians, mainly Tamils. It is estimated that the war killed 50,000 to 60,000 people, including many civilians.

¹¹⁶ UKIND, *Country Assessment – Sri Lanka*, April 2001, para. 5.2.63

142. Most reports confirm that the ongoing cease-fire agreement has made a significant impact in reducing human rights abuses in Sri Lanka.¹¹⁷ In general, persecution by government authorities because of suspected membership in the LTTE is not likely.
143. Notwithstanding this, substantive problems remain. The UN Human Rights Committee in November 2003 expressed its concern about persistent reports of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and members of the armed forces, and the restrictive definition of torture in the 1994 Convention against Torture Act. It regretted that the majority of prosecutions initiated against police officers or members of the armed forces on charges of abduction and unlawful confinement, as well as on charges of torture, have been inconclusive due to lack of satisfactory evidence and unavailability of witnesses. This despite a number of acknowledged instances of abduction and/or unlawful confinement and/or torture. It also noted that only very few police or army officers have been found guilty and punished. The Committee expressed its concern about the large number of enforced or involuntary disappearances of persons during the time of the armed conflict, and particularly about the State party's inability to identify, or inaction in identifying those responsible and to bring them to justice. It further noted with concern that the Prevention of Terrorism Act remains in force and that several of its provisions are incompatible with the Covenant.¹¹⁸
144. The UN Human Rights Committee also mentioned that it had received reports that victims of human rights violations feel intimidated from bringing complaints or have been subjected to intimidation and/or threats, thereby discouraging them from pursuing appropriate avenues to obtain an effective remedy.¹¹⁹
145. The US State Department also continues to report of mistreatment in police custody, lack of accountability for the perpetrators of human rights violations, including "disappearances" and torture. The State Department lists impunity, torture and other inhumane and degrading treatment of persons in custody, mistreatment of prisoners, and poor conditions in detention facilities as some of the human rights problems facing the population.¹²⁰
146. Citizens also face hardship from non-state actors. The LTTE reportedly committed several unlawful killings, and was responsible for disappearances, torture, arbitrary arrest, detentions, and extortion. Through a campaign of intimidation, the LTTE continued to undermine the work of elected local government bodies in Jaffna. On occasion the LTTE prevented political and governmental activities from occurring in the north and east. The LTTE denied those under its control the right to change their government, did not provide for fair trials, infringed on privacy rights, somewhat restricted freedom of movement, used child soldiers, and discriminated against ethnic and religious minorities.¹²¹

¹¹⁷ US State Department, *Country Report on Human Rights Practices— Sri Lanka 2002*, released March 2003; Amnesty International proposes new approach to peace process, ASA 37/012/2002, 29 June 2002

¹¹⁸ The UN Human Rights Committee, *Concluding observations issued at its seventy-ninth session*, CCPR/CO/79/LKA, November 2003

¹¹⁹ The UN Human Rights Committee, *Concluding observations issued at its seventy-ninth session*, CCPR/CO/79/LKA, November 2003

¹²⁰ US State Department, *Country Report on Human Rights Practices— Sri Lanka 2002*, released March 2003

¹²¹ US State Department, *Country Report on Human Rights Practices— Sri Lanka 2002*, released March 2003

147. It is of course important to note that the Memorandum of Understanding (MOU) signed by the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) on February 22nd 2002 is not a human rights agreement. Its purpose is to keep the warring parties apart and to discourage renewed hostilities in hopes of facilitating peace talks. In many ways it "freezes" the situation accepting the status quo of a country divided between two ruling parties. However, the MOU contains basic prohibitions against harming civilians and obliges the parties to undertake "confidence building measures" designed to restore "normalcy." Government forces and the LTTE are required to "abstain from hostile acts against the civilian population, including such acts as torture, intimidation, abduction, extortion and harassment" in accordance with international law.¹²²
148. Human rights defenders in Sri Lanka, who had long sought a way to convince both sides to uphold human rights and to permit independent monitoring were disappointed that the MOU failed to acknowledge key human rights problems faced by civilians. Also missing was any mention of the continued detention of Prevention of Terrorism Act prisoners, although new arrests under the PTA were banned.¹²³
149. The MOU also provides some international monitoring, through the Sri Lanka Monitoring Mission (SLMM). SLMM's role is to monitor the implementation of the Cease-fire Agreement, inquire into any possible violation, conduct international verification and work to establish communication and co-operation between the armed forces and the LTTE and assist the parties to settle disputes.¹²⁴
150. Up to end September 2003 the Sri Lanka Monitoring Mission reported that of 1, 872 complaints it had received in 2003, 555 were judged to be violations of the cease-fire, while 931 cases were still pending. Of these cases 528 were violations committed by the LTTE and 27 violations committed by the Government. The largest numbers of complaints can be classified as human rights abuses such as child recruitment (by the LTTE), abductions and harassment of civilian population.¹²⁵

B. Right to Life, Personal Security and Physical Integrity

151. Before the cease-fire agreement civilian deaths and injuries on the Jaffna peninsula were reported in the hundreds, but casualty figures could not be confirmed because relief agencies and journalists were barred from the hardest hit areas. On the peninsula, and also in eastern Sri Lanka, many conflict-related deaths were the result of errant shells and gunshots.¹²⁶
152. Since the cease-fire agreement some paramilitary actors, as well as the LTTE have continued the tradition of political killings and disappearances. The Sri Lankan Monitoring Mission (SLMM) issued a press-statement in May 2003 stating that the continuing attacks and killings of members of political parties and locally elected representatives pose a serious threat to the cease-fire. SLMM further stated that

¹²² MOU between the Government of the Democratic Socialist Republic of Sri Lanka, (GOSL), and the Liberation Tigers of Tamil Eelam, (LTTE).

¹²³ Human Rights Watch, *Human Rights and the Peace Process*, July 2002

¹²⁴ Mission statement on SLMM website, www.slmm.lk, December 2003

¹²⁵ SLMM, *Summary of recorded complaints and violations from all districts*, 10 October 2003

¹²⁶ Human Rights Watch, *World Report 2001 - Sri Lanka*, 1 December 2000

various political parties operating in the North and East have formally complained to SLMM due to repeated threats and attacks on their offices, individual members and their families and elected representatives.¹²⁷

153. Though LTTE was pointed out as a main perpetrator in the majority, but not all of the attacks, police investigations rarely led to the accusations being proven. The SLLM stated that the Police seem to have had difficulties in arresting the perpetrators and that available witnesses to the crimes are too afraid to come forward as fear of repercussions seems to be an everyday concern for some people in the North and East.¹²⁸
154. In addition, in the autumn of 2003, international human rights groups publicly appealed to actors in Sri Lanka, including the police forces and the LTTE after having received confirmation that the political killings continued with impunity.¹²⁹ UNHCR field offices who continued to report on disappearances and killings in 2003 confirm these findings. More than 40 cases of suspected political killings after the cease-fire have been reported to the UNHCR field office.

1. Extrajudicial, Summary or Arbitrary Executions and Disappearances

155. Some members of the security forces have committed serious human rights abuses, including numerous extra-judicial killings. Between 1980 and 1997, 12,208 cases of disappearance alleged to have occurred in Sri Lanka were reported to the United Nations Working Group on Enforced or Involuntary Disappearances. Cases reported to have occurred between 1987 and 1990 took place mostly in the Southern and Central Provinces (due to conflict between the security forces and the JVP) while cases reported to have occurred since 1990 took place primarily in the Eastern and North Eastern Provinces of the country.¹³⁰
156. Since April 1995 to date at least 761 people have been killed extra-judicially by the security forces or have disappeared after being taken into security force custody and are presumed dead. With the exception of the six security force personnel convicted for the 1996 killing of Krishanthi Kumaraswamy and the four convictions for abduction involving 88 security force personnel, hardly any member of the security forces has been convicted for any of these crimes.¹³¹
157. In 2001 the army, navy, police, and paramilitary groups were involved in as many as 10 disappearances, primarily in Vavuniya. Between January and September 2001, the Human Rights Commission received 44 reports of disappearances in Vavuniya alone. Those who disappeared in 2001 and previous years usually are presumed dead. The 2000 U.N. Working Group on Enforced or Involuntary Disappearances lists the country as having an extremely large number of "nonclarified" disappearances. The

¹²⁷ Sri Lanka Monitoring Mission, *Ref: SLMM HQ/07th, May 2003/MED/6029*, May 2003

¹²⁸ Ibid.

¹²⁹ Human Rights Watch, *Political Killings During the Cease Fire*, 7 August 2003, Amnesty International, *Open letter to Liberation Tigers of Tamil Eelam (LTTE), Sri Lanka Monitoring Mission (SLMM) and Sri Lankan Police concerning recent politically motivated killings and abductions in Sri Lanka*, 12 August 2003

¹³⁰ United Nations Commission on Human Rights, *Report of the Working Group on Enforced or Involuntary Disappearances*, 12 January 1998 (E/CN.4/1998/43)

¹³¹ UN Human Rights Committee, CCPR/CO/79/Sri Lanka, *Consideration of reports submitted by State parties under article 40 of the Covenant*, November 2003



Commander of the Army and the Inspector General of Police both criticized the disappearances and stated that the perpetrators would be called to account.¹³²

158. In November 2002 the Government formed a new commission to investigate disappearances in Jaffna area during 1996 and 1997. The commission was expected to begin work in 2003.
159. Although the number of state-administered disappearances has drastically reduced since the signing of the MOU, the UN Human Rights Commission in November 2003 pointed out that it was concerned particularly about the State party's inability to identify, or inaction in identifying, those responsible and to bring them to justice. The situation, taken together with the reluctance of victims to file or pursue complaints, creates an environment that is conducive to a culture of impunity.¹³³
160. Tamil militias aligned with the former PA government also were responsible for disappearances in past years; however, there were no reports of this since the cease-fire agreement. Previously these militias detained persons at various locations that in effect served as undeclared detention centres. The HRC has no mandate or authority to enforce respect for human rights among these militia groups. It was impossible to determine the exact number of victims because of the secrecy with which these groups operated. During the year 2002, the Government took steps to disarm these militias as part of the peace process.¹³⁴
161. According to the US State Department the LTTE was responsible for an undetermined number of civilian disappearances in the north and east during 2002. This trend continued in 2003, and both Amnesty International and Human Rights Watch have pointed out that extra-judicial killings by especially the LTTE have increased since the ceasefire agreements.¹³⁵ Up to August 2003 the political opponents of LTTE (EPDP, EPRLF, PLOTE) reported a total of 56 persons killed or "disappeared" since the signing of the MOU.¹³⁶ During the same period of time UNHCR has received, and continues to receive, several requests from assistance from persons fleeing the LTTE.
162. The Sri Lankan Monitoring Mission (SLMM) have received 248 complaints in regards to abduction of adults during the period January-September 2003. The clear majority of these are said to be perpetrated by the LTTE. Although 130 cases are still pending, 79 have been ruled as violations of the cease-fire agreement.¹³⁷
163. In conclusion, based on numerous reports from various sources, hostage-taking, disappearances and killings seem to continue with impunity.

¹³² Amnesty International: *Abolitionist and Retentionist Countries: Abolitionist in practice*, 1 April 2003

¹³³ US State Department, *Country Report on Human Rights Practices- Sri Lanka 2002*, released March 2003

¹³⁴ UN Human Rights Committee CCPR/CO/79/Sri Lanka, *Consideration of reports submitted by State parties under article 40 of the Covenant*, November 2003

¹³⁵ Ibid

¹³⁶ Human Rights Watch briefing paper on 7 August 2003
(<http://hrw.org/backgrounder/asia/srilanka080603.htm>)

¹³⁷ Human Rights Watch briefing paper on 7 August 2003
(<http://hrw.org/backgrounder/asia/srilanka080603.htm>)

¹³⁸ Sri Lanka Monitoring Mission, *Summary of recorded complaints and violations*, October 2003

2. Death Penalty

164. The death penalty was reintroduced in 1960 after the assassination of SWRD Bandaranaike the Prime Minister of Sri Lanka. The Constitution states in Article 15(a) that “a person shall not be punished with death or imprisonment except by order of a competent court made in accordance with procedure established by law”. According to information from the Death Penalty Information Centre, Sri Lanka is an abolitionist *de facto*: since 1976, it has not executed anyone.¹³⁸ This is echoed by Amnesty International, who notes that although scores of people have been sentenced to death for murder and continued to be sentenced to death in 2003, Sri Lanka is still on the list of abolitionist. This list includes countries that retain the death penalty but can be considered abolitionist in practice in that they have not executed anyone during the past 10 years and are believed to have a policy or established practice of not carrying out executions.¹³⁹
165. The authorities are required 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.¹⁴⁰ The implementation of legislation set up to safeguard the rights of detainees, such as the requirement imposed on the security forces to notify the HRC of any arrest within 48 hours is said to be improving, but still lacking in many instances.¹⁴¹

3. Conditions in Prison

166. Generally, prison conditions are poor and do not meet minimum international standards because of overcrowding and lack of sanitary facilities.¹⁴² UK Home Officials were told on their fact-finding mission of 9-13 July 2001 that prisons had become 300% overcrowded over the previous 5 years. There were currently about 17,000 people in prisons, 9,000 of whom were on remand. However, the Prison Service had embarked on a six-year improvement project, and part of this had been moving facilities out of the Colombo area.¹⁴³
167. The Human Rights Commission of Sri Lanka visited over 2,000 police stations and over 500 detention facilities during 2003. The Government has also continued to give the International Committee of the Red Cross (ICRC) unhindered access to approximately 160 detention centers, police stations and army camps throughout the country, that were recognized officially as places of detention. Such visits played an important role in enabling the ICRC to monitor the human rights practices of the security forces.¹⁴⁴
168. Conditions are reportedly poor in LTTE-run detention facilities.¹⁴⁵

4. Recruitment Into the Armed Forces

¹³⁸ Death Penalty Information Center (DPIC), *International Perspectives on the Death Penalty*, 2003

¹³⁹ Amnesty International: Abolitionist and Retentionist Countries: Abolitionist in practice, 1 April 2003

¹⁴⁰ US State Department, *Country Report on Human Rights Practices—Sri Lanka 2002*, released March 2003

¹⁴¹ Ibid

¹⁴² Ibid

¹⁴³ Report of Home Office fact-finding mission to Sri Lanka: 9-13 July 2001

¹⁴⁴ US State Department, *Country Report on Human Rights Practices—Sri Lanka 2002*, released March 2003

¹⁴⁵ Ibid.



