



SRI LANKA
COUNTRY REPORT

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Country Information & Policy Unit

IMMIGRATION & NATIONALITY DIRECTORATE
HOME OFFICE, UNITED KINGDOM

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1. SCOPE OF DOCUMENT

1.1 This Country Report has been produced by Immigration and Nationality Directorate, Home Office, for use by officials involved in the asylum / human rights determination process. The Report provides general background information about the issues most commonly raised in asylum / human rights claims made in the United Kingdom. It includes information available up to 1 September 2004.

1.2 The Country Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum / human rights determination process.

1.3 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

1.4 The structure and format of the Country Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

1.5 The information included in this Country Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented; rather that information regarding implementation has not been found.

1.6 As noted above, the Country Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. Country Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text.

1.7 The Country Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent

documents. All sources contain information considered relevant at the time this Report was issued.

1.8 This Country Report and the accompanying source material are public documents. All Country Reports are published on the IND section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.

1.9 Country Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in Country Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country Information Bulletins, which are also published on the IND website. They also have constant access to an information request service for specific enquiries.

1.10 In producing this Country Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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2 GEOGRAPHY

2.1 As noted in the CIA World Factbook 2004, the Democratic Socialist Republic of Sri Lanka, formerly known as Ceylon, lies in the Indian Ocean, south of India. The country covers an area of 65,610 square kilometres. It has a population of 19,905,165 (2004 estimate from the US Bureau of the Census). The capital is Colombo. [Note: Sri Jayewardenepura Kotte is the legislative capital] [30] As recorded in Europa World Year Book 2004, other principal towns include Dehiwala-Mount Lavinia, Moratuwa, Jaffna, Kandy and Galle. [1] (p3944)

2.2 The CIA World Factbook 2004 also records that the population can be divided into the majority Sinhalese (74%), Tamils (18%), Moor (7%), Burgher, Malay, and Vedda 1% (2004 estimate from the US Bureau of the Census) [30] According to the Sri Lankan government Census of Population and Housing 2001 based on a total population of 16,864,544: Sinhalese (81.89%), Tamils (9.45%), Moor (8%), Burgher, Malay, Chetty and other (0.66%). However, data from Mannar, Vavuniya, Batticaloa and Trincomalee districts were not included due to incomplete enumeration and no enumeration was done for Jaffna, Mullaitivu and Kilinochchi districts. [53]

As stated in the U.S. Department of State International Religious Freedom Report 2003 "Approximately 70 percent of the population are Buddhist, 15 percent are Hindu, 8 percent are Christian, and 7 percent are Muslim". [2a] (p1)

2.3 The CIA World Factbook 2004 also records that three languages are spoken: Sinhala, Tamil and English. [30] As noted in Europa World Year Book 2004, the Constitution recognises two official languages, Sinhala and Tamil. Either of the national languages may be used by all citizens in transactions with government institutions. [1] (p3949) According to a UN report of March 1998, almost all Sinhalese are Buddhist and speak Sinhala; Tamils are mostly Hindu and speak Tamil. They are comprised of those Tamils who have a long history on the island, and "up-country" Tamils (roughly 30% of all Tamils) who are descendants of labourers brought from southern India to work on the plantations. Muslims speak mostly Tamil, but are distinguished by their religion. [64]

2.4 As noted in a UN report of March 1998, in most of the country the Sinhalese form the majority. Tamils are the largest community in the northern districts. "Up-country" Tamils live mainly in the hill country in the central part of Sri Lanka. In the east, Sinhalese, Tamils and Muslims are equally represented. In the rest of the country, there are substantial Tamil and Muslim communities, although they are in the minority there. [64] According to the Sri Lankan government Census of Population and Housing 2001 the highest concentration of Sinhalese population is in the districts of Moneragala, Galle, Matara, Kurunegala and Gampaha. The districts of Kandy, Nuwara Eliya, Ampara, Puttalam have a high concentration of Tamils. However, data from Mannar, Vavuniya, Batticaloa and Trincomalee districts were not included due to incomplete enumeration and no enumeration was done for Jaffna, Mullaitivu and Kilinochchi districts. [53]

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3 ECONOMY

3.1 The US State Department Report 2003 notes that:

"Sri Lanka is a low-income country with a market economy based mainly on the export of textiles, tea, rubber, coconuts, and gems. It also earns substantial foreign exchange from the repatriated earnings of citizens employed abroad, and from tourism...Real Gross Domestic Product (GDP) growth was 3.2 percent in 2002 and forecast at 5.5 percent for the current year [2003]. As an early peace dividend, the country was able to reduce defense expenditures and focus on getting its large public sector debt under control. The economy benefited as a consequence from lower interest rates, a recovery in domestic demand, increased tourist arrivals, a revival of the stock exchange, and increased foreign direct investment. The cohabitation impasse between the President and the Prime Minister in the last 2 months of the year [2003] had an adverse effect on the economy, particularly in the country's equity markets and with foreign direct investment." [2b] (p1-2)

3.2 According to the USSD 2003:

"While there is no universal national minimum wage, approximately 40 wage boards established by the Department of Labor set minimum wages and working conditions by sector and industry. These minimum wages did not provide a decent standard of living for a worker and family, but the vast majority of families had more than one worker. The Ministry of Labor effectively enforced the minimum wage law for large companies, but there was no monitoring of the informal sector. The monthly minimum wage in the garment industry was approximately \$27 (2,800 rupees), and approximately \$20 (2,100 rupees) in the hotel industry". [2b] (p20)

3.3 The approximate rate of exchange from xe.com Universal Currency Converter on 31 August 2004 was £1 = 186 Sri Lankan rupees. [33]

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4 HISTORY

Independence to 1994

4.1 As noted in a Dutch Ministry of Foreign Affairs report of July 1997, the former British colony of Ceylon achieved independence in February 1948. Under the Constitution of 1972 the country became a republic with the name of the Democratic Socialist Republic of Sri Lanka. The Government was headed by a Prime Minister accountable to a unicameral Parliament. In 1978 a presidential system was introduced, with extensive executive powers being held by the President. [14a] (p4)

4.2 The Dutch Ministry of Foreign Affairs report also highlighted that since independence, the political situation in Sri Lanka has been characterised by the conflict between the Sinhalese majority and the Tamil minority. Before independence, Burghers played an important role in the British administration, as did many Tamils because of their knowledge of English. After independence the various communities were able to work together. However, the Ceylon Citizenship Act 1948 withheld nationality from up-

country Tamils, who had come to Sri Lanka only relatively recently in its history, having been brought over from India by the British. [14a] As noted in a Tamil Information Centre report of January 1999, an amendment to the Parliamentary Elections (Order in Council) 1949 removed the franchise rights of these Tamils. [19]

4.3 As noted in the Dutch Ministry of Foreign Affairs report, for Tamils, the political situation changed in 1956, when Solomon Bandaranaike set himself up as a champion of Sinhalese interests and won the elections with a promise to make Sinhalese the country's only official language, instead of English. [14a] (p4) The Tamil Information Centre report also noted that the Official Language Act was duly passed in 1956. [19]

4.4 The Dutch Ministry of Foreign Affairs report also stated that, while the 1978 Constitution recognised Tamil as a "national language" for public administration and the conduct of legal proceedings, Tamils continued to feel discriminated against as a result of the restrictive admissions policy applied to them for university places and public office. [14a] (p4)

4.5 In the Dutch Ministry of Foreign Affairs report it was also noted that in Jaffna the situation deteriorated. In 1976, extremists known as the Young Tigers murdered the Tamil mayor of Jaffna, who had been working with the Government. [14a] (p5)

4.6 As recorded in Europa World Yearbook 2004, communal disturbances between Sinhalese and Tamils led to the imposition of a State of Emergency in the north for 5 days in June 1981, and throughout the country from August 1981 to January 1982. [1] (p3932)

4.7 Europa also records that in June 1983, Tamil terrorist activity led to army reprisals and the worst outbreak of violence for many years, with more than 400 deaths and particularly severe rioting in Jaffna and Colombo. [1] (p3932) The Dutch Ministry of Foreign Affairs report also stated that between July 1983 and July 1985 nearly 100,000 Tamils fled to southern India, where some of them were housed in camps. [14a] (p5)

4.8 In the Dutch Ministry of Foreign Affairs report it was also outlined that the Indian Prime Minister, Rajiv Gandhi, tried to bring about a settlement between the Sri Lankan Government and the various warring groups in the north, but Gandhi's devolution proposals were rejected at a conference in Bangalore in 1986 by the leader of the LTTE, Velupillai Prabhakaran, who returned to Jaffna and stepped up operations against the Sri Lankan army. In 1987 the Sri Lankan army launched an offensive, Operation Liberation, to regain military control of the Jaffna Peninsula. [14a] (p5-6)

4.9 As noted in the Dutch Ministry of Foreign Affairs report, India once again resolved to mediate and the Indo-Sri Lankan Accord of 29 July 1987 was concluded between the Sri Lankan President, Junius Jayawardene, and Rajiv Gandhi. The peace plan included provision for the amalgamation of provincial councils in the north and east and for the repatriation of the 100,000 Tamils who had fled to India after the events of 1983. As part of the plan, an Indian Peace Keeping Force (IPKF) was despatched to the Jaffna Peninsula to oversee compliance with the provisions of the peace agreement. However the LTTE refused to disarm and fighting broke out. [14a] (p5-6)

4.10 The Dutch Ministry of Foreign Affairs report also stated that on 25 March 1990 the IPKF withdrew from Sri Lanka. The LTTE held control of most of the Jaffna peninsula, and the army held an area in the north around Palaly and Kankesanthurai. [14a] (p6)

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1994 to the present

4.11 As recorded in Europa, the People's Alliance (PA), led by the Sri Lanka Freedom Party of Chandrika Kumaratunga, won the 1994 parliamentary elections. This ended the 17-year rule of the United National Party (UNP). Mrs Kumaratunga was appointed Prime Minister. [1] (p3935)

4.12 Europa also records that presidential elections were held on 9 November 1994, which were won by Mrs Kumaratunga. The new President promised to abolish the executive presidency and to implement a programme of social, economic and constitutional change. The President's mother, Sirimavo Bandaranaike was appointed Prime Minister, the third time she had held that office. [1] (p3935)

4.13 As noted in the Dutch Ministry of Foreign Affairs report, in the run up to the elections, Mrs Kumaratunga promised to bring peace by seeking a political solution to the Tamil conflict. In the autumn of 1994 talks were held with the LTTE, which led to a military truce on 8 January 1995. The LTTE unilaterally ended the truce in April 1995 and full-scale war broke out again in the north and east. [14a] (p6)

4.14 As recorded in Europa, in July 1995, the Government launched a major military offensive, named "Operation Leap Forward", in the Jaffna peninsula. This was intensified in mid-October 1995 (under the code name "Operation Riviresa" [Sunshine]), and many thousands of civilians were forcefully exorted by the LTTE to leave the area. In retaliation for the army's offensive in the Jaffna peninsula, the LTTE carried out bomb attacks on the country's two largest oil storage facilities near Colombo in October 1995. In mid-November 1995, two LTTE suicide bombers caused 18 deaths and more than 50 casualties in Colombo. [1] (p3936)

4.15 As noted in the Dutch Ministry of Foreign Affairs report, in October 1995 the army launched an offensive, as a result of which it seized control of the town of Jaffna on 5 December 1995. In May 1996 the army took control of most of the Jaffna peninsula. In the Eastern Province the army retained control of the coastal strip, while the jungle areas behind the lagoons remained largely LTTE territory. [14a] (p6)

4.16 Europa records that the LTTE rejected the President's offer of an amnesty in exchange for disarmament. The retaking of the city of Jaffna precipitated an escalation in LTTE-organised terrorist activity. In January 1996, 100 people were killed and about 1,400 were injured as a result of a suicide bomb attack on the Central Bank in Colombo. [1] (p3936)

4.17 Europa also records that in early April 1996, against a background of continuing conflict between Tamil militants and government forces in the north and east of the country, the President extended the State of Emergency to cover the whole of the country (since coming to power in November 1994, the People's Alliance administration

had restricted the emergency provisions to the troubled northern and eastern regions, and Colombo). [1] (p3936)

4.18 As outlined in Europa, in mid-May 1996, the Sri Lankan army announced that it now controlled the whole of the Jaffna peninsula. It also claimed that of the 300,000 Tamil civilians who had been displaced by the ethnic violence, about 250,000 had returned to government-held areas. [1] (p3936)

4.19 Europa notes that in July 1996 the LTTE was suspected of planting a bomb on a crowded suburban train near Colombo, which killed more than 70 people, and injured 500. In October 1996 the Government took legal action for the first time against the LTTE leader, Velupillai Prabhakaran, who along with nine other militants, was charged with more than 700 criminal acts of terrorism. [1] (p3936)

4.20 According to an Amnesty International report of November 1997, in March 1997 the members of the Human Rights Commission (HRC) were appointed, 8 months after the Act establishing the HRC was passed in Parliament. In late June 1997, the Government announced that the function of monitoring the welfare of detainees which had until then been entrusted to the Human Rights Task Force would be transferred to the HRC as of 1 July 1997. [3b]

4.21 As recorded in Europa, in May 1997 the Government launched Operation Jayasikuru (Sure of Victory), with the aim of gaining control of the 75 km highway between Elephant Pass, the point of entry to the Jaffna Peninsula, and Vavuniya. [1] (p3936)

4.22 A news report from Reuters News Service of 26 January 1998 indicated that the Government formally outlawed the LTTE, the day after an LTTE suicide squad crashed a truck through road blocks in the ancient capital of Kandy and set off a bomb outside the Temple of the Tooth (Dalada Maligawa), the country's holiest Buddhist shrine. A total of 13 people were killed and 23 wounded in the attack, which occurred days before the 50th anniversary celebrations of Sri Lanka's independence which were to be held in the city. [4b]

4.23 LTTE violence continued. Europa records that in early February 1998, 9 people were killed in Colombo as a result of another suicide bombing, and the following month 38 people died and about 250 were injured when a suspected LTTE suicide bomber drove a bus laden with explosives into the capital's crowded business district. [1] (p3936)

4.24 At the end of January 1998, polls were conducted in Jaffna for the first time in 17 years. According to a news report from Reuters News Service of 16 January 1998, the local authority elections, which were monitored by tens of thousands of troops, were contested by a number of moderate Tamil political parties, but were boycotted by the LTTE. As recorded in Europa, the Eelam People's Democratic Party (EPDP) won the largest number of seats but the turnout was only 28%, owing to LTTE threats to disrupt the voting. [1] (p3936) According to Reuters, the PA and UNP did not participate. [4a]

4.25 Reuters News Service reports in March, May and September 1998 that Sarojini Yogeswaram of the Tamil United Liberation Front (TULF) was sworn in as the first mayor of Jaffna since 1984 [4c] but she was assassinated in May 1998. The Sangilliyan

Force claimed responsibility. [41] The new mayor, P.Sivapalan, was himself killed in a bomb explosion in the Jaffna municipality office on 11 September 1998. The local army commander and several senior police officers were also killed in the blast. [41]

4.26 On 1 October 1998 Reuters News Service reported that the Sri Lankan army had lost the key northern town of Kilinochchi to the LTTE in fierce fighting which left many hundreds dead. However the army captured the tactically more important town of Mankulam. [4m]

4.27 As reported by Reuters News Service on 5 December 1998, the Defence Ministry announced that Operation Jayasikuru, launched in May 1997, had been completed. Analysts said that the Operation, during which thousands of soldiers and rebels had been killed or wounded, was one of the bloodiest in the civil war. A fresh offensive was launched, codenamed Rivi Bala (Sun Power), after the capture of the northern towns of Omanthai, Puliyankulam and Mankulam. The new offensive linked up the key towns of Mankulam, Oddusuddan and Nedunkerni in what was seen as a change of the Government's military strategy to inch closer to the LTTE base in the north eastern coastal town of Mullaitivu. [4p]

4.28 On 7 March 1999 Reuters News Service reported that the Sri Lankan Army (SLA) had launched a new offensive in the north, codenamed Operation Rana Gosa (Battle Cry). The objective was to expand the area controlled by the security forces in the Vanni region. The army quickly recaptured some 535 square kilometres of territory formerly held by the LTTE. [4u] As reported by Reuters News Service on 23 March 1999, a further 325 square kilometres were recaptured later that month, including the town of Madhu, a Catholic pilgrimage town. [4v] In May 1999 the Sri Lankan army recaptured a further 102 square kilometres from the Tamil Tigers in the north western Mannar district. [4x]

4.29 As recorded in Keesing's Record of World Events, on 18 December 1999, shortly before Presidential elections, a woman suicide bomber detonated explosives strapped to her body at an election rally. The attack, which killed 21 people and injured 110, occurred shortly after President Kumaratunga had delivered a speech. The President suffered facial injuries from shrapnel, and it was later reported that she had been blinded in her right eye. Almost simultaneously a bomb at a rally elsewhere in Colombo, addressed by opposition leader Ranil Wickremasinghe, killed 12 people and injured 70. There was no claim of responsibility for either bombing, but both were widely assumed to have been the work of the LTTE. [23a]

4.30 On 4 January 2000, CNN reported that President Kumaratunga had been re-elected, after securing 51.12% of the vote for the People's Alliance. Her nearest rival was Ranil Wickremasinghe of the United National Party, with 42.71%. M.D. Nandana Gunathilaka of the People's Liberation Front received 4.08%. [24] As reported in Keesing's in December 1999, the election commissioner D.M. Dassanayake said that the turnout was 73.31% of the country's 11.77 million eligible voters, and that the conduct of the polling had been generally fair despite some 500 complaints of fraud. [23a]

4.31 On 5 January 2000 BBC News reported that an unknown gunman had assassinated Kumar Ponnambalam, a prominent Tamil politician. No group initially claimed responsibility, but Ponnambalam was known to openly support the Tamil Tiger

rebels. His death came shortly after a suicide bomb attack outside the Prime Minister's office in Colombo [9b] which killed 13 people and resulted in the arrest of hundreds of Tamil suspects, and the imposition of an all-night curfew in Colombo, as outlined by BBC News on 7 January 2000. [9c]

4.32 Despite efforts at brokering peace talks, the violence continued. On 27 January 2000, CNN reported that a bomb had ripped through a post office in Vavuniya, killing at least 11 people and injuring 33. [25a] Then on 10 March 2000, an attempt to ambush a ministerial motorcade resulted in a gun battle between rebels and police that left 23 people dead and 80 injured, as stated in a BBC News report dated 12 January 2000. [9e] On 7 June 2000, BBC News reported that Industry Minister C.V. Gooneratne had been assassinated by a suicide bomber in Colombo. [9g] The attack, in which 21 others died, was reported by BBC News on 8 June 2000. [9h] According to BBC News it took place during celebrations honouring the country's war heroes. [9j] President Kumaratunga immediately called for restraint. BBC further reported that, although there were reports of sporadic violence, the State media had announced that anyone trying to provoke a backlash against Tamils would be severely punished. [9k] A further suicide bombing occurred on 15 September 2000 in Colombo in which at least 8 people were killed and 21 wounded, as announced by CNN. [25g] Violence increased the following month, ahead of parliamentary elections. On 2 October 2000, a suspected Tamil Tiger suicide bomber killed 24 people, including a ruling party candidate, at a rally in the north east of the country. Three days later, a bomb attack at an election rally in the town of Medawachchi took the lives of 11 people, as reported by BBC News on 6 October 2000. [9l]

4.33 According to a CNN report of 3 April 2000, fierce fighting again broke out in March 2000 between government troops and Tamil rebels. [25b] Keesing's records that the forces of the LTTE inflicted one of the worst defeats of the civil war on 22 April 2000 when they forced the SLA to retreat from the heavily fortified Elephant Pass base which commanded the narrow isthmus providing the only land route into the Jaffna peninsula. The SLA withdrew some 17,000 troops northwards from Elephant Pass and the nearby Yakachchi base after a two-day assault by LTTE fighters. LTTE forces continued their advance towards Jaffna City and on 30 April 2000 captured the town of Pallai, some 15 km north of Elephant Pass. [23b] The rebels continued to push north, and by the middle of May 2000 the Sri Lankan Government admitted that its troops had been forced back on the outskirts of Jaffna, as reported by BBC News on 12 May 2000. [9f] The Sri Lankan military contained the push, with newly acquired weapons, and there followed a lull in the fighting. The SLA then went on the offensive: a rebel position in the northern Jaffna peninsula was attacked and destroyed on 5 July 2000, killing at least 23 militants according to a Government spokesman, quoted by CNN in a news report of 5 July 2000. [25c] On 7 July 2000 CNN reported that Tamil Tiger rebels had later admitted that they had lost 35 fighters, in the insurgents' worst defeat in three months. Independent confirmation of the battle situation could not be determined since neither side allowed journalists into the zone of fighting. [25d] A further lull in fighting followed, before, in early September 2000, the Sri Lankan military pushed to recapture lost territory. Military sources, quoted by CNN in a news report of 4 September 2000 said that 118 soldiers were killed and more than 800 wounded. The rebels did not give figures for their own casualties but a military spokesman said 160 rebel fighters were killed. [25f] Later in

September 2000, the SLA captured Chavakachcheri, the second-largest town in the Jaffna peninsula, 6 miles east of Jaffna City. Tamil rebels responded by killing 24 soldiers in an attack on an army truck near Trincomalee, as reported by CNN on 20 September 2000. [25h]

4.34 As outlined by a BBC News report of 28 October 2000, on 25 October 2000, a massacre of 26 Tamil inmates at the Bandarawela Bindunuwewa rehabilitation centre occurred. Reports from the area said that hundreds of men carrying machetes and knives rampaged through the camp. The Government ordered an enquiry into the events. [9k] In March 2002, formal charges were brought against 41 people allegedly involved. Nineteen of those charged were policemen, as reported by Reuters News Service on 27 March 2002. [4w] According to a BBC News report of 1 July 2003 two police inspectors and three local residents were sentenced to death for their involvement in the killings. The condemned men had the right to appeal. The trial was seen as swift by Sri Lankan legal standards, and officials said the judgement could serve as a deterrent to security personnel and was a victory for human rights campaigners who had been complaining about the lack of accountability in Sri Lanka. [9az] The U.S. Department of State Report 2003 reports that "The sentences were immediately commuted to 23 years rigorous imprisonment". [2b] (p3)

4.35 Government troops continued their offensive against the LTTE in December 2000 when they re-established a road link between the Jaffna peninsula's two largest cities, Jaffna and Chavakachcheri, as reported by CNN on 31 December 2000. [25j] Fierce fighting continued into January 2001 with a major battle leaving more than 90 dead and at least 230 injured, as outlined in a BBC News report of 17 January 2001. [9m]

4.36 On 28 February 2001 CNN reported that Sri Lanka's Tamil Tiger rebels were among 21 groups which would be banned under the measures announced by British Home Secretary. [25i] As noted in the Home Office website "A proscribed organisation can make an application to the Home Secretary for "deproscription" at any time. If that application is refused, the organisation can appeal to an independent tribunal - the Proscribed Organisations Appeal Commission." [35c]

4.37 As outlined by a BBC News report of 29 July 2001, on 24 July 2001 Tamil Tigers attacked the Katunayake Air Force Base and the adjacent Bandaranaike International Airport. Fourteen LTTE cadres and seven military personnel were killed. Eight military aircraft were destroyed at the air base, and another six passenger planes - half the Sri Lankan Airways fleet - put out of action at Bandaranaike International Airport. Three of these passenger planes were completely destroyed. [9o] Officials announced that a new, senior-level committee had been established to oversee new security measures at the international airport. A Government spokesman quoted by BBC News on 4 August 2001, described the new steps to strengthen security as a bid to reassure international airlines and the travel trade. [9p]

4.38 As recorded in the USSD 2003 "The President suspended Parliament from July to September 2001 out of concern that her coalition had lost its majority in Parliament because of defections. The suspension of Parliament angered opposition parties, which sponsored numerous demonstrations. One of these demonstrations ended with the deaths of two marchers killed by security forces...After further

defections from her coalition, the President dissolved Parliament in October 2001, and called for elections to take place in December 2001." [2b] (p14)

4.39 As outlined in the USSD 2003, the United National Front, a coalition of parties led by the United National Party (UNP) [2b] (p13) obtained 109 seats, and therefore defeated the ruling People's Alliance (PA) headed by President Chandrika Kumaratunga, who came second with 77 seats, as reported by Reuters News Service on 7 December 2001. [4ac] On the same day, BBC reported that, as leader of the UNP, Ranil Wickremasinghe had become Prime Minister with Chandrika Kumaratunga continuing as President. [9q]

4.40 As noted in the USSD 2003:

"Despite an extremely violent campaign preceding the 2001 election, including credible reports of the use of intimidation by both of the major parties, voter turnout exceeded 70 percent. The People's Alliance for Free and Fair Elections reported 755 incidents of violence and 49 deaths; the Center for Monitoring Election Violence reported 4,208 incidents and 73 deaths; and the police reported 2,247 incidents and 45 deaths connected to the election...A delegation from the European Union monitoring the 2001 election expressed concern about violence and irregularities in the voting, but concluded that the election "did to a reasonable degree reflect the will of the electorate." [2b] (p14)

After the election violence, the Government began an amnesty for the surrender of illegal firearms in an effort to restore law and order. On 1 January 2002 it was reported by BBC News that, over a 15-day period, members of the public were able to hand in unauthorised weapons to their nearest police station without fear of prosecution. [9r]

4.41 As outlined on 21 March 2002 by Reuters News Service the UNP won an unprecedented landslide victory in local polls, taking 217 councils out of the 222 that held elections. The PA came a distant second with just four councils, with the JVP taking one. The vote was peaceful by Sri Lanka's normal bloody standards, but clashes killed five people. Prime Minister Ranil Wickremasinghe called the election a de facto referendum on the Norwegian-brokered peace process and said the vote was a resounding mandate for the plan aimed at ending nearly two decades of ethnic war. [4z] (See also Section 4 on The Peace Process)

4.42 The Sri Lanka Monitoring Mission issued a press release on 7 May 2003 entitled "Killings of Members of Political Parties & Government Forces – Threat to the Ceasefire". In it they stated:

"Continuing attacks and killings of members of political parties and locally elected representatives pose a serious threat to the Ceasefire in Sri Lanka. These criminal acts are direct attacks on the foundations and development of democracy and have no place in a civilized society. Such attacks, especially when they appear to be systematic, spread fear among the population, create political oppression and are definitely undermining the Peace Process. Therefore it is of utmost importance that these attacks will stop immediately. The same goes for attacks and killings of people in and related to the Government Forces that appear to be systematically continuing in spite of the Ceasefire Agreement. The Government of Sri Lanka has on several occasions raised its deep concerns with SLMM about attacks on members of political parties and members of the

Government Forces. The Director General of the Secretariat for Co-ordinating the Peace Process and the Secretary of Defence have personally complained to the Head of SLMM about these attacks. Various political parties operating in the North and East have also formally complained to SLMM due to repeated threats and attacks on their offices, individual members and their families and elected representatives. In the majority of these cases, but not all, the complainants have blamed members of the Liberation Tigers of Tamil Eelam (LTTE), a signatory to the Ceasefire Agreement, for the attacks. When confronted with these accusations, LTTE has denied any involvement...It is very clear that if one of the Parties is responsible for threats, attacks or killings in Sri Lanka at this time, then that is a violation of the Ceasefire Agreement. SLMM would once again like to state that lack of proof does not rule out that one of the Parties might in fact be responsible." [22a]

- 4.43** A Human Rights Watch document released on 7 August 2003 stated that: "Political killings are on the rise again in Sri Lanka. According to local human rights groups and Tamil political parties, at least thirty-eight people have been killed or were abducted and remain missing in politically motivated attacks against opponents of the Liberation Tigers of Tamil Eelam (LTTE) since Sri Lankan Prime Minister Ranil Wickremasinghe and LTTE leader Vellupillai Prabhakaran signed a ceasefire agreement in February 2002. Hundreds of others have been threatened, assaulted, and injured. Most of the victims were members or former members of Tamil political groups opposed to the LTTE including some senior officials. Among those killed were Tamils who had worked for the Sri Lankan security forces. All of these cases appear either to be politically motivated or indicate the possibility of political motivations. In some instances witnesses have identified the perpetrators as members of the LTTE. In others, evidence of LTTE involvement is more circumstantial. Many local observers believe that the killings are indicative of a systematic campaign to silence the LTTE's opposition." [21a]

- 4.44** According to the USSD 2003:

"During the year [2003], there was credible evidence that the LTTE killed more than 36 members of anti-LTTE Tamil political groups and alleged Tamil informants for the security forces, mainly in the north and east. Both current and former members of anti-LTTE Tamil political parties were targeted by the LTTE. In one high-profile case, the deputy leader of the Eelam People's Revolutionary Liberation Front was shot and killed in Jaffna in June [2003]. The LTTE also targeted alleged Tamil informants to the military, killing several during the year [2003]. A police officer was also killed in Colombo in an apparent LTTE attack." [2b] (p3)

- 4.45** A report in the Sunday Observer dated 13 July 2003 stated that only 4 soldiers, 8 members of the Army Intelligence Unit, and 11 civilians had been killed by the LTTE since the cease-fire came into effect. This compared with more than 10,000 deaths from the three military forces during the previous six years of war. [16a]

- 4.46** As stated in a BBC News article in January 2004, President Kumaratunga told the nation that a secret swearing-in ceremony had extended her term by a year, until 2006. A spokesman for the Prime Minister said the President's move was undemocratic and

illegal. The President's argument was that she still had a year in hand from her first term in office, which she had cut short by calling early elections. [9bd]

4.47 A BBC News report of 20 January 2004 stated that "Sri Lankan President Chandrika Kumaratunga's party [the People's Alliance] has formed an alliance designed to stop Tamil Tiger rebels forming a separate state. The alliance is with former leftist revolutionaries, the JVP, who oppose any devolution of power to the Tigers." [9be]

4.48 A BBC News report of 8 February 2004 confirmed that:

"President Kumaratunga has dissolved the Sri Lankan parliament, paving the way for snap elections. National ballots for the 225-member legislature will be held on 2 April [2004], nearly four years ahead of schedule... The dissolution of parliament allows the president to create new posts and ministries and Mrs Kumaratunga immediately appointed two of her own supporters. Lakshman Kadirgamar, a former foreign minister, was appointed minister of information and telecommunication, while D M Jayaratne was made minister of posts and communication. The prime minister and his cabinet, meanwhile, will assume caretaker functions with no power to make key decisions until the election, officials said." [9bf]

4.49 On 4 March 2004 BBC News reported that Tamil Tiger rebels in Sri Lanka were facing a major crisis after one of their leaders split to form his own breakaway group. "Rebel sources confirmed that Colonel Karuna, a commander in the east, had broken ranks after facing the threat of disciplinary action.... It is not yet clear why Colonel Karuna, a Tiger commander in the east, has split away. He was thought to be unhappy that the bulk of the rebel fighters come from the east and yet all the top leadership comes from the north of Sri Lanka. He told the Associated Press that he had asked the government to negotiate a separate ceasefire agreement for areas under his faction's control." [9bg] As outlined by BBC News on the following day, "Colonel Karuna's importance in the Tamil Tiger hierarchy became clear when rebel leader Velupillai Prabhakaran elevated him to the rank of special commander for the eastern Batticaloa-Amparai districts in 2003.... Prabhakaran later made Colonel Karuna part of the team that negotiated with the Sri Lankan government during several rounds of peace talks in Bangkok, Oslo and Tokyo." [9bh]

4.50 According to a BBC News report of 5 March 2004, Tamil Tiger rebels in Sri Lanka had expelled the renegade commander. "They told reporters that Colonel Karuna had been dismissed because of his betrayal and stressed that he was a lone individual without supporters. The rebel commander reportedly dubbed the move "ridiculous" because he said he had already left the movement. One of his officials quoted him as saying that he would not relinquish control of his 6,000 troops." [9bi] On the following day BBC News further reported that Colonel Karuna had said he had received reports that death squads had been sent to target him after he was dismissed. "We have reliable information that killer squads sanctioned by the northern leadership have been sent with the intention of attacking me and my forces," he told the Associated Press. "These moves can lead to internal killing." [9bj] A BBC News report dated 9 March 2004 noted that Colonel Karuna had said in an interview that his Meenagam camp, the biggest rebel base in the east of the island, comprised 2,000 female and 3,000 male fighters. [9bk] On 26 March 2004, BBC News

reported that the Tamil Tiger rebels in a statement had threatened to kill Karuna. They stated that their cadres should stay away from him and that anybody who opposed disciplinary actions against Karuna would be considered a traitor to the Tamil national cause. The Tamil Tiger rebels also stated that fighters who abandoned Karuna had permission to rejoin their families. [9de]

4.51 On 30 March 2004 the pro-LTTE website TamilNet reported that Batticaloa Tamil National Alliance candidate, Rajan Sathiyamoorthy, a close confidante of renegade LTTE commander V. Muraleetharan [alias Karuna], had been shot by unidentified gunmen. [38f] According to TamilNet, the LTTE had said they strongly condemned the killing. [38g] According to a BBC News report of that day, the suspicion fell squarely on the Tamil Tigers rebels since Mr Sathiyamoorthy was loyal to Colonel Karuna and had been recently described by the mainstream leadership of the Tamil Tigers as a traitor. [9dd]

4.52 On 30 March 2004 BBC News reported that according to a senior Tamil Tiger leader 1,800 fighters had deserted from Colonel Karuna. "But a spokesman for the colonel rejected the claim and instead blamed the main faction of the Tigers for the killing of an election candidate... The head of the [LTTE Peace] secretariat, Puleethevan, said he did not know how many fighters Colonel Karuna still commanded." [9bh]

4.53 According to a BBC News report dated 31 March 2004:

"A number of Tamil residents have fled the eastern town of Batticaloa, saying they were forced out by supporters of renegade Tamil Tiger Colonel Karuna. The Tamils, from the northern Jaffna area, have returned home or gone to the capital, Colombo. The town has been tense since the killing of a politician linked to Colonel Karuna on Tuesday....Reports of the numbers leaving vary, but media sources in the east suggest they could be in the hundreds. A spokesman for Colonel Karuna denied the Jaffna Tamils had been under any pressure to leave...The election observer group, the Centre for Monitoring Election Violence, said it had received reports that the alliance and its Tiger supporters had made it impossible for other Tamil groups to campaign." [9au]

4.54 The Guardian, in an article dated 5 April 2004, reported that UPFA (United People's Freedom Alliance), the coalition led by President Chandrika Kumaratunga, had won 105 seats, 8 short of a parliamentary majority forcing her to find more coalition partners to form a government. The UNP (United National Party), the main opposition party led by the Prime Minister Ranil Wickremasinghe, reduced its number of seats from 109 to 82. The TNA (Tamil National Alliance), openly backed by the LTTE (Liberation Tigers of Tamil Eelam) gained 22 seats in the 225-seat parliament. "Although there were allegations of vote-rigging, especially in the war-torn north and east of the country, the elections were uneventful. During the last election, in 2001, 25 people were killed on election day". [18b]

4.55 The final official results were published in the official web-site of the Department of Elections. [39]

United People Freedom Alliance (UPFA)	105
United National Party (UNP)	82

Tamil National Alliance TNA	22
Jathika Hela Urumaya (JHU)	9
Sri Lanka Muslim Congress (SLMC)	5
Eelam People's Democratic Party (EPDP)	1
Up-Country People's Front (UCPF)	1

4.56 The BBC reported on 3 April 2004 that "Election monitors declared the poll generally free and fair". According to the Elections Commissioner Dayananda Dissanayake, mentioned by the BBC, although there were 250 complaints of intimidation or ballot stuffing during the polls, voting was free of violence. "Generally speaking, election laws were very well enforced." For the first time all polling stations in the country were monitored by election monitors. The BBC also reported that "Although there were few reports of violence, Tamil parties opposing the Tamil National Alliance accused the Tigers of intimidation and malpractice." [96] According to the final report of the European Union's Election Observation Mission (EU EOM) to Sri Lanka's Parliamentary Elections (issued on 17 June 2004) problems occurred in the North and East on polling day. "EU and domestic observers reported widespread impersonation and multiple voting in most cluster stations." [40] (p2)

4.57 According to the EU EOM report: "Overall, it would be fair to conclude that the 2004 elections were largely conducted in a democratic manner, apart from the North and the East. If the election results in the North and East had been a critical factor in determining who formed the government, it would have raised questions about the legitimacy of the final outcome. The events that took place in this part of Sri Lanka during the course of this election were totally unacceptable and are the antithesis of democracy." According to the report, the reason for the LTTE motivated violence was due to two factors: firstly that the LTTE intended that no other rival Tamil party to the TNA would be able to claim to represent Tamil interests; secondly the split between the LTTE in the north and in the east that exacerbated the situation. [40] (p2-3)

4.58 According to the EU EOM observers:

"Compared to the two previous elections, the scale and gravity of the problems was greatly diminished during the 2004 general election. While this is to be welcomed, it must also be stressed that there are no grounds for complacency particularly as this may give rise to false hopes that the disturbing features of the 2000 and 2001 elections will not re-occur. Although the most serious incidences of violence originated with the LTTE, it must not be forgotten that over two thousand cases of election-related violence were reported. This grim statistic underlines once again the continuing fragility of democracy in Sri Lanka." [40] (p2)

4.59 On 6 April 2004 BBC news reported that a new Prime minister had been sworn in. "Veteran politician Mahinda Rajapakse, 58, is a senior member of President Chandrika Kumaratunga's United People's Freedom Alliance, which won most seats.... Mr Rajapakse has pledged to pursue talks with Tamil rebels and called on India to help revive the peace process.... Negotiations with other smaller parties are taking place in an effort to secure a stable government." [96]

4.60 On 9 April 2004 BBC News reported that heavy fighting had broken out between two Tamil Tiger rebel factions in north-eastern Sri Lanka. "Members of the

main Tiger movement exchanged fire across the Verugal river with fighters controlled by a breakaway commander, Colonel Karuna. At least nine fighters are thought to have been killed and another nine people injured. The International Committee of the Red Cross said thousands of civilians were fleeing from the area. The battle comes days after a new government took office and is the first between the rival rebel factions." [9bk]

4.61 On 12 April 2004 it was reported by BBC News that rebels loyal to a breakaway Tamil Tiger group in Sri Lanka were abandoning their fight against the mainstream faction. "One military official in the east told Reuters there was a "mass exodus" from the ranks of Colonel Karuna's faction. International peace monitor Eric Solheim said his sources indicated that "Karuna seems to have given up".... The UN Children's Fund, Unicef, which is working in the area, confirms there has been a spontaneous release of Tamil Tiger cadres from the camps of the eastern faction. Thousands of civilians who had fled their homes when the two factions began fighting are also now returning to their villages." [9b1]

4.62 According to a BBC News report of 13 April 2004, the main faction of Tamil Tiger rebels was reportedly in full control of eastern areas after defeating the breakaway group. "The renegade leader, Colonel Karuna, is said to have fled the area and his forces have dispersed. The main faction also freed more than 100 child soldiers who had been with Col Karuna's group....Hagrup Haukland, deputy head of the Sri Lanka Monitoring Mission, said monitors met the man the Tigers have installed as Col Karuna's replacement, Ramesh, in the area on Monday" [9bm]

4.63 On 22 April 2004 W. J. M. Lokubandara, a candidate from the main Sri Lankan opposition party, was voted in as speaker in the new parliament. BBC News reported that "The President's failure to install her chosen speaker means that the opposition now controls the agenda in parliament, deciding when to table legislation and with the power to delay government business. The government had been counting on the support of right wing Buddhist MPs in the vote, but many of them abstained after their choice for speaker was rejected" [9bn]

4.64 On 26 April 2004 it was reported by BBC News that at least seven Tamil Tiger rebels had been shot dead in eastern Sri Lanka. "A Tiger statement said unidentified attackers had opened fire on a rebel camp near Batticaloa, some 220km (140 miles) east of Colombo....Batticaloa is controlled by the army, but rebels control pockets around it....A complaint had been lodged with the Scandinavian mission which monitors a truce between rebels and the government, the statement said....Although the identity of the assailants is unknown, the Sri Lankan army said they could be loyalists of the renegade commander, Colonel Karuna." [9bo]

4.65 On 6 May 2004 the pro-LTTE website TamilNet reported that two unarmed political activists of the Liberation Tigers of Tamil Eelam (LTTE), had been shot dead at Thannamunai near Batticaloa town in the Sri Lanka Army-controlled area and that at the time of the incident the Sri Lanka Army was patrolling the area. "LTTE sources said both activists had been shot dead by Tamil paramilitary groups closely associating with the Sri Lanka Army in Batticaloa. LTTE sources further said this crime could not have been committed without the knowledge of the SLA". It was reported that monitors from the Sri Lanka Monitoring Mission had been called to the

area further to a complaint from the LTTE. [38b] On 8 May 2004 TamilNet quoted a letter from the leader of the political wing of the LTTE to the Sri Lanka Monitoring Mission (SLMM) stating that it was clear that the killers [of the two LTTE political activists] had had assistance from the Sri Lanka army. [38c] On 9 May 2004 TamilNet reported that a member of the Sri Lanka Army intelligence had been shot dead in Batticaloa. [38d]

4.66 On 10 May 2004 the head of Sri Lanka Monitoring Mission (SLMM) issued a press release stating that the killings of members of LTTE and government forces was a serious threat to the ceasefire and the peace process and urged the parties to stop the killings immediately. Referring to the killings in the eastern areas of Sri Lanka he wrote that such killings, especially when they appeared to be systematic, created oppression, spread fear and mistrust and were also undermining the mutual trust between the parties and the peoples of Sri Lanka. [22b]

4.67 On 21 May 2004 Daily News reported that the government had announced that it expected a more positive role for the Sri Lanka Monitoring Mission (SLMM) over violations of the ceasefire agreement in future. "Cabinet spokesman and Minister Reginald Cooray said the killing [of a police intelligence operative] has been brought to the notice of the SLMM and the international community. We strongly condemn the killing of the police intelligence operative in Batticaloa by suspected LTTE pistol gang members." [16a]

4.68 On 2 June 2004 the Sri Lanka Monitoring Mission (SLMM) issued a press release stating that further to a meeting between GOSL (Government of Sri Lanka) and LTTE representatives, LTTE had agreed to immediately establish a direct liaison with Sri Lanka Police. "The LTTE further agreed to provide information to assist with the identification and apprehension of criminal elements in Batticaloa area." [22c]

4.69 On 21 June 2004 BBC News reported that Tamil Tigers rebels had accused the Sri Lankan security forces of aiding and abetting the breakaway rebel commander Karuna. BBC quoted the Sri Lankan military spokesman denying reports that Colonel Karuna had been helped by the security forces and stating: "Our stand remains the same - we have no involvement with any of these groups". "But - continued the BBC report - the Tigers have produced four senior female fighters - including the former women's military wing head Nilavini - who say they were with Colonel Karuna when he vanished in April. They say a Muslim former parliamentarian, Ali Zahir Mowlana, helped them escape from the eastern jungles to the capital. Mr Mowlana admits he did, but says he acted on humanitarian grounds and had no contact with Colonel Karuna after helping the group get to Colombo." [9bp] On 24 June 2004 it was reported by BBC News that the government had admitted members of the army helped Karuna escape and wage a covert war of attrition against the Tamil Tigers. [9bq] On 1 July 2004, BBC News reported that President Kumaratunga had rejected allegations that the government had authorised military activities in the Eastern Province in support of the Karuna faction. [9br]

4.70 On 29 June 2004 Daily News reported that according to the Centre for Monitoring Election Violence (CMEV) a total of 144 elections related incidents had been reported since nominations day for the 10 July 2004 provincial council elections. These included 18 major offences and 126 minor incidents mainly related

to the breaking of election laws. [16a]

4.71 As reported by BBC News on 5 July 2004, unknown gunmen had attacked two separate groups of Tamil Tiger rebels in Batticaola on the day they commemorated their first suicide bombing, 17 years ago. "One rebel was killed and three others injured in the east of the island.... There has been no official comment from the rebels but a pro-Tiger website, TamilNet, said there must have been military collusion in the first attack because it took place at a junction surrounded by four high security police camps." [9cs] On the following day BBC reported that the Tigers had accused the security forces of creating the conditions for war. A Tamil Tiger statement quoted by the BBC noted: "We have told the Sri Lanka army officers several times during phone conversations and during discussions that stopping killings in the east is in [the] Sri Lanka army's hands." BBC further reported that the government had said in a statement that it regretted the deaths in the east, and that an investigation was under way. [9ct]

4.72 On 7 July 2004 it was reported by BBC News that a suicide bomber had killed herself and four police officers in an explosion at a police station in Colombo.

"The woman had been taken for questioning after trying to enter the office of a Tamil leader opposed to the Tamil Tiger rebels, police said. Six police officers and three civilians were injured in the attack. Suspicion has fallen on the Tigers but it is not clear if this was an attempt to end a ceasefire with the government. The government has strongly condemned the incident, calling it an assassination attempt on the Tamil politician Douglas Devananda who is minister for Hindu Cultural Affairs.... Mr Devananda himself told the BBC Tamil service that the attack bore the hallmark of the Tigers. "They have made two earlier attempts on my life, so this does not come as a surprise," he said. Mr Devananda, who leads the Eelam Peoples Democratic Party, was not in his office at the time of the incident." [9cq]

According to a BBC report of the following day, the Tamil Tigers had denied being involved in the suicide bombing and stated they assumed this act of violence could be the work of anti-peace elements. [9co] On 8 July 2004 Daily News reported President Kumaratunga as saying that she did not foresee any damage caused to the peace process as a result of the previous day's incident. [16aa] On 9 July 2004 BBC News reported that the attack was a message to Mr Devananda and to the government not to assist Colonel Karuna since Mr Devananda had repeatedly told the media he had been in touch with Karuna. [9cw] On 11 July 2004, the head of the Tigers' political wing SP Tamilselvan, when interviewed by BBC News, was reported as saying that the two-and-a-half-year-old peace process had reached its lowest ebb and accusing the government of acting in bad faith and trying to undermine a ceasefire deal. [9cx]

4.73 On 8 July 2004 BBC News reported that Tamil Tigers rebels had said they had executed two suspected members of a rival faction in eastern Sri Lanka. "The pair were among 13 people who the rebels say were detained last week because they were loyal to the breakaway commander, Colonel Karuna. The Tigers accused them of planning to carry out armed attacks against their members and supporters." [9cu] The same information was given by the pro-LTTE website TamilNet on the following day. [38k] According to a BBC News report of 9 July 2004 the execution of the two men who had allegedly collaborated with military intelligence and Karuna was a clear

warning to the Tamil community not to betray the Tigers. [9cw]

4.74 On 9 July 2004, the government Secretariat for Co-ordinating the Peace Process (SCOPP) reported on its website a press release from the USA embassy in Colombo which noted: "Although no one has claimed responsibility for the bombing, the incident bears the hallmarks of an LTTE attack. The United States has consistently called on the Tigers to renounce terrorism and cease terrorist acts, including political assassinations, and to comply with the terms of the ceasefire agreement that they signed. The United States also calls upon the Government of Sri Lanka and the LTTE to take all possible steps to halt the recent violence in Eastern Sri Lanka." [41d] SCOPP also reported a press release from the EU Presidency which stated: "The Presidency of the European Union is concerned about the recent increase in political violence in Sri Lanka, including the political killings in the East and elsewhere and the suicide bomb attack on 7 July, the first since the ceasefire began.... The Presidency of the European Union calls upon all parties to prevent further violent incidents and welcomes that all sides continue to respect the ceasefire. We urge all parties to continue to work towards the restart of substantive talks." [41e]

4.75 On 12 July 2004 it was reported by Daily news that:

"[In the Provincial Council Election] The UPFA won by over one million votes (1,033,998) polling 2,873,239 votes in the six provinces (Western, Southern, Central, North Central, Uva and Sabaragamuwa) while the main opposition UNF received 1,839,241 votes. The Wayamba PC poll held in April was also won by the UPFA. Of the 118 electorates in the six provinces, the UNP won only 13 constituencies with the UPFA bagging the remaining 105.... The Sri Lanka Muslim Congress emerged in the third place, bagging some seats in the Western Province.... Police deployed over 55,000 personnel to ensure a violence free election and maintain law and order. Five independent monitoring groups monitored the voting process. The five groups were PAFFREL, CMEV, NEMEC, Diriya Foundation and Manawa Sanwardena Sanvidanaya. There were no foreign monitors." [16ak]

4.76 On 15 July 2004 BBC News reported that two prisoners had been shot dead and a third injured in a jail in eastern Sri Lanka apparently in a clash between two rival factions of the Tamil Tiger rebels. "One of the dead is a man who gave interviews recently from jail, acting as a spokesman for the breakaway rebel leader, Colonel Karuna." [9cy] According to a BBC News report of 25 July 2004, Tamil Tiger rebels in Sri Lanka had said that eight top aides of the breakaway rebel leader Karuna had been shot dead in Colombo. "The Tamil Tigers said the dead men were close associates of the rebel defector Colonel Karuna, whom they accuse of working with the army." [9cz]

4.77 On 26 July 2004 Amnesty International issued a public statement regarding the increased killings in eastern Sri Lanka.

"Amnesty International and Human Rights Watch today expressed their serious concern at the spate of unlawful killings in and around Batticaloa since a faction led by former LTTE (Liberation Tigers of Tamil Eelam) eastern commander, Colonel Karuna, broke away from the LTTE in March 2004. Both organisations called on all parties operating in the region to respect human rights.... Amnesty International and Human Rights Watch are calling on the

LTTE, government authorities and the Norwegian-led Sri Lanka Monitoring Mission (SLMM) to act in accordance with their responsibilities in order to end these killings and bring those responsible to account. The killings should be investigated by the police, who maintain overall responsibility for law and order, and by the SLMM, within their mandate to investigate breaches of the 2002 Ceasefire Agreement. Amnesty International and Human Rights Watch particularly urge the LTTE to abide by its stated commitments to respect human rights and minimum humanitarian standards, as reiterated by S. P. Tamilselvan, Head of the LTTE Political Wing, at the opening of the NESHOR [the new North East Secretariat on Human Rights, which opened on 9 July 2004]." [3h]

4.78 According to a BBC News report of 11 August 2004, Tamil Tiger rebels had killed at least three supporters of the breakaway leader Colonel Karuna in the east of the country. As noted by BBC:

"Not a day passes without the killing or kidnapping of one of Colonel Karuna's loyalists in the east of Sri Lanka. There are days when the mainstream Tamil Tigers also suffer casualties, but since they choose not to talk about their reverses, such losses usually go unreported. The killings of the colonel's sympathisers are also seldom acknowledged - no group claims responsibility - but there is little doubt that the reprisals are committed at the behest of the Tamil Tiger leader, Prabhakaran.....The internecine skirmishes between the two groups are casting a shadow on the peace process with Tamil Tiger rebels repeatedly accusing the Sri Lankan military of supporting the breakaway leader and waging a covert war against them. The charge has been constantly denied by the Sri Lankan government and army officials" [9da]

4.79 On 16 August 2004 the official website of the government of Sri Lanka reported a press statement of the European Union presidency issued after a EU delegation had met the leader of the LTTE political wing SP Tamilselvan. As outlined in the statement:

"The EU has throughout the conflict emphasised the importance of the respect for human rights. The killing of political opponents is a breach of fundamental human rights. There is no excuse for such violence, which can never resolve the internal differences in Sri Lanka....Child recruitment by the LTTE, which is also regarded as a breach of fundamental human rights, is an issue of continued concern of the EU.... The EU is concerned and alarmed about the recent increase in political killings and the inability of the LTTE to solve internal differences in a peaceful manner.... Despite promising signs in April, that the LTTE was taking serious its pledge to release the children in its ranks, recruitment has been accelerated both in the North and East during the last couple of months.... These killings, abductions and child recruitment are not conducive to an atmosphere in which peace negotiations can be restarted.

" [44a]

4.80 On 16 August 2004 a statement posted on the official website of the government of Sri Lanka condemned the killing of Kandasamy Iyer Balanadarajah, Media Secretary of the Eelam People's Democratic Party (EPDP) killed in Colombo on that day. According to statement the EPDP had been particularly targeted during the last month with the killing of two members on 10 August and one on 21 July.

"The nature of the killings and the persons targeted, suggests involvement of the Liberation Tigers of Tamil Eelam (LTTE) in these incidents." [44b]

4.81 On 20 August 2004 BBC News reported that two Tamil Tiger rebels had been killed in Sri Lanka's Eastern Province and that the rebels were blaming the attack on a rival faction led by Colonel Karuna. [94b] According to a BBC News report of the following day, gunmen near Batticaloa had opened fire on an army patrol injuring a soldier, but an army spokesman had not speculated on who carried it out. BBC further reported that "The Tamil Tigers were blamed for an attack in the area on Saturday [21 August] which killed two senior rebels loyal to dissident rebel leader Colonel Karuna. [94c] On 25 August 2004 Daily News reported that a cadre of the Karuna faction had been gunned down as he appeared before Akkaraipattuwa Magistrate court. [16ar] On the previous day an announcement posted on the official website of the government of Sri Lanka stated: "The Government of Sri Lanka today strongly condemned continued killings in the East and in Colombo.... The GOSL undertakes to fully investigate all such killings, irrespective of the factional identities of the victims and ensures that the law of the land is applied devoid of any discrimination." [44c]

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The Peace Process January 2000 – August 2004

4.82 On 30 November 1999 BBC reported that PA Government had said it would discuss a devolution proposal aimed at ending the lengthy civil war, with all political parties as well as Tamil Tiger rebels, and that a new constitution would be drafted containing the new proposals. The devolution plan was supported by the [then] opposition United National Party. [9a] As reported by BBC News on 30 December 1999, It also emerged for the first time that international mediators had been trying to broker a peace deal with the LTTE since 1997. The first attempt was made by Commonwealth Secretary General Chief Anyoku, and later by the Norwegian Government. [9a]

4.83 On 8 August 2000, the Sri Lankan Government indefinitely postponed the vote on the reform bill, which if enacted, would have allowed the Tamil community in the north greater autonomy, BBC News reported on that day. Senior ministers said they had decided to delay the bill when it became clear they would be unable to muster the required two-thirds majority in Parliament. [9a]

4.84 As outlined in a BBC News report of 21 December 2000, the LTTE announced a unilateral month-long cease-fire to run from 24 December 2000. [9a] The Government said it wanted talks with the rebels, but would not lay down its arms first. The truce was extended for a third time until 24 April 2001, but the LTTE said they would end it unless the Government responded positively and stopped fighting, CNN reported on 22 March 2001. [25k] The LTTE announced an end to the cease-fire on 23 April 2001, blaming the Government for the failure of peace efforts. The rebels said they had suffered a large number of casualties and injuries in Government attacks while the cease-fire was in force, CNN noted on that day. [25l]

4.85 As reported by Reuters News Service on 22 December 2001, the new UNP Government announced a month-long cease-fire to start on 24 December 2001, reciprocating an earlier declaration by the LTTE. [4aef] On 28 December 2001 Reuters News Service highlighted that the main opposition People's Alliance had promptly indicated its willingness to support the Government in its efforts. [4ae]

4.86 In an unexpected move, most barriers, barricades and checkpoints were removed in Colombo a few days after the commencement of the cease-fire. It meant that residents of Colombo were free to move around unimpeded for the first time in seven years, as noted by Reuters News Service on 28 December 2001. [4ag]

4.87 On 2 January 2002 BBC News reported that, the Sri Lankan Government had 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, apart from a small number of items such as arms, explosives and binoculars [9s]. On 13 February 2002, the Government lifted all restrictions on the movement of medicines and medical equipment to the country's war-torn northern districts, as part of continuing confidence-building measures intended to promote peace talks, as noted by Reuters News Service. A military spokesman, quoted by Reuters, said that no controls would be placed on quantity or brand but the transported stocks would be monitored at checkpoints for security reasons. [4af]

4.88 Also on 14 January 2002 it was reported by BBC News that restrictions had been eased on the movement of civilians in and out of Vavuniya. The Government had made it easier to obtain passes and lifted the requirement of a guarantee for those seeking permits for longer stays. [9v]

4.89 On 21 January 2002 the Sri Lankan Government announced that it would extend the cease-fire for another month (until 24 February 2002), matching a unilateral extension made by the LTTE the previous day, as BBC News reported on that day. [9w]

4.90 According to BBC News, on 30 January 2002, Lieutenant General Lionel Balagalle, Sri Lanka's top military commander, urged his senior officers to consider integrating Tamil Tiger rebels into the armed forces if the peace process succeeded, and to address the issue of absorbing former militants into society. Lieutenant General Balagalle said that the truce was holding except for minor violations. [9x]

4.91 An announcement was made on 22 February 2002 that the Sri Lankan Government and Tamil Tiger rebels had signed a cease-fire agreement, BBC News reported on that day. [9z]

4.92 A BBC News OnLine report of 22 February 2002 detailed the text of the truce deal. The preamble to the agreement states the overall objective is to find a negotiated solution to the ongoing ethnic conflict in Sri Lanka. Article 2 of the agreement deals with measures to restore normalcy. This includes both parties, in accordance with international law, abstaining from hostile acts against the civilian population, including such acts as torture, intimidation, abduction, extortion and harassment; the parties refraining from engaging in activities or propagating ideas that could offend cultural or religious sensitivities; the parties reviewing security measures and the set-up of

checkpoints, particularly in densely populated cities and towns, in order to prevent harassment of the civilian population; the parties agreeing that search operations and arrests made under the Prevention of Terrorism Act shall not be made, and that arrests shall be conducted under due process of law in accordance with the Criminal Procedure Code; and the parties agreeing to provide family members of detainees access to those detainees. [9aa]

4.93 As outlined by Reuters News Service, on 6 March 2002 it was announced that a further series of travel and other restrictions had been lifted. The rules differed from area to area but local media reported that in one part of the northern Vavuniya district the number of travel permits had been reduced from 24 to 3. [4aa] In the International Committee of the Red Cross (ICRC) Newsletter number 21 of March 2002, the organisation states it had agreed to act as a conduit for the passing of information between the parties concerned whenever there was an issue that affected the needs and the welfare of ordinary civilians. The ICRC referred to the opening of the two crossing points into the LTTE-controlled Vanni region from the government-controlled area on 15 February 2002, and regarded this event as dramatically reducing travelling time from the southern regions to population centres in the Vanni and back. This event had also permitted a large number of people to cross between the areas of control and also for a greatly increased quantity of goods to be transported both ways. In this manner some 300,000 people living in the area would benefit from better access to services and facilities. [34b]

4.94 On 2 April 2002 Reuters News Service reported that Nordic Observers, known as the Sri Lanka Monitoring Mission (SLMM), would begin monitoring the cease-fire. Representatives from Norway, Sweden, Finland and Denmark would carry out the monitoring, working with local observers in six Districts in the North East Province. There had been no combat-related deaths reported since the truce was signed, although both sides had complained of provocations, particularly in the East. [4a]

4.95 According to Reuters News Service, on 3 April 2002, the LTTE opened a political office in a government-held area in the north of the country. The office in Vavuniya was inaugurated under the terms of the cease-fire agreement which allows the Tamil Tigers to engage in political activity in areas outside their control provided they are unarmed and out of military-style uniforms. In a sign of reconciliation, the Tigers invited a member of the Sinhalese community to open the office. It was the first major public appearance by the LTTE outside territory held by them. [9ab] The previous month, as reported by Daily News on 21 March 2002, troops allowed LTTE cadres wearing cyanide capsules to move back into an uncleared [i.e. LTTE-controlled] area. Troops manning a roadblock close to Batticaloa town had come across the two cadres who were dressed in civil clothes at the time. However, since the cadres' intention was to proceed into the uncleared areas, troops allowed them to proceed after recording their details. [16a] According to the USSD 2003 "During 2002, the Ministry of Defense reported capturing several LTTE personnel with weapons in government-controlled areas in direct contradiction of the terms of the ceasefire agreement. The Government reportedly returned most LTTE personnel directly to the closest LTTE checkpoint. Some, however, were detained for longer periods. Previously, the military sent the LTTE cadre it captured or who surrendered to rehabilitation centers." [2b] (p9)

4.96 A further development in April 2002, as reported by BBC News on 8 April 2002, was the opening of the strategic A9 highway, a key road linking the Jaffna peninsula with the rest of the country. It was the first time the road had been opened in 12 years, and meant that civilians under the control of Tamil Tiger rebels could travel freely to government-controlled areas. This event came a week after the authorities lifted a six-year ban on domestic flights and cleared the way for commercial airlines to resume services to the war-ravaged Jaffna peninsula. [9ac]

4.97 On 11 April 2002, The Guardian reported that LTTE leader Velupillai Prabhakaran had given his first press conference for 12 years. [18a]

4.98 Also in April 2002, the LTTE agreed that nearly 100,000 Muslims expelled from the north by the Tamil Tigers a decade previously would be allowed to return to their original dwelling places, Reuters News Service reported on 14 April 2002. [4q]

4.99 As reported by BBC News, on 17 April 2002, the leader of the LTTE cultural and social wing, Puthuvai Ratnadurai, addressed a public gathering in Jaffna; the first time such an event had taken place in 7 years. A BBC correspondent said the fact that the security forces allowed this celebration of Tamil culture and nationalism to take place at all, showed how much freedom the rebels now had to operate in areas under Government control. [9ad]

4.100 In June 2002 the Sri Lankan Government and the LTTE sealed a deal for the LTTE to open political offices in the northern islands, Reuters News Service reported on 14 June 2002. At the same time, fishing restrictions were relaxed in the north and eastern provinces following a strike by fishermen. [4e]

4.101 As mentioned by BBC News on 16 July 2002, on 13 July 2002 an incident had occurred in which two Norwegian peace monitors were held aboard a vessel by Tamil Tigers off the northern coast. The monitors had been called in after Sri Lankan naval vessels intercepted the Tamil Tiger vessel which was allegedly in violation of the cease-fire agreement. The monitors claimed that they were being held against their will, whereas an LTTE spokesman said they were kept on board the boat in the interests of their own personal safety. The LTTE later said they regretted the incident and stated they had full confidence in the peace mission. [9ag]

4.102 Another vital road opened in July 2002. The A5 road between Kandy and Batticaloa had been closed since 1995, BBC News reported on 15 July 2002. [9af]

4.103 On 29 July 2002, the SLMM (Sri Lanka Monitoring Mission) issued a statement expressing their satisfaction about 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. [4n]

4.104 A key demand by the LTTE was fulfilled in August 2002 when the Sri Lankan Government allowed the rebels the use of a controversial sea route. A Government

spokesman, quoted by BBC News on 12 August 2002, told reporters that the rebels could move along the east coast twice a week, subject to certain conditions. The LTTE would be expected to inform the Government about their movements in advance, and the boats would carry a peace monitor and SLMM flag. [9ah]

4.105 On 23 August 2002 the Norwegian Government issued a statement confirming that the first round of formal peace talks between the Sri Lankan Government and the LTTE would be held in Thailand from 16 to 18 September 2002, as published by Daily News on 24 August 2002. The statement recognised that there would be difficulties ahead, but that both sides had displayed commitment to seek a durable settlement. The talks announcement came soon after Government and LTTE representatives held another round of talks in Kilinochchi on the reconstruction and rehabilitation of the north east. It also followed two meetings held in London and Oslo between Minister Milinda Moragoda and LTTE Chief Negotiator Anton Balasingham. [16g]

4.106 The Sri Lankan Government lifted its ban on the LTTE on 4 September 2002, BBC News reported on the following day. The LTTE had made the removal of the ban a main precondition for sitting down to talks with the Government. [9aj] As stated in the U.S. Department of State Report 2003 "This meant that members of the LTTE were no longer subject to arrest simply because of their status." [2b] (p8)

4.107 BBC News reported on 5 September 2002 that the first round of talks had been a success for both sides. While agreeing to continue the existing cease-fire agreement, the two sides talked about the return of refugees to government-designated high-security zones, the rebuilding of the north and east, and landmine clearance. [9aj] According to a Daily News report dated 19 September 2002, the LTTE announced at the end of the talks that they were negotiating only for autonomy, and that fighting for an independent Tamil State would be a last resort. [16j] But the concession, as reported by Reuters News Service on 19 September 2002, was accompanied by a warning that the LTTE would not begin to disarm until a final peace deal had been signed. The significance of the announcement was reflected by a five-year high on the stock market, which had already risen by 34% in 2002. [4j] On the same day Daily News reported that the Government and LTTE had agreed to form a joint task force for urgent humanitarian and reconstruction activities in the north and east, operating with the participation of Muslims, and for the benefit of all ethnic communities. [16j]

4.108 In early October 2002, as reported by BBC News on 16 October 2002, 10 people were killed in eastern Sri Lanka in clashes. The head of the international cease-fire monitors blamed irresponsible and destructive elements who were trying to destabilise the peace process. [9al]

4.109 In the second round of peace talks that ended on 3 November 2002, it was announced, as reported by BBC News on that day, that three committees were to be set up. The committees were 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. The LTTE chief negotiator also said that they were now willing to accept and assimilate rival political groups, and allow a plurality of views in their strongholds in the north east. [9an]

4.110 According to a BBC News report of 27 November 2002, LTTE leader Velupillai Prabhakaran had for the first time stated in a speech that his movement was ready to drop its long-standing demand for independence, and declared that he would settle for provincial autonomy and self-rule in Tamil-dominated areas in the east and north. However, he had also warned that the Tamils would resume their struggle for a separate State if a political solution could not be reached in the ongoing peace process. [9a0]

4.111 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, as reported by BBC News on 5 December 2002. According to the BBC "The Norwegian Government, which is mediating in the talks, said the two sides had agreed on "internal self-determination based on a federal model within a united Sri Lanka". Under Thursday's deal, minority Tamils would have autonomy in the largely Tamil-speaking north and east of the island." [9ap]

4.112 The fourth round of peace talks in January 2003 focused on the humanitarian aspects of the post-conflict situation. As outlined by Daily News on 10 January 2003, 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 Armed Forces, the second phase within the HSZs. It was also agreed at the talks that the World Bank would be the custodian of the funds given by donors for the rehabilitation of the north and east of the country. [16a]

4.113 As reported by BBC News on 22 January 2003, In January 2003 the SLMM said that recent months had shown a clear downward trend in child recruitment and other cease-fire violations by both sides. The SLMM said that during 2002 it investigated and upheld 556 cease-fire violations, 500 of which were perpetrated by the LTTE. According to the monitors, the most common violation by the LTTE was the recruitment of fighters under the age of 18. Most of these cases related to recruitment around the Batticaloa and Jaffna areas. On the Government side, the most common violations by the military were harassment, extortion and restriction of movement. [9aq]

4.114 The sixth round of peace talks in March 2003 were overshadowed by the sinking of an LTTE vessel earlier in the month in which 11 Tamil Tigers were killed, BBC News noted on 21 March 2003. The LTTE had threatened to boycott the talks, but eventually went ahead with them. There was none of the dramatic progress seen at previous rounds of talks, but both sides maintained that the process was on course. One positive step was the agreement by the LTTE to allow rival Tamil parties to conduct political activities in areas held by them. [9av]

4.115 On 21 April 2003 the LTTE suspended participation in the peace talks in protest at the handling of "critical issues". The LTTE expressed serious grievances about their "marginalisation" from negotiations and the perceived unequal dividends of peace, such as patchy security withdrawals on the ground. The LTTE were also bitter about their exclusion from reconstruction talks in Washington, due to the ban on the LTTE travelling to the U.S. as outlined by a BBC News report of 22 April 2003 [9aw] On 23 April 2003, the LTTE said that they had no intention of breaking the cease-fire, but wanted the Government to implement decisions agreed at earlier meetings, as reported by BBC News on the following day. [9ax]

4.116 At an international donors conference in June 2003, a total of \$4.5 billion in aid was pledged towards rebuilding Sri Lanka, BBC News reported on 10 June 2003. A total of 51 countries and 22 international organisations were present; however the LTTE boycotted the conference. Most of the money was 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, de-militarisation and normalisation process", according to the final declaration at the conference. [949]

4.117 A BBC News report dated 1 November 2003 stated that:

"The Sri Lankan Government has reacted cautiously to proposals for power sharing that the Tamil Tiger rebels have called historic.... It differs in fundamental respects from the proposals submitted by the government of Sri Lanka," said a statement from chief negotiator G L Peiris. The eight-page document, made public after months of speculation, is the result of several trips by the rebels to foreign countries to study different federal systems and consult constitutional experts. It is also the most detailed articulation so far of the Tigers' willingness to compromise on their demand for a separate state. The Tigers are asking for an "interim self-governing authority" for the north-east of Sri Lanka with powers over land, law and order and finances. A majority of the members of this body would be appointed by the Tigers, although it would have representatives from the Sinhala and Muslim communities and be subject to elections after five years. What many were looking for were signs of a commitment to protect rival ethnic groups and uphold values of human rights. The document does include provisions for the establishment of an independent human rights commission... There is no mention of disarmament - something the Tigers say they can only envisage at the time of a final political settlement because they see their extensive armed wing as their only bargaining chip at the negotiating table... The rebels' document contains no mention of how to integrate their own police force and judiciary with that of the government... The Tigers are demanding control over regulating access to marine and offshore resources. The Sri Lankan navy, which complains the rebels have used the ceasefire to smuggle in weapons by sea, may not agree. And the Tigers have given special emphasis to the need to resettle refugees displaced from homes currently occupied by the Sri Lankan military. Thousands of these homes fall within high security camps that the government will be reluctant to relocate or remove. Some may take issue with the Tigers' suggestion that they have the power to borrow externally - seeing this as a sign of sovereignty not normally devolved to a region. And there is still the question of the legality of devolving all these powers - constitutional experts believe giving control over land and the judiciary may cause legal problems for the government even on an interim basis." [950]

4.118 As noted in the USSD 2003:

"President Chandrika Kumaratunga, head of the People's Alliance (PA) coalition, temporarily suspended Parliament November 4 [2003]. The President also dismissed the ministers of defense, interior, and mass communications and assumed those portfolios herself because of what the President termed a "deterioration of the security situation" during the course of the peace process. Parliament reconvened November 19 [2003], and talks continued at year's end

[2003] between representatives of the Prime Minister and the President over control of the three ministries and the Prime Minister's role in the peace process. The President reaffirmed her commitment to the peace process, but peace negotiations remained suspended at year's end [2003]." [2b] (p1)

4.119 The Daily News reported on 16 January 2004 that the LTTE had reiterated that it would continue with the truce agreement irrespective of the political impasse in the South. A spokesman for the LTTE political office in Kilinochchi quoted Anton Balasingham as saying that the LTTE was prepared to participate in negotiations when a stable government assumes power in Colombo. LTTE political chief Thamilselvam made the same remarks when he met Norwegian Ambassador to Colombo Hans Brattskar in Kilinochchi on the same day. Thamilselvam reiterated his earlier pledge that the LTTE would not be the first to break the truce. "There is a resolute commitment of the LTTE that the Liberation Tigers will not be the party to commence it (war)," Thamilselvam earlier told Reuters. [16b] As reported in the Daily News on 6 February 2004 the Sri Lanka Monitoring Mission's new chief Trond Furuhovde said that the current political impasse had had no impact on the Ceasefire Agreement. Furuhovde, SLMM's pioneering head of the mission, who led the SLMM during its first year was re-appointed by the Norwegian Government. He replaced Tryggve Tellefssen declared "persona non grata" by President Chandrika Bandaranaike Kumaratunga over his alleged bias towards the LTTE. [16d]

4.120 On 7 April 2004 BBC News reported that President Chandrika Kumaratunga had told the nation that the new government would revive peace talks with Tamil Tiger rebels.