169. Recruitment into the army is on a voluntary basis. Although recruitment campaigns do not always attract the requisite number of recruits, no concrete proposals for introducing conscription have been made, although the Government and army officials have recommended this at times when the conflict was at its peak.¹⁴⁶

5. Recruitment by the LTTE

170. Recruitment by the LTTE is mainly on a voluntary basis, but the LTTE uses a highly convincing and skillfully conducted campaign, which involves the performing of plays and the showing of video films in schools. Adherence to the movement should be seen against the background of generally limited opportunities for children, the prospect of unemployment and the difficult living conditions resulting from the fact that people have been expelled from their homes several times. During the recent conflict within the LTTE in March-April 2004 the numbers of forcible recruited child- and adult cadres was revealed as many cadres used the opportunity of the break-down of the Eastern fraction under Colonel Karuna's command to run home from the military camps. During the first two weeks after the fighting ended on 12 April 2004, UNICEF registered more than 1,000 child soldiers, most of whom had been forcible recruited. The UNHCR office in the East registered over 200 adults, of which more than 70 % claimed to have been forcible recruited. Over 95 % of those who ran away or were released clearly stated that they had no intention of returning voluntarily and that their main aim with registering with international agencies was to seek protection. The LTTE, however, denies any forced or under-age recruitment.
171. LTTE retaliation for desertion is possible. The LTTE has taken a strong stance against desertion by its cadres. The position of the LTTE is that since no peace agreement has yet been concluded, it is not in the position to demobilize or otherwise reduce its forces and must maintain them in order to bargain from a position of strength. Especially in the East, the LTTE has resorted to keeping family members, friends and people who have helped the deserter, hostage to compel him to give himself up to the LTTE. UNHCR has very limited information on what occurs to the deserter upon return to the LTTE as access to the LTTE camps is not granted. However, it seems that cadres can be released, for example for family reasons if the breadwinner of a family dies and the cadre has served more than ten years and is the only one in a position to help the family. However, released cadres report that those wishing to be released have to serve a "sentence" which may be anything from two months "service" in minor jobs such as washing-up to imprisonment for up to a year.
172. For more on recruitment by the LTTE see section on child soldiers.

C. Torture and Other Inhuman and Degrading Treatment and Punishment

173. Sri Lanka has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and implemented domestic legislation, including the Convention against Torture Act (CATA). Under the CATA, torture is defined as a specific crime, the High Court has jurisdiction over violations, and criminal conviction carries a 7-year minimum sentence. Torture is prohibited under specific circumstances, but allowed under others. This allows the state to waive a fundamental, non-derogable right under international human rights law. The third Annual Report of the National Human

¹⁴⁶ Coalition to Stop the Use of Child Soldiers, *Global Report 2001 – Sri Lanka*, 2001.



Rights Commission, covering the period from January 2000 to March 2001, revealed that the Commission had received 552 complaints of torture. At the end of 2003 the Human Rights Commission reported a total of 560 complaints of alleged torture during the course of the year.

174. The Prevention of Terrorism Act makes confessions obtained under any circumstance, including by torture, sufficient to hold a person until they are brought to court. As a possible result of this as well as the prevailing impunity, members of the security forces continued to torture and mistreat detainees and other prisoners, particularly during interrogation. According to the US State Department, methods of torture included electric shock, beatings, and suspension by the wrists or feet in contorted positions, burning, slamming testicles in desk drawers, and near drowning. In other cases, victims must remain in unnatural positions for extended periods or have bags laced with insecticide, chilli powder, or gasoline placed over their heads. Detainees have reported broken bones and other serious injuries as a result of their mistreatment. Medical examination of persons arrested since 2000 continued to reveal multiple cases of torture.¹⁴⁷
175. Magistrates have key roles in relation to the prevention of torture, which they do not always fully perform. Officers in charge of places of detention are required to provide the local magistrate every 14 days with a list of all detainees, and the magistrate has to display the list on the court's notice board. These safeguards have never been fully implemented. Under the Code of Criminal Procedure, magistrates have a duty to examine detainees brought before them. There are reports that magistrates do not carry out this duty rigorously. This failure erodes the chances of tortured detainees receiving justice at a later stage.¹⁴⁸
176. The UN Human Rights Committee in its concluding recommendations on Sri Lanka in November 2003 remained concerned about persistent reports of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and members of the armed forces. It regretted that the majority of prosecutions initiated against police officers or members of the armed forces on charges of abduction and unlawful confinement, as well as on charges of torture, have been inconclusive due to lack of satisfactory evidence and unavailability of witnesses. This is despite a number of acknowledged instances of abduction and/or unlawful confinement and/or torture. The committee went on to point out that only very few police or army officers have been found guilty and punished.¹⁴⁹
177. During 2001 there were a number of reports of women being raped by security forces while in detention. One such case involved two women arrested in March 2001 in Mannar who claimed that they were tortured and repeatedly raped by naval and police personnel. The women were released on bail in April 2001 and filed charges against their assailants. Four other cases in which the security forces are accused of raping women in detention were still pending at the end of 2002.¹⁵⁰

¹⁴⁷ US State Department, *Country Report on Human Rights Practices- Sri Lanka 2002*, released March 2003

¹⁴⁸ Amnesty International, *Torture in Custody*, June 1999

¹⁴⁹ UN Human Rights Committee CCPR/CO/79/Sri Lanka, *Consideration of reports submitted by State parties under article 40 of the Covenant*, November 2003

¹⁵⁰ US State Department, *Country Report on Human Rights Practices- Sri Lanka 2002*, released March 2003

178. In the first quarter of 2004, there has been two reports of serious torture. The latest case of the death following torture was that of Mr. Dehiwatte Gedera Jayathilaka in March 2004, was reported by the Asian Human Rights Commission (AHRC). According to the AHRC Mr Jayathilaka was tortured by the police at the Mahawela Police Station in Sri Lanka on 9th of March. The Judicial Medical Officer, who examined the victim's body, certified that the victim's ribs were broken and that bruises were found on his body.¹⁵¹
179. The UN Special Rapporteur on Torture also reported on corporal punishments, which continued to be imposed by courts, including on juveniles. Section 52 of the Penal Code lists "whipping" as a punishment to which offenders are liable under the Code. It is explicitly provided for as an additional punishment for theft of, among others, fruit and vegetables. Section 29.1 of the Children and Young Persons Ordinance of 1939 allows whipping also as a form of punishment on male children for certain offences.¹⁵²

D. Right to Fair Trial

180. The present government has not interfered with the functioning of the judiciary and has respected its judgments. However, impunity remained a critical problem, with few prosecutions of those responsible for human rights violations. In the vast majority of cases where military personnel may have committed human rights violations, the Government has not identified those responsible and brought them to justice.¹⁵³
181. However, a few encouraging signs were seen in 2003, for example when the Court of Appeal upheld the sentences of six army personnel sentenced to 10 years' imprisonment in connection with the "disappearance" of a group of young people in 1989 and the trial of 41 people, including nine police officers, in connection with the killing in October 2000 of 27 young Tamil men and boys detained for "rehabilitation" at Bindunuwewa.¹⁵⁴
182. Most court proceedings in Colombo and the south are conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, has restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north and east are in Tamil and English, but many serious cases, including those having to do with terrorism, are tried in Colombo. While Tamil-speaking judges exist at the magistrate level, only four high court judges, an appeals court judge, and a Supreme Court justice speak fluent Tamil. Few legal textbooks and only a few law reports exist in Tamil, and the Government has complied only slowly with legislation requiring publishing all laws in English, Sinhala, and Tamil.¹⁵⁵ The Supreme Court and Appeal Court proceedings are generally in English, although the defendants have the right to use their own language. In these cases, translation is provided when necessary.

¹⁵¹ World Organisation Against Torture (OMCT), Sri Lanka: Case LKA 190404 - death following torture of Mr. Dehiwatte Gedera Jayathi, March, 2004

¹⁵² E/CN.4/2000/9, para. 931.

¹⁵³ UN Human Rights Committee CCPR/CO/79/Sri Lanka, *Consideration of reports submitted by State parties under article 40 of the Covenant*, November 2003

¹⁵⁴ Amnesty International, *Sri Lanka Country Report*, June 2003

¹⁵⁵ US State Department, *Country Report on Human Rights Practices - Sri Lanka 2002*, released March 2003

183. In criminal cases, juries try defendants in public. Defendants are informed of the charges and evidence against them, and may be represented by the counsel of their choice. They have the right to appeal. The Government provides counsel for indigent persons tried on criminal charges in the high courts and the courts of appeal, but it does not provide counsel in other cases. Private legal aid organisations assist some defendants. In addition, the Bar Association of Sri Lanka and the Ministry of Justice operate community legal aid centres to assist those who cannot afford representation and to serve as educational resources for local communities.
184. There are no jury trials in cases brought under the Prevention of Terrorism Act (PTA). Confessions, obtained by various coercive means, including torture, are inadmissible in criminal proceedings, but are allowed in PTA cases. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Subject to judicial review in certain cases, defendants can spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases come to trial, decisions are made relatively quickly. In 2002 more than 750 PTA cases were dropped and the prisoners released.¹⁵⁶ After the cease-fire agreement the Government made a commitment not to arrest anyone under the PTA, which nevertheless remains in force.

E. Right to Freedom of Religion

185. Although the Constitution gives Buddhism a foremost position it also provides for the right of members of other faiths to practice their religion freely.¹⁵⁷ Article 15 of the Constitution stipulates that every citizen has the right to freedom of thought, conscience and religion. This right includes the freedom to have or to adopt a religion or belief of his choice, and the freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
186. There are separate ministries in the Government, led by different ministers, which address religious affairs. These include: The Ministry of Buddha Sasana ("clergy"), the Ministry of Muslim Religious Affairs, the Ministry of Hindu Affairs, and the Ministry of Christian Affairs. Each of these ministries has been empowered to deal with issues involving the religion in question.¹⁵⁸
187. In January 2002 a bill intended to curb religious conversions of Hindus was drafted and presented to the Cabinet. As of the end of the reporting period, the bill was still under review. A similar bill was proposed by the Minister for Buddhist Affairs in January 2003 following a period of religious tension, directed mainly towards the Christian Community (see section on religious minorities).

¹⁵⁶ US State Department, Country Report on Human Rights Practices- Sri Lanka 2002, released March 2003

¹⁵⁷ Constitution of the Democratic Socialist Republic of Sri Lanka, Chapter II, Article 7(1) reads: "The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by paragraphs (1) and (3) of Article 15

¹⁵⁸ U.S. Department of State, *International Religious Freedom Report- Sri Lanka*, December 18, 2003

188. The Government respects the right to freedom of religion in practice. Religion is a mandatory subject in the school curriculum. Parents and children can choose which religion child studies (Buddhism, Hinduism, Christianity or Islam). Students of minority religions other than Islam, Hinduism, and Christianity must pursue religious instruction outside of the public school system. There are no separate syllabi provided for smaller religions. Major religious festivals are celebrated as national holidays.
189. Some Christian denominations have resisted greater government involvement in their affairs; instead they are registered individually through acts of Parliament or as corporations under domestic law. Christian denominations must fill out and submit forms in order to be recognised as corporations. This gives them legal standing in Sri Lanka to be treated as corporate entities in their financial and real estate transactions. There is no tax exemption for religious organisations as such. However, churches and temples are allowed to register as charitable organisations and therefore are entitled to some tax exemptions.¹⁵⁹
190. There were no reports of religious detainees or prisoners in 2002 or 2003¹⁶⁰. However, several incidents in 2002 and 2003 involving religious groups fighting each other were reported. These are highlighted under the section on religious minorities.

F. Right to Freedom of Expression

191. The Sri Lankan Constitution stipulates, in Article 16(1) that “every person is entitled to the freedom of speech and expression including publication and this right shall include the freedom to express opinions and to seek, receive and impart information and ideas either orally, in writing, in print, in the form of art, or through any other medium”.
192. In the past, the Government restricted these rights in practice, often using national security grounds permitted by law. In 2001 the Government officially lifted the censorship on war reporting, and during 2002, criminal defamation laws, which had often been used by the Government to intimidate independent media outlets, were eliminated. However, even when no specific government censorship is exercised, private television stations impose their own, informal censorship on international television news rebroadcast in the country.¹⁶¹
193. One of the reasons for the self-imposed censorship may be the turbulent past when the Sri Lanka army repeatedly closed down several newspapers for breaking censorship regulations by publishing articles without permission.¹⁶² This included closing down papers such as *Uthayan* in Jaffna, and the *Sunday Leader* distributed from Colombo in 2000.¹⁶³ In June 2000, the Supreme Court of Sri Lanka ruled that the Government had acted illegally in imposing media censorship in response to the conflict in the north. It said the Government had no authority to censor news reports or close down

¹⁵⁹ Ibid

¹⁶⁰ Ibid

¹⁶¹ US State Department, *Country Report on Human Rights Practices—Sri Lanka 2002*, released March 2003

¹⁶² See UNHCR/CDR *Background Paper on Sri Lanka Refugees and Asylum seekers*, June 2001

¹⁶³ Ibid



newspapers. The Sunday Leader and other papers should be allowed to resume publication immediately.¹⁶⁴

194. The United Nations Human Rights Committee stated in November 2003 that it is concerned about persistent reports that media personnel and journalists face harassment, and that the majority of allegations of violations of freedom of expression have been ignored or rejected by the competent authorities. The Committee observes that the police and other government agencies frequently do not appear to take the required measures of protection to combat such practices.¹⁶⁵
195. Even today many of Sri Lanka's main media outlets are government-controlled, including two major TV stations and radio networks operated by the Sri Lanka Broadcasting Corporation (SLBC). However, independent, privately owned media exists and often criticises Government policies.
196. In 2002, against the background of the ongoing peace process, the government permitted the LTTE to begin FM broadcasts of their Voice of Tigers radio station in the north of the island. The station had previously operated on a clandestine basis. After the cease-fire in February 2002, travel by local and foreign journalists to conflict areas is no longer restricted.
197. The Sri Lanka Tamil Media Alliance (SLTMA) was formed in 1999 to protect the interests of Tamil journalists, who allege that they are subject to harassment and intimidation by Tamil paramilitary groups and Sri Lankan security forces. Regional Tamil correspondents working in the war zones have complained of arbitrary arrest and detention in the past and difficulty in obtaining press accreditation. The SLTMA has filed cases on behalf of Tamil journalists, but its cases have not yet succeeded in the courts.¹⁶⁶
198. According to the US State Department and other reports the LTTE does not tolerate freedom of expression. It tightly restricts the print and broadcast media in areas under its control. The LTTE has killed those reporting and publishing on human rights.¹⁶⁷

G. Right to Freedom of Association

199. The right to form a trade union and to bargain collectively is formally recognised in Sri Lankan law.¹⁶⁸ These rights are enshrined in conventions 87 and 98 of the International Labour Organisation, both of which have been ratified by Sri Lanka. A 1999 amendment to the Industrial Disputes Act is supposed to protect workers against acts of anti-union discrimination in taking up employment and in the course of employment, in accordance with the requirements of Articles 1 and 2 of ILO Convention No.98. It prohibits employers from interfering in trade union activities and requires them to recognise trade unions and the right to collective bargaining.