"Mrs Kumaratunga made the pledge in her first televised speech since last week's general election. On Monday, the Tigers threatened to resume their armed struggle unless they were granted self-rule...Mrs Kumaratunga has been known for her hardline approach to the Tamil Tigers but used her speech to make new overtures of peace. "We will immediately take steps to put in place a programme to resume negotiations involving all concerned parties to promote resolution of the ethnic question," she said. However, she gave no timetable for the resumption of talks." [9b] (See also Section 4 on 1994 to the present)

4.121 According to a BBC News report of 15 April 2004 Sri Lanka ceasefire was back on track. The report went on to say that:

"Tamil Tiger rebels and the Sri Lankan army have agreed to uphold a two-year-old ceasefire. It was the first meeting between the two since a split in the rebel movement earlier this year, and signals a return to normality....Ramesh, the newly installed Tamil Tiger leader in the east, called for the meeting with the Sri Lankan army. Norwegian-led peace monitors had travelled to the east to facilitate the talks. Major General Trond Furuhovde, who led the monitors, described the meeting as positive. The two sides issued a statement after the meeting saying they had restored relations and agreed to uphold the two-year-old ceasefire." [9b]

4.122 On 20 April 2004 BBC News reported that the Tamil Tiger leader, Velupillai Prabhakaran, had briefed 22 Tamil [TNA] MPs elected in the general election of 2 April 2004 in advance of the MPs taking up their positions in parliament. "Reports

from rebel headquarters say that Mr Prabhakaran told the parliamentarians to pressurise the Sri Lankan government on resuming peace talks. The Tiger leader advised them to promote the proposal of the rebels for an interim self-governing authority for the north-east of the island. "[9ca]

4.123 On 23 April 2004 it was reported by BBC News that President Chandrika Kumaratunga had invited Norway to resume its role as negotiator between her government and Tamil Tiger rebels. "Norway's Prime Minister Kjell Magne Bondevik said he had been asked by Mrs Kumaratunga to help resume peace talks, which broke down in November [2003]....Norway has replied with a conditional "yes", but stated it must be invited by rebel chiefs too before recommencing...Mrs Kumaratunga has previously accused Norway of being biased towards the rebels." [9cb]

4.124 On 3 May 2004 BBC News reported that the Norwegian envoy Erik Solheim had met the Tigers' political head in rebel-held territory a day after talks with President Kumaratunga. According to BBC, after that meeting the government had said it was keen to restart development projects in the north and east of the country. "For the Tigers, political head SP Thamilselvan said there had been no change in the rebels' position - they wanted to be regarded as the sole representatives of Tamils and to discuss their proposals for interim power-sharing. " [9cc]

4.125 On 9 May 2004 BBC News reported that in a major policy shift, Sri Lanka's governing Freedom Alliance had said it would recognise the Tamil Tiger rebels, by implication as the sole representatives of the country's Tamil minority. "A statement from the Alliance said it was clear that peace talks had to be between the two main parties - the government and the rebels." According to the BBC, "Recognising the Tamil Tigers as the sole political representatives of Sri Lankan Tamils is a bitter pill for any hardline government to swallow, but it is a necessary one if peace talks are to take place. The Tigers will not even start negotiations without this degree of recognition. " [9cd]

4.126 On 11 May 2004 the pro-LTTE website TamilNet reported that Norway's Foreign Minister Jan Petersen and his deputy Vidar Helgesen had met with President Kumaratunga. [381] The pro-LTTE website also reported that later Jan Petersen had met Velupillai Pirapaharan, the leader of the Liberation Tigers and his political advisor, Anton Balasingham in Kilinochchi. [381] On 27 May 2004 it was reported by BBC News that the Norwegian special peace envoy to Sri Lanka Erik Solheim had met President Kumaratunga in the last of a series of meetings aimed at restarting peace talks between the government and Tamil Tiger rebels. According to the BBC, after meetings with Erik Solheim LTTE had repeated that they would only take part in peace negotiations if they were first able to set up their own interim administration in the north and east. "There has been no reaction from President Kumaratunga since she met Mr Solheim, but in the past she has stated her opposition to the demand of the rebels." [9ce]

4.127 As outlined in BBC News report of 12 June 2004 President Chandrika Kumaratunga had said there was no agreement yet with the Tamil Tiger rebels about how to resume stalled peace talks.

"She said she wanted to discuss plans for self-government in rebel areas. But, in a TV address, she stressed this could only be done as part of talks on a

final peace deal. Tamil politicians said on Thursday [10 June] after meeting the President that she had expressed willingness to negotiate the single issue of self-government. Mrs Kumaratunga has long resisted the Tigers' demand that their plan for self-government of the island's north and east should be discussed first. In her national address on Saturday [12 June], she said there had been no breakthrough. However she insisted that both sides were committed to the ceasefire." [9c] In that TV address, President Kumaratunga had also said that she was setting up a National Advisory Council on Peace and Reconciliation (NAC) to provide a means for the people of the country to contribute to a political settlement and work towards reconciliation, as highlighted by the government Secretariat for Co-ordinating the Peace Process (SCOPP) on the same day. [41a]

4.128 On 28 June 2004 BBC News reported that the Tamil Tiger rebels had refused to resume regular talks with the country's military, accusing it of harbouring the renegade rebel leader Karuna. According to the BBC, "Diplomatic sources say the Norwegian-led peace monitors are deeply concerned with the Tigers' withdrawal." [9c] On 30 June 2004 Daily News reported that despite the decision to withdraw from meeting with the Sri Lanka army, the LTTE had expressed to the Sri Lanka Monitoring Mission (SLMM) their commitment to the ceasefire agreement. [16am] On 4 July 2004 Sunday Observer reported that the LTTE and Security Forces had resumed routine security meetings in the north but that the LTTE persisted in its boycotts of such meetings in the east in protest against the alleged army complicity with the renegade LTTE commander Karuna. [16am] On 13 July 2004 the pro-LTTE website TamilNet reported that a meeting between senior LTTE officials and Security Forces commanders had been held at the SLMM offices in Vavuniya [in the north]. [38j]

4.129 As announced by the LTTE Peace Secretariat, on 30 June 2004 the Special Peace Envoy Erik Solheim and the Norwegian ambassador Hans Brattskar had a meeting with the head of the LTTE political wing SP Tamilselvan but there was no major breakthrough. "The Head of the Political Wing briefed the Norwegian team on the Tamil perception of the government's duplicity in allowing the military intelligence division in Batticaloa, Amparai to aid and abate Karuna's men to carry out killings and abductions....If this situation is allowed to continue, Mr. Tamilselvan said, it will jeopardise the CFA and the entire peace process." [42a]

4.130 As stated in a press release of the government Secretariat for Co-ordinating the Peace Process (SCOPP) issued on 1 July 2004 after a meeting between President Kumaratunga and Erik Solheim.

"The President rejected the publicly aired allegations by the LTTE that the Government had authorized the Sri Lankan military activities in the Eastern Province in support of the Karuna faction. She expressed confidence that under the command of Lt. Gen. Shantha Kottegoda, the Sri Lanka Army will continue to abide by the Ceasefire Agreement. She reiterated the Government's commitment to achieving a lasting peace and maintaining the Ceasefire Agreement....The Norwegian delegation undertook to continue the process of consultations on outstanding issues with a view to bringing both parties into direct negotiations." [41b]

4.131 On 20 July 2004 BBC News reported that the Sri Lankan government and

Tamil Tiger officials had held a rare high-level meeting in the capital, Colombo. "Chief government negotiator Jayantha Dhanapala said his rebel counterpart, S. Puleedevan [Secretary General of the LTTE Peace Secretariat], had paid a "courtesy call.... Official sources told the AFP news agency the meeting had been an "ice-breaker". On Monday [19 July], the government said it had prepared an agenda for talks, and was awaiting a response from the rebels." [9c]

4.132 On 21 July 2004 the Head of the SLMM met SP Tamilselvan in Kilinochchi. On 22 July 2004 the LTTE Peace Secretariat reported Major General Trond Furuhoide as saying: "The SLMM has strongly urged the government to take meaningful and effective action to curb the activities of paramilitary groups including that of Karuna faction and the EPDP". Tamilselvan was reported to have expressed concern about the violations to the ceasefire agreement caused by various paramilitary groups in Batticaloa. [42b]

4.133 On 26 July 2004 BBC News reported that after meeting Tamil Tiger leaders, Norwegian Deputy Foreign Minister Vidar Helgesen had said he had failed to achieve a breakthrough. [9c] According to a BBC News report of 27 July 2004, President Kumaratunga had said she was willing and keen to restart the stalled peace talks with the Tamil Tiger rebels. "In a statement, she said her government would resume negotiations on an interim authority within a united state, as sought by the Tamil Tigers. She has previously said negotiations could only begin on the basis of a permanent solution. The statement came after the president met with Norway's top peace envoy." [9ck] On the following day, BBC reported that Mr Helgesen had stated that the current situation was very risky and could result in a low intensity war if the killings continued. The Norwegian Deputy Foreign Minister was reported to be worried about the general sense of complacency and lack of urgency about the situation and to have said that the Tigers could not agree on the proposed agenda for the resumption of talks. According to the BBC, a continuing row over breakaway rebel leader Colonel Karuna was also a major sticking point. [9cl]

4.134 On 11 August 2004 a press release of the SLMM announced that a meeting between the GOSL and LTTE delegations had been held in Ampara [eastern Sri Lanka]. "The parties reviewed and discussed General matters. A common understanding was reached regarding body checks, baggage checks and vehicle checks. It was also agreed by both parties to honor and cooperate in order to avoid any violation of Ceasefire Agreement. The parties also agreed to continue to respect the Ceasefire Agreement entered into between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam on the 22nd of February 2002." [22d]

4.135 As announced by the LTTE Peace Secretariat on 14 August 2004, the Norwegian Deputy Ambassador and the head of the LTTE political wing had a meeting in Kilinochchi. SP Tamilselvan told the Norwegian diplomat that the LTTE were waiting for a positive response from the government to recommence negotiations on the basis of ISGA proposals. [42d] On 16 August 2004 the LTTE Peace Secretariat announced that an EU troika had visited SP Tamilselvan and urged the LTTE and the GOSL to return to the negotiation table along with a strict adherence to the terms of CFA [Ceasefire Agreement]. The head of the LTTE political wing was said to have reiterated the LTTE readiness to recommence the negotiations on the basis of discussions on the ISGA proposals. [42e]

4.136 As highlighted in a press statement of the EU presidency reported on the official website of the government of Sri Lanka on 16 August 2004:

"The EU urges the LTTE to restrain itself from any action that might provoke disruption of the cease-fire and allow unimpeded continuation of the activities of the Sri Lanka Monitoring Mission. The EU urges the LTTE and the Sri Lankan Government to put the interests and wishes of the people of Sri Lanka for a permanent peace settlement first, by returning to the negotiating table and call upon the LTTE for the earliest resumption of peace talks, which have been suspended by the LTTE since April last year. We urge the LTTE to continue to work towards the restart of substantive talks. Only through dialogue can there be a negotiated settlement to the conflict." [44a]

4.137 In an interview with United Press International (UPI) on 16 August 2004 President Kumaratunga, asked if she were willing to meet LTTE leader Prabhakaran to thrash out the issues across the table was reported as saying: "Not for the sake of just shaking hands but if negotiations begin and we are progressing positively quite definitely at some point of time we have to meet....Even though he could have been my murderer, and still is a potential assassin, as long as I hold this position I will have to forget personal considerations and lead the country. If that is required, yes." UPI reported that Kumaratunga had said that her government had sent seven or eight different draft proposals, but the LTTE had failed to reply since the LTTE leaders were more preoccupied with the recent split in the east. "It appears that the LTTE present leadership's main concern is this and they want to stabilize the eastern situation before they come to talks," Kumaratunga said. "And our impression is that the agenda is not the main point." According to UPI, the President had revealed for the first time that the government had offered to go along with the establishment of the interim administration. "We have gone 75 percent of the way, the Tigers are not willing come the other 25 percent of the way....We are still hoping to persuade them to come 25 percent of the way because we have gone 75 percent of the way." [43]

4.138 On 25 August 2004, as announced by LTTE Peace Secretariat, the head of the SLMM and his team had a meeting with the head of the LTTE political wing Tamilselvan in Kilinochchi. "The SLMM Head conveyed to Mr. Tamilselvan matters discussed with the Defence Secretary Mr. Cyril Herath yesterday in Colombo relating to CFA violations and the killings of two senior LTTE members in Vaharai on 20th. Mr. Tamilselvan expressed his concern over the presence of various armed groups and their activities that are posing a serious threat to the CFA and the peace process in general. [42c] On the following day Daily News reported the SLMM spokesman as saying that the head of SLMM Trond Furhovde had offered his personal mediation to commence talks between the Security Forces and the LTTE at ground level when he met with SP Tamilselvan. [16as]

4.139 As reported by Daily News on 27 August, cabinet spokesman and Media Minister Mangala Samaraweera had assured that the country was no way on the brink of war and that war was certainly not an option for the North-East problem. "The Government and the LTTE should reaffirm their commitment to recommence negotiations not only by word but also by deed. Time has come to match words with deeds" The Minister was reported to have said that the Government was determined to ensure that the killings in the East and in Colombo would not undermine its commitment to recommence negotiations. [16at]

5 State Structures

The Constitution

5.1 As stated in the Europa World Yearbook 2004, Volume II, the Constitution was promulgated on 7 September 1978. It guarantees the fundamental rights and freedoms of all citizens, including freedom of thought, conscience and worship and equal entitlement before the law. Buddhism has the foremost place among religions and the State has a duty to protect and foster Buddhism. Sinhala and Tamil are the two official languages. [1] (p3949)

5.2 As confirmed in the US State Department Report 2003 (USSD) "Sri Lanka is a republic with an active multiparty system [2b] (p1)... The Constitution provides citizens with the right to change their government peacefully. Citizens exercised this right in practice through multiparty, periodic, free and fair elections held on the basis of universal suffrage; however, recent elections have been marred by violence and some irregularities. Power is shared between the President (elected in 1999 for a 6-year term) and the 225-member Parliament. The country is a longstanding democratic republic with an active multi-party system." [2b] (p13)

5.3 As noted in the USSD 2003:

"The Constitution provides for equal rights under the law for all citizens, and the Government generally respected these rights. The Supreme Court regularly upheld court rulings in cases in which individuals filed suit over the abridgment of their fundamental civil rights. The HRC and the CIUAH [Committee to Inquire into Undue Arrest and Harassment] are other mechanisms the Government has established to ensure enforcement of constitutional provisions in addition to access to the courts." [2b] (p15) (See also Section 6.B on Government Action)

Citizenship and Nationality

5.4 As reported by the US Defense Security Service (DSS) Permanent Mission of Sri Lanka in October 2001, citizenship laws are based upon the Citizenship Act of Sri Lanka 1972, amended 1987. All those who were citizens of Ceylon are now considered citizens of Sri Lanka. Birth within the territory of Sri Lanka does not automatically confer citizenship, the exception being a child born of unknown parents. Most Sri Lankans are regarded as of Sri Lankan nationality by descent. However, certain persons with paternal or maternal blood ties to Sri Lanka may apply for citizenship by registration, provided they are at least 22 years old and intend to permanently reside in Sri Lanka. [7]

5.5 The US Defense Security Service (DSS) Permanent Mission of Sri Lanka in October 2001 also outlined that voluntary renunciation of Sri Lankan citizenship is permitted by law. Involuntary loss of Sri Lankan citizenship includes where a person acquires a foreign citizenship; where a citizen by registration is shown to have given false information, resided abroad for more than 5 years without Government

permission, or has been convicted of certain crimes or declared loyalty to a foreign Government; and where a citizen by descent whose father is a citizen by registration has not expressed a desire to retain citizenship after the age of 22. [7]

5.6 On 8 March 2004 Daily News reported that, a Citizenship (Amendment) Bill had been passed in Parliament. Under the terms of the new legislation, the right of a mother to pass her Sri Lankan citizenship to her child is now identical to that of a father. Hitherto, only a father could pass citizenship to his children. Those over 22 years of age and who have assumed citizenship of another country will be recognised as Sri Lankan citizens upon application made to the Ministry of Interior. Such persons have the option to obtain dual citizenship or may renounce citizenship of the other country and assume Sri Lankan citizenship. [16p]

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Political System

5.7 As stated in Europa, the President is Head of State and exercises all executive powers. Europa also records that the President is directly elected by the people for a term of 6 years, and is eligible for re-election. As reported in Europa the current President is Mrs Chandrika Bandaranaike Kumaratunga of the People's Alliance, who was sworn in on 12 November 1994, [1] (p3950) and re-elected on 21 December 1999, as reported in December 1999 by Keesing's Record of World Events. [23a]

5.8 Europa records that the Sri Lankan Parliament consists of one chamber with 225 members, and Members of Parliament are directly elected by a system of modified proportional representation. [1] (p3950) On 5 April 2004 The Guardian reported that the United People freedom Alliance (UPFA), the coalition led by President Chandrika Kumaratunga had obtained 105 seats in the general election of 2 April 2004 and therefore defeated the United National Party of Ranil Wickremasinghe that came second with 82 seats. [18b]

5.9 As recorded in Europa Sri Lanka comprises 9 provinces [1] (p3949) and the Constitution of the Democratic Socialist Republic of Sri Lanka states that there are 25 administrative districts [26] each with an appointed Governor and elected Development Council. In November 1987, an amendment to the Constitution was adopted, providing for the creation of eight provincial councils (the northern and eastern provinces were to be merged as one administrative unit). Europa also records that a network of 68 Pradeshiya Sabhas (district councils) was inaugurated throughout the country in January 1988. [1] (p3949)

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Judiciary

5.10 As noted in the USSD 2003:

"The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The President appoints judges to the Supreme Court, the High Court, and the courts of appeal. A judicial service commission, composed of the Chief Justice and two Supreme Court judges, appoints and transfers lower court judges. Judges may be removed

for misbehavior or incapacity but only after an investigation followed by joint action of the President and the Parliament." [2b] (p7)

As stated by the UN Human Rights Committee in its concluding observations on Sri Lanka dated 1 December 2003:

"The Committee expresses concern that the procedure for the removal of judges of the Supreme Court and the Courts of Appeal set out in article 107 of the Constitution, read together with Standing Orders of Parliament, is incompatible with article 14 of the Covenant, in that it allows Parliament to exercise considerable control over the procedure for removal of judges. The State party should strengthen the independence of the judiciary by providing for judicial, rather than parliamentary, supervision and discipline of judicial conduct." [6k] (p4)

5.11 As recorded in Europa 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 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 labour-based disputes. [1] (P3953)

5.12 Europa records that the Judicial Service Commission comprises the Chief Justice and two judges of the Supreme Court, nominated by the President. All judges of the Courts of First Instance (except High Court judges), and the staff of all courts are appointed and controlled by the Judicial Service Commission. The Supreme Court consists of the Chief Justice and not fewer than 6 and not more than 10 other judges. The Court of Appeal consists of the President, and not fewer than 6 and not more than 11 judges. [1] (P3953)

5.13 According to a letter from the British High Commission in Colombo dated 23 October 2002, it is very rare and most unlikely that an accused would be able to obtain a copy of his/her own arrest warrant. When an arrest warrant is issued, a copy is kept on the legal file and the original is handed to the police. An accused cannot apply for copies of the arrest warrant to the relevant court. Forged documents are easily obtainable throughout Sri Lanka with people paying between 100 and 1000 rupees for a forged arrest warrant. (Other examples of forged documents include passports, court summonses, birth certificates, death certificates, marriage certificates and educational certificates). [15a]

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Legal Rights/Detention

5.14 As noted in the USSD 2003:

"Under the law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours. In practice, persons detained generally appeared within a few days before a magistrate, who could authorize bail or order continued pretrial detention for up to 3 months or longer. Security forces must issue an arrest receipt at the time of arrest, and,

despite some efforts by the Government to enforce this standard, arrest receipts rarely were issued in previous years. Observers believed that the lack of arrest receipts in the past prevented adequate tracking of cases and permitted extended detentions and torture without making any persons directly responsible for those detainees. During the year [2003] arrest receipts were still not issued in some cases." [2b] (p6)

5.15 The USSD 2003 continues:

"In criminal cases, juries try defendants in public. Defendants are informed of the charges and evidence against them and have the right to counsel and the right to appeal. The Government provides counsel for indigent persons tried on criminal charges in the high court and the courts of appeal, but it does not provide counsel in other cases. Private legal aid organizations assisted some defendants. In addition, the Ministry of Justice operated 11 community legal aid centers to assist those who could not afford representation and to serve as educational resources for local communities. However, at year's end [2003], the legal aid centers had not tried any cases." [2b] (p7)

5.16 As stated in the USSD 2003:

"Most court proceedings in Colombo and the south were conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north and east were in Tamil and English, but many serious cases, including those having to do with terrorism, were tried in Colombo. While Tamil-speaking judges existed at the magistrate level, only four High Court judges, an Appeals Court judge, and a Supreme Court justice spoke fluent Tamil. Few legal textbooks and only a single law report existed in Tamil, and the Government has complied slowly with legislation requiring that all laws be published in English, Sinhala, and Tamil." [2b] (p8)

5.17 Members of a joint Danish/Canadian fact-finding mission team, on their visit to Sri Lanka between 1 and 12 October 2001, were told by a local Non-Governmental Organisation (NGO) that roughly 90% of cases involving LTTE suspects fall under section 5 of the PTA, related to "failure to give information". A lawyer attached to another local NGO stated that while section 5 provides for a maximum sentence of 7 years, there is no minimum sentence. Accordingly, if the person is charged under section 5 of the PTA and pleads guilty, the period spent in remand would most often be deducted from the sentence, and the person would end up being released. Also, where the only evidence against a Tamil suspect is a signed confession recorded in Sinhala, which encompasses most of the cases registered by police in Colombo, the case would be challenged by the defence counsel when brought to court, and the person would be discharged. A lawyer with the Legal Aid Foundation (LAF) stated that 95% of PTA cases were based on confession alone, and 99% of these cases are normally discharged. [11]

5.18 As noted in an Amnesty International report of June 1999, 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. [3e]

5.19 As noted by the United Nations Committee against Torture in May 1998, Sri Lanka acceded to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 3 January 1994. The Convention Against Torture Act 1994 gives effect to the Convention in accordance with the Sri Lankan legal system. [6f] As noted in an Amnesty International report of June 1999, several provisions in the UN Convention against Torture were not fully implemented in the Convention Against Torture Act (CATA), which uses a more restrictive definition of torture than that contained in the UN Convention against Torture. [3e] The UN Human Rights Committee in its concluding recommendations on Sri Lanka dated 1 December 2003 stated that:

"The Committee remains 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, and that the restrictive definition of torture in the 1994 Convention against Torture Act continues to raise problems in the light of article 7 of the Covenant. It regrets 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, despite a number of acknowledged instances of abduction and/or unlawful confinement and/or torture, and only very few police or army officers have been found guilty and punished. The Committee also notes with concern 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 (art. 2 of the Covenant). The State party should adopt legislative and other measures to prevent such violations, in keeping with articles 2, 7 and 9 of the Covenant, and ensure effective enforcement of the legislation. It should ensure in particular that allegations of crimes committed by State security forces, especially allegations of torture, abduction and illegal confinement, are investigated promptly and effectively with a view to prosecuting perpetrators. The National Police Commission complaints procedure should be implemented as soon as possible. The authorities should diligently enquire into all cases of suspected intimidation of witnesses and establish a witness protection program in order to put an end to the climate of fear that plagues the investigation and prosecution of such cases. The capacity of the National Human Rights Commission to investigate and prosecute alleged human rights violations should be strengthened. [6k] (p3)

(See also Section 6.B on Torture)

5.20 A report in Daily News of 14 May 2002 stated that the Legal Aid Foundation of the Bar Association of Sri Lanka (BASL) had set up a National Centre for Victims of Crime. The Centre will provide and co-ordinate legal aid to victims of crime in keeping with the 1986 UN declaration on Basic Principles of Justice for Victims of Crime. Other services include information for obtaining compensation and restitution. Protection would be

given to victims from intimidation from the perpetrators of violence, while protecting the basic rights of offenders. The Centre will also provide legal help to families of victims and witnesses to crime. [16b] On 10 September 2003 Daily News reported that the National Legal Aid Day and the 11th Anniversary of the Legal Aid Foundation (LAF) of the Bar Association of Sri Lanka had been celebrated. "The BASL President emphasised that several innovative ventures have been implemented by the LAF such as the 'Legal Aid for Internally Displaced Persons,' 'Legal Aid for Elders,' Consumer Protection programme,' Educational Programme for schoolchildren,' and the opening of a Centre for Victims." [16au] On 4 July 2004 it was reported by Sunday Observer that the human rights hotline set up at the Centre for the Study of Human Rights (CSHR) of the Colombo University assisted victims of human rights violations by providing access to legal advice and assistance free of charge. "Depending on the nature of the human rights violation, the CSHR lawyers refer the victim to a lawyer, a legal aid institute, human rights organisation or a counsellor for further expert advice and legal assistance." [16aw]

5.21 According to the USSD 2003:

"In the past in Jaffna, LTTE threats against court officials sometimes disrupted normal court operations. Although the Jaffna court suspended activities due to security concerns in 2000, it reopened in 2001 and functioned continuously since then. During the year [2003], the LTTE 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 that all Tamil civilians stop using the Government's judicial system and rely only on the LTTE's legal system. Credible reports indicated that the LTTE implemented the change through the threat of force. The LTTE has its own self-described legal system, composed of judges with little or no legal training. LTTE courts operate without codified or defined legal authority and essentially operate as agents of the LTTE rather than as an independent judiciary. The courts reportedly imposed severe punishments, including execution." [2b] (p8)

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Death Penalty

5.22 Amnesty International includes Sri Lanka amongst the countries that are abolitionist in practice. According to Amnesty International 2004 Sri Lanka Country report: "The long-standing practice of automatically commuting all death sentences continued despite pressure to reopen debate on a resumption of execution.... Parliament debated reintroducing executions, amid public concerns over a rise in violent crime, but no vote was taken. In September [2003] the Interior Minister assured a delegation of European parliamentarians that the government had no plans to resume executions". [3g]

5.23 A BBC News report dated 15 October 2003 stated that "Two men had been sentenced to death in Sri Lanka for the 1998 bombing of the nation's holiest Buddhist shrine which killed 23 people...The men had been accused of using a truck bomb to blow up Kandy's famous Temple of the Tooth in January 1998. No one has been

executed in Sri Lanka since 1976 and death sentences are normally commuted to life imprisonment." [96b] On 3 February 2004 the pro-LTTE website TamilNet reported that the Supreme Court had confirmed the death sentence of the five Sri Lanka Army soldiers who had been convicted for the rape and murder of four Tamils in 1996. [38a]

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Internal Security

5.24 As outlined in the USSD 2003:

"The Ministry of Interior, which President Kumaratunga renamed the Ministry of Internal Security on December 19 [2003], controls the 60,000-member police force, which has been used for military operations against the LTTE and is responsible for internal security in most areas of the country. In the past, the police paramilitary Special Task Force also engaged in military operations against the LTTE. The Ministry of Defense controls the 112,000-member Army, the 27,000-member Navy, and the 20,000-member Air Force. Home Guards, an armed force of more than 20,000 members drawn from local communities and responsible to the police, provide security for Muslim and Sinhalese communities located near LTTE-controlled areas." [2b] (p1)

5.25 According to a report of the Dutch Ministry of Foreign Affairs dated 30 September 1999, investigating agencies include the Operational Command of Colombo Security (OCC), the Directorate of Internal Intelligence (DII), the Directorate of Foreign Intelligence (DFI), the Criminal Record Department (CRD), the Criminal Investigation Department (CID) and the Terrorist Investigation Department (TID). The TID was set up in May 1998 as a new investigative agency of the police. The DII and DFI, until mid-1998, together formed the National Intelligence Bureau (NIB). [14b] As reported in the report Home Office fact-finding mission to Sri Lanka of 9-13 July 2001, police are recruited nationally, not locally, and any Sri Lankan national, including those of Tamil ethnicity, is free and welcome to join the police force. [35a]

5.26 According to The Sri Lanka Monitor, November 2002 of the British Refugee Council, the LTTE's Tamil Eelam Police Force has been in existence since 1991, and there are 16 such police stations in the Vanni. [10c]

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Prisons and Prison Conditions

5.27 According to the USSD 2003 "Prison conditions generally were poor and did not meet international standards because of overcrowding and lack of sanitary facilities. Women were held separately from men. In some cases, juveniles were not held separately from adults. Pretrial detainees were not held separately from those convicted." [2b] (p6)

5.28 As confirmed in the U.K. Home Office fact-finding mission report of 2001 "The prison authorities told us that over the last 5 years the prisons had become 300% overcrowded. There had been some small instances of rioting but the prison authorities had been able to bring this under control...The Prison Service has

embarked on a six-year improvement project and part of this is moving facilities out of Colombo. A new facility has been built in Kandy." [35a] (p25-26)

5.29 The USSD 2003 notes "Conditions also reportedly were poor in LTTE-run detention facilities. The ICRC conducted eight visits in LTTE-controlled detention facilities. Due to the release of detainees in 2000 and the apparent release of the remaining soldiers held by the LTTE in 2002, ICRC visited fewer LTTE detention centers than in previous years." [2b] (p6)

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Military Service

5.30 As reported by War Resisters International in July 1998, conscription does not exist. The legal recruitment age for the armed forces is 18. There is no known legal provision for conscientious objection. [3a]

5.31 War Resisters International also reported that desertion is punishable under article 103 of the Army Act by up to three years' imprisonment. Although desertion has been widespread, because of the paucity of recruits, the punishment of deserters rarely occurs. Amnesties for deserters have been announced several times, usually in the context of recruitment drives. According to these amnesties, deserters are allowed to return to their units without facing further penalties. Deadlines for amnesties are often extended as not all deserters apply in time to meet the initial deadline. [3a]

5.32 On 4 March 2003, BBC News reported that the Sri Lankan military had said it would offer 50,000 army deserters the chance of a legal discharge rather than issuing the usual amnesty. Previously, deserters had remained on the army's books, but had become a serious social problem, blamed for the rise in armed crime. Those who wished to rejoin the army would still have a chance, assuming they had deserted within the last three years and they had no criminal record. [3a]

5.33 On 14 May 2004 it was reported by Daily News that the army headquarters had announced that those who deserted the ranks of the Sri Lanka Army until 1 August 2003, and the recruits who deserted during training sessions would get a chance to get their legitimate resignation. According to a press release from army headquarters the opportunity would be provided for those who had failed to receive their legitimate resignation during the previous de-listing period. [15ah]

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Medical Services

5.34 In a letter dated 30 March 2001, the British High Commission in Colombo outlined the standards of medical facilities in Sri Lanka. The traditional Western medical structure of general practitioners, specialists and hospitals with operating theatres and emergency units, co-exists with the traditional practice of ayurvedic (herbal) medicine. The country has its own National Health Service, which is available to everyone. [15b]

5.35 As confirmed by the British High Commission in Colombo in March 2001, in the Colombo area and one or two of the larger centres such as Kandy, there are many well-reputed hospitals, staffed by physicians most of whom are very experienced and internationally trained. There is an extensive range of specialist care found in Colombo, both in the private and Government sectors. Specialist care would include treating such conditions as cardiac, gastro-intestinal, dermatological, urological, orthopaedic and general surgery. [15b]

5.36 According to a Daily News report of 16 April 2004, the new minister of Healthcare and Nutrition had pledged that from the following year budgetary funds allocated for the health sector would be increased from 1.3 per cent of the GDP to 2.5 percent. [16ax] On 16 June 2004 BBC News reported that the World Bank had approved a grant of \$60m to help improve the public health sector in Sri Lanka. According to the bank the aid package was mainly aimed at improving access to health care, particularly in poor areas. The World Bank's top official for Sri Lanka was reported as saying that the country had established an extraordinarily good health service and was one of the first developing countries to provide universal health care. [9bg]

5.37 As outlined by the British High Commission in Colombo in March 2001, most medications are available in Colombo, under various generic and company labels. The prices for medications bought in Sri Lanka range widely, but as a comparison, most drugs would be cheaper than the United Kingdom for prescription and dispensing charges. On the whole, medical care is affordable for the average person, and Government hospitals generally charge a lesser fee than private hospitals. [15b] As confirmed in the USSD 2003 "Health care [for children], including immunization, was free". [2b] (p16)

5.38 On 6 July 2003 the Daily News reported that legislation to control and monitor the activities of private medical institutions would soon be presented before Parliament. It would establish guidelines for private hospitals, nursing homes, maternity homes, medical laboratories, blood banks, dental surgeries, dispensaries, consultation rooms and other establishments providing health screening or health promotion service. According to Ministry of Health sources, there are 160 private medical institutions and 800 private dispensaries including family physicians in the country. Over 60% of the population obtain medical treatment from private medical institutions, and a majority of them seek medical treatment through channelled services and family physicians. [16a]

5.39 In May 2004 it was reported by Sunday Observer that the Private Medical Institution Act which was intended to streamline the private health care system would get Cabinet approval shortly. It would give guidelines to all private health care institutions. The new Health Minister was reported to have instructed ministry officials to expedite activities to present the bill soon before the parliament. [16ag]

5.40 According to UNAIDS (the Joint United Nations Programme on HIV/AIDS "Sri Lanka is a low prevalence but highly vulnerable country." [2a] In September 2002 the British High Commission in Colombo confirmed that in Government hospitals, free treatment is available for opportunistic infections that occur with HIV, such as chest and eye infections. There is free anti-retroviral treatment to prevent mother to baby transmission of HIV, and free post-exposure prophylaxis is given to all healthcare workers. The anti-retroviral drugs that are commonly used in the West for HIV/AIDS are

not available in the Government sector. Anti-retroviral drugs are available in the private sector but choice is limited when compared with the West. [150]

5.41 A news report from Reuters News Service of 1 December 2002 indicated that the costs of treating HIV/AIDS patients in Sri Lanka had been slashed by more than 60% following a Government decision to import anti-retroviral drugs under generic names from India. The cost of treatment for each patient would be reduced from 15,000 rupees to 6,000 rupees per month. [46] On 31 August 2004 Daily News reported that the World Bank had agreed to provide drugs for HIV infected persons free of charge for five years. [16ay]

5.42 According to the U.S. Department of State Report 2003 "There was no official discrimination against those who provided HIV prevention services or against high-risk groups likely to spread HIV/AIDS; however, there was some societal discrimination against these groups." [2b] (p15)

5.43 A Sunday Observer news item of 2 November 2003 reported that:
"President Chandrika Bandaranaike Kumaratunga opened the new Asiri Surgical Hospital at Narahenpita in the presence of a distinguished gathering last Monday... Managing Director of Asiri Hospitals, Ananda Wimalasena said that they have installed the latest CT scanner and it is the most recent in Asia... The ailments that could be treated there include orthopaedic, endoscopic, & laproscopic surgery (where a tiny camera and surgical devices are inserted into the body, and the surgeon views the operation on a video monitor), oncology (cancer treatment), neurology and advanced neurosurgery. Eye and ENT treatment and surgery could be performed at this hospital too. The accommodation available at this hospital includes 9 air-conditioned luxury suites and 29 semi-luxury rooms, 36 non a/c rooms, and 2 wards with 5 beds in each ward. This hospital though ultra-modern has also catered to the 40% people [sic] who are under the poverty line." [16ae]

5.44 On 9 July 2002 it was confirmed by the British High Commission in Colombo that hospitals specifically dedicated to mental health exist in Angoda and Mulleriyawa where there is also treatment for PTSD. [15d] It was reported in the Sunday Times (of Sri Lanka) in 1996, that psychiatric treatment was available at all teaching hospitals and main Government district hospitals throughout the country, and at ward 59 of the Colombo General Hospital. [31]

5.45 According to the USSD 2003:

"The law forbids discrimination against any person on the grounds of disability. It is believed no cases were filed under this law. There was some discrimination against persons with disabilities in employment, education, or in the provision of other state services. The law does not mandate access to buildings for persons with disabilities. The World Health Organization estimated that 7 percent of the population consisted of persons with disabilities. The Department of Social Services operated eight vocational training schools for persons with physical and mental disabilities and sponsored a program of job training and placement for graduates. The Government also provided some financial support to NGOs that assisted persons with disabilities. Such assistance included subsidizing prosthetic devices, making purchases from suppliers with disabilities, and

registering 74 NGO-run schools and training institutions for persons with disabilities. The Department of Social Services selected job placement officers to help the estimated 200,000 work-eligible persons with disabilities find jobs. Despite these efforts, persons with disabilities faced difficulties because of negative attitudes and societal discrimination." [2b] (p16-17)

5.46 A Daily News report dated 3 December 2003 states that according to Social Welfare Ministry statistics around one million Sri Lankans (8% of the population) are disabled in one form or another. The majority is from rural areas. [16ad]

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Educational System

5.47 The USSD 2003 notes that "The law requires children between the ages of 5 and 14 to attend school. Approximately 85 percent of children under the age of 16 attended school. Education was free through the university level. [2b] (p16) The Government did not restrict academic freedom. The LTTE restricted academic freedom, and it repressed and killed intellectuals who criticize its actions." [2b] (p11)

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6 HUMAN RIGHTS

6.A HUMAN RIGHTS ISSUES

Overview

6.1 According to the US State Department Report 2003 (USSD):

"The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were no reports of security forces committing politically motivated killings and no reports of disappearances; however, the military and police reportedly tortured, killed and raped detainees. Prison conditions remained poor. There were reports of arbitrary arrest during the year [2003]. During 2002, the Government released more than 750 Tamils held under the Prevention of Terrorism Act (PTA). Only 65 Tamils held under the PTA remained in custody. The PTA, like the Emergency Regulations (ER) repealed in 2001, permitted warrantless arrests and nonaccountable detentions. Unlike in the recent past, there were few reports that security forces harassed journalists during the year. Violence and discrimination against women, child prostitution, child labor, limitations of worker rights, especially in the Export Processing Zones (EPZs), and discrimination against persons with disabilities continued to be problems. Violence against religious minorities increased, and institutionalized ethnic discrimination against Tamils remained a problem. Trafficking in women and children for the purpose of forced labor occurred, and there was some trafficking of women and children for the commercial sex

industry. The Government acted against the children for sex trade, and international involvement in the sex trade declined significantly. [2b] (p2) There are no legal provisions to allow forced exile, and the Government did not practice it." [2b] (p7)

6.2 As outlined in the USSD 2003 "In past years, the army generally turned over those it arrested under the ER to the police within 24 hours, although the police and the Army did not always issue arrest receipts or notify the HRC within 48 hours. The HRC has a legal mandate, generally respected by the police, to visit those arrested. Due to censorship and infrequent access, observers could not determine the state of affairs in LTTE-controlled areas." [2b] (p7)

6.3 According to the USSD 2003:

"The LTTE continued to commit serious human rights abuses. The LTTE was responsible for arbitrary arrest, torture, harassment, disappearances, extortion, and detention. Through a campaign of intimidation, the LTTE continued to undermine the work of elected local government bodies in Jaffna and the east. On occasion, the LTTE prevented political and governmental activities from occurring in the north and east. There was overwhelming evidence that the LTTE killed more than 36 members of anti-LTTE Tamil political groups and alleged informants during the year [2003]. There were also instances of intimidation of Muslims by the LTTE, and there was fighting between LTTE personnel in the east and Muslims that left several Muslims dead. The LTTE continued to control large sections of the north and east. The LTTE permitted journalists some access to the areas of the country it controlled. Some LTTE-imposed restrictions remained on freedom of movement of citizens. The LTTE denied those under its control the right to change their government, did not provide for fair trials, infringed on privacy rights, used child soldiers, and discriminated against ethnic and religious minorities." [2b] (p2)

6.4 According to the USSD 2003:

"In the past, the military wing of the People's Liberation Organization of Tamil Eelam and the Razeek group were responsible for killing a number of persons; however, there were no reports of such killings during the year [2003]. The security forces had armed and used these militias and a number of other Tamil militant organizations to provide information, to help identify LTTE terrorists, and, in some cases, to fight in military operations against the terrorists. The exact size of these militias was impossible to ascertain, but they probably totaled fewer than 2,000 persons. These groups were asked to disarm following the February 2002 ceasefire agreement between the Government and LTTE. The militia handed over some weapons to the Government; however, most observers believed that the groups kept some arms. Persons killed by these militants in the past probably included LTTE operatives and civilians who failed to comply with extortion demands." [2b] (p3)

6.5 On 9 July 2004 the LTTE Peace Secretariat announced that the Northeast Secretariat on Human Rights (NESHOR) had been launched in Kilinochchi. "It will monitor the human rights violations in the northeast and implement actions to strengthen the human rights there." [42f]

6.6 As outlined in Amnesty International 2004 Sri Lanka Country report:

"The cease-fire and peace talks between the government and the Liberation Tigers of Tamil Eelam (LTTE) continued to contribute to an improved human rights situation, despite the LTTE suspending negotiations in April [2003]. LTTE breaches of the cease-fire included the killing and abduction of members of other Tamil political groups and the recruitment of children. Torture in police custody continued to be widely reported, although steps to address the problem were announced in September [2003]. Measures aimed at holding the security forces to account for past human rights violations failed to show significant progress." [39]

6.7 According to a statement by the Asian Human Rights commission issued on 28 May 2004:

"The statement by Amnesty International in its annual report for 2004 to the effect that Sri Lanka is experiencing "an improved human rights situation" is deeply disturbing and patently incorrect....The Asian Human Rights Commission (AHRC) has in numerous documents over the last year pointed to the fact that the judicial, policing and prosecution systems in Sri Lanka are at least as bad as one year ago, and in some respects worse. Torture not only "continued to be reported" during the last year, but is in fact endemic, and police officers and other government officials continue to abuse citizens with utter impunity....The report by Amnesty International is flawed because it is not based upon any actual ground-level research, nor in-depth analysis of the type required for effective work on human rights. It consists of second-hand accounts that uncritically lend credibility to the government position, for instance, that the National Human Rights Commission (NHRC) of Sri Lanka would produce guidelines to take action on torture cases." [47]

6.8 As stated in the United Nations Status of Ratifications of the Principal International Human rights Treaties, as of 2 May 2003, Sri Lanka is a party to a number of United Nations international human rights treaties. These are: the International Covenant on Economic, Social and Cultural Rights (CESCR), date of accession 11 June 1980; the International Covenant on Civil and Political Rights (CCPR), date of accession 11 June 1980; the Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OP1), date of accession 3 October 1997; the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), date of accession 18 February 1982; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), date of ratification 5 October 1981; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP), date of accession 15 October 2002; the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), date of accession 3 January 1994; the Convention on the Rights of the Child (CRC), date of ratification 12 July 1991; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC), date of ratification 8 September 2000; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC), date of accession 11 March 1996. [6a]

Freedom of Speech and the Media

6.9 As noted in the USSD 2003:

"The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. In the past, the Government restricted these rights, often using national security grounds permitted by law. In 2002, criminal defamation laws, which had been used often by the Government to intimidate independent media outlets, were eliminated. In 2001, the Government officially lifted the censorship on war reporting. However, even when no specific government censorship was exercised, private television stations imposed their own, informal censorship on international television news rebroadcast in the country." [2b] (p10)

6.10 The USSD 2003 states that "Although the Government owned the country's largest newspaper chain, two major television stations, and a radio station, a variety of independent, privately owned newspapers, journals, and radio and television stations dominated the media. Most independent media houses freely criticized the Government and its policies. The Government imposed no political restrictions on the establishment of new media enterprises." [2b] (p10)

6.11 As stated by the UN Human Rights Committee in its concluding recommendations on Sri Lanka dated 1 December 2003:

"While appreciating the repeal of the statutory provisions relating to criminal defamation, the Committee notes with concern that State radio and television programmes still enjoy broader dissemination than privately owned stations, even though the Government has taken media-related initiatives, by repealing the laws that provide for State control of the media, by amending the National Security Act and by creating a Press Complaints Commission....The State party is urged to protect media pluralism and avoid state monopolization of media, which would undermine the principle of freedom of expression enshrined in article 19 of the Covenant. The State party should take measures to ensure the impartiality of the Press Complaints Commission.

The Committee 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....The State party should take appropriate steps to prevent all cases of harassment of media personnel and journalists, and ensure that such cases are investigated promptly, thoroughly and impartially, and that those found responsible are prosecuted." [6k] (p5)

6.12 As stated in a BBC News report of 29 March 2004:

"Sri Lanka's election commission has taken over state-run television and radio amid allegations of misuse in advance of Friday's [2 April 2004] general election. It is the first time the state-run media has come under an independent authority

during elections. The commission is empowered by the constitution to take over the electronic state media, but it has never been done before. The move comes after a bitter dispute about the role of the media...Allegations of bias have been levelled against the state media which President Chandrika Kumaratunga took control of five months ago. In a BBC interview earlier this month, she said the state media had been more free in recent months than at any time in the last decade...The current head of state run radio, Hudson Samarasinghe, said they planned to mount a legal challenge to the take over. Mr Samarasinghe complained that private channels were biased in favour of the president's rival, Prime Minister Ranil Wickramasinghe, and yet they were not being taken over...An independent media watcher from the international monitoring group, Transparency International, said he thought the timing was too late - with campaigning almost over. But he said in the past the president had continued to broadcast in favour of her party in the final days when campaigning had stopped - claiming that she was not a candidate so it was not illegal." [9am]

6.13 According to the final report of the European Union's Election Observation Mission (EU EOM) to Sri Lanka's Parliamentary Elections (issued on 17 June 2004):

"Media coverage of the campaign was intense and steady. All newspapers and broadcasters widely covered party activities as well as election related issues. Voters received a great deal of information on the campaign of individual candidates as well as political parties and the activities of the election administration. The national broadcasters and the press presented contrasting editorial policies thereby offering the electorate a plurality of views. State television and state radio also ensured that all political parties received free broadcasting time thus allowing them to present their platforms to the electorate.... The state media displayed an evident bias in favour of the UPFA with regards to news and informative programmes thus disregarding their duty to provide equitable and fair coverage of the election contestants.... Private media, although in a less open manner, generally displayed support to the UNP and to a certain extent to the JHU..... The EU EOM observed a number of violations of the election silence imposed by the Commissioner of the Elections for the period preceding E-Day. In fact, both private and state media published and broadcast election material from both coalitions during this period. The EU EOM was also informed of a number of reports of harassment, intimidation and political pressure on journalists. These allegations were all the more disturbing, in particular during an electoral campaign when the right of the media to freely report should be fully ensured as a fundamental element of a democratic system." [40] (p16-18)

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Treatment of Journalists

6.14 As stated in the USSD 2003 "The Sri Lanka Tamil Media Alliance (SLTMA) was formed in 1999 to protect the interests of Tamil journalists, who alleged that they were subject to harassment and intimidation by Tamil paramilitary groups and government security forces. Regional Tamil correspondents working in the war zones complained of arbitrary arrest and detention in the past and difficulty in obtaining press accreditation. The SLTMA filed cases on behalf of Tamil journalists, but its cases had not succeeded

in the courts." [2b] (p11)

6.15 The Daily News reported on 26 November 2002 that "The Sri Lankan Government is in the process of introducing far reaching legislative and institutional changes to create conditions for journalists to perform their duties independently without fear or favour. The Press Council law will be repealed and the council itself will be replaced by an Independent Press Complaint [sic] Commission. A Freedom of Information Act will be introduced shortly guaranteeing uninhibited access to information by the journalists. A Media Training Institute will be formed." [16m]

6.16 According to the USSD 2003 "Unlike in the previous year [2002], travel by local and foreign journalists to conflict areas was not restricted. The LTTE did not tolerate freedom of expression. It tightly restricted the print and broadcast media in areas under its control...In the past, the LTTE killed those reporting and publishing on human rights." [2b] (p11)

6.17 According to the USSD 2003:

"Unlike in the recent past, there were few reports that security forces harassed journalists during the year [2003]. [2b] (p2) Claims of harassment and intimidation of private media declined [2b] (p10) In 2002, the defamation laws were repealed and all cases pertaining to the defamation laws were dropped...The Press Complaints Commission of Sri Lanka was established during the year [2003] to provide a venue for citizens to bring complaints against media outlets. The Commission began full operations by November [2003], and started to investigate complaints...In 2002, two Air Force personnel were convicted of forcibly entering the home of and threatening a well-known journalist who reported regularly on defense matters. The two received 9-year sentences, were released on bail, and continued to appeal the charge during the year [2003]." [2b] (p11)

6.18 Reporters Sans Frontières (RSF), in their 2003 Annual report on Sri Lanka, also described a great improvement in press freedom since the UNP came to power and since the peace process began. [27a] However, on 13 July 2004 Reporters Sans Frontières issued an investigative report entitled "Nine recommendations for improving the state of press freedom". As highlighted in this report:

"Reporters without Borders fears that current tensions may plunge the country back into war. Such a failure would undoubtedly lead to new and very serious violations of press freedom....During a fact-finding mission in Sri Lanka early this year, Reporters without Borders interviewed dozens of journalists. The majority expressed their apprehensions and frustrations in dealing with a situation that has become much too volatile for them to assert that press freedom is a given in the country." [27b] (p1)

The Reporters Sans Frontières document of July 2004 drew up nine recommendations for sustainability improving the safety and freedom of the country's journalists. These recommendations underlined the following urgent needs: fighting impunity [27b] (p1); putting an end to threats against journalists [27b] (p2); giving the ceasefire control authority greater powers [27b] (p3); ensuring the autonomy of the state-owned media [27b] (p4); preventing the violations committed by the security forces; force the LTTE to accept pluralism and criticism [27b] (p5); protecting the Muslims' right to freedom of expression [27b] (p6); ensuring the safety and

independence of province-based correspondents [27b] (p7) and putting a stop to hate-mongering in the media. [27b] (p8)

6.19 According to the RSF document of July 2004:

"The absence of any in-depth investigation or trial following the killings or assaults of journalists has vastly undermined the government's credibility in terms of its efforts on behalf of press freedom.... In Sri Lanka, cases involving murders of journalists have almost always been preceded by direct death threats. Since early 2003, Reporters without Borders has noted a significant increase in the number of intimidations... The authorities seem to have resumed their harassment practices against journalists or media known for their investigative reporting and outspoken criticisms....Intimidations have also been occurring in northern Sri Lanka....News coverage of the last election campaign by the state and private media was unfair. The state media, which have been controlled by President Chandrika Kumaratunga since November 2003, have extensively conveyed the ideas of her party and those of her political allies....There have been constant acts of violence and tensions between the press and the security forces ever since the Sri Lanka army recaptured the Jaffna Peninsula in 1996... Many Tamil journalists object to being treated differently than their Sinhalese colleagues....Since the signing of the ceasefire agreement, information has circulated more freely in the eastern and northern parts of the country. Tamil-language newspapers are circulating more or less freely, and LTTE's publications are being distributed without any major impediment within the zones under government control. However, the LTTE has been regularly attacking the Tamil-language weekly *Thinamurasu*, which has close ties with another armed group, the Eelam People's Democratic Party, the EPDP....As of 2003, the threats against some Muslim journalists became more insistent....Reporters without Borders deeply regrets that some privately owned and state-owned media have been fostering a dialogue of hatred between the various communities. The organisation noted the publication of hate-mongering statements in some Sinhalese newspapers." [27b] (p2-8)

6.20 On 1 June 2004 Reporters Sans Frontières condemned the murder of senior Tamil journalist Aiyathurai Nadesan in Batticaloa. "Nadesan worked for the daily *Virakesari Tamil*, the Tamil-language service of the London-based radio station IBC and several online media. He was known for criticising the Sri Lankan army and paramilitary groups in his weekly column in *Virakesari Tamil*'s Sunday edition. His murder comes amid a resurgence of violence linked to a split within the Tamil Tigers (LTTE). Nadesan was considered to be close to LTTE." [27c] On 4 June 2004 the International Federation of Journalists (IFJ) wrote to President Kumaratunga and Prime Minister Rajapakse. As stated in the letter:

"The IFJ strongly condemns the murder of Nadesan and expresses concern that this attack comes in the wake of several such attacks against journalists in Sri Lanka....The IFJ calls upon the Sri Lanka Government to initiate an impartial investigation into this murder and make every effort to bring the perpetrators of this tragic crime to book. Finally, we call on your Government to do all that is necessary to ensure the safety of all journalists working in Sri Lanka and to create the conditions for a climate of genuine press freedom in Sri Lanka." [45a]

6.21 On 27 July 2004 the IFJ issued a press release condemning recent actions by the Sri Lankan police threatening freedom of expression in Sri Lanka. According to the IFJ president: "It is the responsibility of the police to work to protect journalists' rights and to act in the interests of a free press, not against it." IFJ press release mentioned two incidents:

"On 23 July 2004, a dozen police raided the house of Dharmaratnam Sivaram a columnist with the *Daily Mirror* and board member of the news website tamilnet.com. It was the second raid by police in three months, the previous raid occurring on 3 May. In a separate incident, on 21 July police disrupted a joint protest organised by press freedom organisations in Colombo....Up to 400 people attended the demonstration. The demonstration was protesting the police assault on 14 July of journalists covering a funeral in Kosgoda, Galle district in Southern Sri Lanka. At the 14 July incident, police assaulted four journalists."

IFJ president urged the government to act immediately to quash the heavy-handed approach taken by the security forces. IFJ also called for an investigation into the shooting of Sada Sangaralingam Kamaladasan, a journalist with the *Thinamurusu Tamil* weekly who was shot in the legs on 26 July 2004 and was in a critical condition in Batticaloa hospital. [456] According to Reporters Sans Frontières press release of 29 July 2004, the weekly *Thinamurusu*, close to the pro-government Tamil party the Eelam People's Democratic Party (EPDP) is regularly harassed by its rival the Tamil Tigers (LTTE). RSF said to be extremely concerned at the rapid deterioration in security for Sri Lankan journalists in the east of the country and urged Norway to press Sri Lankan authorities to fight impunity with which journalists are attacked. [274]

6.22 On 17 August 2004 Reporters Sans Frontières called on the Sri Lankan government to immediately investigate the killing of journalist Kandasamy Iyer Balanadarajah, who had been shot dead in Colombo on the previous day, and to end the climate of lawlessness and impunity that has targeted the country's media. According to the RSF press release the journalist worked for the Tamil weekly *Thinamurasu* and was gunned down by two unidentified men thought to belong to the Tamil Tigers (LTTE) rebel movement. As noted in the RSF press release, *Thinamurasu* was close to the pro-government Tamil group the Eelam People's Democratic Party (EPDP) and had been frequently harassed by the Tamil Tigers. The journalist was a party member and was in charge of EPDP media affairs. [276]

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Freedom of Religion

Introduction

6.23 As stated in US State Department Report for 2003 on Religious Freedom in Sri Lanka published on 18 December 2003:

"The Constitution accords Buddhism the "foremost place," but it is not recognized as the state religion. The Constitution also provides for the right of members of other faiths to practice their religion freely, and the Government generally respects this right in practice. There was no change in the status of

respect for religious freedom during the period covered by this report. Despite generally amicable relations among persons of different faiths, there has been occasional resistance by Buddhists to Christian church activity, and in particular to the activities of evangelical Christian denominations." [2a] (p1)

6.24 On 1 July 2004 Daily News reported that the government had planned to appoint a Conciliatory Council for ensuring religious harmony and foster closer ties among followers of various religions and to settle any issue that may come up among the followers of various traditional religions. [16bb]

6.25 According to the US Religious Freedom Report 2003 "Discrimination based on religious differences is much less common than discrimination based on ethnic group or caste. In general, the members of the various faiths tend to be tolerant of each other's religious beliefs." [2a] (p3)

6.26 As outlined in the US Religious Freedom Report 2003 "There are separate ministries in the Government, led by different ministers, that 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." [2a] (p1)

6.27 The US Religious Freedom Report 2003 confirms that "Religion is a mandatory subject in the school curriculum. Parents and children may choose whether a child studies Buddhism, Islam, Hinduism, or Christianity. 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. Religion is taught in schools from an academic point of view." [2a] (p2)

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Buddhists

6.28 As stated in the USSD 2003 the Constitution accords Buddhism a foremost position but "Despite the special status afforded by the Constitution to Buddhism, major religious festivals of all faiths are celebrated as public holidays." [2b] (p12) According to the US Religious Freedom Report 2003 "Most members of the majority Sinhalese community are Theravada Buddhists". [2a] (p1) As noted in the Europa World Year Book 2004 "There are an estimated 53,000 Buddhist Bhikkhus (monks) living in about 6,000 temples." [1] (p3953)

6.29 On 18 June 2004 Daily News reported that the cabinet had approved an anti conversion bill to be presented to Parliament shortly. "The new bill is aimed at eliminating proselytizing of Buddhists to other religions, as is envisaged in the Buddhist Commission Report." [16aa] On 18 August 2004 it was reported by the same newspaper that the speaker had told Parliament that the Supreme Court had recommended that certain clauses of the Prohibition of Forcible Conversion of Religion Bill violate certain articles of the Constitution and that the Bill in its present form had to be passed by not less than a two thirds majority and approved by the people at a referendum. [16ba]

Hindus

6.30 As recorded in Europa the majority of Tamil population are Hindu. [1] (p3953) The USSD 2003 states "Also during the year [2003], the Ministry of Hindu Affairs drafted a bill that would prevent proselytism to Hindus, including the use of outreach-type materials or media, and would require all conversions of Hindus to be reported to a local government official for investigation of possible force or allurement. The draft bill was under review at year's end [2003]." [2b] (p12)

Muslims

6.31 As stated in US Religious Freedom Report 2003:

"Almost all Muslims are Sunnis, with a small minority of Shi'a, including members of the Borah community. [2a] (p1) The LTTE has discriminated against Muslims, and in 1990 expelled some 46,000 Muslim inhabitants—virtually the entire Muslim population—from their homes in 540 areas under LTTE control in the northern part of the island....Although some Muslims returned to Jaffna in 1997, they did not remain there due to the continuing threat posed by the LTTE....Despite the ceasefire and peace process, the LTTE continues to extort money from Muslim families and businesses in eastern Sri Lanka. However, it appears that these attacks by the LTTE are not targeted against persons due to their religious beliefs, but that they are rather a part of an overall strategy to clear the north and east of persons not sympathetic to the LTTE. The LTTE has made some conciliatory statements to the Muslim community, but the statements were viewed with skepticism by some Muslims. During the year, the LTTE invited Muslim IDPs to return home, asserting they will not be harmed. Although some Muslim IDPs have begun returning home, the vast majority have not and were instead waiting for a guarantee from the Government for their safety in LTTE-controlled areas." [2a] (p2-3)

6.32 As mentioned in the USSD 2003 "In 2001, four Sinhalese attacked a Muslim cashier. When the Muslim community protested police inaction, rioting Sinhalese confronted the Muslim persons, and two Muslims were killed. The police investigation into this incident remained open and no arrests were reported. There were no developments in this case during the year [2003]." [2b] (p12) According to the USSD 2003 "Unlike in previous years there were no reports that the LTTE expelled Muslims from their homes [in 2003]". [2b] (p8-9)

6.33 According to the UNHCR Background Paper on Refugees and Asylum Seekers from Sri Lanka dated April 2004 (but published in June 2004):

"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....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. 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." [6j] (p47-48)

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Christians

6.34 As stated in the US Religious Freedom Report 2003 "Christians tend to be concentrated in the west [of the country]... 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." [2a] (p1)

6.35 The USSD 2003 "During the year [2003], there were confirmed reports of assault on Protestant and Catholic churches and church members by Buddhist mobs, often led by extremist Buddhist monks. Christian organizations reported an increase in attacks, with several per week by year's end [2003]. Village police were often reluctant to pursue Buddhist monk agitators out of deference for their position. At year's end [2003], no arrests had been made [2003]." [2b] (p12) A BBC News report dated 27 January 2004 confirmed that "Last week the President said there had been more than 30 attacks on churches since November [2003], but Christian groups put it at double that...Anti-Christian violence began with attacks against evangelical churches whom the Buddhist clergy accused of conducting unethical conversions but it has now spread to attacks on mainstream Catholics...Sri Lankan President Chandrika Kumaratunga has warned that anyone involved in sparking religious tension will be dealt with strictly but has also said she has heard that in some cases the police are turning a blind eye...Anti-Christian violence was exacerbated by the death last month of the monk Gangodavila Soma, who spearheaded the drive against conversions. Conspiracy theories arose despite an autopsy that said he died of a heart attack." [9bc]

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Freedom of Assembly and Association

6.36 The US State Department Report 2003 (USSD) states:
"The law provides for freedom of assembly and association, and the

Government generally respected these rights in practice. Although the PTA may be used to restrict this freedom, the Government did not use the Act for that purpose during the year [2003]. Numerous peaceful political and nonpolitical rallies were held throughout the country during the year [2003]. The 1981 Referendum Act states that rallies and demonstrations of a political nature cannot be held when a referendum is scheduled. However, the Government generally granted permits for demonstrations, including those by opposition parties and minority groups." [2b] (p11)

6.37 According to the Freedom House document "Freedom in the World 2003: Sri Lanka" "Freedom of assembly is generally respected, although both main political parties occasionally disrupt each other's rallies and political events." [46a] (p3) As highlighted in the Freedom House document "Countries at the Crossroads 2004: Sri Lanka" "The state recognizes and generally respects the right to freedom of association. A number of organizations held peaceful political and nonpolitical rallies during 2003, and the state does not compel citizens to belong to any association." [46b] (p6-7)

6.38 According to the final report of the European Union's Election Observation Mission (EU EOM) to Sri Lanka's Parliamentary Elections [of 2 April 2004] (issued on 17 June 2004):

"On E-Day, the number of reported incidents was higher than in previous elections, with 275 incidents compared to the 182 reported in 2001. Nonetheless, incidents were mostly minor election-related offences, while in previous elections serious crimes and killings happened on E-Day....During the first week after E-Day, supporters of the main political parties had several clashes. After the first week, the violence drastically decreased. The total post E-Day incidents reported, up to 14 April, were 510 versus 781 incidents reported in the same period in 2001. The reduction in the number of offences, and the fact that most of them were minor offences and violations of election laws, show a clear improvement of the atmosphere after Election Day." [40] (p29)

6.39 As stated in the USSD 2003 "In October 2002, special task force police killed eight Tamil civilians during a protest in Akkaraipattu. Police and the commission tasked with investigating the incident claimed that the crowd was trying to enter the police compound and the police were defending themselves. Tamils continued to dispute this finding, asserting that the protest was peaceful." [2b] (p11)

6.40 According to the USSD 2003 "The LTTE does not allow freedom of association in the areas that it controls. The LTTE reportedly used coercion to make persons attend its rallies". [2b] (p11)

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Employment Rights

6.41 As noted in the USSD 2003:

"The Government respects the constitutional right of workers to establish unions, and the country has a strong trade union tradition. Any seven workers may form

a union, adopt a charter, elect leaders, and publicize their views; however, in practice, such rights were subject to administrative delays, and unofficially were discouraged. Nonetheless, approximately 20 percent of the 6.9 million work force nationwide and more than 70 percent of the plantation work force, overwhelmingly Hill Tamil, was unionized. In total, there were more than 1 million union members. Approximately 15-20 percent of the nonagricultural work force in the private sector was unionized. Unions represented most workers in large private firms, but workers in small-scale agriculture and small businesses usually did not belong to unions. Public sector employees were unionized at very high rates" [2b] (p17)

6.42 The USSD 2003 states that:

"Most large unions were affiliated with political parties and played a prominent role in the political process, although major unions in the public sector were politically independent. More than 30 labor unions had political affiliations, but there were also a small number of unaffiliated unions, some of which had active leaders and a relatively large membership. During 2002, the Ministry of Employment and Labor registered 174 new unions and canceled the registration of 150 others, bringing the total number of functioning unions to 1,689 by the end of 2002. About 500 unions were considered active. The Ministry of Employment and Labor is authorized by law to cancel the registration of any union that does not submit an annual report. This requirement is the only legal grounds for cancellation of registration. [2b] (p17) Anti-union discrimination is a punishable offense liable for a fine of \$200 (20,000 rupees)." [2b] (p18)

6.43 As stated in the USSD 2003 "The law provides for the right to collective bargaining; however, very few companies practiced it." [2b] (p18)

6.44 The USSD 2003 notes that "All workers, other than police, armed forces, prison service and those in essential services, have the right to strike...The President retains the power to designate any industry as an essential service...There were numerous public sector, but relatively few private sector, strikes during the year." [2b] (p18)

6.45 As noted in a Daily News article dated 24 May 2004, according to a report issued by the International labour Office (ILO):

"Although positive aspects are represented in the Sri Lankan context more is to be done on pushing forward the agenda on social justice. With a unionisation rate of 18%, Sri Lanka still needs to focus on the non-unionised sectors of migrant workers, domestic workers, and the informal economy. In Sri Lanka the Bol has taken positive steps by setting up guidelines on ensuring the rights of freedom of association and collective bargaining.... Taking into account the limitations of the existing situation in Sri Lanka, the ILO has initiated many programs geared to move forward through positive social dialogue between employers' organisations, government and trade unions." [16b-c]

6.46 On 12 August 2004 the pro-LTTE website TamilNet reported that twenty Bata workers had been injured in Colombo when police assaulted them severely to break up a fifty two day long protest against the international footwear giant for sacking the six hundred strong workforce at its factory in Ratmalana, an industrial area on the

southern outskirts of Colombo. According to TamilNet, workers had said that the police had refused to record their complaint about the assault. [38] On 19 August 2004, the Asian Human Rights Commission noted that "AHRC is deeply concerned about the brutal use of force by the police against unarmed workers. Under article 8.1(d) of the International Covenant on Economic, Social and Cultural Rights, everyone has the right to strike and this right is further elaborated in that the exercise of this right shall not be restricted by the police or armed forces. For this reason AHRC urges intervention in this case immediately. Labour disputes cannot be solved by suppressing the workers with violence." [47a]

6.47 According to the USSD 2003:

"The law prohibits most full-time workers from regularly working more than 45 hours per week (a 5 1/2-day workweek)...Workers receive 14 days of annual leave, 14 to 21 days of medical leave, and approximately 20 local holidays each year. Maternity leave is available for permanent, seasonal and part-time female workers. Several laws protect the safety and health of industrial workers, but the Ministry of Labor's small staff of inspectors was inadequate to enforce compliance. Health and safety regulations do not meet international standards. Workers have the statutory right to remove themselves from dangerous situations, but many workers were unaware or indifferent and feared they would lose their jobs if they removed themselves from the work situation." [2b] (p20)

6.48 As confirmed in the USSD 2003 "The Constitution provides for equal employment opportunities in the public sector. However, women had no legal protection against discrimination in the private sector where they sometimes were paid less than men for equal work, often experienced difficulty in rising to supervisory positions, and faced sexual harassment. Women constituted approximately one-half of the formal workforce." [2b] (p15)

6.49 According to the USSD 2003 "Regular employment of children also occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. It was believed that many thousands of children were employed in domestic service, although this situation was not regulated or documented." [2b] (p19)

6.50 As stated in the USSD 2003 "The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited family agriculture work or to engage in technical training...Persons under age 18 may not be employed in any public enterprise in which life or limb is endangered." [2b] (p19)

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Freedom of Movement

6.51 The USSD 2003 states that:

"The Constitution grants every citizen "freedom of movement and of choosing his residence" and "freedom to return to [the country]", and the Government generally respected the right in practice. However, in the past, the war with the LTTE prompted the Government to impose more stringent checks on travelers from the north and the east and on movement in Colombo, particularly after

dark. Tamils had to obtain police passes to move freely in the north and east, and frequently they were harassed at checkpoints throughout the country. These security measures had the effect of restricting the movement of Tamils. Starting in 2001, most travel restrictions were lifted by the Government. Areas with limited access continued to be near military bases and high security zones, defined as areas near military emplacements, camps, barracks, or checkpoints where civilians could not enter. Some observers claimed the high security zones were excessive and unfairly claimed Tamil agricultural lands, particularly in Jaffna. The LTTE limited travel on the road connecting Jaffna in the north to the rest of the country; however, in April 2002, the Government lifted all its restrictions on travel to Jaffna...The LTTE occasionally disrupted the flow of persons exiting the Vanni region through the two established checkpoints. In particular, the LTTE taxed civilians traveling through areas it controlled." [2b] (p12-13)

6.52 According to the joint Danish/Canadian Fact-Finding Mission report of 1 May 2002: "National Identity Cards (NICs) are issued only to individuals who are both citizens and residents of Sri Lanka, with an exception made for those brought to work on tea plantations before 1949. Such individuals are eligible for an NIC provided that they can prove they were plantation employees in Sri Lanka before 1949. Individuals normally obtain their first National Identity Card at the age of 16. Application forms are issued by the Department of Registration of Persons to approximately 10,000 schools across the country, which are completed by students and "certified" by the school principal. Students are not asked to present a birth certificate or any other documentation in support of their application. According to the Commissioner, it takes between two and four weeks to process the applications and mail the NICs to schools. Approximately 400,000 NICs are issued annually in this way. Those who leave school before the age of 16 are required to follow the normal NIC application procedure. This entails submission of one's application form, birth certificate and three photographs to the Grama Sevaka [village headman] in one's area. He or she then forwards the application to the Department for processing. Provided one's application is in order, it generally takes four weeks to issue an NIC under these circumstances". [11] (p60)

6.53 A Daily News report of 23 September 2003 confirmed that "A record 3400 National Identity Cards (NICs) were issued by the Department for Registration of Persons (DRP) during the first three weeks of this month under the special one day NIC distribution scheme [that] commenced on September 1 [2003]...It is said that around 100 applications for new IDs are received by the Department each day while around 70 applications are received to replace their lost Identity cards. Meanwhile, nearly 20 applicants seek renewals for their outdated IDs." [16x]

6.54 On 20 June 2004 Sunday Observer reported that the Department for Registration of Persons (DRP) was considering the possibility of issuing 500 National Identity Cards (NICs) a day under the 'One day NIC distribution programme' launched in September 2003.