¹⁶⁴ BBC News, South Asia, *Sri Lanka censorship struck down*, 30 June 2000

¹⁶⁵ UN Human Rights Committee, *CCPR/CO/79/LKA, Concluding Observations of the Human Rights Committee, Sri Lanka*, November 2003

¹⁶⁶ US State Department, *Country Report on Human Rights Practices— Sri Lanka 2002*, released March 2003

¹⁶⁷ US State Department, *Country Report on Human Rights Practices— Sri Lanka 2002*, released March 2003

¹⁶⁸ Article 14 Chapter III of the Sri Lankan Constitution

200. However, since the adoption of the Act, many serious cases have been reported of anti-union discrimination and non-recognition of trade unions.¹⁶⁹ In particular there are widespread violations of trade union rights in the export processing zones, which in Sri Lanka are called Free Trade Zones (FTZs). Legislatively, workers in the FTZs have the same rights to join unions as other workers. However, few unions have been formed in the FTZs. The low unionisation rate within the FTZs is largely due to severe anti-union discrimination and the lack of recognition of trade unions by employers.¹⁷⁰
201. The FTZs are managed by the Government's Board of Investment (BOI), which sets wages and other working conditions. Trade union representatives report that the BOI has strongly discouraged trade union activity and pressed the Labour commission not to prosecute employers who refuse to recognise or enter into collective bargaining with trade unions. While many workplaces have "worker councils", composed of employees and employers, these have extremely limited functions – not including the power to negotiate binding contracts – and, in addition, they are chaired by the BOI.¹⁷¹
202. Following an international campaign, the Free Trade Zone Workers Union (FTZWU) of Sri Lanka won their battle for union recognition in October 2003. The campaign started after the Jaqalanka Ltd Company, which produces for Nike, attempted to prevent the formation of a union by intimidating and harassing workers. This occurred in the run up to a ballot to determine whether the union had the level of support needed to be recognised. With only 4% of the workers voting due to the level of intimidation carried out by management, the union declared the election null and void. A report by international observers confirmed the claims of intimidation. In the weeks after the ballot, the level of intimidation increased. One branch secretary was assaulted by five men after attending a union meeting while one member was questioned about her involvement in the union and received a death threat. Both incidents were reported to the police who took no action. More urgent appeals were issued in light of these developments, with campaigners asked to increase pressure on both factory management and buyers. On 16 October 2003, the union and management finally reached agreement: Jaqalanka management has now accepted the FTZWU as the representative of workers at the factory and will refrain from any victimisation or harassment of union members; FTZWU has agreed to call off the international campaign and suspend complaints lodged with the ILO.¹⁷²

H. Right to Freedom of Movement

203. The right to freedom of movement is laid down in Article 12(1) and 12(2) of the Constitution, stating that "every person lawfully resident [in Sri Lanka] is entitled to the freedom of movement [within Sri Lanka] and of choosing such person's residence" and that "every person shall be free to leave" Sri Lanka.
204. The Government generally respects the right to domestic and foreign travel. During the conflict with the LTTE the Government imposed more stringent checks on

¹⁶⁹ Trade Unions urge investigation of SL's labour standards www.sundayobserver.lk/2002/09/01/fea06.html

¹⁷⁰ Ibidem

¹⁷¹ Ibidem

¹⁷² Sri Lanka's Free Trade zones no go for unions? www.labourbehindthelabel.org/urgent_appeals/sri_lanka.htm



travelers from the north and the east, and on movement in Colombo, particularly after dark. These security checks had the effect of restricting the movement of Tamils, especially young males. However, no such systematic security or identity checks have been carried out in Colombo after the signing of the cease-fire agreement.

205. Both the LTTE and the Government carry out checks on travelers at the crossing-points between the LTTE and the Government-controlled areas. The movement of persons in the Jaffna peninsula is regulated by military checkpoints throughout the area.
206. During the war it was difficult for Tamils to travel from Jaffna to other parts of the country, due to security restrictions imposed by the security forces and the limited availability of transportation. They had to carry a LTTE travel pass, which was only issued to people such as Tamil businessmen who were regarded as reliable and who could regularly travel back and forth. Permission to travel was also granted for family visits and hospital treatment in Colombo, but accompanied by a warning that remaining family members would face punishment if the traveler does not return.

1. Changes after the cease-fire agreement

207. Freedom of movement has dramatically improved since the cease-fire and the Government has lifted a majority of the travel restrictions within the country. On 8 April 2002, the A9, the main highway from central Sri Lanka to the Jaffna peninsula in the North, which runs through the LTTE controlled Vanni region in northern Sri Lanka, re-opened after being closed for 12 years. On 15 July 2002, the A5 between Maha Oya in Ampara District and Chenkaladi in Batticaloa District reopened. The A5 is a main road in the Eastern Province connecting Badulla and Batticaloa Districts.
208. Persons moving between the government and LTTE areas as well as within the LTTE areas are required to show identity cards (or other documents) at both the Sri Lankan Army and LTTE check points. Baggage is often searched and persons crossing are – at times – subject to questioning. In some areas, such as the islands in the North, both the SLA and the LTTE (depending on the checkpoint) keep a registry book, which is to be signed by those who cross the checkpoints, thus effectively monitoring all movements.
209. While freedom of movement has improved generally in Sri Lanka, restrictions on movement are still present near military bases and there is no access to the high security zones, despite the fact that many of the internally displaced own property in these areas. Some observers claim the high security zones are excessive and unfairly claim Tamil lands, particularly in Jaffna.¹⁷³
210. Many issues related to freedom of movement and the high security zones are closely related to the possibility of finding durable solutions for the country's internally displaced. UNHCR and other organisations continue to advocate for the restitution of private property to be addressed within the peace negotiations as many of the internally displaced originate from areas presently declared as high security zones.

¹⁷³ US State Department, Country Report on Human Rights Practices– Sri Lanka 2002, released March 2003

2. Possibility of using the Internal Flight Option

211. Since the ceasefire agreement came into force, most checkpoints between the Government and LTTE controlled areas have been removed. The checkpoints that were approved under the MoU between the Government and the LTTE are listed in the cease-fire agreement and generally adhered to. However, although it is occasionally possible for high-ranking members of the LTTE to seek national protection when fleeing the LTTE there are numerous reports of suspicious deaths of former LTTE cadres, including persons who have sought national protection, occurring in Government controlled areas. In cases where inter-Tamil fighting occurs the Government stand has been to not intervene as any such intervention would be a violation of the cease-fire.
212. In general it is no longer possible to use the internal flight option for Tamils fleeing the LTTE as the organisation is present in every part of the country and has a well-developed information/ intelligence network.

3. Possibilities to Depart From Places Other Than Colombo

213. Immigration authorities have stated that Colombo airport continues to be the only place from which civilians can legally leave Sri Lanka. However, according to the Ministry of Defence, it is not possible to stop people from leaving Sri Lanka by boat via India. In this regard, it referred to the short distance between India and Sri Lanka and to the fact that there were many trawlers in the waters between these two countries that those leaving could board.¹⁷⁴ In December 2003 the Sri Lankan navy intercepted a fishing trawler with 260 men onboard, heading towards Italy. As a response to media questions, the authorities stated that they believe Sri Lanka is often used as a transit point for the smuggling of illegal immigrants from the subcontinent to Europe.¹⁷⁵
214. People who have left Sri Lanka illegally are punishable under the present Immigration Act.

4. Returning Refugees

215. While UNHCR considers the conditions in the country not to be conducive to large-scale repatriation (see VI. UNHCR's IDP Operation, C.), the organization does assist the Sri Lankan and Indian Governments by facilitating the return of priority cases. In 2003, 4,022 refugees living in India returned voluntarily to Sri Lanka. Of this number, 1,019 were facilitated by UNHCR while the remaining 3,003 arrived spontaneously, the majority in fishing boats to Jaffna and Mannar districts. The total number of returns increased significantly from 2002 (1,427) to 2003 (4,022). Statistics for 2003 can be found under Annexes, A. Statistics, 2. *Statistics for 2003*. For a full breakdown of returns per district, see Annexes, B. Maps, 2. *Repatriation From India by District*.

I. Economic, Social and Cultural Rights

216. The United Nations Committee for Economic, Social and Cultural rights noted in 1998 that in spite of its relatively low per capita income, Sri Lanka had achieved progress in providing essential social services including free and compulsory

¹⁷⁴ Danish Immigration Service, Report on Fact-Finding Mission to Sri Lanka, 14 November to 5 December 1998, January 1999, Chapter V-1.

¹⁷⁵ BBC News, *Sri Lanka arrest illegal migrants*, 26 December 2003



education for all up to the age of 16, free health care, and food subsidies and supplements for targeted vulnerable groups. This resulted in a higher UNDP human development index rating in relation to other countries in the same income group.¹⁷⁶

217. However, the committee expressed its grave concern regarding the situation of the internally displaced, many of whom have been living in temporary shelters for the past 15 years and who lack basic sanitation, education, food, clothing and health care.¹⁷⁷ Despite the fact that UNHCR and other agencies have been providing more housing and better sanitation facilities in the Government-run welfare centres the situation has unfortunately not improved significantly since the report.
218. As pointed out in the section on socio-economic conditions, 25 percent of the population still lives below the poverty line. Among the poorest households, only 38 percent have electricity, 55 percent sanitation, and 61 percent access to safe drinking water. These conditions discourage economic growth in poorer areas and exacerbate inequality within the country.¹⁷⁸

1. Education

219. Education is highly valued by all groups of people in Sri Lanka. This "veneration for education" derives from different ethno-religious traditions, such as in the case of Buddhism.¹⁷⁹ The 1978 Constitution affirms the need for the complete eradication of illiteracy and assures the citizens the right to universal and equal access to education at all levels. Educational achievements include primary education completion rates of around 100 percent. Sri Lanka's literacy rates, adult and child, are on par with the more developed countries of the world.¹⁸⁰
220. Education is compulsory and provided free of charge.¹⁸¹ However, due to the "state's heavy dominance" in the sector and "inadequate investment", the quality of education has deteriorated. In 1999, the Government launched a program of educational reforms aimed at overhauling the curriculum. University education is severely restricted, with just 15 per cent of eligible students gaining admission to the 13 state universities.¹⁸²

2. Food

221. The authorities in Sri Lanka have been providing food rations to those in need in the conflict areas and to all those persons earning less than 2,500 Rs a month (approximately US\$ 25). During the armed conflict, the delivery of government assistance was intermittent, resulting in a significant curtailment in the volume of food and medicine supplied. Despite the cease-fire agreement food rations continue to be delivered late, and are not regular. UNHCR has raised this issue with the Ministry of

¹⁷⁶ UN Economic and Social Council, Concluding observations of the Committee on Economic, Social and Cultural Rights – Sri Lanka, E/C.12/1/Add.24, June 1998

¹⁷⁷ UN Economic and Social Council, Concluding observations of the Committee on Economic, Social and Cultural Rights – Sri Lanka, E/C.12/1/Add.24, June 1998

¹⁷⁸ World Bank, Sri Lanka Country Brief, July 2003

¹⁷⁹ United Nations Educational, Scientific and Cultural Organization (UNESCO), *Education For All 2000 Assessment: Country Reports – Sri Lanka*, 2000.

¹⁸⁰ World Bank, Sri Lanka Country Brief, July 2003

¹⁸¹ EIU, *Country Profile – Sri Lanka*, 2000, p. 12.

¹⁸² *Ibid.*



Rehabilitation, Resettlement and Refugees on several occasions, given that the delay in the receipt of dry food rations severely affects the life of the internally displaced.

3. Health

222. The Government in Sri Lanka provides health services free of charge, but "severe resource constraints" prevented expenditure from rising above 1.4 per cent of the GDP, compared to an average of 2.8 per cent for low- and middle income countries.¹⁸³
223. The health indicators in Sri Lanka are the best in South Asia. However, facilities have become increasingly overburdened as a result of health problems such as malnutrition and communicable diseases, and problems such as drug and alcohol addictions and those relating to the aging population. The growing number of casualties and disabilities from the recent war represent an additional burden.¹⁸⁴

V. Vulnerable Groups

A. Ethnic Minorities

224. Sri Lanka has an ethnically heterogeneous population. Although the Sinhalese form the majority of the population, there are three significant ethnic minorities, as well as a remnant population of Veddhas, the indigenous inhabitants of the island.¹⁸⁵

1. Veddhas

225. The country's indigenous people, known as Veddhas, number fewer than 1,000. Some prefer to maintain their isolated traditional way of life, and they are protected by the Constitution. There are no legal restrictions on their participation in the political or economic life of the nation. In 1998 the Government fulfilled a long-standing Veddha demand when the President issued an order granting Veddhas the right to hunt and gather in specific protected forest areas. The executive order granted the Veddhas the freedom to protect their culture and to carry on their traditional way of life without hindrance. Under a pilot program, Veddhas received special identity cards to enable their use of these forest areas. However, some Veddhas still complain that they are being pushed off their land.¹⁸⁶

2. Tamils

226. According to legend Sri Lankan Tamils arrived in Sri Lanka from Southern India, as long as 2,000 years ago. Today, their culture contains a mix of Tamil, Sinhalese and south Indian elements. The 18% Tamil population falls into two categories. 12,6% belong to the Sri Lanka or Ceylon Tamils, living in the north and east of the country. Their ancestors came to the country mainly from Tamil Nadu in Southeast India often as fishermen.

¹⁸³ EIU, *Country Profile - Sri Lanka*, 2000, p. 12.

¹⁸⁴ *Ibid.*

¹⁸⁵ David Levinson, *Ethnic Groups Worldwide. A Ready Reference Handbook: Sri Lanka*, Oryx Press, 1998.

¹⁸⁶ US State Department, *Country Report on Human Rights Practices- Sri Lanka 2002*, March 2003



227. Although the Sinhalese are in majority Buddhist and the Tamils are predominantly Hindu¹⁸⁷, the conflict in Sri Lanka should be qualified as an ethnic conflict rather than a religious conflict.¹⁸⁸

3. Tamils of Recent Indian Origin and Stateless Persons

228. Indian Tamils are descendants of Tamils brought to Sri Lanka by the British during the 1800s to work on the coffee and tea plantations. They make up 8.5 per cent of the population and, while they speak Tamil, they are culturally and politically distinct from the Sri Lankan Tamils.¹⁸⁹
229. In October 2003 it was estimated that there were around 300,000 stateless persons of Indian origin currently living in Sri Lanka, the majority being descendants of persons brought from India to work on the tea plantations by the British colonizers in or around 1820-1840. These persons have been subject to various forms of Indo-Ceylon agreements in the past, and some have been granted citizenship of either Sri Lanka or India. Many, however, remained stateless and lacked the rights of the rest of the population.
230. On 8 October 2003, as a result of active lobbying efforts by many parties, the Sri Lanka Parliament adopted Act no 35 of 2003 "Grant of Citizenship to persons of Indian Origin", which granted citizenship to persons of Indian origin and their descendants. The Act automatically grants citizenship to any person of Indian origin who, on the date of it coming into operation
- a) Has been a permanent resident of Sri Lanka since October 30, 1964 or
 - b) Is a descendent, resident in Sri Lanka, of a person who has been a permanent resident of Sri Lanka since October 30, 1964.
231. During the campaign that followed the passing of the bill over 190,000 heads-of-households, gained citizenship for themselves and their children. The campaign was conducted jointly by the Ceylon Worker Congress and UNHCR in December 2003.