"DRP Commissioner Vijaya Ranasinghe said the programme will be introduced before the end of December. He said according to statistics, around 200,000 identity cards are issued by the Department every month through which around Rs 100 million is earned. "People from distant areas

including the North and East visit our Head Office at Keppetipola Mawatha, Colombo everyday to obtain NICs," he said. He said the Department receives around 350 applications a day....Of the applications received, around 150 are for new NICs, while about 100 are for lost identity cards. Nearly 50 applicants seek the renewal of their damaged NICs....He also mentioned that this new scheme will benefit those who want to leave the country for foreign employment, sit national examinations or obtain passports for urgent matters." [16bd]

6.55 On 17 July 2004 Daily News reported that the CID team probing the Kollupitiya suicide bomb blast [of 6 July 2004] had unearthed evidence pointing to the involvement of Department of Registration of Persons employees in the racket of forged National Identity Cards (NICs). According to Daily News investigators had revealed that several employees at the Department of Registration of Persons were alleged to have been involved in the issuing of forged identity cards at exorbitant prices. [16bf]

6.56 As reported by Daily News on 13 August 2004, further to a government decision the National Identity Card (NIC) would be made compulsory for voting at all future elections. "Registration of Persons Department Deputy Commissioner P. P. K. Abeysiri Gunawardene told the Daily News yesterday that they had received instructions from the Public Security Ministry to organise a program to ensure that every citizen in the country, aged 18 and above, get their NICs before the next election." [16bg] A Daily News report of 23 August 2004 outlined that the Justice and Law Reforms minister had assured that all those who did not possess their National Identity Cards (NIC) would be given one within six months. According to the minister the number of people who did not possess the NIC was around 500,000 [16bh]

6.57 According to an article in the Sunday Leader of 15 August 2004, with the minimum age of 16 to obtain identity cards, the almost two months taken by the Registration of Persons Department in issuing an ID card was a too lengthy period. According to officials quoted by the Sunday Leader, a period of one to two months is taken in issuing the cards since they had to send it by post and to first check to ascertain whether all the documents are in order. The documents needed to apply for an ID for the first time is the applicant's original birth certificate, three photographs and a stamp for Rs. 3. A person applying for the card due to their first card being lost has to forward a stamp for Rs. 15, the Grama Niladhari's letter, three photographs of the applicant, a police report and a photocopy of the applicant's birth certificate. Those who apply for a new card, even though they have the first ID card, have to issue a service certificate - whatever service or job that they are involved in, a stamp for Rs. 15, three photographs and the old ID card. For applicants who are 16 years of age, they have to provide stamp for Rs. 3 and those above 17 years of age have to forward a stamp for Rs. 15. [48]

6.58 On 20 August 2004, Daily News reported that the Secretary of the Public Security Law and Order ministry had visited the Department for Registration of Persons (DRP) and found it in appalling conditions. According to Daily News he was also surprised to learn that identity cards had been issued merely on photocopies of birth certificates while the original should be insisted. [16be]

6.59 As reported in the Danish Immigration Fact-Finding Mission Report of 1998:

"In 1997 an office was set up in Colombo - the Front Office - with the task of assisting people from strife-ridden areas of Sri Lanka, including the northern and eastern areas, who have lost or are unable to produce, e.g. birth certificates, and are therefore prevented from obtaining a national identity card. The Office, which has been in operation since 2 December 1997, is able to assist persons who were originally resident in the following administrative districts: Jaffna, Mullaitivu, Killinochchi, Vavuniya, Trincomalee, Mannar, Batticaloa, Ampara, Point Pedro, Kalumnai and Puttalam. The Office can also help people returning from abroad, including rejected asylum applicants, who originally came from one of the aforementioned districts." [32] (p17)

As noted in U.K. Home Office Fact-Finding Mission Report of 2001:

"The Family Rehabilitation Centre (FRC), an NGO with its main office in Colombo, said it is able to give assistance to those who need to obtain a NIC and advice is given on what documents are needed and how they can be obtained. One of the problems often encountered by people coming to Colombo from the North is that their documents have been burnt in attacks on their homes. The FRC can give advice on how to obtain birth certificates or obtain reports from village heads to enable people to obtain NICs. They have legal officers who can help with this process. Another NGO, the Forum for Human Dignity (FHD) also helps in this area. They can verify and then stamp an individual's photograph to confirm authenticity and they then send the applicant to the Front Office to obtain his or her card." [35a] (p8)

6.60 The Refugee Council reported in "The Sri Lanka Monitor" in December 2000 that "Jaffna people wishing to travel to southern areas of Sri Lanka face considerable difficulty in obtaining permits to leave the peninsula...Local people say that this procedure may take weeks and sometimes months." [10a] (p4) A BBC News report of 8 April 2002 noted that "A key road linking the war-hit Jaffna peninsula in northern Sri Lanka with the rest of the country has been opened for the first time in 12 years. The opening of the strategic A9 highway means that civilians from areas under the control of Tamil Tiger rebels can travel freely to government-controlled areas." [9ac]

6.61 On 14 January 2002 BBC News reported that "The Sri Lankan government has eased restrictions on the movement of civilians in and out of the predominantly-Tamil populated northern town of Vavuniya, in the north of the country. Until now, Tamil residents have been required to obtain passes to leave or enter the town, which is close to areas controlled by the rebels. Now the government has made it easier to get the passes and has also lifted the requirement of a guarantee for those seeking permits for longer stays." [9v]

6.62 Information from the British High Commission in Colombo in May 2002 confirmed that "Household registration in Colombo is no longer taking place. This information comes from the DIG's [Deputy Inspector General's] office in Colombo and also from the SSP's [Senior Superintendent of Police's] office in the North." [15c]

6.63 As noted in the Dutch Ministry of Foreign Affairs Report of July 1997 "A passport is required in order to travel abroad. Passports are issued centrally by the Department of Immigration/Emigration in Colombo, to which they have to apply for [sic]. Application forms can be obtained from district offices (kachcheri) and forwarded, via those offices

or otherwise, to Colombo." [14a] (p13) According to the Danish Immigration Service Fact-Finding Mission Report 1998 "The following documents still need to be submitted: national identity card, birth certificate and certified photos (by a justice of the peace)." [32] (p72) The U.K. Home Office Fact-Finding Mission Report 2001 confirms that "A same day service is available, but the normal service produces passports in 10 working days. Exit permits are not required." [35a] (p41)

6.64 Regarding security checks on leaving Sri Lanka, the U.K. Home Office Fact-Finding Mission Report of 2001 confirms that:

"On leaving the main road to approach the airport there are 2-3 checkpoints. Most traffic flows freely past these but random checks are conducted and members of the fact-finding mission team observed several lorries being stopped for checking. On arrival at the terminal building all vehicles are stopped at a fixed checkpoint...On entry to the terminal building all passengers have to show tickets and baggage was screened by X-ray machine. Since 22 March 2000 only passengers are allowed into the check-in area, which was screened off from the rest of the terminal. We had been told that this was as a result of pressure from European embassies whose Airline Liaison Officers (ALOs) had been worried that agents had previously been able to signal to officials to allow people to embark. This measure had gone some way to improving the situation and has halted the previous practice whereby agents could accompany passengers right up to the departure gate." [35a] (p39)

6.65 On their 2002 visit to Sri Lanka, Home Office officials were informed that "it would be almost impossible to pass through airport controls without having documents checked, as security is very tight." [35b]

6.66 As noted in a Daily News report of 25 June 2004 according to a former Assistant Controller of the Immigration and Emigration Department, the Immigration and Emigration Section at the [Colombo] Bandaranaike International Airport had sophisticated equipment and ultraviolet scan to detect forged passports. He added that a birth certificate was a very vital document to issue a passport; that the application form to obtain a passport should be filled in using the applicant's own handwriting. He also said that all particulars in a passport were fed into the computer system and the persons who was in charge of the computer used to place his signature on the documents of the passport. Furthermore, the embarkation and disembarkation forms should be filled in by the passport holder and that those forms are retained by the Immigration and Emigration authorities at the airport. [16b]

6.67 According to the USSD 2003 "The law does not provide for the granting of asylum and/or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In practice, the Government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs and refugees. Asylum issues did not arise during the year [2003]. There were no reports of refoulement, the forced return of persons to a country where they feared persecution." [2b] (13)

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Immigrants and Emigrants Act

6.68 As outlined in extracts from the Official Report of the Sri Lankan Parliament dated 24 June 1998, the Immigrants and Emigrants Act was first introduced in 1949. Section 45 lists various categories of people who are guilty of offences under the Act, which include anyone who forges, alters or tampers with any passport, or has in their possession any forged passport, or who uses such a document. Section 45 sets out the punishment, which consists of a fine, or a period of imprisonment, or both. Section 45A provides punishments for those found guilty of facilitating illegal entry into Sri Lanka. [20]

6.69 The Immigrants and Emigrants (Amendment) Act was passed in July 1998. During the passage of the Bill the Sri Lankan Immigration Minister told Parliament that the amendment was designed to combat "the crime of illicit trafficking of persons from Sri Lanka, as recorded in extracts from the Official Report of the Sri Lankan Parliament dated 24 June 1998." The Minister stated that the diplomatic missions of various western countries had made representations to the Sri Lankan authorities about organised groups engaged in the business of securing illicit entry of Sri Lankans to their countries. [20]

6.70 As mentioned in extracts from the Official Report of the Sri Lankan Parliament dated 24 June 1998 the Amendment Act increased the fines and the term of imprisonment which may be imposed on those found guilty under the Act, and made the term of imprisonment mandatory. The Act disallows the imposition of a suspended sentence, and certain offences under the Act are non-bailable. [20]

6.71 In the July 1999 Report "Tamils in Sri Lanka" published by the Dutch Ministry of Foreign Affairs, it is noted that "Prosecution on the grounds of illegal emigration is as a rule only pursued at the time of emigration. In the case of immigration, the CID in practice will only proceed to investigate the illegal emigration if the returning person is still in possession of the forged travel document or if there are other indications that the interested party has emigrated illegally (e.g. if the interested party declares this him or herself)...Contrary to what is stated in the Organisation Suisse d'aide aux Réfugiés report of 31 May 1999, the Immigrants and Emigrants Act has no retroactive effect. [14b] (p11) According to the Dutch Ministry of Foreign Affairs report, a rejected asylum seeker who is sent back [to Sri Lanka] does not always have to fear being prosecuted on return under the Immigrants and Emigrants Act, unless he is entering with a false travel document. The immigration authorities can question someone on arrival about their outward journey, but they generally do not have access to sufficient means of proof for prosecution on grounds of illegal emigration from that time." [14b] (p33) The Dutch Immigration and Naturalisation Service Policy Archive IND Z335 confirms that asylum seekers expelled by the Netherlands are, on arrival in Sri Lanka, in possession of a valid travel document, usually a recently issued laissez-passer from the Sri Lankan Embassy. Thus they are not in violation of the law. With respect to the burden of proof of offences under the Immigrants and Emigrants Act, the general definitions of the Sri Lankan Criminal Code are applied i.e. the Criminal Procedure Code, and the Evidence Ordinance. According to these general definitions, the burden of proof of a violation of a criminal law rests on the public prosecutor, thus not on the suspect." [14c]

6.72 According to the joint Danish/Canadian Fact-Finding Mission Report of October 2001:

"The Magistrate of Negombo, whose area of jurisdiction includes Bandaranaike International Airport, stated that in 99 percent of cases related to returnees, their cases are discharged without charges being laid. The Magistrate, like the CID Director explained that for a returnee to be released on bail when brought before him, the procedure for release requires that the returnee has a person who stands surety to sign a bond. After release, the Magistrate gives a new date for the CID to forward a report on the investigation, normally within a month. If there is evidence to continue the investigation after one month, a new date is given for a court appearance. Most cases are concluded without charges within a period ranging from two weeks to three months. Between January 2001 and October 2001, only one person was deemed a terrorist, the Magistrate added." [11] (p49-50)

6.73 On 15 April 2004 Daily News reported that the Criminal Investigations Department (CID) was probing a massive racket at the Bandaranaike International Airport [Colombo] where several persons have left the country on forged passports.

"Investigations reveal that an organised gang with the assistance of several employees at the BIA have assisted persons with forged passports to leave the airport without their details being included in the computers of the Immigration and Emigration Department. A senior investigator said that these organised gangs used a method to avoid the "Ghost Image" on the passport to go through the normal immigration channel. The gangs' modus operandi was to get the "facilitator" introduce the passenger to a minor employee at the BIA and direct the passenger to the counter with the minor employee. The forged passport holder acts according to instructions of the "facilitator" and goes through the Immigration barrier with the normal stamping on the passport.... It was revealed that earlier there was an officer of the National Intelligence Bureau (NIB) sitting next to the Immigration and Emigration Officer at the BIA counter. But during the recent past there has seen no NIB officer next to the Immigration Officer." [16b]

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6.B HUMAN RIGHTS - SPECIFIC GROUPS

Ethnic Groups

Tamils and General Human Rights Issues

Introduction

6.74 As stated in the United Nations Report of the Special Rapporteur dated 12 March 1998:

"Since independence in 1948, the primary conflict has been between the Sinhalese and Tamils. Following independence a progressive rejection of at least parts of the Island's colonial inheritance and domestic rivalries served to accentuate ethnic and religious divisions within the country. Because of their

overwhelming majority, the position of the Sinhalese became more dominant while the Tamils became increasingly marginalised...What began as a struggle for cultural affirmation, political representation, economic advancement and linguistic parity between Sinhalese and Tamils ended in violence and armed conflict. The overriding political issue in Sri Lanka therefore became the demand by some Tamil groups for an independent Tamil State called ("Eelam") comprising the Northern and Eastern provinces of the country". [6d] (p4-5)

6.75 As stated in the Dutch Ministry of Foreign Affairs Report 1997 "Tamils from the north or east coming to Colombo usually seek accommodation there with acquaintances or relatives or in boarding houses ("lodges"). There are estimated to be 150,000 Tamils from the north-east (mainly Jaffna Tamils) living in Colombo, in addition to the 250,000 Tamils who have long been resident there (since before 1983). [14a] (p13) Places where there are heavier concentrations of Tamils living include greater Colombo, the Puttalam district (near Negombo) and the central highlands, particularly around Nuwara Eliya and Matale. In the last case they are "estate Tamils" ("Indian Tamils"), but the area is also home to Tamils from the north-east of Sri Lanka." [14a] (p35)

6.76 According to Sri Lankan government Census of Population and Housing 2001 in Colombo district there were 249,915 Sri Lanka Tamils and 26,036 Indian Tamils out of a total population of 2,234,146. The districts of Kandy, Nuwara Eliya, Ampara, Puttalam also have a high concentration of Tamils. In Jaffna, Mullaitivu and Kilinochchi districts no enumeration was done and the districts of Mannar, Vavuniya, Trincomalee and Batticaloa were only partially enumerated. [58]

6.77 According to the UNHCR Background Paper on Refugees and Asylum Seekers from Sri Lanka dated April 2004 (but published in June 2004):

"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. 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." [6j] (p44)

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Arrests of Tamils

6.78 Amnesty International in its August 1996 Report "Wavering commitment to human rights", commenting at the time on arbitrary arrests and detentions, stated that:

"Since the resumption of the armed conflict, thousands of Tamil people have been arrested in particular in Colombo and in the east, for suspected contact with the LTTE. A large majority were released within 24 hours, or at least within two or three days, but a significant number have been held without charge or trial

for weeks or months. In Colombo, the number of arrests were particularly high in the aftermath of attacks attributed to the LTTE in the capital...Among those at risk of arrest were young Tamil men and women, particularly those who had recently travelled to Colombo from the north and east." [3a] (p21)

Information from the Canadian Directorate, Immigration and Refugee Board (DIRB) was that in 1997 cordon-and-search operations were often carried out in areas with high concentrations of Tamils, such as neighbourhoods with Tamil lodges, and generally lasted two or three hours. Cordon-and-search operations were irregular and were intended to catch people missed by normal security measures, which also explains why "spotters", or masked informants, were often used. [5] (p4-5)

6.79 The USSD 2003 reported that "There were some large-scale arrests of Tamils in June [2003]; however, the vast majority of those arrested were released shortly thereafter. In the past, many detentions occurred during operations against the LTTE. Most detentions lasted a maximum of several days, but some extended to several months. At year's [2003] end, 65 Tamils charged under the PTA remained in detention without bail awaiting trial. The Government released more than 750 Tamils arrested under the PTA during 2002." [2b] (p7) The Daily News confirmed the arrests of June 2003 in a report dated 30 June 2003 "Police, the Special Task Force and the Armed Forces have launched a combined security operation in Colombo City and Western Province in the wake of the recent spate of killings and other crimes, including the slaying of intelligence operatives. This is part of an initiative by the Ministry of Defence and the Interior Ministry to launch a comprehensive security operation with the deployment of military and intelligence services to render the city safe from criminals and hit squads. In a 24-hour combined effort, Police have taken 130 persons into custody from a total of 556 security checks and special operations conducted in the Colombo Police Division and the Western Province South Division from Saturday morning (June 28) to Sunday morning... Security personnel manned 277 road barriers and conducted 279 foot patrols and mobile patrols in the 24-hour period, Police said." [16c]

6.80 As noted in Amnesty International 2004 Sri Lanka Country Report, issued in May 2004 "Since the cease-fire agreement in February 2002 over 1,000 prisoners held for prolonged periods under the PTA, many of them Tamil political prisoners, have been released. The government continued its review of PTA cases, but in September [2003] the Attorney General suspended the withdrawal of indictments under the PTA where the prosecution was solely based on the confession of the accused. Government plans to review or repeal the PTA had not progressed by the end of 2003." [3g]

6.81 On 21 March 2002, a Home Office delegation was told in a meeting in Sri Lanka with the Director of the CID that "There are computerised records in the South of the country only. Details of arrests etc. are sent from the North of the country, and are then transferred to computer. Paper-based records are held in the North. There are no photographs of wanted persons at the airport, only computerised records." [35b]

6.82 In a letter dated 4 January 2000 UNHCR stated that "Although not all Sri Lankan Tamils with scars have a well-founded fear of persecution on return, Tamil asylum seekers with scars, should they be returned to Sri Lanka, may be more prone to adverse identification by the security forces and taken for rigorous questioning and

potential ill-treatment." [60] The Medical Foundation for the Care of Victims of Torture issued a report in June 2000 entitled "Caught in the Middle: a study of Tamil torture survivors coming to the UK from Sri Lanka", out of the 49 clients in the case study, 9 claimed that the presence of scars led the authorities to conclude that the person detained had been fighting with the LTTE against Government forces. [13] As stated in the U.K. Home Office Fact-Finding Mission Report 2001 "Scarring is an issue frequently raised in the asylum claims of Sri Lankan nationals in the United Kingdom. However, in discussions in Sri Lanka, respondents including local NGOs rarely mentioned scarring, and then generally only when the subject was brought up by members of the fact-finding mission team. The views of many of the NGOs, and indeed the police, was that scarring was not likely to be an overriding reason for arresting or suspecting someone, but if a person had been stopped or arrested for some other reason, the presence of certain types of scars could be a reason for holding or questioning them further. Most respondents felt that scarring was only one of many factors which could play a part in the authorities' decision to detain someone. The issue was also discussed at the EU CIREA [Centre for Information, Reflection and Exchange on Asylum] informal experts meeting in Brussels on 25-26 June 2001, and it was discovered that scarring was particularly prevalent in asylum claims in the United Kingdom. Whilst scarring had been raised in asylum applications made to EU partner states, it was rarely an overriding factor, and certainly not to the extent that it appeared to be in the United Kingdom." [35a] (p23-24)

6.83 On a more recent visit to Sri Lanka between 14 and 23 March 2002 a Home Office delegation discussed the issue of scarring with the Director of the CID. The Director stated that "If a returnee were not wanted they would not be stopped at the airport. However, when the CID are certain that the individual has committed or been convicted of an offence then they would be stopped. A computer holds the name, address and age of a wanted person. The police purely go on records – scars would not make a difference, and the authorities would not make a decision only on this basis." [35b] (See also Section 6A on Freedom of Movement)

6.84 The USSD 2003 states that:

"A U.N. Working Group on Enforced or Involuntary Disappearances report, released in 1999, cited the PTA and ER as important factors contributing to disappearances and recommended their abolition or modification to bring them into conformity with internationally accepted human rights standards. The ER was repealed in 2001, and there were no arrests under the PTA in 2002 or in the current year [2003]; however, some arrests were being made without full necessary documentation, such as detention orders, and the Government had not released by year's end [2003] all persons previously detained under the PTA. The reviewing process for some cases continued during the year [2003] [2b] (p4)The Government claimed that all persons held under the PTA were suspected members of the LTTE and therefore were legitimate security threats. Insufficient information existed to verify this claim and to determine whether these detainees were political prisoners. In many cases, human rights monitors questioned the legitimacy of the criminal charges brought against these persons. In 2002, The A.G. dismissed more than 750 PTA cases. During the year, 65 Tamils charged under the PTA remained in detention. The Government claimed that the remaining cases were of individuals directly linked only to suicide bombings or

other terrorist and criminal acts." [2b] (p8)

6.85 As outlined by the UN Human Rights Committee in its concluding observations on Sri Lanka in December 2003:

"The Committee is concerned that the Prevention of Terrorism Act (PTA) remains in force and that several of its provisions are incompatible with the Covenant....The Committee welcomes the decision of the Government, consistent with the Ceasefire Agreement of February 2002, not to apply the provisions of the PTA and to ensure that normal procedures for arrest, detention and investigation prescribed by the Criminal Procedure Code are followed. The Committee is also concerned that the continued existence of the PTA allows arrest without a warrant and permits detention for an initial period of 72 hours without the person being produced before the court (sect. 7), and thereafter for up to 18 months on the basis of an administrative order issued by the Minister of Defence (sect. 9). There is no legal obligation on the State to inform the detainee of the reasons for the arrest; moreover, the lawfulness of a detention order issued by the Minister of Defense cannot be challenged in court. The PTA also eliminates the power of the judge to order bail or impose a suspended sentence, and places the burden of proof on the accused that a confession was obtained under duress. The Committee is concerned that such provisions, incompatible with the Covenant, still remain legally enforceable, and that it is envisaged that they might also be incorporated into the Prevention of Organized Crimes Bill 2003." [6k] (p4)

6.86 On 16 July 2004 the pro-LTTE website TamilNet reported that the Centre for Policy Alternatives (CPA) and the Centre for Human Rights and Development (CHRD) were to launch a campaign to repeal the Prevention of Terrorism Act (PTA), which had been in operation for the last 25 years. [38p]

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Disappearances and Extra-judicial executions

6.87 According to the United Nations 1999 Report of the Working Group on Enforced or Involuntary Disappearances:

"Since the establishment of the Working group in 1980, 12,258 cases of disappearance alleged to have occurred in Sri Lanka have been reported to the Working Group...The cases reported to have occurred between 1987 and 1990 (145 cases in 1987; 182 cases in 1988; 5,027 cases in 1989 and 4,777 in 1990) took place mostly in the Southern and Central Provinces of the country, during a period in which both the security forces and the JVP resorted to the use of extreme violence in the contest for State power...The cases reported to have occurred since 11 June 1990, the date of resumption of hostilities with the Liberation Tigers of Tamil Eelam (LTTE), have taken place primarily in the Eastern and North-Eastern Provinces of the country. In the north-east, the persons most often reported detained and missing were young Tamil men accused or suspected of belonging to, collaborating with, aiding or sympathizing

with the LTTE." [6h] (p2)

6.88 A BBC News article of 19 February 2003 stated that:

"The International Red Cross (ICRC) has restarted investigations into the disappearance of 11,000 people during Sri Lanka's civil war... The ICRC says it has received 20,000 complaints of disappearance during the course of Sri Lanka's ethnic conflict. Of those, 9,000 cases have been resolved - many of the missing people being traced to prisons and detention centres. But 11,000 cases remain on their books and investigators have been working their way through these, checking for fresh information, now that there is no fighting and it is easier to move about. So far, the ICRC has confirmed that more than 2,000 people remain unaccounted for, but by the time they finish this operation, the figure is likely to be far higher... If the Sri Lankan military or the Tamil Tiger rebel group is unwilling to admit responsibility for involuntary disappearances there is no way for the ICRC to force them to co-operate. Even commissions of enquiry which have legal powers to call witnesses to testify have failed in the past to provide any redress to the families of the disappeared." [9as]

6.89 As stated in 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" dated 12 August 2003:

"Amnesty International is writing to all the above parties to express its grave concern over the killing and abduction of tens of Sri Lankan citizens by the LTTE since the signing of the cease-fire agreement in February 2002. The organization has received information documenting at least 22 killings and 16 attempted killings, abductions and other human rights abuses against members of Tamil political parties, their families and supporters. The fate of some of those who have been abducted is still unknown. Amnesty International is concerned that these human rights abuses are part of a systematic campaign by the LTTE against other Tamil political groups opposing them.... Amnesty International believes that to date there has been a lack of credible and timely investigations into these killings, and adequate measures to guarantee the safety of those who are most at risk have not been implemented. Amnesty International calls on the LTTE, SLMM and the police to act in accordance with their individual responsibilities in order to stop these human rights abuses, and hold to account those responsible for these abuses." [3c]

6.90 As noted in the USSD 2003 "Tamil militias aligned with the former PA government also were responsible for disappearances in past years; however, there were no such reports during the year [2003]. The HRC [Human Rights Commission] had no mandate or authority to investigate abuses by militia groups. It was impossible to determine the exact number of victims because of the secrecy with which these groups operated. The Government largely disarmed these militias in 2002." [2b] (p4)

6.91 According to the USSD 2003:

"There were no reports of politically motivated disappearances at the hands of the security forces during the year [2003]... Although there have been few prosecutions of

security force personnel to date, during the year [2003], there were indictments and investigations, including the case against the security forces involved in the [2000] Bindunuwewa massacre and the killings in Mirusuvil [in 2000]. In November 2002, the Government formed a new commission to investigate disappearances in the Jaffna area during 1996-1997; however, the commission took no action during the year [2003]." [2b] (p4)

6.92 The UN Human Rights Committee in its concluding recommendations on Sri Lanka in December 2003 stated: "The Committee is concerned 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. This situation, taken together with the reluctance of victims to file or pursue complaints, creates an environment that is conducive to a culture of impunity." [6k] (p3)

6.93 As mentioned in a written statement of the Asian Legal Resources Centre (ALRC) on 'Enforced or involuntarily disappearances in Sri Lanka' which was distributed on 31 March 2004 at the 60th Session of the United Nations Commission on Human Rights in Geneva:

"Unfortunately, the mass disappearances carried out in Sri Lanka are quickly receding into memory, while the government has taken no steps to prosecute offenders. The four Presidential Commissions of Enquiry into disappearances submitted lists of specific persons against whom there is sufficient evidence to warrant further investigation and prosecution, but no action has been taken. It follows that there are many persons in Sri Lanka against whom there are prima facie cases for being engaged in causing disappearances, but about whom nothing has been done, as is normally the case when there is sufficient evidence of a crime. This failure points to a serious gap in how the law is enforced in Sri Lanka, which relates to the investigation and prosecution of crimes: the police investigate crime, but in the case of mass disappearances in Sri Lanka, they are also the suspects. Therefore, it is obvious why they have not investigated these crimes, which occurred on such a colossal scale. At no time also did the government appoint an independent body with the power to investigate and prosecute these crimes. Therefore, the Working Group's recommendations were ignored. As indicated above, there needs to be a procedure to act on the recommendations by United Nations human rights bodies, in this case, to ensure successful prosecution of alleged perpetrators. The government must appoint the necessary authoritative bodies to ensure that its obligations under the ICCPR be fulfilled. As no such body has been appointed, to date the Working Group's recommendations have been meaningless. Various commissions without powers to conduct criminal investigations were appointed, but these have only resulted in the granting of virtual impunity to the accused. The fact-finding inquiries made by the National Human Rights Commission also are inadequate. And as pointed out in previous submissions, the current prosecution system, functioning within the Department of the Attorney General, is defective because it depends entirely on criminal investigation files to be made available by the police for the department to begin action on any crime. This allows the Department the excuse that it has not prosecuted known crimes because the

necessary files have not been brought to it by the police. For the Government of Sri Lanka to meet its obligations under the ICCPR, therefore, it must appoint a separate body with powers and resources to investigate and prosecute the alleged perpetrators without delay." [49]

6.94 As noted in Amnesty International 2004 Sri Lanka Country Report, issued in May 2004:

"A commission of inquiry, appointed by the NHRC to investigate complaints of "disappearances" in Jaffna, Kilinochchi and Vavuniya districts from 1990 to 1998, published its findings in October [2003]. The commission investigated the cases of 281 "disappeared" people, 245 of whom had been detained by the army, 25 by the LTTE. Neither the army nor the LTTE cooperated fully with the inquiry. The commission found no evidence that "disappearances" occurred in police custody, but it did find that the police had systematically hindered investigations into complaints by relatives of the "disappeared". It made recommendations on procedures for the arrest, transfer or release of detainees, including keeping the next of kin, the NHRC and the local magistrate informed. It also recommended that officers with command responsibility be held criminally liable in "disappearance" cases and that the government consider compensating relatives of the "disappeared". [39]

6.95 According to the USSD 2003:

"In previous years, some cases of extrajudicial killings were reprisals against civilians for LTTE attacks in which members of the security forces or civilians were killed or injured. In most cases, the security forces claimed that the victims were members of the LTTE, but human rights monitors believed otherwise. For example, hearings continued during the year [2003] against eight police officers indicted in the 1998 deaths of eight Tamil civilians in Thampalakamam, near Trincomalee. Police and home guards allegedly killed the civilians in reprisal for the LTTE bombing of the Temple of the Tooth a week earlier." [26] (p3)

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Torture

6.96 As stated in the USSD 2003:

"The Convention Against Torture Act (CATA) of 1994 makes torture a punishable offense. In practice, members of the security forces continued to torture and mistreat detainees and other prisoners, particularly during interrogation. Under the CATA, torture is defined as a specific crime with a 7-year minimum sentence for those convicted. The High Court has jurisdiction over violations. The CATA does not implement several provisions of the U.N. Convention Against Torture, although the Government maintained that CATA is in "substantial conformity" with the U.N. Convention. According to human rights groups, the result was that torture is prohibited under specific circumstances but allowed under others, and torture continued with relative impunity. In addition, the PTA makes confessions obtained under any circumstance, including by torture, sufficient to hold a person until the individual is brought to court. In some cases, the detention may extend for years." [26] (p4-5)

6.97 According to the USSD 2003:

"There were credible nongovernmental organization (NGO) reports that some members of the security forces tortured individuals in custody. For example, according to the Asian Human Rights Commission (AHRC) and the World Organization Against Torture (OMCT), on November 1, Bamunuarachchi Pathiranalage Sathkumara was arrested and allegedly tortured by police at the Kuliypitiya police station. He was given no reason for the arrest, and when he was released later in the day, he was warned by police not to admit himself to any hospital, despite having been beaten and hung from a ceiling beam with his hands behind his back. Nevertheless, Sathkumara's brother took him to the Kuliypitiya Hospital, where Sathkumara remained for 3 days, and filed a complaint with the police of Kurunegala. Also according to the OMCT and the AHRC, on September 13 and several succeeding days, Hikkaduwa Liyanage Sandun Kumara, 16, was allegedly assaulted severely by police at the Rathgama police station. Kumara allegedly had his head wrapped with his shirt and water poured on his face, nearly causing him to suffocate, and had, among other beatings, his head struck against a wall. He was eventually treated at Karapitiya Teaching Hospital on September 21 and 23. AHRC and OMCT reported that the Supreme Court ordered the National Police Commission to conduct a disciplinary inquiry into this case." [2b] (p5)