4. Muslims

232. The Muslims in Sri Lanka view themselves as an ethnic minority, and are seeking to be included in the peace process as an own entity. In many sectors of the society there is a latent hostility against the Muslims, based on the perception that they are not willing to quietly subside into the "main-stream" Sinhala society. However, there are many Muslim MPs, which are involved in several issues that are not strictly related to their religious and ethnic background.
233. Please see more under the section of religious minorities.

B. Religious Minorities

234. Buddhism, Hinduism, Islam and Christianity are all practiced in Sri Lanka. Approximately 70 per cent of the population is Buddhist, 15 percent are Hindu, eight per cent are Christian, and seven per cent are Muslim. There are also a small number

¹⁸⁷ US State Department, *Annual Report on International Religious Freedom, Sri Lanka*, 18 December 2003

¹⁸⁸ US State Department, *Country Report on Human Rights Practices- Sri Lanka 2002*, March 2003

¹⁸⁹ David Levinson, *Ethnic Groups Worldwide: A Ready Reference Handbook: Sri Lanka*, Oryx Press, 1998

of Baha'is.¹⁹⁰ In general, the members of the various faiths tend to be tolerant of each other's religious beliefs. Discrimination based on religious differences is much less common than discrimination based on ethnic group or caste.¹⁹¹

235. Most members of the majority Sinhalese community are Theravada Buddhists. Almost all Muslims are Sunnis, with a small minority of Shi'a, including members of the Borah community. Roman Catholics account for almost 90 percent of the Christians, with Anglicans and other mainstream Protestant churches also present in the cities. The Seventh-day Adventists, Jehovah's Witnesses, and the Assemblies of God are present as well. Evangelical Christian groups have increased in membership in recent years, although the overall number of members in these groups still is small.¹⁹²

I. Muslims

236. The Muslims, who represent seven per cent of the population, are predominantly traders and maintain "cordial ties" with both the Sinhalese and the Tamils.¹⁹³
237. The LTTE expelled virtually the entire Muslim population from their homes in the northern part of the island in 1990. The LTTE has expropriated Muslim homes, land, and businesses and threatened Muslim families with death if they attempt to return. Most of these persons remain displaced. After the visit in May 1998 of the Special Representative of the Commission on Human Rights on children in armed conflict, the LTTE leadership agreed not to impede the return of Muslim populations displaced by outbreaks of hostilities, however it is unclear whether this commitment will be honored.
238. After the cease-fire agreement, the LTTE leadership has met with the leaders of the Muslim community on their incorporation into the peace process. Since then LTTE has made some conciliatory statements to the Muslim community, but some Muslims view the statements with scepticism.¹⁹⁴ A small minority of the Muslim population have returned home to the Jaffna peninsula in 2002 and 2003. They have not reported any harassment over and above that experienced by the Tamil community.
239. Inter-ethnic conflict between the Tamils and the Muslims however continue with flash-points especially in the Eastern parts of the country. In previous conflict areas disputes over property issues continue to arise, with Muslim and Tamil communities both claiming the same agricultural land. Through an arrangement between the leaders of the Muslims in the East and the former LTTE leadership in the East the LTTE promised to give back some 30,000 perches of land to the Muslim population as well as arrange for alternative land for those Tamils currently occupying Muslim land. However, due to inter-Tamil fighting in the East in March-April 2004, the agreement has now been overturned by the events.

¹⁹⁰ US Department of State, International Religious Freedom Report 2003, 18 December 2003.

¹⁹¹ Ibid

¹⁹² US Department of State, International Religious Freedom Report 2003, 18 December 2003

¹⁹³ EIU, *Country Profile – Sri Lanka*, 2000, p. 11.

¹⁹⁴ US State Department, Country Report on Human Rights Practices– Sri Lanka 2002, released March 2003



2. Christians

240. Christians – almost 90 per cent of them Roman Catholics – tend to be concentrated in the Western part of the country. Anglican and other mainstream Protestant churches are also present in the cities.
241. The majority of religiously motivated attacks in 2003 involved the local population targeting Christians. Two incidents were reported in May, one which involved the burning of a pastors home by persons associated with a Buddhist temple in Neluwa in the South and another the beating of the church members by a Hindu mob and the burning of the homes of all 25 Christian families in the village in Kaluvenkerni in the North-East. Suspects of the first incident are scheduled for trial in March 2004 whereas no arrests have been made to date in regards to the second incident.¹⁹⁵
242. One other incident was reported in June 2003, when a mob of 100 Buddhists surrounded St. Stephen's Lutheran Church at midnight and destroyed a small church hall still under construction. A Christian family next door was threatened with death if they reported the incident. Local authorities made one arrest after the attack but took no other action. Villagers subsequently threatened to bomb the church if the Christians attempted to rebuild it.¹⁹⁶
243. In December 2003 more than 100 Buddhist Monks started a hunger strike, allegedly because of "unethical" conversion tactics used by the Christian community. Requesting the Government to enact laws against unethical means to convert Buddhist and Hindus the Monks claimed that more than 7,000 Hindus had already been converted in the Northeast.¹⁹⁷ The Ministry for Buddhist affairs has publicly promised to present a Cabinet proposal to enact necessary legislation to stop conversions. This dissent may be aggravated by some nationalistic forces that are trying to get into power.
244. During the month of December 2003, the media in Sri Lanka reported that around 26 churches were burnt in various places in Sri Lanka, two of them in and around Colombo. In response to these incidents and the burning of a Catholic Church in January 2004, the media reported that the President had ordered "tough action" against the perpetrators.¹⁹⁸

3. Others

245. Some evangelical Christians, who constitute less than one per cent of the population, have expressed concern that their efforts at proselytization often are met with "hostility and harassment" by Buddhist monks and others opposed to their work. They sometimes complain that the Government tacitly condones such harassment, but there is little evidence to support this claim, although impunity for non-state actors is a problem in this area as well. The Assemblies of God claims that it continues to face opposition at the local level in many areas but states that legal action or the threat of

¹⁹⁵ U.S. Department of State, *International Religious Freedom Report, Sri Lanka*, December 18, 2003

¹⁹⁶ U.S. Department of State, *International Religious Freedom Report, Sri Lanka*, December 18, 2003

¹⁹⁷ Daily Mirror, *Fasting monks demand anti-conversion laws*, 30 December 2003

¹⁹⁸ Daily Mirror, *President orders tough action against church attacks*, 17 January 2003



legal action generally has resulted in the church being allowed to construct facilities for its congregations and conduct worship services.¹⁹⁹

C. Internally Displaced Persons

246. As stated previously, hundreds of thousands of civilians have been internally displaced in the northern Jaffna peninsula, at various times during the civil war.²⁰⁰ The Government has estimated that some 800,000 persons were at one point or another internally displaced in areas affected by the conflict comprising 4 percent of the population.²⁰¹ Most of them are Hindu Tamils, although thousands of Muslims and Buddhist Sinhalese were also displaced.²⁰²
247. During the civil war, the displaced were identifiable as large clusters of people in camps or so called welfare centers, uprooted from their homes, and divested of the entire natural resource-base, as a result of which they were entirely dependent on humanitarian assistance and precarious protection from the controlling authorities. The camps were often overcrowded, could not provide an adequate standard of shelter, sanitation or social services. The condition in the camps has resulted in particularly severe invasions of privacy, especially for women. The "areas" of habitation are sometimes cordoned off only by old saris and other pieces of rag.²⁰³ In addition, the Special Representative of the Secretary General on Internal Displacement, Mr. Francis Deng concluded after his visits to Sri Lanka that many displaced Tamil women in Sri Lanka had been raped prior to their displacement.²⁰⁴
248. As a UN agency, UNHCR has a responsibility to assist in the protection of the rights of the IDPs, as contained in the relevant provisions of international law and reaffirmed in the Guiding Principles on Internal Displacement. In addition, in Sri Lanka, UNHCR has reached an agreement with the Government, reinforced by the endorsement of the UN Secretary-General, to extend HCR's protection and assistance to IDPs. In the past years, UNHCR assisted the Government to assist IDPs living in welfare centers with relief materials, shelter, water and basic services. UNHCR also provides protection to IDPs through monitoring the human rights situation and through the provision of free legal aid.
249. UNHCR's role was confirmed in 2002 in the Government and the United Nation's "Joint Strategy to Meet the Immediate Needs of Returned IDPs". The joint strategy states that the overarching goal is to "promote and protect the rights of internally displaced persons and returnees, with a special emphasis on freedom of movement, liberty and security, and property rights of women, children, and other groups at risk".²⁰⁵

¹⁹⁹ U.S. Department of State, *International Religious Freedom Report*, Sri Lanka, December 18, 2003

²⁰⁰ Freedom House, *Freedom in the World 1999-2000: Sri Lanka*, 2000.

²⁰¹ Associated Press, *Tiny Sri Lanka has 800,000 refugees*, 13 June 2001.

²⁰² U.S. Committee for Refugees, *World Refugee Survey 2001 - Sri Lanka*, June 2001.

²⁰³ Gomez, Mario, July 2002, National Human Rights Commissions and Internally Displaced Persons (www.db.idpproject.org/Sites/idpSurvey.nsf/wViewCountries/)

²⁰⁴ *Ibid.*, para. 30.

²⁰⁵ Government of Sri Lanka and United Nations: Joint Strategy on immediate needs of returnees internally displaced persons, July 2003.



250. Following the signing of the MOU in February 2002, over 345,000 persons decided to leave their place of displacement and try to return home or at least to areas closer to their homes. The return movement was voluntary and spontaneous, although UNHCR and other agencies did assist post-facto returnees with material and legal aid. On the next page is a map of the movements of the IDP- population, following the MOU in February 2002.
251. However, approximately 400,000 persons remain internally displaced, of which 90,217 live in the 318 Government run welfare centers. Many of the IDPs are unable to return home, due to the fact that others occupy their homes, their land is located inside the high security zone, or their homes are inhabitable due to destruction. In the UNHCR and Government IDP survey conducted in 2002 more than 60 % of the IDPs estimated that their homes were destroyed or inhabitable. Many are also landless and as such have no place to return to. See map with the breakdown of IDPs per district under Annexes, B. Maps, 1. *Sri Lanka IDP Movements by District* and a table under Annexes, A. Statistics, 3. *Breakdown of IDPs per district*.

D. Women

252. The UN Committee on the Elimination of Discrimination Against Women in January 2002 expressed its concern about the contradiction between the constitutional guarantees of fundamental rights and the existence of laws that discriminate against women. It urged Sri Lanka to review all existing laws and amend discriminatory provisions so that they are compatible with the Convention. The Committee further expressed its concern that abortion is allowed only when the mother's life is in danger and is strictly prohibited otherwise, even in extreme circumstances, which results in women resorting to illegal abortions. It recommended that abortion be permitted in cases of rape, incest and congenital abnormalities. The Committee expressed its concern about the high incidence of violence against women, including domestic violence. It further noted with alarm the high and severe incidences of rape and other forms of violence targeted against women of ethnic minorities, in particular Tamil women, by the police and security forces in the conflict areas.²⁰⁶
253. The contradiction between the constitution and the legislation is due to the fact that, in Sri Lanka, issues related to family law, including divorce, child custody, inheritance are adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for a woman is 18 years, except in the case of Muslims, who continue to follow their customary religious practices. The application of different legal practices based on membership in a religious or ethnic group may result in discrimination against women.²⁰⁷ Despite the recommendations made by CEDAW in 2002, this did not change. As a result the United Nations Human Rights Committee was forced to state, in November 2003, that it was concerned about the contradiction between constitutional guarantees of fundamental rights and the continuing existence of certain aspects of personal laws discriminating against women, in regard to the age of marriage, divorce and devolution of property.²⁰⁸

²⁰⁶ Concluding comments of the Committee on the Elimination of Discrimination against Women issued at its twenty-sixth session CEDAW/C/2002/1/CRP.3/Add.5.

²⁰⁷ Ibid

²⁰⁸ UN Human Rights Committee, CCPR/CO/79/LKA, *Concluding Observations of the Human Rights Committee, Sri Lanka*, November 2003

254. Amendments to the Penal Code introduced in 1995 specifically addressed sexual abuse and exploitation and modified rape laws to create a more equitable burden of proof and to make punishments more stringent. However, there is no specific legislation to combat domestic violence, marital rape is criminalized only in the case of judicial separation and abortion is illegal. Several Women's Organizations are in the process of drafting amendments to the 1995 Penal Code Amendment to safeguard the rights of women who have been subject to domestic violence, for example by introducing restriction orders. Local NGO's maintain safe houses, but report that the prevailing cultural attitudes in society make it hard for women who flee their husbands to reintegrate.
255. The United Nations Human Rights Committee in November 2003 deplored the high incidence of violence against women and regretted that specific legislation to combat domestic violence still awaits adoption. The state was urged to adopt legislation to criminalise marital rape and to initiate awareness raising campaigns about violence against women.²⁰⁹

E. Children

256. Generally, children in Sri Lanka experience a number of problems that affect their development. There is chronic malnutrition among young children, especially in the North and the East. Adolescents are increasingly vulnerable to HIV/AIDS and other sexually transmitted diseases, and many are becoming addicted to tobacco, drugs and alcohol. More troubling, however, is the high rate of suicide among children – reputedly at one point the highest in the world. Due to the deteriorating education system, school attendance is low, although education is compulsory and free. Those who do graduate have few opportunities for employment or access to higher education institutions. Additionally, there are regional disparities with regards to educational standards as well as a distinct lack of curriculum relevance to modern labour markets. The Government of Sri Lanka, in response to this growing problem, approved a Children's Charter in 1992 that embodies the key points of the Convention on the Rights of the Child. A Presidential task force on child protection was convened in 1997, which led to the formation of the National Child Protection Authority (NCPA) in 1998.²¹⁰
257. The United Nations Committee on the Rights of the Child in 2003 welcomed the various legislative measures adopted by Sri Lanka aimed at improving the protection of children from domestic violence, child labour and commercial sexual exploitation. It also noted with satisfaction the ratification of the Optional Protocol to the CRC on the involvement of children in armed conflict, but recommended that Sri Lanka undertake a systematic review of all the existing laws in order to bring them into conformity with the Convention. It reiterated serious concern that the minimum age of criminal responsibility, set at 8 years, is too low and that children between the age of 16 and 18 are considered by penal law as adults. The Committee further recommended that Sri Lanka amend its legislation and increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination, and adopt a

²⁰⁹ UN Human Rights Committee, CCPR/CO/79/LKA, *Concluding Observations of the Human Rights Committee, Sri Lanka*, November 2003

²¹⁰ Foundation for International Training, www.ffit.org/_Projects/Srilanka/background.htm

proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups.²¹¹

258. Two decades of fighting has also placed its marks on the country's children. Of the 2.5 million people living in the areas directly affected by conflict, approximately 1 million are children under the age of 18. UNICEF estimates that in the LTTE-controlled areas of the north, one third of school-aged children have dropped out or have never attended school.²¹² It points out that children returning to these areas face the threat of landmines and UXOs as well as physical destruction and lack basic infrastructure, such as shelter, water and sanitation, education and health facilities.
259. These issues were also brought up by the Committee on the Rights of the Child. The Committee acknowledged the improvements in mortality rates and immunization coverage, but remained concerned at the high levels of child malnutrition, the significant proportion of mosquito-borne diseases and the lack of access to safe drinking water and sanitation, particularly in conflict-affected areas. To address these and other issues the Committee recommended that Sri Lanka develop a comprehensive plan of action for implementing the rights of children during the reconstruction process. It reiterated its request for additional information on child combatants and child prisoners of war, and also recommended the ratification of the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography.²¹³

1. Child Abuse, Child Prostitution and Sale of Children

260. The 1995 Amendment to the Penal Code (art 365) imposed severe punishment for child abuse and sexual harassment of children. This was the result of lobbying, as well as studies on child sexual abuse conducted by several Sri Lankan organisations. Despite this, the law has reportedly not been able to act as the deterrent it was meant to be. For example, in 1999 the organisation Protecting Children and Environment Everywhere published a study revealing that 100 young people were sexually exploited or abused every day in Sri Lanka. The study also found that, whereas boys were the victims of commercial sexual exploitation, girls were more often subject to abuse within the community.²¹⁴
261. A similar article published by another organisation stated that 20 per cent of boys and 10 per cent of girls in Sri Lanka have been sexually abused. Reportedly, a questionnaire sent to 1,600 school children had revealed that the majority of perpetrators of child sexual abuse were relatives and that those most vulnerable to abuse were between the ages of 10 and 14.²¹⁵
262. In the Sri Lankan culture, open discussions of sexual abuse were earlier seen as "taboo" and many are either ignorant of the extent and gravity of sexual child abuse or are reluctant to acknowledge its reality. This is changing slowly, and in addition to the amendments to the penal code, the Sri Lankan authorities took another concrete step in

²¹¹ The Committee on the Rights of the Child, *Concluding observations on the report submitted by Sri Lanka, issued at its 33rd session CRC/C/15/Add.207*, June 2003

²¹² UNICEF, *Country Information Sri Lanka*, June 2002

²¹³ The Committee on the Rights of the Child, *Concluding observations on the report submitted by Sri Lanka, issued at its 33rd session CRC/C/15/Add.207*, June 2003

²¹⁴ New Internationalist, "Sexual Abuse Uncovered," May 1999 (Responsive Database Services/NEXIS)

²¹⁵ Xinhua News Agency, "S. Lankans Urged to Fight Sexual Abuse Against Children," 9 November 1999.



this direction by setting up the National Child Protection Authorities through Act 50 of 1998.

263. Ms. Ofelia Calcetas-Santos, the Special Rapporteur on the sale of children, child prostitution and child pornography stated, in her 2000 report to the Commission on Human Rights, that the number of reported cases of rape of girls under 16 years of age increased alarmingly, and in the previous year there had been more reported complaints of rape committed against children than against adult women.²¹⁶ There was also concern over reports of an increased level of domestic violence and sexual abuse of girls within their homes.²¹⁷

2. Child Soldiers

264. The fight against the use of child soldiers has a long history in Sri Lanka as the LTTE has a long record of using child soldiers, some as young as nine. Even before the MOU (which explicitly forbids the recruitment of children) promises to stop child recruitment were made by the LTTE as early as 1998 when the Special Representative of the Commission on Human Rights on children affected by armed conflict, Mr. Olara Otunnu, visited Sri Lanka.²¹⁸ During the visit the Government reiterated its commitment to the policy of not recruiting children under the age of eighteen and the LTTE agreed not to use children below 18 years of age in combat and not to recruit children less than 17 years old.²¹⁹
265. However, child recruitment continued and as a means to combat this practice, as well as prevent other forms of child abuse, an Action Plan for Children Affected by War was produced in April 2003. This was an outcome from a workshop held in Kilinochchi which brought together participants from the LTTE, the Government of Sri Lanka, UN agencies, other international organisations, the Tamil Rehabilitation Organization and other national and international NGOs. The Action Plan contains project summaries with budgets in the following areas: child rights training, awareness campaign on child rights, release and reintegration of underage recruits, micro-credit facilities and income generation, vocational training, education, health and nutrition, provisions of psychosocial care, provision of social work and alternative care for children unable to return to their families.
266. As of 31 October 2003, total underage recruitment cases known to UNICEF amounted to 1,847, out of which 1,238 were still outstanding. The first transit center for underage recruits working with the LTTE was officially opened in Kilinochchi on 3 October 2003. By the end of 2003, the LTTE had released 55 children to the center. While children are at the center, an assessment of their needs is carried out before they are returned to their family. Save the Children in Sri Lanka is now established in the north and is carrying out the follow-up work to ensure successful reintegration of underage recruits. While ILO and UNDP are respectively responsible for vocational training and income generation, UNHCR will provide assistance to families of released children based on a case by case vulnerability assessment. As part of the Child Rights Training sub-project of the Action Plan, core Child Rights training

²¹⁶ E/CN.4/2000/73, *Rights of the Child. Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*, Ms. Ofelia Calcetas-Santos, 14 January 2000, para. 53.

²¹⁷ *Ibid.*

²¹⁸ E/CN.4/2000/71, para. 72.

²¹⁹ *Ibid.*, para. 82.



material have been produced by Save the Children and field tested as a collaborative effort of a significant number of international agencies and NGOs.

267. As a result of the inter-LTTE fighting in the East of the country at least two child soldiers, both girls, died in the fighting²²⁰; and unconfirmed reports indicate many more child combatants were killed during the battle or after having surrendered.²²¹
268. Though officially receiving no release papers, the children and their parents immediately registered with UNICEF and other agencies to avoid forcibly being re-recruited. As only 20 % of these children existed on UNICEF's earlier created and updated database of child recruits, it seems that the number reported previously has been grossly underestimated. UNICEF, as well as other agencies, sought assurances from the LTTE that the LTTE must commit itself to not re-recruiting any of the children that have left the organisation in the wake of last weeks fighting, and that they continue the process of releasing the children in their ranks.²²²
269. Human Rights Watch also called on the Sri Lankan government to take immediate action toward protecting these released children and working towards their rehabilitation and re-integration into society. The government should also declare amnesty for all child soldiers who have returned home, in order to ensure the children feel they can seek help from state protection agencies.²²³
270. Whilst these developments are very encouraging, the ongoing recruitment of children and by the LTTE and their call for released children to re-register in Ampara and Batticalao district in April 2004, undermine the commitments made in the Action Plan by the LTTE. The international community continues to advocate strongly for a cessation of recruitment and for immediate release of children.

VI. UNHCR'S IDP Operation

A. Introduction

271. Between 1983 and 2001, the conflict forced 800,000 persons to leave their places of origin and drove an additional 200,000 Sri Lankans to seek refuge in Tamil Nadu in southern India. While the majority repatriated over the years, approximately 64,000 refugees remain in over 100 camps in India.
272. Since the cease-fire, there has been an uninterrupted flow of IDPs returning spontaneously to the north and east of Sri Lanka. By December 2003, more than 341,900 IDPs had left the welfare centers, many of them going home, or at least moving closer to their areas of origin. In addition, nearly 5,000 registered refugees returned from India across the Palk Strait or through Colombo in organized or spontaneous movements. Such returns are likely to continue in 2004, in numbers largely dictated by the success of the peace negotiations.

²²⁰ UNICEF, UNICEF confirms death of two child soldiers in LTTE fighting, 16 April 2004

²²¹ Human Rights Watch, Former Tamil Tiger child soldiers remain at risk, 27 April 2003

²²² UNICEF, UNICEF confirms death of two child soldiers in LTTE fighting, 16 April 2004

²²³ Human Rights Watch, Former Tamil Tiger child soldiers remain at risk, 27 April 2003

B. Strategy for 2004

1. Objectives

- Promote and protect the rights of internally displaced persons and returnees, with a special emphasis on minority rights and the problem of sexual and gender-based violence.
- Address the emergency humanitarian needs of spontaneous returnees.
- Facilitate preparations for the voluntary return of refugees and durable solutions for IDPs.
- Promote conditions conducive to the safe and dignified return of IDPs and refugees.
- Strengthen the capacity of the Government and national NGOs, through training and direct engagement, leaving them better able to answer to the protection and humanitarian needs of IDPs and refugees.

2. Main Activities

273. Notwithstanding the present political stalemate, the assumption is that the conflict will be settled through negotiation and that more IDPs and refugees will return home. UNHCR's presence in key returnee areas remains a vital means of ensuring effective protection and timely assistance for refugees and IDPs. UNHCR will ensure that IDPs have access to national protection, justice in the form of legal aid and representation, and durable solutions. It will respond effectively to the emergency humanitarian needs of persons of concern, especially vulnerable groups at high risk. Through its field presence, UNHCR will monitor the situation in areas of return and ensure that the rights of returning IDPs and refugees are protected. In addition, the Office will evaluate transitional reintegration arrangements to ensure that these are effective and viable. Community-based reconciliation will be a closely related priority.
274. It is widely recognised that UNHCR's monitoring of human rights, undertaken as a part of the cease-fire agreement, is objective and impartial. UNHCR will strengthen its capacity in Sri Lanka by maintaining a high level of protection staff, continue to develop protection networks with agencies such as the Human Rights Commission, the Legal Aid Foundation, the Danish Refugee Council and others. Despite the fact that UNHCR's assistance program will be reduced in 2004, the organisation will of course continue to undertake protection interventions, and these will frequently entail assistance in the form of community development and basic household support. Through its presence and material support, UNHCR will monitor the general well-being of returnees and those who remain displaced.
275. The Office will also support initiatives at the local level to address issues of human rights, SGBV, minority rights and peaceful co-existence.

3. Management Structure

276. In 2004, UNHCR will operate with 99 staff (22 international, and 77 national). In addition, 19 UN Volunteers will support the operation. The UNHCR Representative in Colombo is responsible for the overall management of the program and for liaison with the Government, embassies and NGOs. To respond immediately to a changing



environment on the ground, UNHCR will maintain its field offices in Colombo, Jaffna, Vavuniya, Kilinochchi, Mannar, Trincomalee and Batticaloa.

277. In 2004 the Office has a budget of USD 8,342,335 of which more than USD 4 million is allocated to protection, monitoring and co-ordination as well as legal aid.

4. Co-ordination

278. The Repatriation, Reintegration, Rehabilitation and Reconstruction initiative (4Rs) is the basis of UNHCR's approach to transitional issues. UNHCR will actively promote joint planning and co-operation with Multilateral Group actors – including the World Bank, the Asian Development Bank and the UN Country Team, which includes UNDP, UNICEF, WFP, WHO and FAO.
279. Through a strategic partnership with the Ministry of Rehabilitation, Resettlement and Refugees, and the Office of the Commissioner General, UNHCR ensures that programs accord with Government and national priorities. The Ministry and the Office of the Commissioner General define and co-ordinate the Government's policy on relief and rehabilitation assistance to IDPs and refugees in close consultation with the National Co-ordination Committee (NCCR) of the Framework for Relief, Rehabilitation and Reconciliation (Triple R Framework). UNHCR is a member of the Framework Committees and is expected to continue to play a leading role in IDP and refugee-related matters.

C. UNHCR's Position on Return of IDPs and Refugees

280. It is the position of the UNHCR Representation in Sri Lanka that conditions in the country are not yet conducive to any large scale, organized return of Sri Lankan nationals to their country of origin, or of internally displaced persons to their homes in areas affected by the conflict. Current conditions are such that return with dignity, physical safety, legal safety and material safety cannot be assured. As such, UNHCR is not encouraging or promoting return at this time, but is providing and monitoring post facto support for returnees. The organization is also seeking to ensure that their return is spontaneous, voluntary and results from them being adequately informed about existing conditions and in particular the conditions pertaining in their home villages or towns, prior to their return.
281. Despite the cease-fire, which has largely been respected, the present political insecurity and the stalemate in the peace process is not encouraging. The parties to the conflict have not signed a formal Peace Agreement and reports of ongoing human right violations, such as abductions, extortion, the taking of hostages, recruitment of child soldiers, disappearances and assassinations continue. In order to achieve lasting peace, fundamental issues need to be addressed, including human security and minority rights.
282. In addition, in the war-affected areas, conditions are worsened by the level of destruction of habitable property and infrastructure; concerns regarding right to ownership and occupation of property without a sufficient mechanism in place to resolve them; the presence of landmines and unexploded ordinances; and the lack of adequate basic services (potable water, health, education, sanitation and non-discriminatory access to the law).

283. While commitments made at the Tokyo conference address some of these concerns, many donors have made contributions conditional on the resumption of peace talks, respect for the cease-fire and the improvement of basic human rights. In order to avoid potential gaps in the continuum of return, reintegration, rehabilitation and reconstruction ("4Rs"), UNHCR remains engaged in dialogue with international and national actors, including donors, to ensure continuity during the transitional period. UNHCR will also continue to work closely with the Governments of Sri Lanka and India to facilitate repatriation of priority cases and prepare for organized voluntary repatriation in the future, when the circumstances change to favor large-scale voluntary returns.

VII. Sri Lankan Asylum-Seekers and Refugees

A. Sri Lankan Asylum Applications Worldwide

284. When people flee their own country and seek protection in a second state, they apply for 'asylum'-the right to be recognized as refugees and receive the legal protection and material assistance that status implies. More than one million Sri Lankans applied for asylum worldwide or had their applications pending in 2002 compared with 940,000 the previous year.²²⁴
285. The number of Sri Lankan asylum-seekers has decreased steadily since 2000, when 16,380 persons from Sri Lanka applied for asylum in the (29) industrialized countries of the world. In 2001 the number was 14,441 and in 2002 it was 10,158.²²⁵ During these two years, applications launched by Sri Lankans fell from 3.1 % to 1.9% of all asylum-applications lodged in industrialized countries.
286. In 2002, Sri Lankan nationals ranked as the 9th largest group of asylum seekers worldwide, following nationals from Iraq, Afghanistan, Former Yugoslavia, Turkey, China, Russian Federation, Iran and India. Of the 10,158 applications, 7,519 were launched within the EU and of these over 3,170 in the U.K.
287. From January to October 2003, 3,847 Sri Lankan nationals applied for asylum in the industrialized asylum countries. This is a drastic reduction from the period in 2000 when the applications numbered more than 1,000 a month. In 2003, up to end October, Sri Lankan nationals were the 23rd largest group to seek asylum, an indication of the continuation of the downward trend.