6.98 According to the USSD 2003:

"Methods of torture included using electric shock, beatings, suspending individuals by the wrists or feet in contorted positions, burning, slamming testicles in desk drawers, and near-drowning. In other cases, victims were forced to remain in unnatural positions for extended periods or had bags laced with insecticide, chili powder, or gasoline placed over their heads. Detainees reported broken bones and other serious injuries as a result of their mistreatment, and deaths in custody have occurred. Medical examination of persons arrested since 2000 continued to reveal multiple cases of torture." [2b] (p5)

6.99 As outlined in the UNHCR Background Paper on Refugees and Asylum Seekers from Sri Lanka of June 2001:

"The reported methods of torture include repeated hitting with a hose pipe; being stripped; handcuffed at the ankles and suspended upside down; use of electric wires on the body; burning with cigarettes and heated metal rods; being hit with a piece of wood; severing of the tongue; beating on the soles of the feet; kicking and trampling; cigarette burning; removal of fingernails with pliers; pouring hot wax over the body; suffocation with a bag containing chilli powder and petrol; placing bags filled with gasoline and ants over the head; driving nails into hands and feet; hung from a rope by hands and fingers; being forced to jump into a latrine and then shot; gang rape; rubbing chili powder into the eyes; injecting gasoline in the nose; rape at military checkpoints; being submerged in water; cutting with blades; and repetitive and systematic blows with blunt weapons. The Special Rapporteur also noted reports 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." [61] (p23)

As stated by the UN Human Rights Committee in its concluding observations on Sri Lanka dated 1 December 2003: "While noting that corporal punishment has not been imposed as a sanction by the courts for about 20 years, the Committee expresses concern that it is still statutorily permitted, and that it is still used as a prison disciplinary punishment." [61] (p3)

6.100 The USSD 2003 also states that "In the past, Tamil militants aligned with the former PA government engaged in torture; however, there were no such reports during the year [2003]. The LTTE used torture on a routine basis." [2b] (p6)

6.101 The Medical Foundation for the Care of Victims of Torture issued a report in June 2000 entitled "Caught in the Middle: a study of Tamil torture survivors coming to the UK from Sri Lanka". The report sets out medical case studies of 49 Tamils (47 male, 2 female) who had been detained for varying lengths of time in Sri Lanka from January 1997 onwards. Medical evidence of torture was found in all of them. Most were in the age group 21-35 and had a range of occupations. The subjects of the case studies were detained either by the police in Colombo, by the army in the north, or by the [former] Tamil militant groups Eelam People's Revolutionary Liberation Front (EPRLF), Eelam People's Democratic Party (EPDP), People's Liberation Organisation of Tamil Eelam (PLOTE) and Tamil Eelam Liberation Organisation (TELO). [The detainees described methods of torture similar to those set out above in paragraph 6.98] [13]

6.102 Out of the 49 clients in the Medical Foundation case study, 9 claimed that the presence of scars led the authorities to conclude that the person detained had been fighting with the LTTE against Government forces. Some of the case studies described how they were made to put on masks and identify newly arrested young men as being Tamil Tigers. They pointed out several at random believing they may otherwise be assaulted although they did not recognise the people brought before them. The Medical Foundation considered this to be a self-perpetuating cycle of abuse. [13]

6.103 In their 2000 report, the Medical Foundation pointed out the degree of involvement with the LTTE of their sample of 49 Tamils. 31% of the sample were forced to do occasional work for the LTTE, 16% worked voluntarily, 8% were forced to fight for the LTTE, and 4% were working full time for the LTTE. A further 4% were involved with other militant Tamil groups. This leaves 37% of the sample who had no personal involvement with the LTTE, but these may have been arrested because of family links to the LTTE. [13]

6.104 A BBC News report dated 2 October 2002 stated that "A leading Asian human rights group has accused Sri Lanka's police force of torture, saying it has become so widespread it threatens the rule of law. In a report, the Hong Kong based Asian Human Rights Commission called for a fundamental change in practices at all levels of policing in Sri Lanka. The report was put together after the commission conducted its studies on alleged cases of torture over the past two years." [9ak]

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Government Action

6.105 Sri Lanka is a party to a number of United Nations international human rights treaties including the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), date of accession 3 January 1994. (See also Section 6.A Overview)

6.106 As stated in a United Nations Economic and Social Council Report dated 12 March 1998:

"The Human Rights Commission of Sri Lanka (HRCSL) was established by Act No. 21 of 1996 and is vested with monitoring, investigative and advisory powers in relation to human rights. It has been set up as a permanent national institution to investigate any infringement of a fundamental right declared and recognized by the Constitution and to grant appropriate relief. The powers of the Commission are said to be wider than those of the Supreme Court and will complement the existing national framework for the protection of human rights. There are no time limits for filing a complaint before the HRCSL, unlike under the 1978 Constitution." [6d] (p24)

6.107 The United Nations Economic and Social Council Report continued:

"According to section 15 (3) of the Act, where an investigation conducted by the Commission discloses the infringement of a fundamental right, the Commission may recommend to the appropriate authorities that prosecution or other proceedings be instituted against the person or persons infringing such fundamental right. Alternatively it may refer the matter to any court having jurisdiction to hear and determine such matters. The Commission may also make such recommendations as it may think fit, to the appropriate authority or person or persons concerned, with a view to preventing or remedying such infringement or the continuation of such infringement. The Commission also has the power to order costs where necessary. The HRCSL is also vested with the power to monitor the welfare of detained persons by regular inspection of their places of detention. In order to facilitate this function, all arrests and detentions under the Emergency Regulations, and the Prevention of Terrorism Act must be reported to the Commission within 48 hours of arrest. Wilful failure to report an arrest or detention will attract penal sanctions under the HRCSL Act. Members of the Commission have free access at all times to all prisons of the country, but the Special Rapporteur does not know whether visits could be undertaken without notice." [6d] (p25)

6.108 The USSD 2003 notes that:

"The HRC by statute has wide powers and resources and may not be called as a witness in any court of law or be sued for matters relating to its official duties. However, according to the ALRC [Asian Legal Resource Centre], the HRC often was not as effective as it should have been. The HRC adopted a tribunal-like approach to investigations, declining to undertake preliminary inquiries in the manner of a criminal investigator, and often told victims to find their own evidence. The HRC did not issue an annual report about human rights

abuses. Nevertheless, the HRC conducted 690 visits to police stations and 96 visits to detention facilities. The HRC had 2,500 cases of alleged human rights abuse pending. Activists expressed some satisfaction with the HRC leadership's prompt investigation into the 2000 Bindunuwewa massacre." [2b] (p14-15)

6.109 According to a Daily News report of 17 December 2003, the HRC had decided to carry out independent inquiries into any torture incidents of suspects inside police cells within 24 hours. In case of a death of a suspect inside a cell, the Officer in Charge of the respective police station would be summoned by the Commission for questioning. The two decisions taken by the HRC were informed to the Acting Inspector General of Police (IGP), Indra De Silva when the IGP was called before the HRC on 16 December 2003. The IGP who had agreed with the two decisions had promised the HRC to give his fullest support to minimise the human rights violations of suspects inside police cells. The IGP had also outlined the steps that have been taken by the police in order to bring down human rights violations by police officers. The police had already initiated training programmes for officers to improve their investigative skills without violating the rights of suspects in custody. [16af]

6.110 The Daily News reported on 20 December 2003 that Australia had provided 3 million rupees to the Sri Lankan Human Rights Commission to implement a project to prevent and monitor torture. The project aimed to reduce the incidence of torture and cruel, inhuman or degrading treatment, with emphasis on incidents in police custody. It would consist of two components. The first was a programme of training for Human Rights Commission investigating offices and regional co-ordinators, including international standards, domestic law, investigative techniques and procedures for handling complaints. The second was a pilot project to establish a system of regional committees to monitor unlawful detention and torture in local police stations. Monitoring committees would be set up in Hambantota, Anuradhapura and Kalutara, which are the districts from which the Human Rights Commission received the largest number of complaints. [16aa]

6.111 On 14 May 2004 the Asian Human Rights Commission (AHRC) denounced in a statement the inadequacies of the torture prevention policy adopted by the Human Rights Commission of Sri Lanka. As outlined in the statement:

"We welcome the inauguration of the Torture Prevention and Monitoring Unit within the Human Rights Commission (HRC) of Sri Lanka. However, we hasten to add that we hope this will not prove to be a mere gesture intended only to make Sri Lanka's human rights record look good in the reports that the government submits to agencies abroad, including the UN agencies for human rights. There are many such 'units' referred to in various reports, but people living in Sri Lanka are often unaware of them, as they do nothing much to redress the grave violations of human rights taking place in the country. Perhaps one way to reflect fruitfully on the task of this new unit is to examine why the HRC has failed to develop even a moderately effective programme to deal with the endemic torture that is taking place in Sri Lanka. The oft-repeated answer is that the Commission does not have sufficient financial resources. One hopes that the new unit will not be offering the same excuse after some time. Whatever the validity of this explanation, it is also very clear that the Commission has lacked a clear policy regarding the elimination of torture in keeping with the UN Convention against Torture. Even now, going

by an official HRC statement made on 19 April 2004, the Commission has not shown a serious understanding of how torture is deeply embedded in the country's criminal justice system." [47g]

6.112 As stated by the Asian Human Rights Commission (AHRC) on 21 July 2004:

"During the last two weeks there were two occasions in which victims of very serious acts of torture sought protection from the Human Rights Commission (HRC) of Sri Lanka claiming that they were facing serious threats, including threats to their lives. We are glad to state that on both occasions a Commissioner took urgent steps that helped the victims while they were undergoing such threats. While that is a positive aspect to be encouraged, the overall treatment of both victims in these two occasions is a matter for serious anxiety." [47h]

6.113 As stated in the USSD 2003:

"The Committee to Inquire into Undue Arrest and Harassment (CIUAH), which includes senior opposition party and Tamil representatives, examines complaints of arrest and harassment by security forces and takes remedial action as needed. Opinions on the effectiveness of the CIUAH were mixed. Some human rights observers believed that the work of the committee deterred random arrests and alleviated problems encountered by detainees and their families. Others felt that, although the CIUAH continued to meet throughout the year [2003], it took no significant action." [2b] (p7)

6.114 A BBC News report of 11 June 2001 stated that:

"The commander of Sri Lanka's armed forces, General Lionel Balagalle, has appealed for help in teaching soldiers Tamil to facilitate communications with civilians in the conflict areas. He was speaking at the launch of a 10-day training course for senior army officers on human rights and humanitarian law. The commander admitted that the majority of Tamil and Sinhala youth have no common language - but said the army was trying to rectify this by giving soldiers 23 days of spoken Tamil language training. He appealed to the authorities and non-governmental organisations for help to enhance the training - citing language misunderstandings as one of the reasons for arbitrary arrest." [9n]

6.115 A report posted with the Press Trust of India on 21 July 2001 stated that:

"Sri Lankan President Chandrika Kumaratunga has appointed a "Truth Commission" to probe the July 1983 riots that left hundreds of Tamils killed in Colombo and other areas of the country. The three-member panel, headed by former Chief Justice S Sharvananda, will also investigate the nature, causes and extent of violations of human rights and destruction of property in the course of the ethnic violence from 1981 to 1984, with special reference to July 1983...It remains to be seen how effective the Commission could be given the fact that tens of thousands of Tamils fled the island and are still living in Europe, North America and India. They will have to depose as witnesses if the Commission's work is to be meaningful." [4ab]

6.116 According to the USSD 2003:

"In 2001, the Army created the Directorate of Human Rights and Humanitarian

Law. The directorate was charged with coordinating, with the assistance of ICRC training, all human rights activities for the Army and with overseeing the human rights cells that are assigned throughout the military. The Army also stated that all of its personnel had completed the appropriate training and pledged to adhere to the rules of international humanitarian law. Early in 2002, the Air Force and Navy instituted similar programs. The armed forces operated under written rules of engagement that severely restricted the shelling, bombardment, or use of excessive firepower against civilian-occupied areas. During the year [2003], the Army instituted further mandatory human rights training programs for officers and enlisted personnel." [2b] (p9)

6.117 As recounted in the U.K. Home Office Report of their 2001 Fact-Finding Mission:

"The third main part of the work of IHR [Institute of Human Rights] is that of human rights education. A diploma course is run. The programme of study, which lasts three and a half months, deals with a variety of topics concerning human rights. "Para" legal workshops are conducted island-wide in both Sinhala and Tamil, so as to spread knowledge of human rights together with a basic legal understanding throughout a wide cross-section of society. Fundamental rights, arrest and detention, bail, torture, Muslim law, child rights, labour law, women's rights, criminal law, international covenants and the Consumer Protection Act are a few of the topics covered in these workshops. The human rights awareness programme has been successful in achieving its objective of bringing awareness to the general public of human rights issues. The programme is conducted in Tamil or Sinhala depending on the area in which it is held. Among those benefiting from the human rights education provided by IHR are school-leavers, employers, police officers and the armed forces." [35a] (p34)

6.118 A report in the Daily News of 18 October 2002 stated that:

"Police officers of several key grades will be provided extensive training and education in crime management and prevention of violation of human rights under a special programme to be carried out with Danish assistance. The programme initiated by Interior Minister John Amaratunga is to be carried out during 10 months commencing November 2002 through the Center for the Study of Human Rights of the University of Colombo...A total of 570 police officers are to be trained on human rights and crime management. Senior police officers, Criminal Investigations Department personnel, officers in charge of police stations, women police officers and officers serving in the North and East are among the officers to be trained it said". [16k]

6.119 The USSD 2003 notes that "In December 2002, the Government established the National Police Commission (NPC) in accordance with the 17th Amendment of the Constitution. The NPC, composed entirely of civilians, is authorized to appoint, promote, transfer, discipline, and dismiss all police officers other than the Inspector General of Police and has the power to establish procedures to investigate public complaints against the police." [2b] (p6)

6.120 According to a Daily News article of 5 September 2003:

"Inspector General of Police T.E. Anandarajah yesterday issued a warning to all Officers-in-Charge of police stations that they would be held responsible if any

suspect dies while in police custody...If any suspect dies in police custody, the Senior SP, SP or ASP of the area should also share responsibility for the incident. The IGP issued the circular following complaints by the public that deaths in Police cells had increased in recent times. Meanwhile the Human Rights Commission met with T.E. Anandarajah, IGP, and his delegation yesterday to discuss recent events regarding torture and deaths in police custody. The following measures were agreed to as a means of combating torture in custody. The Human Rights Commission will work with the Police Commission to formulate guidelines on the interdiction of police officers who are named in successful fundamental rights applications before the Supreme Court. The IGP to give clear directives to the OICs of Police Stations; OICs and higher officers will have command responsibility for torture in police stations. OICs to allow family, friends and lawyers of the suspects to see the suspect after arrest and while in detention. The IGP to provide the Human Rights Commission, within a month, of a copy of a comprehensive training programme for police officers at all levels that includes a human rights component and training in new investigative methods in combating crime. The Human Rights Commission and the IGP to work together to raise funding for DNA testing procedures for the Government Analyst and The Police Academy. Posters in all three national languages on the rights of suspects, produced by the Human Rights Commission, to be displayed prominently in all police stations." [16w]

6.121 A Daily News report of 12 November 2003 noted that:

"Jaffna police last week commenced bi-weekly Tamil lessons aiming to improve understanding between the police and the local community in the northern peninsula. Funded by UNHCR, the United Nations' refugee agency, the Tamil classes are initially being piloted in two divisions, Kopay and Jaffna, with plans to expand to all 18 divisions next year [2004]. Around 20 officers are participating in each of the two classes under the pilot programme. Priority is given to those officers who have most contact with the local community, who work on the women and children desk, who are posted in the district for more than one year or who are most interested in learning Tamil. UNHCR is supporting a similar programme for police officers in Puttalam, as part of the activities conducted through the Reconciliation Centre that opened in Puttalam town recently." [16y]

6.122 As stated in USSD 2003 "The A.G.'s [Attorney General's] Office and the Criminal Investigation Unit established units to focus on torture complaints. During the year, the units forwarded 50 cases for indictments, of which 20 resulted in indictments, but there were no convictions. The Interparliamentary Permanent Standing Committee and its Interministerial Working Group on Human Rights Issues also continued to track criminal investigations of torture." [2b] (p6)

6.123 According to Amnesty International 2004 Sri Lanka Country Report:

"Torture in custody continued to be reported. In September [2003] the Police Commission and the NHRC agreed to produce guidelines on action to be taken against police officers named in complaints of torture or ill-treatment by the police that were upheld by the Supreme Court. They also announced that officers with command responsibility would be held responsible for torture in police stations, that families and lawyers would be given access to detainees in police custody, and that the rights of those arrested would be displayed on

posters in all police stations. According to the Secretariat for Coordinating the Peace Process, at least 10 members of the security forces had been indicted under the Convention Against Torture Act of 1997. However, no successful prosecutions had been reported. In July [2003], five officers from Wariyapola police station were charged under the Torture Act of 1994 with the sexual assault of Nandini Herat. She was arrested in March 2002 and was reported to have been sexually tortured, including by the Officer in Charge of the police station. All five officers were suspended from active duty. Their trial started in November. Nandini Herat's family complained of harassment and intimidation aimed at making them withdraw the charges. The police failed to investigate these allegations. Sinnathamby Sivamany and Ehamparam Wijikala filed a fundamental rights petition against security forces personnel they accused of rape and other torture while they were detained at the Mannar Police Special Investigation Unit Camp in March 2001. The Attorney General's Office informed the court that the perpetrators would be indicted under the Torture Act. Charges under the PTA brought by police against the two women were withdrawn." [39]

6.124 A Statement by the Asian Human Rights Commission (AHRC) issued on 25 August 2004 welcomed the serious measures that had been announced by the National Police Commission (NPC) to ensure disciplinary control of police. As outlined in the statement, the NPC had announced:

"That disciplinary control of all police officers except the Inspector General of Police (IGP), including those of officers below the rank of Inspector of Police, would again fall under the domain of the NPC. This announcement effectively revokes the earlier delegation of authority to the IGP in matters of disciplinary control pertaining to officers below the rank of inspector.... That the public complaint procedure under Article 155 G (2) of the Constitution of Sri Lanka, introduced under the 17th Amendment, will be implemented as soon as possible.... That dealing with police torture will be the top priority commencing from this week. This was reported in the Sunday Leader on August 22, quoting the Chairperson of the NPC to the effect that, "Earlier this issue was handled by the IGP, but under the 17th Amendment this responsibility has fallen upon the Police Commission. So we are attending to it and giving police torture priority." The article further reported that new investigators are to be recruited shortly to probe the increasing rate of police torture in Sri Lanka. In 2003, 15 per cent of complaints received by the NPC related to police torture, while 40 per cent related to inaction on public complaints.

These are decisions of very great importance, no less than historic in their proportions, towards resolving the problems relating to policing in Sri Lanka.... To date, the experience of the NPC has been one of extreme frustration, as the Commission's hopeful mandate has remained unfulfilled.

The measures announced this week mark a critical stage in its attempts to fulfil its constitutional mandate." [47c]

As stated in an AHRC press release of 8 July 2004, the AHRC had written on that day to the chairman of NPC and urged him to protect torture victims or resign. The executive director of the AHRC had stated that they were appalled by the manner in which the chairman of NPC had dealt with complaints of torture and that his casual approach was helping to perpetuate the routine torture being practised in police stations. [47d]

Prosecution of Security Force Personnel

6.125 A United Nations Committee Against Torture report dated 26 May 1998 noted amongst the positive aspects "The unequivocal position taken by the Supreme Court as well as other courts on the question of torture and the awards of compensation to victims of torture under the fundamental rights jurisdiction of the Supreme Court." [61] (p2) The USSD 2003 confirms that "Under fundamental rights provisions in the Constitution, torture victims may file civil suit for compensation in the high courts or Supreme Court. Courts have granted awards ranging from approximately \$150 (14,200 rupees) to \$1,940 (182,500 rupees). In some cases, the Government did not pay fines incurred by security force personnel found guilty of torture. Either the Government or the guilty party paid fines based on the decision of the judge hearing the case." [25] (p5)

6.126 A report issued by the Geneva based Centre for the Independence of Judges and Lawyers in September 1998, stated that steps to punish those responsible for unlawful killings had been "manifestly inadequate" and that a culture of impunity had developed. At the date of the jurists' mission to Sri Lanka (1997) no member of the security forces had been convicted of murder. [41]

6.127 A Reuters news report of 3 July 1998 stated that:

"Five Sri Lankan soldiers and a policeman were sentenced to death by a Colombo court on Friday for murdering a teenage schoolgirl and three other Tamils two years ago. Eight soldiers and the policeman were accused of abducting, raping and murdering Krishanthi Kumaraswamy and later killing her brother, her mother and a neighbour who went looking for her after she disappeared on the northern Jaffna peninsula in September 1996. Two of the soldiers were acquitted, while another died after an illness while being held in prison during the course of the trial. One of the soldiers who was sentenced to death had escaped and was still at large. The court said the order should be carried out when he was arrested...The accused were arrested after the government set up a special commission to investigate the incident. The case was heard by a special court comprising three High Court judges but no jury. The date of the death sentence was to be decided later...Kumaraswamy was raped and murdered after she was detained at an army checkpoint in Jaffna, one of the many that had been set up to prevent infiltration by the Liberation Tigers of Tamil Eelam (LTTE) rebels." [49]

6.128 According to a Reuters news report of 10 February 1999:

"A retired school principal and six Sri Lankan soldiers were jailed on Wednesday for up to 10 years imprisonment for abducting 25 students during a late 1980s leftwing revolt when thousands of people disappeared...The students, most of them from Embilipitiya Central College in southern Sri Lanka disappeared between August 1989 and January 1990 after the school principal gave the army a list of those he thought were members of the People's Liberation Front." [41]

6.129 A Reuters news report of 26 May 1999 stated that "Sri Lanka has indicted some

400 police and soldiers for alleged involvement in the disappearances of more than 1,800 people during a left-wing youth insurgency in the late 1980s, government officials said on Wednesday...The attorney-general's department had recommended disciplinary action be taken by relevant authorities in cases with insufficient material to initiate criminal proceedings, the officials said." [4y]

6.130 A CNN news report of 19 July 2000 confirmed that:

"A retired general has been charged in the deaths and disappearances of thousands of leftists, the first high-ranking military officer to face trial in the more than decade-old murders. The trial against retired Maj.Gen. Ananda Weerasekera and two of his subordinates will begin July 31 [2000], according to an order issued Monday by judge Sumudhu Premachandran in the central city of Anuradhapura. The men are charged with murder, abduction and unlawful detention in connection with the disappearances of members of the People's Freedom Front". [25a]

6.131 According to the United Nations Report of the Working Group on Enforced or Involuntary Disappearances published in December 1999:

"Officers of the armed forces that commit offences against civilians can be tried either by military or civil courts. In the case of a summary trial before a military court, the punishment is of a disciplinary nature, such as reduction in rank, withholding of promotions or delay in promotions. In the case of a court martial, the punishment can be imprisonment or discharge from service. If a prima facie case is established before a civil court, the officer has to be suspended from service." [6h] (p7-8)

6.132 As outlined in the USSD 2003:

"On election day in December 2001, 12 supporters of the Sri Lankan Muslim Congress were killed, allegedly by hired thugs of a PA candidate. Former PA Member of Parliament Anuruddha Ratwatte and his two sons were indicted for conspiring in the killings. In addition, 15 others, including security force personnel, were indicted for their alleged involvement in the murders. In June [2003], Ratwatte and 14 others were granted bail by a 5-judge bench of the Supreme Court, setting aside the majority order of the High-Court-Trial-at-Bar." [2b] (p14)

6.133 A BBC News report of 7 February 2002 stated that:

"A court in Sri Lanka has sent two air force officers to prison for an attack on a journalist four years ago [1998], during which a gun was held to his head. The High Court in Colombo sentenced each man to nine years in jail for the attack on Iqbal Athas, in which a group of armed men entered his home and threatened him and his seven-year-old daughter. Mr Athas, the defence correspondent for Sri Lanka's Sunday Times newspaper, had written about widespread corruption in the armed forces. Mr Athas described the court's decision as a triumph for justice and a defeat for evil forces. But he added that many other uninvestigated crimes against journalists must be prosecuted." [9y]

6.134 According to a Daily News article of 26 November 2002 "Colombo High Court Judge Sri Skandarajah yesterday ordered the acquittal of all 18 army personnel who were accused in the Mailenthenna massacre following a unanimous jury verdict of not

guilty. In this case 18 soldiers were indicted on 83 counts including unlawful assembly, murder of 35 people and attempted murder of six others at Mailenthenna village, Punani on August 9, 1992. Three further accused are presumed dead." [16f]

6.135 As noted in a Daily News article of 9 August 2003 "The Supreme Court yesterday ordered the State and two police officers to pay Rs. 800,000 as compensation and cost to the widow of an ex-soldier and her minor child who died following torture. The court also directed the Registrar of the Supreme Court to forward the copy of the judgement to the National Police Commission to take the necessary action against the errant police officers." [16u]

6.136 According to the USSD 2003:

"Security force impunity remained a problem, although during the year [2003], the Government indicted security force personnel in several high profile cases. At year's end [2003], the Government continued to investigate 5 cases of rape, 50 cases of torture, and approximately 500 cases of disappearance by security force personnel....A trial in the Anuradhapura Magistrate's Court continued during the year of five Army personnel accused in 2000 of torturing nine Tamil civilians and murdering eight of them in Mirusuvil. Previously, an Army commander had administratively punished nine soldiers by having their salaries withheld.... On July 1 [2003], 5 individuals, including 2 police officers, were sentenced to death in the court proceedings involving the 2000 Bindunuwema rehabilitation camp deaths of 27 Tamil men. The sentences were immediately commuted to 23 years rigorous imprisonment. In an earlier court action January 4, an additional 23 individuals, including 1 police officer, were acquitted. [2b] (p2-3) In the majority of cases in which military personnel may have committed human rights abuses, the Government has not identified those responsible or brought them to justice." [2b] (p6)

6.137 The UN Human Rights Committee in its concluding recommendations on Sri Lanka dated 1 December 2003 stated that "It regrets 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, despite a number of acknowledged instances of abduction and/or unlawful confinement and/or torture, and only very few police or army officers have been found guilty and punished. [6k] (p3)

6.138 According to Amnesty International 2004 Sri Lanka Country Report:

"Despite progress in a small number of cases, there was still widespread impunity for human rights violations. According to the government, criminal action had been instituted against 597 security forces personnel, of whom 262 had been indicted in the High Court. Little or no progress was reported in these cases. In July [2003], five people, including two police officers, were convicted in the Colombo High Court of involvement in the killing in October 2000 of 27 young Tamil men and boys detained for "rehabilitation" at Bindunuwewa. The five were sentenced to death, and their sentences immediately commuted to life imprisonment. The case went to appeal. The UN Human Rights Committee concluded that Sri Lanka was responsible for

the "disappearance" of Thevarajah Sarma in the first case to be brought before the Committee since Sri Lanka acceded to the Optional Protocol to the International Covenant on Civil and Political Rights. Thevarajah Sarma was detained by the army in June 1990, with three other young Tamil men, during an operation in Anpuvalipuram, Trincomalee district." [39]

6.139 On 11 May 2004 a press release of the Asian Human Rights Commission (AHRC) announced that the Supreme Court had granted leave to proceed in a fundamental rights case where a police officer forced a tuberculosis patient to spit into the mouth of another detainee, who then contracted the disease. "The Court also requested a senior state counsel representing the Attorney General's Department, present in court, to look into the case urgently, and help Mr Tissa Kumara get proper medical treatment." [47a]

6.140 On 18 May 2004 Daily News reported that the Supreme Court had awarded Rs. 500,000 as compensation to former secretary of the Bar Association of Sri Lanka W. Dayaratne after upholding his fundamental rights petition filed against officers of the Bambalapitiya police for assault. As highlighted by Daily News, the compensation for the incident that took place in June 2003 was payable by the State. [166k]

6.141 As announced by the Asian Human Rights Commission on 2 August 2004:
"The Asian Human Rights Commission (AHRC) is happy to inform you that on 26 July 2004 the Supreme Court of Sri Lanka awarded one million rupees to the wife and three children of Mr. Lamahewage Lal Meddagoda (36) who had been tortured to death by the Negombo Prison officers on 7 November 2002. This is the biggest amount of the compensation to the torture victims in Sri Lankan history....Delivering the judgment, Justice Bandaranayake observed that, "Although there should be discipline and order that should be maintained with firmness, such discipline cannot invoke punishments, which are inhuman and violative of Article 11 of the Constitution." However, even as the Supreme Court clearly mentioned in its judgement that the alleged assault and the consequent death of Mr. Lamahewage Lal Meddagoda occurred at the Negombo Prison, this case has yet to be prosecuted under the Convention Against Torture (CAT) Act, Act No 22 of 1994." [47b]

6.142 According to a report in Asian Tribune of 3 August 2004:
"Cases have been filed against fifty police officers for cruelty against persons in custody. The Attorney General's Department said that the indictments have been filed in high courts against the police officers under the law against torture. The charges included illegal arrests, illegal detention and torture against detainees. The cases are being handled by a separate unit at the Attorney General's Department headed by a senior state counsel. The department said that investigations are launched immediately by the unit against any police or security forces personnel who is found guilty of violating human rights by the Supreme Court." [50a]

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Up-country Tamils

6.143 As noted in the USSD 2003 "There were approximately 1 million Tamils of comparatively recent Indian origin, the so-called "tea estate" Tamils or "Indian" Tamils."

[2b] (p17) The Dutch Ministry of Foreign Affairs 1997 Report confirms that:

"The "Indian Tamils" were brought over from India (from the Tamil-inhabited southern state of Tamil Nadu) by the British colonial government in the 19th and 20th centuries (from the 1830s onwards) to work on the estates in the central highlands (up-country). They are therefore also referred to as "up-country Tamils", "estate Tamils" or "tea Tamils". The 1948 Ceylon Citizenship Act denied them Sri Lankan nationality and stripped them of all civil rights. In 1964 (the Sirimavo-Shastri Pact) and 1986 Sri Lanka and India arrived at arrangements whereby each country agreed to extend citizenship to some of the estate Tamils, of whom there were by then 975,000. Of these, 422,500 eventually received Indian nationality (and moved to India) and 469,000 obtained Sri Lankan nationality. There remained a residue of 85,000 estate Tamils who opted for Indian citizenship but in the end chose to stay in Sri Lanka." [14a] (p32-33)

6.144 According to the USSD 2003 "Without national identity cards, they were vulnerable to arrest by the security forces. However, the Government stated that none of these persons would be forced to depart the country. During 1999, the Government introduced a program to begin registering these individuals, and 15,300 tea estate Tamils received identity cards in 2001, and the registration process continued during the year [2003]." [2b] (p17)

6.145 A Daily News report of 12 July 2003 stated that:

"The Government has decided to grant citizenship rights to some 168,141 Tamils of Indian Origin in a plan intended to end a painful saga of "stateless citizens". The Cabinet which met last Wednesday approved citizenship to the remainder of Tamils of Indian Origin who chose to repatriate to India under the Sirima-Shastri Agreement, but were unable to do so, Plantation Minister Arumugam Thondaman told the Daily News. The total number of potential citizenship recipients envisaged in the proposal includes 84,141 people who obtained Indian passports, but were unable to repatriate for various reasons and their offspring amounting some 80,000 who were born after the Sirima - Shastri Pact in 1964." [16c]

On 8 October 2003 the Daily News reported "Parliament yesterday unanimously passed the Grant of Citizenship to Persons of Indian Origin Bill. Accordingly, any person of Indian origin who has been a permanent resident of Sri Lanka since October 30, 1964 or a descendent of such a person shall be granted the status of a citizen of Sri Lanka" [16d]

6.146 The Daily News reported on 17 January 2004 that "A record 145,000 Sri Lankan citizens of Indian origin will receive National Identity Cards (NICs) within three months under a special identity cards distribution program initiated by the Department of Registration of Persons (DRP) on a directive by President Chandrika Bandaranaike Kumaratunga." [16ab]

6.147 As stated in the Dutch Ministry of Foreign Affairs 1997 Report, politically, the estate Tamils are represented by the Ceylon Workers' Congress, and by the Up-Country People's Front. [14a] (p33)

6.148 As announced by UNHCR on 4 December 2003:

"Thousands of stateless Tamils have ended their long struggle for recognition

in Sri Lanka and registered to become citizens of a country they have called home for generations. More than 6,000 stateless Tamils of Indian origin applied to become Sri Lankan citizens last weekend in a 10-day registration programme organised by the Ceylon Workers Congress and supported by the UN refugee agency.... This campaign marks the start of the end of a critical and long-standing problem for an estimated 300,000 Tamils brought to Sri Lanka since the 1820s to work on estates and who had been unable to claim Sri Lankan citizenship." [6m]

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Indigenous People

6.149 The USSD 2003 confirms that "The country's indigenous people, known as Veddas, numbered fewer than 1,000. Some preferred 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. Some Veddas complained that they were being pushed off of their land in protected forest areas." [2b] (p17)

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Women

6.150 The USSD 2003 notes "Women have equal rights under national, civil, and criminal law. However, questions related to family law, including divorce, child custody, and inheritance, are adjudicated by the customary law of each ethnic or religious group. The minimum age of marriage for women is 18 years, except in the case of Muslims, who followed their customary marriage practices. Different religious and ethnic practices often resulted in uneven treatment of women, including discrimination." [2b] (p15) "The Government permits the continued existence of certain aspects of personal laws discriminating against women in regard to age of marriage, divorce, and devolution of property." [2b] (p8)

6.151 As outlined in the USSD 2003:

"Sexual assault, rape, and spousal abuse (often associated with alcohol abuse) continued to be serious and pervasive problems. 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. Marital rape is considered an offense in cases of spouses living under judicial separation, and laws govern sexual molestation and sexual harassment in the workplace. While the Penal Code may ease some of the problems faced by victims of sexual assault, many women's organizations believed that greater sensitization of police and judicial officials should be required. The Government set up the Bureau for the Protection of Children and Women within the police in 1994 to respond to calls for greater awareness and attention; however, there was no information on any action taken by the Bureau,

nor on the number of crimes against women." [2b] (p15)

6.152 The United Nations, in its 2002 report on Sri Lanka on the Committee on the Elimination of Discrimination against Women states that:

"The Committee commends the efforts to implement the Convention despite the difficult socio-political situation. It welcomes efforts to strengthen the national machinery on women, the introduction of gender mainstreaming and the adoption of a range of policies and programmes to eliminate discrimination against women, including the Women's Charter, the establishment of the Ministry of Women's Affairs, although short-lived as a separate Ministry, the National Committee on Women and the formulation of a National Plan of Action for Women. The Committee commends the introduction of legal reforms that have been adopted since 1995, in particular the amendments to the Penal Code, which introduced new offences and more severe punishments with regard to violence against women, as well as the revision of the marriage laws, which increased the age of marriage, except in the case of Muslims, to 18 for both women and men. The Committee commends the educational achievements and improved literacy rate of women, as well as the curriculum reforms and teacher training programmes to eliminate gender role stereotypes. The Committee also commends the easy access to family planning for women and men and the well-developed maternal and child health care system, which has contributed to a decline in maternal mortality...The Committee is concerned 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...The Committee expresses its concern about the high incidence of violence against women, including domestic violence. The Committee is concerned that no specific legislation has been enacted to combat domestic violence and that there is a lack of systematic data collection on violence against women, in particular domestic violence. The Committee, while appreciating the many amendments to the Penal Code, notes with concern that marital rape is recognized only in the case of judicial separation. The Committee is also concerned that the police fail to respond to complaints of violence against women in a gender sensitive and effective manner." [6c]

6.153 As outlined by the UN Human Rights Committee in its concluding observations on Sri Lanka of December 2003:

"While commending the introduction since 1995 of legislation designed to improve the condition of women, the Committee remains 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 marriage, notable the age of marriage, divorce and devolution of property.... The Committee deplores the high incidence of violence against women, including domestic violence. It regrets that specific legislation to combat domestic violence still awaits adoption and notes with concern that marital rape is criminalized only in the case of judicial separation." [6k] (p5)

6.154 As stated in the Amnesty International Report "Torture in custody" dated June 1999:

"Rape in a context of armed conflict is an act of torture, and clearly prohibited by the rules of war and by international human rights law. Sri Lanka's presidential

directives for the welfare of detainees include special provisions to protect women, including the provision that women taken into custody should be allowed to be accompanied to the place of questioning by a person of their choice and "as far as possible" should be placed in the custody of a women's unit of the relevant arm of the security forces. Nevertheless, each year a number of cases of rape by members of the security forces are reported, particularly from the north and east of the country. Given the cultural and religious context it cannot be excluded that other cases go unreported." [3e] (p21)

6.155 According to the joint Danish/Canadian Fact-Finding Mission Report 2001: "The NHRC Commissioner stated that there are a number of female officers in the security forces, but that women who are arrested would not always be questioned only by a female officer. The Regional Coordinator of the NHRC in Vavuniya stated that female officers would deal with 50 to 60 per cent of the cases involving women. A representative of an international NGO stated that in Vavuniya the security forces are very strict about using female officers in connection with arrests of women. The Director of the Criminal Investigation Department of the Sri Lanka Police stated that his department has a sufficient number of female officers to ensure that women who are detained can be questioned and guarded by female personnel." [11] (p32)

6.156 The December 1999 United Nations Report of the Working Group on Enforced or Involuntary Disappearances states that "Army authorities have also decided disciplinary sanctions in cases of human rights violations, independently of the judicial course of action. Soldiers accused of sexual harassment of Tamil women, for instance, have been reduced in rank, detained for up to 90 days and discharged from the Army." [6h] (p8)

6.157 In an Amnesty International Report entitled "Rape in custody" issued in January 2002 they state that:

"During 2001, Sri Lanka saw a marked increase in allegations of rape in custody, particularly by the army, police and navy. Most incidents have occurred in the context of the armed conflict between the security forces and the Liberation Tigers of Tamil Eelam (LTTE), fighting for an autonomous state in the north and east of the country... Whilst welcoming several measures, including the introduction of tough prison sentences for those committing rape in custody and gang rape, Amnesty International is urging the authorities to take additional measures for the prevention of rape in custody and the proper investigation of alleged incidents. Not a single member of the security forces has ever been found guilty of rape in custody although one successful prosecution has been brought where the victim of rape was also murdered." [3f] (summary page)

The report continues: "Among the victims of rape by the security forces are many internally displaced women, women who admit being or having been members of the LTTE and female relatives of members or suspected male members of the LTTE. Some reports of rape in custody concern children as young as 14 (See Case No. 5, Thangiah Vijayalalitha, Appendix 1)." [3f] (p3) In an Amnesty International press release issued in January 2002 it is stated that "Amnesty International welcomes the decision of the Supreme Court of Sri Lanka which on 25 January 2002 granted 150,000 Sri Lankan rupees (approximately US\$ 1,600) compensation to Velu Arshadevi, a Tamil woman who was raped in Colombo in June 2001. "This is a landmark judgement. It is the first

time that the court has awarded compensation to a rape victim, confirming that rape in custody constitutes torture," Amnesty International said." [34]

6.158 According to the USSD 2003 "During the year [2003], the police reported approximately 900 rape investigations in the country compared with 865 rape investigations in 2002. Despite the number of reported rapes, there were no convictions in the cases involving security force personnel." [2b] (p15)

6.159 On 2 July 2004 Daily News reported that a domestic violence bill to recognise violence at home as an offence under the penal code with due punishment to offenders would be presented in Parliament shortly. "Laws under the proposed Act will find, extortion, criminal intimidation and emotional harm resulting in domestic violence as a punishable offence. Under the Bill, protection against physical abuse is available." [16b]

6.160 On 26 August 2004 Daily News reported that according to the Attorney General "The law provides that kidnapping or abducting a woman to compel her to marry any person against her will or in order that she may be forced or seduced to illicit intercourse is an offence punishable with imprisonment which may extend [sic] to ten years rigorous imprisonment and fine." The Attorney General had said that the law relating to violence against women was contained mainly in Chapter XVI of the Penal Code, which was enacted in 1883. "Section 345 provides that an assault or use of criminal force on a woman with intent to outrage her modesty is punishable with a term of imprisonment which may extend to two years or with fine or both. This Section also provided for the additional punishment of whipping. Whipping has never been imposed in the recent past....Even though Sri Lanka has identified rape as a violent crime affecting human body, yet there appears to be a misconception that this offence also impacts on sexual morality and should therefore be treated differently. The offence of rape which carries with it an imprisonment which may extend to 20 years and fine is regarded as one of the gravest offences committed against a woman, since it violates her personal security dignity and sexual privacy. In an adversarial system such as ours, a victim of crime is merely a witness. A woman who had been subjected to violence is invariably subjected to extensive questioning both by the prosecutor and the defence counsel." Addressing the officers of the Attorney General's he was reported as saying "You are the representatives of the State. Your duty is not only to see that justice is done but also to ensure that the victim goes home with the satisfaction that she has received justice and the offender has been properly punished." [16bm]

6.161 According to an undated list in the website of the online forum South Asian Women's Network (SAWNET), several organisations dealing with women's issues exist in Sri Lanka. [17]

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Children

6.162 As stated in the USSD 2003 "The Government was committed to protecting the welfare and rights of children but was constrained by a lack of resources. Expenditures for health and education for children declined as a percent of GDP between 1998 and 2001. Nevertheless, the Government demonstrated its commitment through extensive

systems of public education and medical care." [2b] (p16)

6.163 According to the USSD 2003:

"Under the law, the definition of child abuse includes all acts of sexual violence against, trafficking in, and cruelty to children. The law also prohibits the use of children in exploitative labor or illegal activities or in any act contrary to compulsory education regulations. It also broadens the definition of child abuse to include the involvement of children in war. The NCPA [National Child Protection Authority] included representatives from the education, medical, retired police, and legal professions; it reported directly to the President." [2b] (p16)

6.164 A Reuters report of 6 May 1998 stated that "Sri Lanka's parliament on Wednesday passed amendments to laws protecting the rights of children in a bid to combat widespread child abuse, officials said...The use of children for begging, sexual intercourse, and trafficking in drugs will now become offences punishable with a five year prison sentence...The moves also include provisions to give priority status to child abuse cases." [4d]

6.165 According to the USSD 2003:

"Child prostitution was a problem in certain coastal resort areas. The Government estimated that there were more than 2,000 child prostitutes in the country, but private groups claimed that the number was much higher. Citizens committed much of child sexual abuse in the form of child prostitution; however, some child prostitutes were boys who catered to foreign tourists. Some of these children were forced into prostitution. The Department of Probation and Child Care Services provided protection to child victims of abuse and sexual exploitation, and worked with local NGOs that provided shelter. The Tourist Bureau conducted awareness-raising programs for at-risk children in resort regions prone to sex tourism. The Government pushed for greater international cooperation to bring those guilty of pedophilia to justice. The penalty for pedophilia is not less than 5 years and up to 20 years, as well as an unspecified fine. During the year [2003], 11 cases of pedophilia were brought to court; however, there were no convictions. [2b] (p16) The country's reputation as a destination for foreign pedophiles declined significantly because of improved law enforcement and increased publicity." [2b] (p20)

6.166 According to an undated report from the NGO ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes):

"Child prostitution is rampant in Sri Lanka. The availability of child sex is publicised in magazines, web sites and chat rooms. According to a study conducted by Peace [Protecting Environment and Children Everywhere, a domestic NGO] there are 15,000 children engaged in the sex trade. The government itself estimates there are approximately 30,000 children involved. Sex tourism is easily seen and widely known to occur in the south and southwestern coast. Boys victimised here are known as Beach Boys. They operate in gangs or independently." [51]

6.167 As outlined in a Daily Mirror article of 8 October 2003 reported in the website of the Sri Lankan National Child Protection Authority (NCPA):

"According to UNICEF and ILO statistics, there are nearly 40,000 child

prostitutes in the country while 5,000 to 30,000 Sri Lankan boys are used by Western paedophile sex tourists in Sri Lanka. Nearly 10,000 to 12,000 children from rural areas are trafficked and prostituted to paedophiles by organised crime groups....Although the government estimates that there are 2,000 active child prostitutes in the country private groups claim the number is as high as 40,000." [52]

6.168 A report posted with the Xinhua News Agency on 30 September 2002 indicated that:

"The Sri Lankan police are to set up a special unit to combat child abuse and all forms of cruelty against children from October 1 [2002], the state-run Daily News reported on Monday. The unit will be located at the headquarters of the National Child Protection Authority (NCPA), which deals with all aspects of child protection including investigation and prosecutions. The new police unit would initially consist of 15 police personnel and will work closely with the NCPA on investigations, monitoring and prosecutions. Police officers will be stationed in areas frequented by tourists to facilitate prompt action against child abuse by tourists...According to NCPA Chairman Harendra de Silva, as many as 1,200 instances of child abuse were handed over for legal action last year [2001]. Interior Minister John Amaratunga said that while action has been taken in several instances of child abuse, still there are cases of sexual abuse, cruelty to children, use of child labor and use of children in drug trafficking that have gone undetected due to lack of personnel for investigation." [41]

6.169 As reported by Daily News on 24 May 2004:

"The special police unit of the National Child Protection Authority (NCPA) has bared an international racket where the services of Sri Lankan children are being sold to foreigners through the Internet. Following reports that the Internet is widely used by local child traffickers, the police unit launched investigations which resulted in the arrest of several foreigners and their being convicted in Sri Lankan courts, official sources told the Daily News....The number of child abuse cases reported to the NCPA last year was 386. In 2001, it was only 276 cases and the number of child abuse incidents increased by 86 cases. Out of 386 child abuse cases reported in 2002, 194 were sexual abuse incidents, while 84 were physical abuse cases." [16bn]

6.170 On 15 June 2004 Daily News reported that, addressing an Interpol meeting, the secretary of the Ministry of Public Security, Law and Order had said that the Sri Lankan Police Department too had a separate Bureau for the prevention of Abuse of Children, Young Persons and Women.

"This Bureau has made several good detections and also by various Police Stations in the country, that includes the detection of foreign child sex offenders. The Secretary emphasised that about 1500 cases of child abuse had been reported in Sri Lanka for 2003. A special investigation unit comprising police officers was set up at the National Child Protection Authority (NCPA) in 2002. This unit in addition to the conducting of investigations into the child abuse cases has also been successful in detecting, foreign child sex offenders (paedophiles) operating in Sri Lanka." [16bo]

6.171 The USSD 2003 states that "The LTTE forcibly recruited children during the year

[2003]. However, during the year [2003], the LTTE also released 141 children. In late 2002, the LTTE handed over an additional 85 children to UNICEF, stating that the children had volunteered to serve, but that the LTTE did not accept children." [2b] (p8)

"The LTTE used child soldiers and recruits children, sometimes forcibly, for use in battlefield support functions and in combat. LTTE recruits, some as young as 13 years of age, surrendered to the military, and credible reports indicated that the LTTE stepped up recruiting efforts. In 1998, the LTTE gave assurances to the Special Representative of the U.N. Secretary General for Children in Armed Combat that it would not recruit children under the age of 17. The LTTE did not honor this pledge, and, even after the ceasefire agreement, there were multiple credible reports of the LTTE forcibly recruiting children. For example, during the year [2003], UNICEF reported that there were over 700 cases of forcible child recruitment by the LTTE and that more than 1,300 children remained in LTTE custody at year's end [2003]. During the year [2003], the Government began participation in an inter-regional project aimed to prevent and reintegrate children involved in armed conflict. The project was sponsored by the International Labor Organization's International Program for the Elimination of Child Labor, which the Government began working with in 1996." [2b] (p16)

6.172 As highlighted in a UNICEF news note of 11 April 2003, the LTTE, the government of Sri Lanka, local and international organisation had met in Kilinochchi to agree on an Action Plan to address the needs and care of children affected by war in the north east. Amongst other areas of activity, the Action Plan covered "A monitoring mechanism administered by UNICEF to monitor the rights of children affected by war in the North East. A mechanism for the release and reintegration of underage recruits, and children seeking recruitment, will be redressed through transit centres co-managed by the Tamils Rehabilitation Organization (TRO) and UNICEF." [53a]

6.173 According to a Human Rights Watch document dated 16 January 2004:

"The armed opposition group, the Liberation Tigers of Tamil Eelam (LTTE) continued to recruit and use children in violation of international law. In January [2003], the Sri Lanka Monitoring Mission (SLMM), set up to monitor the implementation of peace negotiations, reported an overall decrease in child soldier recruitment during previous months. However, media reports suggested there was an increase in the number of documented cases in January 2003, and in February UNICEF stated it still had more than 700 complaints of child recruitment "on its books". Both UNICEF and local organizations stated that many other cases could have gone unreported. The Coalition to Stop the Use of Child Soldiers also received confidential information to suggest that in many cases children were recruited to the LTTE without the knowledge of their families, causing distress to parents once they realized their children had gone." [21d]

6.174 The UNICEF Action Plan for Children Affected by War, Progress Report 2003 dated January 2004 stated:

"In 2003, UNICEF received reports of 709 children recruited by the LTTE and 202 children released from the LTTE....The average age of children at the time of their recruitment into the LTTE is 15 years old. The youngest case of recruitment in 2003 is 10 years old. Overall, 57% of the children known to UNICEF as having been recruited by the LTTE are boys, and 43% are

girls....In 2003, the highest reports of under-age recruitment were received in Jaffna and Batticaloa with 190 and 187 reports respectively. 113 reports were received from Vavuniya; 59 reports from Trincomalee; 59 reports from Ampara; 39 reports from Kilinochchi; 33 reports from Mannar and 29 reports from Mullaitivu." [53d] (p4)

6.175 A UNICEF news note of 13 April 2004 stated that:

"UNICEF facilitated the release of nearly 150 former child soldiers by the LTTE today in Vakkara in Sri Lanka's eastern region. While UNICEF is still working to confirm the total number of children being released, so far the agency has met and registered over 100 children....UNICEF says that potentially hundreds of other child soldiers from the eastern region have also given up arms and are returning home of their own accord. UNICEF asks that all parents who have children return directly to them contact UNICEF so that the agency can assess the condition of the children and provide follow up assistance with their reintegration. This latest demobilization is the single biggest formal release of child soldiers by the LTTE....UNICEF and partners under the Action Plan will follow up with the children on a regular basis to make sure that their transition from a military organization to family life is a smooth one," said Mr Chaiban. Partners under the Action Plan include the International Labour Organization (ILO), Ministry of Social Welfare, Save the Children in Sri Lanka, the Tamils Rehabilitation Organization (TRO), United Nation Development Programme (UNDP) and the United Nations High Commissioner for Refugees (UNHCR)." [53b]

6.176 A Human Rights Watch document dated 27 April 2004 stated that:

"LTTE forces on April 9 defeated a breakaway group under their former eastern commander, known as Karuna. According to the United Nations Children's Fund (UNICEF), at least two child soldiers, both girls, died in the fighting; unconfirmed reports indicate many more child combatants were killed during the battle or after having surrendered. Both the LTTE army and Karuna's forces of some 6000 fighters included many child soldiers. An unknown number of the latter surrendered to the main LTTE force. After the families of the children demanded their return, according to UNICEF, 209 were released to their families; a reported 800 others from Karuna's disbanded force returned home on their own. Thousands more child soldiers are believed to remain with LTTE forces in the north of the country....In the eastern towns of Batticaloa and Ampara, the LTTE reportedly sent around vans with megaphones instructing Karuna's former fighters, including the released child combatants, to report for re-registration. Families in the area feared that the LTTE were going to take away their children. Many families were reportedly seeking shelter for their children from international and local human rights and aid agencies, and even journalists." [21c]

6.177 On 7 May 2004 Daily News reported that according to UN officials, the Liberation Tigers of Tamil Eelam (LTTE) had recruited children in the past few days, raising fears of a fresh recruitment drive just weeks after their biggest yet child demobilisation. "The LTTE formally released 300 child soldiers to UNICEF and another 750 returned to their villages on their own late last month, after the Tigers defeated a rival rebel faction. Human rights groups welcomed the mass release, but

expressed concerns there could be re-recruitment. " [16ap] On 26 June 2004 a UNICEF news note stated that:

"After promising signs in April that the LTTE was taking seriously its pledge to release the children in its ranks, recruitment has been accelerated in recent weeks, including of children under the age of 18. Since the start of April, UNICEF has received 159 reports of children being recruited by the LTTE, mostly in the North of the country. However, the East has also been affected by this and in Batticaloa and Ampara districts there have been 26 cases of new recruitment and 30 cases of re-recruitment in the past six weeks. In April, the LTTE officially released 269 children and expressed a willingness to provide formal release letters for over 1,300 other children who went home when Karuna disbanded his cadres."The April returns were a big step forward by the LTTE. However, this has been completely undermined by continued recruitment of new children over the past couple of months," said Mr. Chaiban, UNICEF's Representative in Sri Lanka. "

6.178 As noted in a press release of Human Rights Watch dated 29 June 2004: "According to the U.N. Children's Fund (UNICEF) and local human rights groups, the Liberation Tigers of Tamil Eelam (LTTE) are forcibly abducting children from their homes and threatening parents who dare resist or complain about the abductions. The armed group is believed to be focusing on abducting small groups of children rather than large groups, so as to slowly rebuild its forces without attracting too much attention. Its members have been going to villages in the Batticaloa district of eastern Sri Lanka, banging on doors, threatening parents with dire consequences in the event of non-compliance, and abducting 8 or 9 children from each village. Typically these children are transported on motorized rickshaws to the nearby lagoon. To evade army checkpoints, they are sent on boats to the Tigers' Vaharai camp. Local sources have heard the Tamil Tigers threaten to immediately kill parents who complain or try to get information about their abducted children.... Although some parents have organized themselves in order to resist the LTTE pressure, there is considerable fear of reprisal in small communities with little or no government presence. The Tamil Tigers' ruthless and unforgiving tactics have terrified parents, children and human rights workers, who have no recourse to real protection from the Sri Lankan government." [21b]

6.179 According to an Amnesty International press release of 7 July 2004: "The Tamil Tigers are increasingly turning to threats and violence in a recruitment drive for child soldiers. Families who resist have been beaten with wooden sticks, or had their houses set on fire.... Since the beginning of April 2004, 190 children have been recruited to fight, according to information provided by UNICEF. This brings the number of verified cases this year to 330. Many of these children have been forcibly abducted from public places or their homes. Some of the new recruits are as young as fourteen. The Tamil Tigers are also increasingly re-recruiting former child soldiers by force....Amnesty International is concerned about the intensification of the recruitment of children by the Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers), especially amid the fragile state of the peace process." [31]

Child Care Arrangements

6.180 Information from the British High Commission in Colombo in a letter dated 18 October 2002 confirms that children's homes and orphanages exist in Sri Lanka, and that most of these are Sinhalese-run. Children in children's homes are not necessarily orphans; they might come from families where one parent is dead or absent, or where there are too many children for a family to support. If there are allegations of abuse, children are often placed in homes for their protection. There are two types of homes. State-run homes come under the auspices of the Probation and Childcare Department. Generally, homes in the voluntary-run sector are run by NGOs or religious organisations. The legal age limits for children's homes and orphanages are 0-18, although after the children turn 18 they often continue to live (and work) within the institution. Some homes are single-sex, while others are mixed. Conditions in children's homes are generally very poor. This can range from simple lack of resources and facilities, through neglect, to outright abuse. Homes should be overseen by the Probation Service, but it lacks the funding and skills base to do so appropriately. There is also no oversight of the Probation Service itself. [15f]

6.181 A news article posted with Global Information Network on 3 October 2002 confirmed that, the Tamil Rehabilitation Organisation (TRO) based in Kilinochchi, runs 8 children's welfare homes and 300 pre-schools in the Vanni district for Tamil children. The TRO welfare homes have a total of 1,600 children who are either orphaned, from single parents, or sent to them due to poverty. [4h]

6.182 As highlighted in a document of the LTTE Peace Secretariat dated 23 April 2004:

"TRO was registered as an NGO at the Provincial level under the Voluntary Social Services Act in 1993 and at the National level under a similar (Registration and Supervision) Act on 27th June 2002. It is a member of the Consortium of Humanitarian Agencies (CHA) in Colombo and is a member of National Coordinating Committee of Triple 'R'....Programs implemented include Children's Welfare, Education, Food & Nutrition, Services for Women, Water & Sanitation, Mine Action, Resettlement & Housing, Health Services, Vocational Training, Social Economic Development and Emergency Relief." [42g]

Homosexuals

6.183 According to the International Lesbian and Gay Association (ILGA) World Legal Survey website "Homosexual acts between men, regardless of age, are prohibited under Section 365a of the Penal Code with a penalty of up to 10 years imprisonment." [29] According to an AFP news release dated 4 September 2000 (reported in the website of Aegis, the AIDS Education Global information System):

"The government agreed [in 1995] to revoke the 1883 Penal Code which outlawed sexual relations between men, but instead of decriminalising homosexuality, the authorities roped women in under the archaic laws. The Victorian laws introduced under British colonial rulers did not acknowledge

that women could have sex with each other and therefore lesbians could not be prosecuted. However, with the government substituting the word "males" with the gender-neutral "persons" in the 1995 amendment to the penal code, women too face anti-homosexual regulations. " [62]

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6.C HUMAN RIGHTS - OTHER ISSUES

Treatment of Returned Failed Asylum Seekers

6.184 UNHCR in their Background Paper on Sri Lanka published on 18 March 1999 for the European High Level Working Group on Asylum and Migration stated that:

"UNHCR is of the view that Sri Lankan asylum seekers, whose claims have been processed through full and fair procedures and found not to fulfil the refugee criteria may be returned safely to Sri Lanka (this does not obviate other reasons for non-return such as is contemplated under the Torture Convention). Where the individual has no valid travel documents, he/she should be assisted to obtain relevant documentation from the nearest Sri Lankan diplomatic post as such documents would greatly facilitate the person's arrival, travel and stay upon return to the country". [69] (p22)

6.185 Information from the German Federal Ministry of the Interior on 9 May 2000 was that:

"The Border Police Directorate in Koblenz confirmed by phone the collective deportation of 20 Sri Lankan nationals, escorted by 35 Federal Border Police officers, 1 doctor and 1 first-aid assistant, by charter flight No. HMI 7707 from Düsseldorf via Dubai to Colombo on 16 March 2000. The Border Police report on this deportation does not note any unusual occurrences. The liaison officer of the Federal Office for the Recognition of Foreign Refugees based at the German Embassy in Colombo looked into the matter and reported that the collective deportation attracted a great deal of attention on the part of the Sri Lankan media and human rights organisations as well as on the part of Tamil politicians. Neither the claim of the Tamil deputy Selvarasa nor reports published also in Germany (Südasiens, vol. 2-3/00) according to which the repatriation of the 20 Sri Lankan nationals had ended with their arrest, torture and seizure of all personal documents are correct. Instead, two out of the 20 deportees were arrested on remand for five days on the orders of a judge. Since only one of the repatriates was in possession of a normal passport for entry into Sri Lanka, the remaining 19 emergency passports issued only for the return trip of the returnees were confiscated. It was reported that the other 18 returnees were held only temporarily by the criminal police for questioning (approximately 10.30 a.m. – 08.00 p.m.). Instructed to appear for a court hearing before the magistrate in Negombo on 21 March 2000 these 18 were set free as early as on the day of their arrival. The police requested the temporary arrest of the other two for further investigation with regard to clarifying their identity and checking the criminal records. As regards the torture allegations it should be pointed out that one of the returnees reported

to have been hit. On 8 March 2000 the liaison officer of the Federal Office for Recognition of Foreign Refugees visited the two returnees who had been arrested in Negombo Remand Prison. When asked, one of the returnees confirmed vis-à-vis the liaison officer that he had been hit. According to his description the punch he received amounted more or less to a slap in the face. The other deportee held temporarily in custody denied that he had been treated incorrectly. Both of them were released on bail on 21 March 2000." [12]

6.186 In a letter sent to the Home Office in August 2000, UNHCR said they had been informed on a number of occasions by airport immigration authorities in Colombo that a temporary identification document and/or a photocopy was issued to returned asylum seekers when the documentation they travelled on was retained, but they found that this was not always the case. However, such persons were able to collect an Emergency Certificate from the Immigration Head Office in Colombo on the following morning. UNHCR believed that it was extremely risky for such persons to be in Colombo without identification, but contended that the immediate risk was at the airport itself. Officers from the CID sometimes detained Tamils leaving the airport to check their identification; some had been arrested, others had escaped by bribing officers. However, according to UNHCR, the chances of such persons being arrested in a round-up prior to obtaining an Emergency Certificate the next morning were slim and it would be considered a rare occurrence. According to UNHCR, to the best of their knowledge, no Sri Lankan national returning from Europe had been regarded adversely by the Sri Lankan authorities merely on the assumption that they may have had contact with LTTE representatives in that European country. [64]

6.187 Information obtained on the United Kingdom Home Office fact-finding mission of 9-13 July 2001 was that "The MFA [Ministry of Foreign Affairs] stated that those returning on a temporary travel document were now allowed to retain it and the police at the airport kept a photocopy. This process had been in place for a few months and was as a direct result of representations from foreign embassies, regarding concerns about returnees being able to provide evidence of their identity prior to obtaining a NIC." [35a] (p42)

6.188 As recounted in the joint Danish/Canadian fact-finding mission Report of their visit to Sri Lanka between 1 and 12 October 2001:

"UNHCR stated that the procedures at the airport were changed in 2000; immigration officers now make a copy of returnees' emergency travel document and returnees can retain the original, which helps facilitate their application for new documents and registration with the police in Colombo (also see page 19). As noted earlier, UNHCR explained that returnees who have been detained by the Criminal Investigation Department (CID) upon arrival at the airport are normally released on bail at the Negombo Court. While UNHCR believes that returnees' cases are generally closed when they re-appear in court one to two months later, it does not always receive feedback from the Court and has difficulty following up on cases after returnees are released. UNHCR was not aware of any cases where returnees had been forced to go back to their places of origin when they were unable to obtain an extension of their registration with the police in Colombo.... [11] (p50) The Attaché of the Embassy of Switzerland stated that the Swiss Embassy provides transport for the returned asylum seekers from the airport to a

special reception centre for returned asylum seekers, which the Embassy operates in cooperation with the Red Cross. In October 2001, five persons were staying in the centre, where they may stay for a maximum of 45 days. The management of the Red Cross Centre registers the returnees at the local police station. However, only 20 to 25 per cent of the returnees use the airport shuttle bus and reception centre, as most returnees, according to the Attaché, are met upon arrival by family members and friends." [11] (p51)

6.189 According to the U.K. Home Office report of a meeting with UNHCR on 20 March 2002 "Checks on returnees at Colombo airport have been eased with many returned rejected asylum seekers simply being waved through since December 2001. This is in sharp contrast to what happened previously where basically every returnee was referred to the CID and thereafter referred to the Magistrate in Negombo in order to carry out relevant checks, where these were necessary." [35b]

6.190 The Daily News reported on 19 December 2002 that:

"Forty five Sri Lankans were returned by the Government of the Netherlands yesterday. These persons could not obtain legal status or had been found to be in the Netherlands unlawfully. Emergency travel documents had been issued to all returnees, a release from the Royal Netherlands Embassy said. After following the normal procedures of arrival and an identity check they were allowed into the country without further delay. The group consisted of persons of all ages, all of whom were welcomed back and received by friends and family." [16n]

6.191 The Daily News, quoting the AFP news agency, reported on 18 February 2004 "The European Court of Human Rights on Tuesday gave the Netherlands the green light to expel two Sri Lankan Tamils, saying they would not face a real risk of torture if expelled to their homeland. The court said it "found that no substantial grounds had been established for believing that the applicants, if expelled, would be exposed to a real risk of being subjected to torture or inhuman or degrading treatment. In both cases, the court considered that, even if the applicants were apprehended on arrival at the airport in Colombo or subsequently in the course of an identity check, given the current climate in Sri Lanka, it was unlikely that they would run a real risk of being subjected to ill-treatment". The two Sri Lankans, hailing from a region under the control of the Liberation Tigers of Tamil Eelam (LTTE), told the court they arrived in the Netherlands in 1995 after fleeing their homeland in the wake of ill treatment on suspicion of belonging to the rebel Tamil group. The court said in a statement that it "could not ignore the very real progress that had been made which had led to a substantial relaxation of the previously precarious situation for Tamils arriving or staying in Colombo"". [16ac]

6.192 As reported in the official website of the government of Sri Lanka on 7 June 2004:

"Sri Lanka signed a Readmission Agreement with the European Community (EC) June 4, in Colombo. This is the first formal Agreement Sri Lanka has entered into concerning the combating of illegal immigration. The Agreement provides a quick procedure for re-admission not only for one's nationals, but also third country nationals, on the basis of agreed items listed in the

Agreement. The Joint Declaration on the Facilitation of Law Enforcement Cooperation, which constitutes an integral part of the Agreement, recognizes the need for the two parties to take measures to combat organized criminal activities, including human trafficking, migrant smuggling and financing for terrorist purposes, which have become grounds for growing concern. " [44d]

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Treatment of Non-Governmental Organisations (NGOs)

6.193 As noted in the USSD 2003:

"A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Several domestic human rights NGOs, including the Consortium of Humanitarian Agencies, the University Teachers for Human Rights, Jaffna, the Civil Rights Movement, and the Law and Society Trust, monitored civil and political liberties. There are no adverse regulations governing the activities of local and foreign NGOs, although the Government officially required NGOs to include action plans and detailed descriptions of funding sources as part of its registration process. Some NGO workers viewed this as an attempt by the Government to exert greater control over the NGO sector after previous human rights groups' criticisms. Few NGOs complied with these reporting requirements." [2b] (p14)

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International Committee of the Red Cross (ICRC)

6.194 As confirmed in a 1997 United Nations report:

"In July 1990 the Government of Sri Lanka invited the ICRC to commence humanitarian functions in Sri Lanka in association with the country's relief and rehabilitation authorities to provide humanitarian assistance to people affected by violence initiated by the Liberation Tigers of Tamil Eelam (LTTE) terrorist activity. The ICRC is granted free access to all places of detention. The Government's policy objective in this regard is to ensure that internationally accepted norms are maintained for the safety and well-being of inmates by allowing the ICRC to interview detainees in confidence and in private." [6b] (p8)

According to Amnesty International's "Torture in custody " Report of June 1999

"Although Amnesty International has several testimonies of former detainees who claim they were not shown to the ICRC in the early period of their detention, it has other testimonies which confirm that an intervention by the ICRC resulted in detainees being provided medical treatment or being transferred out of the custody of the law enforcement officers responsible for torture." [3a] (p34)

6.195 According to an ICRC "Appeals document" dated 2001:

"Most ICRC assistance and tracing activities are carried out in conjunction with the SLRCS [Sri Lanka Red Cross Society]. The Austrian Red Cross continues to

run a delegated water and sanitation project in the Eastern Province, and the Canadian Red Cross maintains support to SLRCS medical activities in a delegated project in the Vanni. All ICRC activities are coordinated with related programmes of the many UN agencies and NGOs working in Sri Lanka." [34a]

6.196 As noted in the ICRC "Appeals document" dated 2001:

"Between January and September 2000 the ICRC: facilitated negotiations to allow cross-line transport, escorted food convoys across the front lines, and protected a passenger vessel shuttling civilians between Trincomalee and Jaffna; collected allegations of abuse committed against the civilian population, submitting them in a confidential manner to the parties concerned in order to remind them of their responsibility to respect civilians and combatants who are hors combat; distributed 4,534 Red Cross messages written by people living in conflict areas, located 199 persons who had been declared missing by their families, and organized 34 family reunifications for vulnerable individuals separated from their closest relatives; facilitated the return to both parties to the conflict of the mortal remains of 322 combatants who had fallen on enemy territory; visited 2,783 detainees held under Sri Lankan authority, financing 702 family visits for them and helping released detainees return home; visited 33 persons held by the Liberation Tigers of Tamil Eelam (LTTE), organized a family visit for 15 of them and assisted in the release and return home of 5 of these detainees; distributed essential household items to over 18,000 vulnerable displaced persons in the Vanni and on the Jaffna peninsula, and distributed school clothing for over 5,000 destitute children in the Vanni; on the Jaffna peninsula improved water and sanitation facilities in 133 welfare centres housing 20,000 people, in the eastern Province repaired 33 wells serving 12,000 families, and in the Vanni repaired 147 hand pumps serving 20,000 people; in the Vanni, provided an average of over 18,000 consultations monthly through 5 mobile health teams and 26 primary health centres run with the Sri Lanka Red Cross Society (SLRCS) in a project delegated to the Canadian Red Cross, and in the Eastern Province through 2 ICRC/SLRCS mobile health teams; on the Jaffna peninsula supported SLRCS medical teams treating over 5,000 displaced people; transported 1,400 patients by boat from Jaffna to Colombo for specialized medical care; made presentations on international humanitarian law to over 5,600 military personnel; [and] gave technical and financial support for selected SLRCS activities, training more than 1,300 volunteers in basic first aid." [34a]

6.197 As stated in the U.K. Home Office Report of its fact-finding mission to Sri Lanka in 2001:

"There is an officer within SLRCS (funded by the ICRC) that helps trace families within the country. This officer can help returning failed asylum seekers contact their relatives. The SLRCS can also help minors (who are failed asylum seekers and who wish to return to Sri Lanka) find their families. ICRC Head Office in Colombo is the only Red Cross office authorised to write letters on behalf of the displaced and those arrested by the army. These give the detainees or former detainees name, and when released etc." [35a] (p31)