B. Determination of Refugee Status

288. At year-end 2001 there were a total of 122,351 Sri Lankan nationals who had been granted refugee status world-wide. The majority resided in India (over 64,000), followed by persons living in France (15,774), Canada (13,161) and the U.K (11,760).

²²⁴ UNHCR, *Refugees by Numbers 2003*, July 2003

²²⁵ UNHCR, *Origin of Asylum Applicants in Industrialised Countries*, March 2003



289. In the year 2001, the refugee recognition rate for Sri Lankan asylum applicants reached some 19% while the total recognition rate was 50 %. The refugee recognition rate (19%) concerns the proportion of cases granted Convention refugee status in the total number of cases decided during the year. The total recognition rate (50%) concerns the proportion of cases granted Convention and humanitarian status in the total number of cases decided during the year.
290. From January to September 2002 the refugee recognition rate remained the same, but the total recognition rate dropped to 32 %.



Annexes

A. Statistics

1. General Information²²⁶

i. Refugee population

By the end of 2003, the number of refugees from Sri Lanka was estimated to be around 122,000 according to UNHCR estimates. Fourteen of the 16 main asylum countries experienced a decrease in the number of Sri Lankan refugees during 2003. Half of all the Sri Lankan refugees are hosted by India (61,000). The second largest asylum country for Sri Lankan refugees is Germany (15,120), followed by France (15,060) and Canada (12,560) (see Box 1).

During 2003, some 5,700 Sri Lankan asylum-seekers were recognized as refugees or allowed to remain for humanitarian reasons, primarily in Switzerland (1,870), Canada (1,750), France (990), United Kingdom (850, cases only) and the USA (70).

In addition, some 120 Sri Lankan refugees were resettled during the year according to official Government statistics, mostly by Canada (45), Denmark (20), Australia (20) and Sweden (15).

Country of asylum	Begin year	End year	Change
India	63,770	60,920	-4%
Germany	17,400	15,120	-13%
France	15,940	15,060	-6%
Canada*	12,870	12,560	-2%
UK*	9,550	7,880	-16%
Switzerland	5,810	3,880	-37%
Netherlands*	1,940	1,810	-7%
Norway*	1,080	1,060	-1%
USA*	1,450	1,040	-28%
Australia**	1,240	920	-26%
Denmark*	750	660	-12%
Italy*	460	460	0%
New Zealand*	180	190	6%
Sweden*	100	80	-20%
Poland	70	70	0%
Finland*	70	60	-14%
Other	310	270	-13%
Total	133,000	121,970	-8%

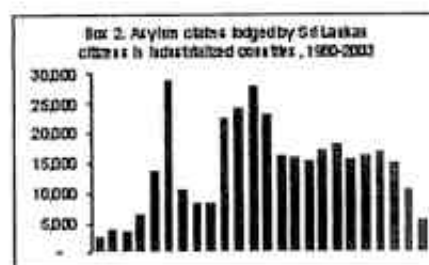
Provisional figures, subject to change.
 * UNHCR estimate
 ** UNHCR estimate; 2003 figure incomplete.

Some 5,000 Sri Lankan refugees returned back during 2003, most of them from India (4,500). The remaining 500 returned from the United Kingdom (290), Switzerland (180) and Canada (30). This is the highest number of Sri Lankan returns since 1995 when 10,200 refugees repatriated and the fourth highest in the past 13 years. During 1992-2004 a total of 53,700 Sri Lankan refugees repatriated.

ii. Asylum applications

The flow of Sri Lankan asylum-seekers to industrialized countries has significantly diminished since a peak of 28,000 new applications was reached in 1991. In 2003, 5,800 new claims were lodged, the lowest level in 20 years.

The distribution of the 345,800 Sri Lankan asylum applications lodged since 1980 shows that Germany received the largest number of applications (99,100 or 29%), followed by France (51,000 or 15%), the UK (50,400 or 15%, cases only), Canada (46,100 or 13%), Switzerland (41,800 or 12%) and the Netherlands (22,100 or 6%). In 2003, countries receiving the largest number of Sri Lankan asylum-seekers were France (2,130),



²²⁶ Prepared by the Population Data Unit, PGDS/DOS, UNHCR Geneva

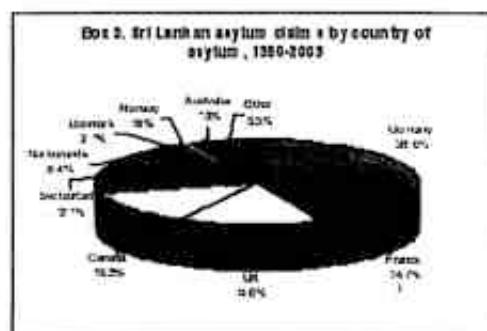


Canada (1,270), the United Kingdom (700, cases only), Germany (480) and Switzerland (350).

The most recent monthly data indicates a fairly stable development between the time period January 2003-March 2004. The number of monthly asylum applications lodged by citizens from Sri Lanka during this period ranged from 400 to 520. During the 15-month period, France and Canada alone received 63 per cent of all Sri Lankan applications (see Table 2).

iii. Asylum and refugee status determination

In 2003, some 20,100 Sri Lankan asylum claims were adjudicated globally. This is a decline of 17% compared to 2002 when 24,300 claims had been adjudicated. Of the 20,100 claims, some 11,500 (57%) were rejected on substantive grounds while 1,300 were closed (rejected) without having received a substantive decision. Of the 17,200 claims which were decided on substantive grounds, 3,700 were grants of refugee status (22%), 2,000 were grants of humanitarian status (12%), whereas the remaining 11,500 claims (67%) were rejected. Recognition rates varied greatly, depending on the country of asylum, the type of asylum application and the level in the asylum procedure (see Table 3 and 4).



iv. Internally Displaced Persons (IDPs)

The number of IDPs in Sri Lanka has been estimated at 386,100 at the end of 2003, a 17% decrease compared to 462,800 the year before and a 47% decrease compared to end-2001 (731,800)²²⁷. Some 76,700 IDPs returned home during 2003, almost one quarter the 2002 figure of 269,000. Some 24 per cent of the 386,100 IDPs live in camps while the remaining 74 per cent reside in urban areas.

²²⁷ The end-2001 and end-2002 figures have been revised following a combined registration exercise by the Government of Sri Lanka and UNHCR in 2002/2003.

Table 4: New asylum applications lodged by citizens from the Latin American countries, 1992-2003
 2003 data presented in preliminary figures; figures in brackets 1 and 2 are not independent observations.
 1. UNHCR, various dates. 2. Author's estimates. 3. Data not available.

Country	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Albania	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Algeria	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Argentina	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Australia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Austria	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Belgium	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Canada	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Chile	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Colombia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Czechia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Denmark	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Egypt	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
France	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Germany	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Greece	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hungary	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
India	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Indonesia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Italy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Japan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Korea	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Latvia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lithuania	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Malta	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Mexico	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Moldova	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Montenegro	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Netherlands	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
New Zealand	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Norway	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Poland	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Portugal	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Romania	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Russia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Slovakia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Slovenia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Spain	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sweden	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Switzerland	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Taiwan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Thailand	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Turkey	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
United Kingdom	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
United States	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Uzbekistan	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vietnam	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Yugoslavia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	202	177	149	147	173	203	149	120	120	120	120	120	120	120	120	120	120	120	120	120	120	120	120	120	120

Table 2. New asylum applications lodged by citizens from Sri Lanka in 29 industrialized countries, 2003-2004
2003 data provisional and subject to change.

USA and UK number of cases. Figures between 1 and 4 have been replaced with an asterisk.

Country of asylum	2003												2004		
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sep.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.
Austria	15	13	8	9	9	17	23	*	*	8	*	8	5	10	6
Belgium	*	*	*	*	*	*	*	*	6	6	*	*	*	*	*
Bulgaria	*	-	-	-	-	*	*	-	-	-	-	-	-	-	-
Czech Rep.	*	-	-	*	6	-	-	-	-	-	*	-	-	-	-
Denmark	*	*	-	*	*	*	-	5	*	-	*	*	*	5	-
Finland	*	-	*	-	-	*	*	5	-	-	*	-	*	-	-
France	150	182	183	154	99	151	177	188	184	230	203	219	184	189	178
Germany	20	20	35	20	19	33	28	17	17	27	13	13	21	17	25
Greece	7	*	*	8	5	*	*	*	9	13	*	*	-	7	*
Hungary	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Ireland	*	-	-	-	-	-	*	-	-	-	-	-	*	*	-
Liechtenstein	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Luxembourg	-	-	-	-	-	-	*	-	-	-	-	-	-	-	-
Netherlands	*	8	5	*	*	8	11	7	15	5	18	10	*	8	10
Norway	*	*	11	*	*	5	*	14	13	*	7	-	*	*	*
Poland	8	10	-	-	-	*	-	10	-	-	-	-	-	-	-
Portugal	-	-	-	-	-	-	-	-	-	-	-	-	*	-	-
Romania	-	-	-	-	-	-	-	-	-	-	-	-	-	-	*
Slovakia	-	*	-	*	5	5	7	-	9	7	-	12	5	*	9
Slovenia	-	-	-	-	-	-	-	-	-	-	-	-	-	8	*
Spain	-	*	-	*	-	-	-	*	-	-	*	-	-	*	9
Sweden	-	-	-	*	-	*	-	-	-	*	*	*	-	*	*
Switzerland	46	24	30	18	55	28	23	17	41	20	23	27	15	22	28
UK (cases)	120	78	100	70	99	77	29	28	30	35	25	18	35	27	26
Canada	113	81	78	108	151	124	88	89	108	113	108	100	104	93	103
USA (cases)	-	13	-	-	9	11	-	7	9	-	-	-	11	7	8
Australia	13	15	20	16	18	10	8	24	14	15	9	7	5	6	9
New Zealand	*	*	*	5	*	*	*	*	*	*	-	-	5	8	*
Japan	-	-	-	-	*	*	*	*	-	-	-	-	-	-	-
Grand total	522	451	480	421	481	485	414	409	482	400	420	420	402	410	420

Table 3. Refugee status determination of asylum claims lodged by citizens from Sri Lanka, 2002

Decisions of 30 and more only. Figures between 1 and 4 have been replaced with an asterisk.

T= Type of procedure: G-Group interview; U-UNHCR; V-Visas/visitors.

L= Level of the procedure: FI-First instance; AR-Admission Review; JH-Judicial first instance; CA-Casual registration; EO-Executive Office of Immigration Review; DI-Immigration and Naturalization Service; HA-New applications; RA-Repeat applications.

Re.c. rate: Ref status: Number of cases recognized divided by the total number of cases recognized, granted humanitarian status and rejected.

Re.c. rate: Total: Number of cases recognized and granted humanitarian status divided by the total number of cases recognized, granted humanitarian status and rejected.

Country of asylum	Procedure		Pending cases begin year	Applicant cases 1 Jan.	Decisions during 2002					Pending cases end year	Recognition rate		C/m observed rate	Pending cases change (%)
					Recognized	Other (g.m.)	Rejected	Obs.w. closed	Total		First rule of			
											Ref.	Total		
	T	L	Year	1 Jan.	Recognized	Other (g.m.)	Rejected	Obs.w. closed	Total	Ref.	Total			
Australia	G	FI	187	210	60	-	311	0	380	43	16.2	16.2	2.4	-77.0
Australia	G	AR	345	213	32	-	222	37	291	207	12.6	12.6	12.7	-22.6
Austria	G		-	68	*	-	5	58	64	-	16.7	16.7	60.8	-
Canada	G		3,042	1,801	1,805	-	467	104	2,406	2,380	80.7	80.7	4.3	-22.4
Denmark	G	FI	33	38	6	22	31	-	60	6	10.0	48.3	0.0	-81.8
France	G	FI	-	1,092	630	-	2,232	-	2,882	-	22.0	22.0	0.0	-
France	G	AR	-	1,881	333	-	1,024	-	1,357	-	24.5	24.5	0.0	-
France	G	RA	-	256	331	-	-	-	331	-	100.0	100.0	0.0	-
Germany	G		381	434	35	7	833	46	920	201	6.1	7.3	7.3	-31.5
Germany	G		180	277	*	*	13	330	340	107	15.8	31.8	94.8	-35.5
Hong Kong SAR, China	U		85	41	12	*	42	47	102	34	21.8	23.8	46.1	-64.2
Italy	G		-	1,354	347	81	783	-	1,211	*	20.7	35.3	0.0	-
Jordan	U		44	-	-	-	-	39	39	6	-	-	100.0	-86.0
Netherlands	G	FI	252	294	*	61	398	60	543	64	0.9	12.1	16.8	-74.8
Netherlands	G	AR	581	-	10	67	387	67	541	80	2.1	20.0	10.5	-85.7
New Zealand	G	FI	-	52	52	-	101	-	153	-	34.0	34.0	0.0	-
Norway	G	FI	-	87	-	37	128	35	200	-	0.0	22.4	17.5	-
Poland	G	FI	-	38	6	-	42	*	48	-	12.5	12.5	2.0	-
Slovakia	G		22	68	-	-	*	60	82	66	0.0	0.0	95.2	154.5
Sweden	G	FI	-	22	-	-	31	8	39	-	0.0	0.0	20.5	-
Switzerland	G	FI	511	468	60	235	418	132	875	372	12.1	43.7	15.1	-27.2
Switzerland	G	CA	-	-	-	4,157	-	-	4,157	-	0.0	100.0	0.0	-
Thailand	U		11	83	6	-	22	22	63	31	22.0	22.0	34.9	181.8
Turkey	U		13	30	*	-	11	22	35	8	15.4	15.4	82.9	-36.5
United Kingdom	G	AR	-	-	1,455	-	4,880	100	6,435	-	23.0	23.0	1.0	-
United Kingdom	G	FI	-	3,130	340	275	3,265	405	4,295	-	8.8	15.9	9.5	-
United States	G	EO	298	423	140	-	133	182	495	267	51.3	51.3	40.0	-10.7
United States	G	IN	72	150	48	-	99	16	163	89	32.7	32.7	9.8	-4.2
Other			554	383	25	13	142	123	303	946	13.9	21.1	40.8	52.5
Total			8,588	13,801	5,876	4,970	15,723	1,921	28,480	4,677	22.1	40.8	6.7	-26.0

Table 4. Refugee status determination of asylum claims lodged by citizens from Sri Lanka, 2003

Decisions of 30 and more only. Figures between 1 and 4 have been replaced with an asterisk.

T = Type of procedure: G-Government; U-UNHCR; V-Various authorities.

L = Level in the procedure: FI-Final balance; AR-Administrative Review; JR-Judicial Review; CA-Cabinet regulation; EO-Executive Order of Immigration Review; IS-Immigration and Rehabilitation Service; RA-New applications; RA-Repeat applications.

Rec. rate: Ref status: Number of cases recognized divided by the total number of cases recognized, granted humanitarian status and rejected.

Rec. rate: Total: Number of cases recognized and granted humanitarian status divided by the total number of cases recognized, granted humanitarian status and rejected.

Country of asylum	Procedure		Pending cases begin year	Applied since 1 Jan.	Decisions during 2003					Pending cases end year	Recognition rate		Rate changed rate	Pending cases change (%)
					Recognized	Other (sum)	Rejected	Otherw. closed	Total		Ref. rate, cl.			
	T	L									Ref. rate	Total		
Australia	G	AR	287	03	8	-	341	22	271	89	3.2	3.2	8.1	-68.7
Canada	G		2,380	1,770	1,740	-	540	104	2,380	1,213	78.3	78.3	4.3	-48.8
Czech Rep.	G	FI	31	14	*	-	5	33	39	6	16.7	16.7	84.8	-80.8
France	G	FI	-	2,129	383	-	1,890	-	2,183	-	14.0	14.0	0.0	-
France	G	AR	-	1,213	344	-	1,160	-	1,524	-	22.8	22.8	0.0	-
France	G	RA	-	291	342	-	-	-	342	-	100.0	100.0	0.0	-
Germany	G	FI	388	480	18	8	431	287	742	140	4.0	5.3	38.7	-82.0
Greece	G		20	59	-	-	38	-	38	40	0.0	0.0	0.0	115.0
Hong Kong SAR, China	U		34	60	12	-	28	12	62	42	30.0	30.0	23.1	23.5
Malaysia	U		6	173	-	-	7	25	32	148	0.0	0.0	78.1	2,820.0
Netherlands	G	FI	84	95	-	18	126	23	168	44	0.0	13.1	13.7	-31.3
Netherlands	G	AR	80	-	11	10	74	19	114	15	11.8	22.1	18.7	-81.3
New Zealand	G	AR	-	25	*	-	41	-	43	57	4.7	4.7	0.0	-
New Zealand	G	FI	-	23	0	-	25	-	34	-	28.6	28.6	0.0	-
Norway	G	FI	-	85	*	32	97	13	104	-	2.2	37.4	12.6	-
Poland	G	FI	18	32	-	-	35	-	35	15	0.0	0.0	0.0	-16.7
Slovakia	G		58	40	-	-	8	82	90	15	0.0	0.0	91.1	-73.2
Sri Lanka	G	FI	372	340	50	160	360	133	2,391	161	8.3	34.8	5.8	-58.7
Sri Lanka	G	CA	-	-	-	1,855	-	-	1,855	-	0.0	100.0	0.0	-
Thailand	U	FIAR	31	98	8	-	11	88	96	41	35.3	35.3	80.2	32.3
Ukraine	G	FI	12	56	-	-	50	-	58	12	0.0	0.0	0.0	0.0
Ukraine	G	JR	-	50	-	17	19	-	35	15	0.0	48.6	0.0	-
United Kingdom	G	AR	-	-	726	-	4,755	135	5,815	-	13.2	13.2	2.4	-
United Kingdom	G	FI	-	704	26	102	1,185	170	1,483	-	2.0	9.7	11.5	-
United States	G	EO	153	209	54	-	127	100	290	72	29.8	29.8	37.8	-52.9
United States	G	N	89	83	11	-	61	15	77	77	17.7	17.7	19.5	11.8
Other			608	480	18	14	170	83	285	1,890	8.9	15.8	23.8	108.3
Total			4,840	8,095	3,891	2,016	11,483	1,314	20,120	4,000	21.5	33.2	8.5	-15.5

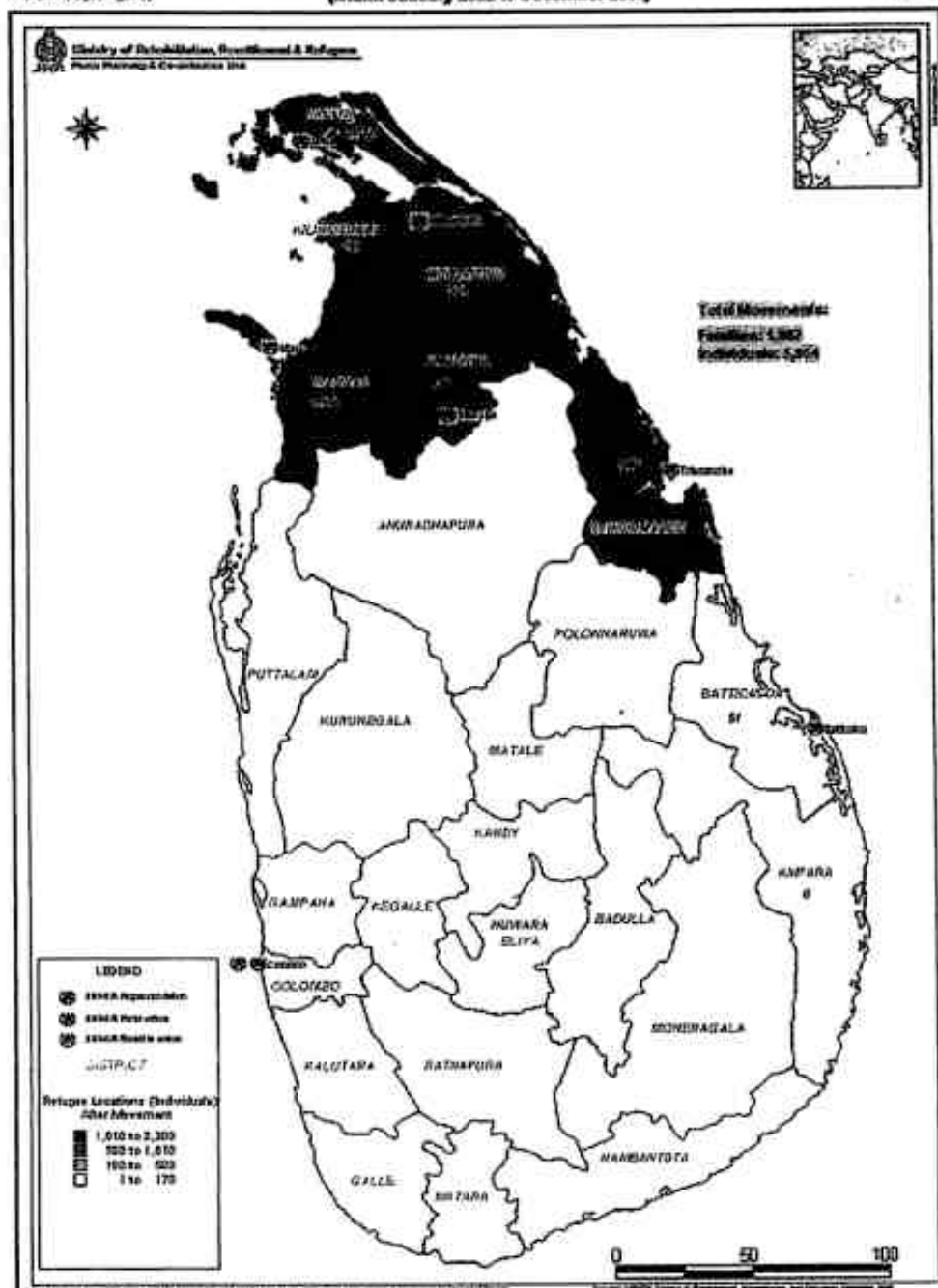
2. Statistics for 2003

			Total		2002		2003	
			Fam	Per	Fam	Per	Fam	Per
Registration						1,427	1,513	5,020
1. India Total			1,997	5,954	484	1,427	1,513	4,527
UNHCR Facilitated Returns			339	1,164	23	71	316	1,093
2. Switzerland				176			n/a	176
3. Canada				31			n/a	31
4. United Kingdom				286			n/a	286

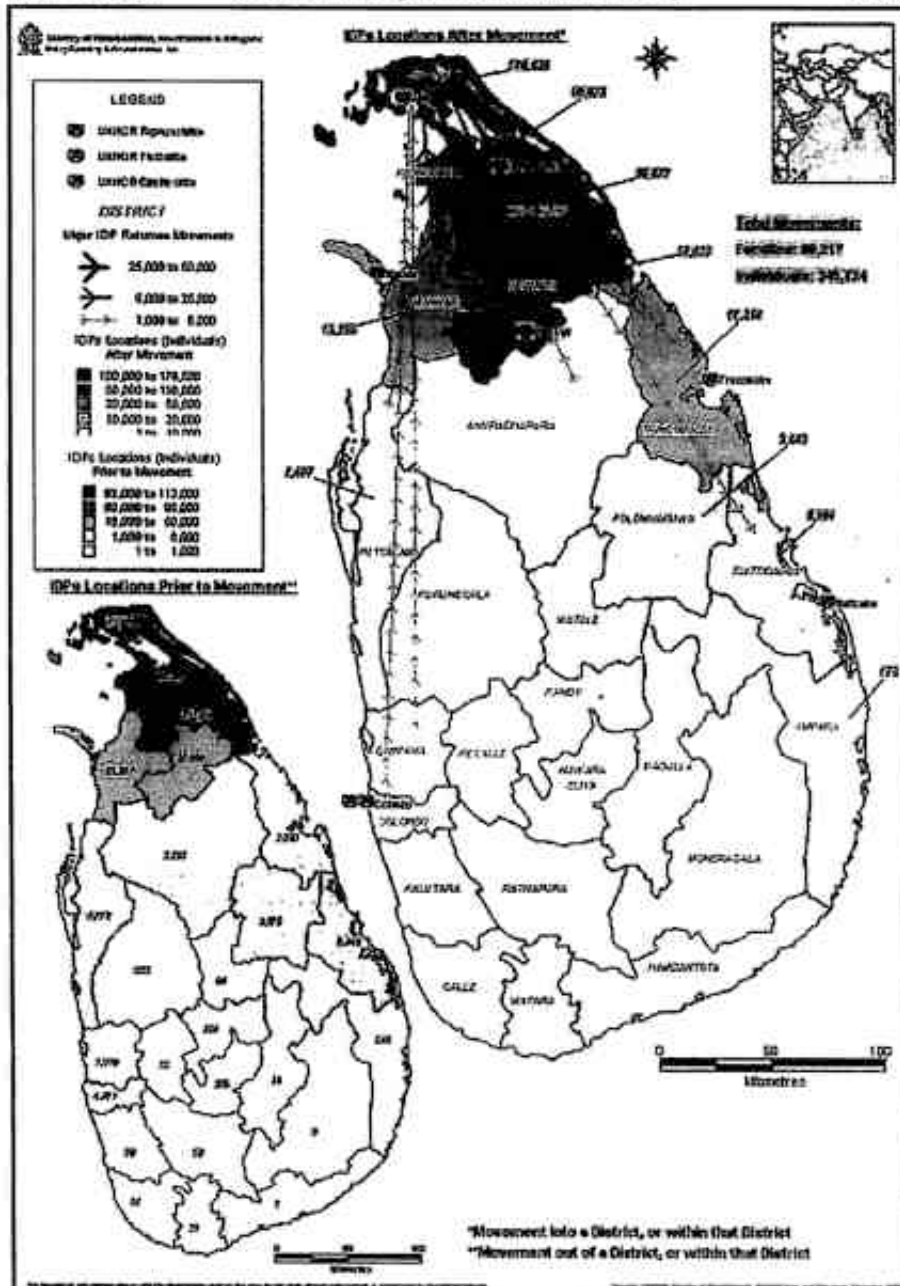
3. Breakdown of IDPs per district

INTERNALLY DISPLACED POPULATION							
District	In Welfare Centres			Outside WC		Total	
	No of WC	Families	Persons	Families	Persons	Families	Persons
Jaffna	88	2,554	10,276	14,793	51,718	17,347	61,994
Kilinochchi	35	2,414	10,298	8,012	33,059	10,426	43,357
Mullaitivu	26	2,067	8,595	12,711	52,062	14,778	60,657
Mannar	6	1,419	5,314	6,907	27,779	8,326	33,093
Vavuniya	13	2,621	10,182	8,826	34,149	11,447	44,331
Trincomalee	11	916	3,724	3,201	16,847	4,117	20,571
Batticaloa				6,526	27,576	6,526	27,576
Ampara				1,704	8,527	1,704	8,527
Puttalam	81	9342	34878	2,669	12,171	12,011	47,049
Anuradhapura	39	1905	6975	4,914	13,589	6,819	20,564
Polonnaruwa	5	168	508	1,342	2,671	1,510	3,179
Kurunegala	10	211	858	510	2,336	721	3,194
Colombo	1	92	454	794	3,019	886	3,473
Gampaha				556	2,389	556	2,389
Kandy				26	126	26	126
Matale				700	2,773	700	2,773
Kalutara				376	863	376	863
Ratnapura				32	149	32	149
Badulla				50	255	50	255
Kegalle				13	44	13	44
Matara				358	1,251	358	1,251
Galle				128	581	128	581
Hambantota				28	108	28	108
Total	315	23,799	92,061	75,174	294,042	98,883	386,104

2. Repatriation from India by District



3. Sri Lanka IDP Movements by District





C. Bibliography

1. General Information

Economist Intelligence Unit (EIU), *Country Profile – Sri Lanka*, 2000, 2001, 2002, 2003. [<http://db.eiu.com/>]

Europa Publications Limited, *The Europa World Year Book*, Vol. II, 41st edition, London, June 2000, p. 3377-3397.

The Far East and Australasia 2001. Regional Surveys of the World, 47th edition, London, October 2000

Facts on File News Service, *Country Profile: Sri Lanka*, 2000, [<http://www.2facts.com/>]

Barbara F. Grimes ed., *Ethnologue – Sri Lanka*, Summer Institute of Linguistics, 13th Edition, 1996. [<http://www.sil.org/ethnologue/countries/sril.html>].

Gomez, Mario, *National Human Rights Commissions and Internally Displaced Persons*, July 2002 (www.db.idpproject.org/Sites/idpSurvey.nsf/wViewCountries/)

N.H.A. Karunaratne, *World Factbook of Criminal Justice Systems – Sri Lanka*, 1993. [<http://www.ojp.usdoj.gov/bjs/pub/ascii/wfbcjsri.txt>].

Keesing's, *Record of World Events, Major Anti-Government Demonstration*, Vol. 47, February 2001. [<http://www.keesings.com/>]

Government Offensive, Vol. 47, January 2001.

Government Offensive, Vol. 47, January 2001.

Continued Fighting with the LTTE, Vol. 46, November 2000.

Offer of Peace Talks by Tamil Leader, Vol. 46, November 2000.

Heavy Fighting in Jaffna, Vol. 46, September 2000.

Legislative Elections, Vol. 46, October 2000.

Massacre in Tamil Detention Camp, Vol. 46, October 2000.

Vote-Rigging and Electoral Violence, Vol. 46, October 2000.

Death of Minister – Suicide Bombing, Vol. 46, September 2000.

Report on LTTE child soldiers, Vol. 46, July 2000.

Injuries to Kumaratunga in Bomb Blast, Vol. 45, December 1999.

David Levinson, *Ethnic Groups Worldwide. A Ready Reference Handbook: Sri Lanka*, Oryx Press, 1998

Paikiasothy Saravanamuttu, Sri Lanka in 1999, *Asian Survey*, Vol. XL, No. 1, January/February 2000.

Lawrence Sáez, Sri Lanka in 2000, *Asian Survey*, Vol. XLI, No. 1, January/February 2001.

2. United Nations Documents

i. UNHCR Documents

All UNHCR documents and most of the United Nations documents in this bibliography, as well as the WriteNet reports and the reports by Amnesty International, Human Rights Watch and the U.S. Department of State can be found in UNHCR/CDR's RefWorld 2003 and/or on



UNHCR's website (<http://www.unhcr.ch/>). RefWorld 2003 also contains the text of the Constitution of Sri Lanka and many of the other documents cited in this Background Paper.

United Nations High Commissioner for Refugees (UNHCR)

Global Appeal 2004 – Strategies and Programmes, [<http://www.unhcr.ch>]
UNHCR RefWorld 2003. [<http://www.unhcr.ch/refworld/>, accessed November 2003]
UNHCR/CDR Background Paper on Refugees and Asylum Seekers from Sri Lanka, Geneva, Update, March 1999, Update June 2001
[<http://www.unhcr.ch/refworld/country/cdr/slanka0399.pdf>].
UNHCR/CDR Background Paper on Refugees and Asylum Seekers from Sri Lanka, Geneva, March 1997 [<http://www.unhcr.ch/refworld/country/cdr/cdr1ka.htm>].
UNHCR/CDR Background Paper on Refugees and Asylum Seekers from Sri Lanka, Geneva, June 2001
UNHCR/ACCORD: *7th European Country of Origin Information Seminar*, June 2001
Origin of Asylum applicants in Industrialised Countries, March 2003
Refugees by Numbers 2003, July 2003

ii. Other United Nations Agencies, World Bank and the Sri Lanka Monitoring Mission

UN International Human Rights Instruments, Sri Lanka - Core Document forming part of the reports of State Parties HRI/CORE/1/add 48, November 1994

UN Economic and Social Council, *Concluding observations of the Committee on Economic, Social and Cultural Rights – Sri Lanka*, E/C.12/1/Add.24, June 1998

United Nations Commission on Human Rights, A/55/297, *Sale of children, child prostitution and child pornography. Note by the Secretary-General*, 10 August 2000.

The United Nations Committee on the Elimination of Discrimination against Women, *Concluding Observations issued at its twenty-sixth session*, CEDAW/C/2002/1/CRP.3/Add.5.

UNICEF, Country Information Sri Lanka, June 2002

UNICEF confirms death of two child soldiers in LTTE fighting, 16 April 2004

The Committee on the Rights of the Child, *Concluding observations on the report submitted by Sri Lanka, issued at its 33rd session* CRC/C/15/Add.207, June 2003

UN Human Rights Committee CCPR/CO/79/Sri Lanka, *Consideration of reports submitted by State parties under article 40 of the Covenant*, November 2003

Reports submitted pursuant to Commission Resolutions:

E/CN.4/1995/50, *Internally displaced persons. Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolutions 1993/95 and 1994/68*, 2 February 1995.

E/CN.4/2000/3/Add.1, *Civil and political rights, including questions of disappearances and summary executions. Report of the Special Rapporteur, Ms. Asma Jahangir, submitted pursuant to Commission resolution 1999/35. Addendum: Summary of cases transmitted to Governments and replies received*, 2 February 2000.
E/CN.4/2000/9, *Civil and Political Rights including Questions of Torture and Detention. Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 1999/32*, 2 February 2000.



E/CN.4/2000/61, *Report of the Special Rapporteur on the independence of judges and lawyers, Mr. Param Cumaraswamy, submitted in accordance with Commission resolution 1999/31*, 21 February 2000.

E/CN.4/2000/64, *Report of the Working Group on Enforced or Involuntary Disappearances*, 21 December 1999.

E/CN.4/2000/64/Add.1, *Report of the Working Group on Enforced or Involuntary Disappearances. Addendum. Report on the visit to Sri Lanka by a member of the Working Group on Enforced or Involuntary Disappearances (25-29 October 1999)*, 21 December 1999.

E/CN.4/2000/71, *Rights of the Child. Additional report of the Special Representative of the Secretary-General for Children and Armed Conflict, Mr. Olara Otunnu, submitted in accordance with General Assembly resolution 53/128*, 9 February 2000.

E/CN.4/2000/73, *Rights of the child. Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos*, 14 January 2000.

E/CN.4/2000/103, *Effective functioning of human rights mechanisms: National institutions and regional arrangements. Report of the Secretary-General submitted in accordance with Commission on Human Rights resolution 1999/72*, 28 December 1999.

E/CN.4/2001/5, *Report of the Representative of the Secretary-General on internally displaced persons, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 2000/53*, 17 January 2001.

E/CN.4/2001/14, *Report of the Working Group on Arbitrary Detention*, 20 December 2000.

E/CN.4/2001/65, *Report of the Special Rapporteur on the independence of judges and lawyers Dato' Param Cumaraswamy, submitted in accordance with Commission resolution 2000/42*, 1 February 2001.

E/CN.4/2001/66, *Civil and political rights including the questions of torture and detention. Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/43*, 25 January 2001.

E/CN.4/2001/64, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted in accordance with Commission resolution 2000/38*, 13 February 2001.

United Nations Educational, Scientific and Cultural Organization (UNESCO), *Education For All 2000 Assessment: Country Reports – Sri Lanka*, 2000. [<http://www2.unesco.org/wef/countryreports/home.html>]

The Sri Lanka Monitoring Mission (SLMM), *Mission statement on SLMM website*, www.slmm.lk, December 2003

Summary of recorded complaints and violations from all districts, 10 October 2003

Ref: SLMM HQ/07th, May 2003/MED/6029, May 2003

The World Bank, *Sri Lanka Country Brief*, July 2003

World Bank invited to administer Sri Lanka reconstruction fund, 14 January 2003

3. Governmental and National Sources

Asia-Pacific Forum of National Human Rights Institutions, *Human Rights Commission of Sri Lanka*, 2001. [<http://www.apf.hreoc.gov.au/members/#Sri Lanka>]

Danish Immigration Service, *Report on Fact-Finding Mission to Sri Lanka, 14 November to 5 December 1998*, January 1999. [<http://www.udlst.dk/sjle1/srilanka99/indhold.html>]



European Commission, Humanitarian Aid Office (ECHO), *Commission Approves Series of Humanitarian Aid Decisions worth 10.15 million Euros*, Press Release, 16 January 2001. [<http://www.reliefweb.int/w/rwb.nsf/ByCountry/Sri+Lanka?OpenDocument&StartKey=Sri+Lanka&Expandview>]

Government of Japan, *The Tokyo Declaration on Reconstruction and Development of Sri Lanka*, June 10 2003

Government of Norway, *Peace talks between the Government of Sri Lanka and the LTTE - Significant steps to restore normalcy, improve security and address political matters*, 7 November 2002

Sri Lanka's president asks Norway to resume its role in the peace process, 23 April 2004

Government of Sri Lanka, *The Constitution of Sri Lanka*, [www.priu.gov.lk]
High Security Zone dispute settled: Government, LTTE agree to settle civilians outside security zones, 8 January 2003
Poll on Support of the Peace Talks, 24 March 2003
Media statement from the Office of the President, 4 November 2003

Government of Sri Lanka and United Nations: *Joint Strategy on immediate needs of returnees internally displaced persons*, July 2003.

United Kingdom, Immigration and Nationality Directorate, *Country Assessment – Sri Lanka*, October 2003. [<http://www.ind.homeoffice.gov.uk/default.asp?PageId=88>]

United States, Department of State, *2000 Country Reports on Human Rights Practices – Sri Lanka*, 26 February 2001. [<http://www.state.gov/g/drl/rls/hrrpt/2000/>]
Department of State, *2002 Country Reports on Human Rights Practices – Sri Lanka*, 31 March 2003. [<http://www.state.gov/g/drl/rls/hrrpt/2002/>]
Annual Report on International Religious Freedom for 2003: Sri Lanka, 18 December 2003.
[http://www.state.gov/www/global/human_rights/irf/irf_rpt/irf_toc.html]
State Department, *Sri Lanka Briefing Notes*, August 2003

USAID, *Field Report Sri Lanka*, 30 April 2003
Field Report Sri Lanka, July 2003
Field Report Sri Lanka, August 2003
Field Report Sri Lanka, October 2003

MOU between the Liberation Tigers of Tamil Eelam and the Government of the Democratic Socialist Republic of Sri Lanka, 22 February 2003

4. Non-Governmental Resources

Amnesty International, *Annual Report 2003: Sri Lanka*, July 2003
[<http://www.amnesty.org>]

Children in South Asia: Securing Their Rights, AI Index: ASA 04/01/98, 1 June 1998.
Article 19 / Global Campaign for Free Expression, *Written comments submitted in the matter of an Application under Article 126 of the Constitution: Leader Publications (Pvt) Limited vs. Ariya Rubasinghe, Director of Information and the Competent Authority, et al.*, June 2000.



Open letter to Liberation Tigers of Tamil Eelam (LTTE), Sri Lanka Monitoring Mission (SLMM) and Sri Lankan Police concerning recent politically motivated killings and abductions in Sri Lanka, 12 August 2003 ,
(www.amnesty.org/library/Index/ENGASA370032003)

Coalition to Stop the Use of Child Soldiers, *Global Report 2001 – Sri Lanka*, 2001
[http://www.child-soldiers.org/report2001/global_report_contents.html]

Center for Monitoring Election Violence, *2004 General Election Campaign*, Interim Report, 7 April, 2004

Death Penalty Information Center (DPIC), *International Perspectives on the Death Penalty: A Costly Isolation for the U.S.*, by Richard C. Dieter, October 1999
[<http://www.deathpenaltyinfo.org/internationalreport.html>]

Freedom House, *Freedom in the World 1999-2000: Sri Lanka*, December 2000.
Freedom House, *Freedom in the World 2003: Sri Lanka*, July 2003
[<http://www.freedomhouse.org>]

Human Rights Internet, *For the Record 2000: The UN Human Rights System – Sri Lanka*, 2000.[<http://www.hri.ca/fortherecord2000/vol3/srilanka.htm>]

Human Rights Watch, *World Report 2003: Sri Lanka*, December 2003,
[<http://www.hrw.org/>]

Human Rights and the Peace Process, July 2002

World Report 2003, December 2003

Political Killings During the Cease Fire, 7 August 2003

(<http://hrw.org/backgrounders/asia/srilanka080603.htm>)

Former Tamil Tiger child soldiers remain at risk, 27 April 2003

The LTTE: *The Judicial System of Tamil Eelam*, Its structure, functions and duties of officials in charge, Kilinochchi 2002

Minority Rights Group, *The World Directory of Minorities*, London: 1997,
[<http://www.minorityrights.org>]

U.S. Committee for Refugees, *World Refugee Survey 2001: Sri Lanka*, June 2001.[<http://www.refugees.org/>]

World Organisation Against Torture (OMCT), *Sri Lanka: Case LKA 190404 – death following torture of Mr. Dehiwatte Gedera Jayathi* , March, 2004

5. News Articles

Agence France Presse (AFP), *Sri Lanka seeks UN help for first census in war zone in 20 years*, 18 June 2001.

Sri Lanka peace hopes dim as Tigers pull out of talks, 24 April 2003

Refugee crisis in Sri Lanka Muslim town after rioting, 20 April 2003

Sri Lanka peace hopes dim as Tigers pull out of talks, 24 April 2003

Sri Lanka: Tamil Tigers hint at reviving peace talks amid killing spree, 24 June 2003

Sri Lanka PM rejects defence compromise, peace process in doubt again, 29

November 2003

Sri Lanka Tigers in fresh offensive to remove renegades, 11 April 2004



Associated Press, *Tiny Sri Lanka has 800,000 refugees*, 13 June 2001.

BBC News Online, *Hundreds Held During Colombo Curfew*, 7 January 2000.

[<http://news.bbc.co.uk/>]

Tamil Politician Shot Dead, 5 January 2000.

South Asia, Ban shortened on Sri Lanka papers, 26 June 2000.

South Asia, Sri Lanka censorship struck down, 30 June 2000.

Sri Lanka's successful talks, 19 September 2002

Norway to meet Tamil rebel leader, 16 October 2002

Sri Lanka peace breakthrough, 5 December 2002

Peace Pays in Sri Lanka, March 18, 2003

Sri Lanka eases Tamil embargo, 2 January 2002

Police face death for Tamil murders, 1 July 2003

Timeline Sri Lankan Crises, 14 November, 2003

Daily News, *Willing to settle for regional autonomy, LTTE renounces demand for Eelam*, 19 September 2002

Defence Portfolio Fattens, 24 December 2003

Daily Mirror, *Fasting monks demand anti-conversion laws*, 30 December 2003

President orders tough action against church attacks, 17 January 2003

Divaina, *Cadre wanted for the rape and killing of girl*, 30 December 2003

The Economist, *Sri Lanka: City Slaughter*, 18 March 2000.

Sri Lanka: Tiger Teeth, 5 May 2001.

Sri Lanka: Cries of Battle, 25 September 1999

New Internationalist, "Sexual Abuse Uncovered." , May 1999 (Responsive Database Services/NEXIS)

Oxford Analytica, *Sri Lanka: Both Sides Desire Talks, But As Yet Not Peace*, 29 May 2001.

Reuters News Service, *Sri Lanka Army Takes Rebel Area in New Offensive*, 7 March 1999.

Violence Mars Key Sri Lanka Regional Poll, 25 January 1999

41 indicated in Bindunuweewa camp massacre, 6 March 2002

Truce monitors applaud progress towards peace, 30 July 2002

Sri Lankan president defends herself as showdown looms, 6 November , 2003

Xinhua News Agency, "S. Lankans Urged to Fight Sexual Abuse Against Children. , 9 November 1999.

6. Selected Websites

Derechos – Human Rights in Sri Lanka: <http://www.derechos.org/saran/lanka.html>

Political Resources on the Net – Sri Lanka: http://www.politicalresources.net/sri_lanka.htm

Sri Lanka – Government: <http://www.lk/Government.html>

Tamil Eelam – Liberation Tigers of Tamil Eelam (LTTE): <http://www.eelam.com/>

WWW Virtual Library – Sri Lanka: <http://www.lankalibrary.com/>