6.198 As noted in the website of the ICRC:

"Following the cease-fire signed between the government and the Liberation

Tigers of Tamil Eelam (LTTE) in February 2002, the ICRC has continued to act as a neutral intermediary. In particular it seeks to provide humanitarian assistance where needed, to persuade fighters and their leaders to comply with international humanitarian law, to help families learn the fate or whereabouts of missing relatives, and to visit people still detained in connection with the conflict. In areas previously affected by conflict, the ICRC assists public health facilities and helps restore family links. It also supports the efforts of the Sri Lanka Red Cross Society to strengthen its capacity. The ICRC has maintained a constant presence in Sri Lanka since 1989. Presence (2004): 327, staff including 38 expatriates." [34c]

6.199 As noted in the USSD 2003:

"The Government continued to give the ICRC unhindered access to approximately 160 detention centers, police stations, and army camps recognized officially as places of detention. Due to the lapsing of the ER in 2001, the total number of persons detained in military bases has been reduced dramatically, with the military making fewer arrests and transferring detainees to police facilities more quickly than in previous years. With the ceasefire agreement, the number of arrests by the military dramatically declined." [2b] (p7)

6.200 As highlighted in the ICRC Annual Report 2003 on Sri Lanka:

"The fate of missing persons remained of central concern to the ICRC, which was designated by both parties as a reference organization in the efforts to develop a mechanism for dealing with the problem....[During the year 2003] 3,356 detainees were visited (including 186 newly registered, 373 followed up individually, 56 women and 33 minors) in 44 places of detention 141 family visits to detained relatives were funded....The Sri Lanka Army further developed its own IHL [international humanitarian law] training programme, holding sessions at all levels both at training institutions and in the field. The ICRC had helped the army set up the programme by training trainers, helping develop materials and providing other technical assistance." [34d]

6.201 On 9 July 2004 Daily News reported that an agreement according legal status to the International Federation of Red Cross and Red Crescent Societies (IFRC) in Sri Lanka had been signed in Colombo. "The SLRCS has a network of branches in 25 districts with a member volunteers base of over 125,000 which is the society's key strength." [16ao]

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Internally Displaced Persons (IDPs)

6.202 As noted in the USSD 2003 "By late 2001, there were over 800,000 IDPs in Sri Lanka. With the advent of the peace process, the United Nations High Commissioner for Refugees (UNHCR) reported that 341,000 IDPs had returned to their places of origin, leaving roughly 500,000 IDPs in the country. According to the RC [Refugee Council], approximately 100,000 IDPs were unable to resettle as a result of the High Security Zones." [2b] (p13)

6.203 According to the September 2003 Refugee Council report entitled "Internally displaced persons and safe returns":

"Studies indicate that displaced families live in abject poverty and it is clear that the food assistance provided by the Government does not reach all those in need. There are delays and shortages in distribution and the food supplied is often insufficient and of poor quality. Many displaced families, especially those in LTTE controlled areas do not receive any assistance. Further, when marriage takes place, the new IDP couple is sometimes refused registration by government officers as a separate family unit and forced to depend on rations issued to their parents...Around 58% of the displaced population is women. [10b] (p25) About 14% of the IDPs today are Muslims and Sinhalese. They are from the north, east or the border areas of the two provinces." [10b] (p31)

6.204 According to the USSD 2003:

"The Government continued to provide food relief, through the Commissioner General for Essential Services and the Multi-Purpose Cooperative Societies, to displaced and other needy citizens, including those in areas controlled by the LTTE. The Government delivered food rations to the Vanni area, a LTTE-controlled area in the north, through a checkpoint that was controlled on one side by the security forces and on the other by the LTTE. The border into the territory controlled by the LTTE remained open during the year [2003]. Unlike in previous years, NGOs could move assistance into LTTE-controlled areas without extensive Government oversight." [2b] (p9)

6.205 As stated in the USSD 2003:

"The LTTE expropriated food, fuel, and other items meant for IDPs, thus exacerbating the plight of such persons in LTTE-controlled areas. Malnutrition remained a problem in LTTE-controlled areas, as well as in other parts of the Vanni region, with nutrition levels falling below the national average. Experts reported a high rate of anemia and a low birth rate. Confirmed cases of malnutrition included hundreds of children. Landmines were a serious problem in Jaffna and the Vanni and, to some extent, in the east....Landmines, booby traps, and unexploded ordnance posed a problem to resettlement of displaced persons and rebuilding. At the end of 2002, a U.N. team had begun coordinating the process of mapping the mined areas in the country and established oversight for a mine removal program. During the year, a U.N. team established a landmine map database, which was shared with all the 12 demining agencies that worked in the country. During the year, the military and the LTTE removed mines in areas they controlled. The Government reported as many as 15 mine-related casualties among civilians per month." [2b] (p10)

6.206 According to the USSD 2003 "An estimated 65,000 Tamil refugees live in camps in Tamil Nadu in southern India. Approximately 100,000 refugees may have integrated into Tamil society in India over the years. According to the UNHCR, a small number may have returned from India during the year [2003]." [2b] (p13)

6.207 According to the September 2003 Refugee Council report entitled "Internally displaced persons and safe returns"

"Movement of people to and within the conflict-affected areas of the north-east is expected to continue but at a much slower rate in the near future for a number of reasons. Many villages where IDPs are expected to return are contaminated with landmines. Many other villages lie within military High Security Zones (HSZ) and are no-go areas for civilians. A large number of areas, which were formerly inhabited, are overgrown and lack even the minimum of community infrastructures. Recent physical needs assessments by various development agencies indicate that most of the physical infrastructure such as roads, hospitals and schools in the areas of returnees has been destroyed. Much of these structures have to be rebuilt to facilitate the return of displaced people. But the necessary funds are yet to be allocated for rebuilding war-torn areas. Certain populations of potential returnees (e.g., Muslim IDPs) have particularly strong concerns about the conditions of security. [106] (p15) The LTTE have also restricted the movement of civilians and returnees into areas in the north-east which they consider as their high security zones." [106] (p36)

6. 208 A report in the Sunday Observer on 8 February 2004 stated that:

"An estimated 345,734 internally displaced persons (IDPs) have returned to their homes in the Northern and Eastern Provinces, as well as the Polonnaruwa and Puttalam districts, following the signing of the ceasefire agreement between the Government and the LTTE, according to the Ministry of Rehabilitation, Resettlement and Refugees and the United Nations High Commissioner for Refugees (UNHCR). However, only 19,143 families comprising 72,945 persons had returned in 2003 (up to November) as against 69,927 families consisting of 269,012 persons in 2002, indicating a marked drop in IDPs returning in the second year of the ceasefire agreement." [16]

6.209 According to a document of the Norwegian Refugee Council/ Global IDP Database entitled "Profile of Internal Displacement: Sri Lanka", dated 7 April 2004:

"Donor support has focused mainly on restoring infrastructure in areas of return. Main sectors of assistance have been roads, transport, irrigation systems, schools and health services. However, the suspension of peace talks and the subsequent dissolution of parliament have further hampered the reintegration of internally displaced, especially as it has delayed reconstruction in the war-affected zones. The Sri Lankan government and aid agencies have been slow to provide sufficient assistance to returnees and one international NGO claims that international aid is decreasing.... Those returning from Vanni prior to the date of the ceasefire are reportedly denied any resettlement assistance.... The Unified Assistance Scheme (UAS) provides a start-up grant for returnees to purchase basic tools, inputs and find temporary shelter to regain a productive livelihood. They are also given a permanent housing allowance.... Although more people benefited from government assistance through the UAS package during 2003, the lack of funding and administrative delays have left thousands of returning or resettled families unassisted to date.... Donors have indicated that further aid to Sri Lanka will depend upon the progress of the peace process although humanitarian aid will continue." [54] (p12)

6.210 On 20 April 2004 Daily News reported that:

"President Chandrika Bandaranaike Kumaratunga was yesterday briefed by heads of the UNHCR, ICRC, UNICEF, the UN Resident Co-ordinator in Sri Lanka and a representative from Save the Children on their current programmes particularly in the fields of Rehabilitation and Resettlement of Internally Displaced Persons (IDPs)....As an interim measure the President directed that a sum of 10 million rupees be made available immediately to the NE Governor for assistance to IDPs." [16v]

6.211 On 29 April 2004 the government Secretariat for Co-ordinating the Peace Process (SCOPP) reported in its website a press release from UNHCR which noted:

"It is critical that the remaining internally displaced, who still number some 370,000 individuals, are able to achieve a long-term solution to their displacement, whether that solution means returning home, relocating elsewhere or integrating into the community in which they are displaced," Mr McNamara [UNHCR Inspector General] said. "Among other things, this requires a renewed focus on removing obstacles to these solutions - by, for instance, addressing the high level of destruction of housing, returning land and property to its rightful owners, accelerating clearance of landmines and unexploded ordnance, and identifying a pragmatic solution for those whose homes are in High Security Zones. It also requires greater investment to ensure that conditions in return areas are conducive to a safe and dignified return - that families are able to earn a living, send their children to school, access health facilities and live in safety." UNHCR stressed the importance of attention being given to the return of minority groups, such as displaced Muslims. "The treatment of minorities in such situations is often a litmus test of the real spirit of peace, reconciliation and stable society," he said." [41c]

6.212 As stated in a press release of the Delegation of the European Commission to Sri Lanka issued on 15 June 2004:

"The European Commission and the Government of Sri Lanka (Ministry of Finance and Ministry of Relief, Rehabilitation and Reconciliation) agreed to set aside Rs.835 million (€ 7.3 million) in support of Internally Displaced People (IDP) families returning to their places of origin as was initially pledged at the Tokyo Conference held in June 2003.... This new contribution granted by the European Commission will benefit at least 32,000 families who will receive Rs25,000 cash grants (€ 220) helping them to restart income generating activities. This initiative will co-finance the World Bank's North and East Emergency Reconstruction Programme (NEERP) component in support of the Unified Assistance Scheme (UAS)." [57]

6.213 A press release of the Australian High Commission in Sri Lanka announced on 17 June 2004 that: "The Australian Government is providing an additional A\$10 million to support peace-building and rehabilitation efforts in Sri Lanka. The new humanitarian funding is intended to assist displaced people to re-integrate into Sri Lankan communities and is being channelled through international organisations, including the United Nations. [56]

6.214 As announced in a press release of the World Bank on 22 June 2004:

"The Government of Sri Lanka's efforts to rehabilitate and bring normalcy to conflict affected communities of North East Sri Lanka will be strengthened by

a US\$64.7 million credit approved by the World Bank today....Many communities that have undergone much hardship during the years of conflict will benefit from the "Village Rehabilitation and Development," (US\$53 million) component of the project. This major component will support reviving farming and strengthening community-based organizations, while rehabilitating essential social and economic infrastructure and facilities. Vulnerable people, such as, internally displaced people, land mine victims, people with war-induced deficient abilities, widows, women-headed households will also benefit from livelihood support activities and special development activities to be implemented under this component." [55]

6.215 UNHCR in their Background Paper on Refugees and Asylum Seekers from Sri Lanka dated April 2004 (but published in June 2004) stated that:

"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. 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. 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)." [6] (p57)

6.216 As reported on the UNHCR website (quoting AFP) on 20 June 2004:

"The United Nations, which marks Sunday as "World Refugee Day", believes it is still unsafe for Sri Lankan refugees living in India to return...."We are ready to take 3,000 refugees who want to go back," Sri Lanka's deputy High Commissioner to India, Sumith Nakandala, told AFP. The applicants are being carefully screened by staff working overtime to make sure their return is voluntary and they know what to expect.... But the UN High Commissioner for Refugees (UNHCR) insists it is not yet safe for the tens of thousands who fled the fighting in Sri Lanka and sought shelter in neighbouring India to return home."We do not have any organised repatriation except for a few exceptional cases," UNHCR spokeswoman in Colombo, Maeve Murphy, told AFP. "We do not think conditions are conducive for them to return."

"Yet there are those who come on their own, and we give them some assistance." Out of the 9,793 refugees who have returned from India since the ceasefire between Sri Lankan troops and Tamil Tiger rebels began in February 2002, the UNHCR has assisted 1,810 – all needing urgent help for special humanitarian reasons. Many others have risked hazardous rides in rickety boats across the narrow Palk Straits dividing the two countries to reach Sri Lankan shores, journeys for which they were charged so much they had to sell almost all their belongings. UNHCR figures show that 360,000 people who were made refugees inside Sri Lanka as a result of decades of fighting have returned home since the truce. A further 400,000, however, are still listed as internally displaced." [6n]

6.217 On 3 July 2004 the pro-LTTE website TamilNet reported that the Sri Lanka Navy (SLN) had arrested 29 Sri Lankan Tamil refugees and four boatmen in the Talaimannar Sea when they were returning from Rameswaram in South India. Refugees and boatmen were later handed over to the Talaimannar Police. "Acting Magistrate Mr. M.P. Farook remanded the four boatmen who are natives of Pesalai in Mannar district till 16 July for allegedly transporting Sri Lankan Tamil refugees without permission, legal sources said. The acting Magistrate further ordered civil officials that all the 29 refugees to be sent to their native villages in the districts of Vavuniya, Kilinochchi, Mannar and Batticaloa, the sources said." [38q]

6.218 On 2 August 2004 the pro-LTTE website TamilNet reported that the Vanni district Tamil National Alliance (TNA) parliamentarian had appealed to the UNHCR Sri Lanka's Representative to take steps to organise boat service between India and Talaimannar to transport Sri Lankan Tamil refugees who are willing to return to their villages. "Currently thousands of Sri Lankan Tamil refugees are in refugee camps in Tamilnadu in South India. Mr. Adaikalanathan made this appeal in a letter sent to the UNHCR following complaints that Tamil refugees from Tamilnadu frequently return to Mannar by sea illegally, risking their lives. Indian boatmen charge 1000 to 7500 Indian rupees from a refugee to cross the 18 k.m. stretch of sea between Thanuskody and Talaimannar." [38r]

6.219 As reported by the pro-LTTE website TamilNet on 8 August 2004:

"Nine refugees who were abandoned by two Indian boatmen on a sandbank in the middle of the sea in the Gulf of Mannar were rescued by a fisherman from Talaimannar Saturday. Mannar magistrate released them when they were produced before him by Talaimannar Police Sunday. The refugees said the boatmen had forced them to get off on a small shifting sandbank at midsea around midnight on Thursday. The influx of Sri Lankan Tamil refugees from state run camps in South India who risk illegal and dangerous sea journeys to reach Mannar has increased dramatically recently. The refugees said that they had paid a very high fee to the Indian boatmen for the journey across the sea from the South Indian coast to Mannar.... Despite the influx of refugees and the human risk involved no measures have been taken by the governments of Sri Lanka and India to facilitate their safe return, officials in Mannar lament." [38m]

6.220 According to a news report in Asian Tribune of 12 August 2004:

"Arrangements are made by the Deputy High Commissioner in Chennai to

grant birth certificates, citizenship certificates and traveled [sic] documents for the willing Sri Lankan refugees in Tamil Nadu to go back to Sri Lanka without any let or hindrance....He said that UNHCR has a travel arrangement and the Sri Lankans who wishes to go back should seek this opportunity, instead of paying RS. 3,000/ to Rs. 4,000/ per family member and choose the dangerous course to return back, also illegally, by fishing boats." The Deputy High Commissioner was reported as saying "The Mission has been able to issue around 3000 temporary travel documents for the refugees to go back to Sri Lanka. In 2003, the numbers have gone up to around 4000. With the active support and assistance from the Chief Minister of Tamil Nadu Government, the Deputy High Commissioner was granted permission to visit the Refugee Camps and issued travel documents to those who are willing to return to Sri Lanka.... The UNHCR is providing travel grant assistant programme for vulnerable groups among the refugee families. They too, are given temporary travel documents free of charge and also the registration of births under the two Acts [Consular Functions Act number 4 of 1981 and under Section 5(2) of the Citizenship Act number 18 of 1948]." [50b]

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People Trafficking and Smuggling

6.221 As stated in the USSD 2003:

"The law prohibits trafficking in persons; however, the country was a point of origin and destination for trafficked persons, primarily women and children trafficked for the purposes of forced labor and sexual exploitation. Female citizens traveled to Middle Eastern countries to work as domestics, and some reported being forced into sexual exploitation. A small number of Thai, Russian, and Chinese women had been trafficked to Sri Lanka for purposes of sexual exploitation. Some children were trafficked internally to work as domestics and for sexual exploitation. The legal penalties for trafficking in women include imprisonment for 2 to 20 years and a fine. For trafficking in children, the law allows imprisonment of 5 to 20 years and a fine." [2b] (p20)

6.222 As outlined in the USSD 2003:

"Internal trafficking in male children was also a problem, especially from areas bordering the northern and eastern provinces. Protecting Environment and Children Everywhere (PEACE), a domestic NGO, estimated that there were 6,000 male children between the ages of 8 and 15 years engaged as sex workers at beach and mountain resorts. Some of these children were forced into prostitution by their parents or by organized crime.... PEACE also reported that an additional 7,000 men age 15 to 18 years were self-employed prostitutes. The NCPA has adopted, with ILO assistance, a comprehensive national plan to combat the trafficking of children for exploitative employment. With the NCPA, police began work in 2002 on children's issues, including trafficking in children. The country's reputation as a destination for foreign pedophiles declined significantly because of improved law enforcement and increased publicity. The Government established rehabilitation camps for trafficking victims and initiated awareness campaigns to educate women

about trafficking; however, most of the campaigns, with support from the Bureau of Foreign Employment, were conducted by local and international NGOs." [2b] (p20) (See also Section 6.B on Children)

6.223 The U.S. Department of State Trafficking in Persons Report released on 14 June 2004 notes:

"The Government of Sri Lanka does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The LTTE controls territory in the North and East, and in these areas the government is unable to investigate or prosecute traffickers.... Sri Lanka's law enforcement efforts against trafficking improved with the introduction of a computerized immigration system that expands the number of officials that can input names of suspected traffickers or sex tourists who are subjects of an investigation and prevent them from leaving the country. The National Child Protection Authority (NCPA) instituted a CyberWatch Project to monitor suspicious chat rooms. Sting operations were conducted based on information gathered in these chat rooms, leading to several trafficking arrests. The Penal Code specifically criminalizes trafficking in persons. There were 190 investigations by the police into trafficking cases, which resulted in 33 prosecutions and six convictions. For those convicted, the sentence was one year of rigorous imprisonment and a fine of Rs 100,000 (about \$1,000). Authorities conducted four investigations into alleged child trafficking; two cases were prosecuted and convicted, resulting in the deportation of the foreign individuals involved. Evidence collected by Sri Lankan authorities has assisted the United Kingdom in prosecuting a man for actions related to child sex trafficking. The government has extradition agreements with other Commonwealth countries. [2c] (p8)

6.224 A BBC News item dated 8 January 2002 reported that:

"A group of 72 Sri Lankan men were detained as illegal immigrants by Italian police after being found on a beach in Calabria in southern Italy. And two more groups totalling about 200 people have landed near Catania in Sicily since last weekend.... Last year [2001], several thousand illegal immigrants from Sri Lanka arrived in southern Italy in small boats after the long sea voyage from their homeland... The gruelling 2,500-mile sea journey is made in small boats through the Indian Ocean, the Red Sea and the Suez Canal. Those who have relatives in northern Europe will try to make their way there after being processed by Italian immigration authorities." [94]

The BBC reported on 11 January 2002 that "The Sri Lankan navy has detained more than 100 people after it boarded two fishing trawlers bound for Italy. Two navy gun boats intercepted the boats packed with would-be emigrants off the coast of the western town of Negombo near the island's international airport... Correspondents say young men pay thousands of dollars to travel to Europe as well as to Japan and Australia crammed into small boats. They are frequently detected mid-journey or turned back after reaching their destinations." [94]

6.225 A report in the Daily News of 20 July 2002 stated that:

"A senior police official has warned that Sri Lanka may soon become the main centre of human smuggling to Europe unless stern action is urgently taken to curb this racket. Senior SP (CID) D. S. Y. Samaratunge said many illegal

emigrants who had set out to Europe from the Negombo and Southern Coasts had met with accidents in the deep seas and saved their lives by the skin of their teeth while some others have even died on the way. The vessels used by these illegal emigrants are mostly multi day fishing boats which are either unseaworthy or risky for such long voyages. Several millionaire businessmen engaged in this racket had fallen into the Police net in recent times. SSP Samaratunge said the lack of a Coast Guard as in other countries is a constraint Sri Lanka is faced with in effectively checking vessels carrying illegal emigrants. It is the Navy already saddled with many responsibilities which has to undertake this task too. The laxity of monitoring vessels has enabled smugglers boats to escape the security net and venture into deep sea. SSP Samaratunga said 740 illegal emigrants have been detected and deported to Sri Lanka in recent times of them 338 were deported by Italy. Other deportations were by Australia 63, Germany 34, Malaysia 41, Singapore 30, Thailand 24, Middle East 32 and the UK 25. Most of these people had gone abroad after paying nearly Rs. 300,000 to Rs. 600,000 to the brokers assisting this racket. The racketeers involved had deceived them to part with their money saying that well paid jobs will be readily available once they step on foreign soil. But this is not so. A majority of illegal emigrants have got caught to law enforcement authorities and are languishing in foreign jails awaiting deportation." [160]

6.226 According to a BBC News report of 24 July 2003:

"In the last month alone Sri Lankan police have arrested nearly 700 South Asians in part of a crack down on human smuggling. They [the police] say the tropical island has become the major transit point for catching illegal boats to Europe especially since visa restrictions for people from neighbouring countries have been eased. "These people were coming to try for Italy and Greece," says Inspector Thuraiaratnam Jayaratnam of the Mount Lavinia police intelligence unit who organised the raid. "They think there's less security here, so they are using Sri Lanka as a transit point," he says adding that this started in earnest about a year ago. One man, who did not want to give his name, admitted in front of the police that he had paid \$4,000 to an agent to take a boat to Greece where his brother works.... "All people gave four or five thousand dollars," he says causing shrieks of outrage from other detainees who deny they were involved.... "Actually we have to make use of these victims to track down the big shots who make the money by forging passports and bringing these people here," explains Inspector Jayaratnam. "We have to put a full stop to this," he says, though many policemen express sympathy for the detainees saying they are just poor people who want a better life in Europe. They should know - many Sri Lankans have also made the dangerous journey by fishing trawler across the high seas to Egypt, Greece or Eastern Europe." [9ch]

6.227 The Daily News reported on 27 July 2003 that "[Meanwhile], police have foiled attempts by over 1200 persons including Indians, Pakistanis, Bangladeshis and Sri Lankans to sail to Western countries from the Sri Lankan shores from January to July this year [2003]. Last month alone, 546 persons, mostly foreigners were arrested by the police while attempting to sail to Italy, Greece, and other Western countries illegally, CID Superintendent of Police D.S.Y. Samaratunga said." [161]

6.228 According to a report by Belgian newspaper De Standaard website on 10 December 2003 entitled "Wanted: Someone like Elliot Ness against human trafficking - centre for equal opportunities urges more investigations into human smuggling networks" (as translated by BBC Monitoring Service): "The report [the 2002 annual report of the Centre for Equal Opportunities and Against Racism] writes: "Three illegal persons of Sri Lankan origin were smuggled from Moscow to Belgium. The victims had been trapped by an agency in Sri Lanka, which provided them with false passports and handled the complete journey for a fee of 450.000 Belgian francs [approximately 12,500 dollars] per person." [9dg]

6.229 As reported by BBC News on 26 December 2003: "The Sri Lankan navy arrested 260 men on Thursday who it says were trying to leave the island illegally. They said the men, all Sri Lankan nationals, were on a fishing trawler bound for Italy. The trawler was stopped off the island's northwestern coast after being detected by naval gunboats. The authorities believe Sri Lanka is often used as a transit point for the smuggling of illegal immigrants from the subcontinent to Europe." [9ba]

6.230 The Sunday Observer reported on 29 February 2004 that:
"Officials of the Criminal Investigation Department (CID) are awaiting further instructions from Egyptian authorities about the fate of 54 Sri Lankans who were nabbed by Egyptian Port Authorities in the territorial waters of Egypt a fortnight ago. The Lankans had made an attempt to travel to Italy without visas or any other valid documents, police said... SSP Samaratunga said human smugglers have now adopted a different strategy to smuggle people to Europe after several Sri Lankan, Indian, Pakistani, and Bangladeshi nationals were arrested last year [2003], attempting to travel to Europe without visas or passports. Since last August [2003], not a single foreigner had been caught in Sri Lanka attempting to leave for Europe. The facilitators have now adopted a different strategy by taking groups to India legally and from there to Europe by boat. "However, it is not clear from which point they sail to Europe. We have alerted the Interpol about this trend in human smuggling," he said. Last year [2003] police arrested 226 Sri Lankans, 398 Pakistanis, 318 Indians, 35 Bangladeshis, five Georgians and a Russian and a Ukrainian attempting to leave to Europe without visas or any other valid documents." [16f]

6.231 BBC News reported on 28 April 2004 that people smugglers in the port town of Bossaso in north-east Somalia had recently started taking migrants to Italy. "There are more than 470 Sri Lankans in Bossaso. Some of whom have been holed up in this town for as long as one and a half years. Some of those I spoke to said they had never heard of this town until they were brought over by the smugglers from Sri Lanka by plane through the United Arab Emirates. The Sri Lankans are on their way to Italy and remain confident that the smugglers will keep their word.... Each of them has paid \$5,000 for the trip." [9df]

6.232 On 14 June 2004 Daily News reported that a group of 38 Sri Lankans had been arrested by Weligama Police when they tried to migrate illegally in a fishing trawler bound for Italy. "Initial investigations revealed that the would-be immigrants had paid nearly Rs. 300,000 to a businessman who had arranged their "trip".... Weligama Police are investigating to ascertain whether any foreign links were involved in the human smuggling.... Meanwhile, 2003 went into record books as the

year when the highest number of illegal immigrants were taken into custody. Nearly 700 people were arrested last year." [16a]

(See also Section 6.C on Internally Displaced Persons (IDPs))

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ANNEX A: CHRONOLOGY OF EVENTS

1948

Ceylon gains independence from the United Kingdom.

1956

Sri Lanka Freedom Party wins the general election; Solomon Bandaranaike becomes Prime Minister.

1959

Sirimavo Bandaranaike succeeds her husband as SLFP leader and Prime Minister.

1971

A JVP uprising is suppressed.

1972

The country becomes known as Sri Lanka.

1976

Formation of the Tamil United Liberation Front, calling for a separate Tamil State.

1977

General election is held, won by the UNP. Junius Jayawardene becomes Prime Minister. Civil unrest between Sinhalese and Tamils.

1978

New Constitution of the Democratic Socialist Republic of Sri Lanka comes into force. Jayawardene becomes the country's first executive President. The Tamil language is recognised in the Constitution.

1979-83

Continuing ethnic violence and the imposition of a State of Emergency.

1982

October: Jayawardene re-elected as President

1983-4

State of Emergency declared and mounting Tamil terrorist activity.

1986

Further violence in the north of Sri Lanka and bomb attacks in Colombo.

1987

April: Terrorist attacks against the civil population.

29 July: Indo-Sri Lankan peace accord signed. Indian Peace Keeping Force (IPKF) arrives.

October: IPKF attack the LTTE and regain control of Jaffna. Re-emergence of the JVP which launched an anti accord campaign.

1988

Presidential elections won by the UNP candidate, Ranasinghe Premadasa.

1989

State of Emergency, in force since May 1983, repealed. The UNP win the February general elections. IPKF begins its withdrawal from Sri Lanka. State of Emergency re-imposed in June in response to renewed JVP violence.

1989-90

JVP effectively destroyed as a political force by Sri Lankan security forces.

1990

March: the last troops of the IPKF leave Sri Lanka. LTTE hostilities renewed and Government offensive launched against Tamil strongholds in the Jaffna peninsula.

1991

Further violence and bomb attacks. Assassination of the senior cabinet minister, Wijeratne.
LTTE proscribed in India following the assassination of Rajiv Gandhi, the former Indian Prime Minister.

1993

Assassination of the DUNF leader Athulathmudali, and of President Premadasa.

1994

16 August: General election and defeat of UNP Government. Mrs Chandrika Bandaranaike Kumaratunga appointed Prime Minister, leading the People's Alliance (PA).

9 November: Presidential election. Mrs Kumaratunga is elected, and her mother, Sirimavo Bandaranaike, is appointed Prime Minister.

1995

Peace talks held with the LTTE, but they soon break down. Major offensives launched in the Jaffna peninsula and the town of Jaffna is recaptured by the Government.

1996

Escalation in LTTE violence. 100 killed and 1,400 injured in a bomb attack on the Central Bank in Colombo. State of Emergency extended to the whole country.

1997

July: The State of Emergency in the south of the country is lifted.

1998

26 January: The Government bans the LTTE after a bomb attack on the Temple of the Tooth in Kandy.

4 August: State of Emergency imposed on the whole country, and the provincial elections are postponed.

December: End of Operation Jayasikuru and launch of Operation Rivi Bala.

1999

January: The Supreme Court rules that the President's postponement of the provincial elections in August 1998 was unconstitutional.

March: Operation Rana Gosa launched.

November: Heavy fighting between LTTE and Government forces. Hundreds killed and LTTE recaptures territory previously lost.

December: President Kumaratunga survives an assassination attempt and is re-elected President three days later.

2000

January-August: Efforts at brokering peace with the LTTE are discussed by the two main political parties.

April-May: LTTE capture the strategic Elephant Pass and close in on Jaffna.

May: Due to the precarious military situation, the authorities put the country on a war footing and assume sweeping new powers under the Public Security Act.

May-September: The Sri Lankan Army prevent the LTTE from capturing the whole of the Jaffna peninsula and go on the offensive.

10 October: General Election held. The PA retains power but falls short of a majority. The PA forms a coalition Government after support from the EPDP and NUA. Sirimavo Bandaranaike dies on polling day, shortly after casting her vote. Ratnasiri Wickremanayake is sworn in as Prime Minister for a second term, having replaced Mrs Bandaranaike in August 2000.

24 December: The LTTE announces a unilateral month-long cease-fire.

2001

28 February: The LTTE are among 21 militant groups proscribed in the United Kingdom.

23 April: The LTTE announce the end of their four-month cease-fire, blaming the Government for the failure of peace efforts.

July: The Emergency Regulations (ERs) are lapsed.

24 July: The LTTE attack Katunayake Air Force Base and the adjacent Bandaranaike International Airport. 14 LTTE cadres and 7 military personnel are killed, and military aircraft and passenger planes destroyed.

July-September: President Kumaratunga suspends Parliament after the PA coalition loses its majority.

5 December: General Election held. The UNP obtains 109 seats, thereby defeating the ruling PA who come second with 77 seats. As leader of the UNP, Ranil Wickremasinghe becomes Prime Minister with Chandrika Kumaratunga continuing as President. Mahinda Rajapakse later succeeds Ratnasiri Wickremanayake as leader of the PA.

24 December: The Sri Lankan Government announces a month-long cease-fire, reciprocating an earlier unilateral declaration by the LTTE.

December: Most barriers, barricades and checkpoints removed in Colombo.

2002

January: Restrictions eased on movement in and out of Vavuniya.

20 January: The LTTE announces an extension of the cease-fire until 24 February 2002. The Government reciprocates the following day.

13 February: The Government lifts all restrictions on the movement of medicines and medical equipment to the north, although stocks would be monitored at checkpoints for security reasons.

22 February: An announcement is made that the Sri Lankan Government and LTTE had signed a cease-fire agreement.

March: The UNP win an unprecedented landslide victory in local polls, taking 217 councils out of the 222 that held elections.

2 April: Nordic observers begin monitoring the cease-fire.

April: The LTTE opens a political office in a government-held area in the north.

April: The strategic A9 highway is opened for the first time in 12 years, linking the Jaffna peninsula with the rest of the country.

10 April: LTTE leader Velupillai Prabhakaran gives his first press conference for 12 years.

June: Violence between Muslims and Tamils near Trincomalee leads to six deaths before peace is restored.

July: Another vital road opens, the A5 connecting Kandy with Batticaloa, which had been closed since 1995.

4 September: The Government lifts the ban on the LTTE, which had stood since 1998.

16-18 September: The first formal peace talks for 7 years between the Sri Lankan Government and the LTTE take place in Thailand. Whilst agreeing to continue the existing cease-fire agreement, the two sides talked about landmine clearance, the return of refugees to government-designated high-security zones, and agreed to form a joint task force for urgent humanitarian and reconstruction activities in the north and east.

3 November: The second round of peace talks end with the announcement that joint committees were to 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.

November: Velupillai Prabhakaran states that the LTTE were ready to drop their long-standing demand for independence, and would settle for provincial autonomy and self-rule in Tamil-dominated areas in the east and north.

However he warned that the Tamils would resume their struggle for a separate State if a political solution could not be reached in the ongoing peace process.

December: At the end of the third round of peace talks it is announced that the two sides had agreed to share power in a federal system. They had agreed on "internal self-determination based on a federal model within a united Sri Lanka". Under the deal, which would have to be approved by Parliament, Tamils would have autonomy in the north and east of the country.

2003

March: The sixth round of peace talks are overshadowed by the sinking of an LTTE vessel in which 11 Tamil Tigers were killed.

April: Clashes between Tamil and Muslim communities in the north east leave five people dead.

21 April: The LTTE suspend participation in the peace talks expressing serious grievances about their "marginalisation" from negotiations and the perceived unequal dividends of peace.

23 April: The LTTE confirm that they have no intention of breaking the cease-fire, but want the Government to implement decisions agreed at earlier meetings.

June: An international donors conference (boycotted by the LTTE) pledges a total of \$4.5 billion in aid towards rebuilding Sri Lanka. Most of the money is conditional on progress in the peace process.

July: Two police inspectors and three local residents are sentenced to death for their involvement in the Bandarawela Bindunuwewa killings of October 2000. However, the condemned men have a right to appeal.

July: Unidentified gunmen kill a Tamil politician and member of PLOTE, the fourth such killing in the previous two weeks.

November: The LTTE released their proposals for an Interim Self-Governing Authority (ISGA).

4 November: President Kumaratunga suspends Parliament and dismissed the ministers of defence, interior and mass communications and assumed those portfolios herself because of what the President termed a "deterioration of the security situation" during the course of the peace process. Parliament reconvened on 19 November 2003.

2004

January: President Kumaratunga told the nation that a secret swearing-in ceremony had extended her term by a year, until 2006.

January: The PA form an alliance with the JVP.

February: President Kumaratunga dissolves Parliament paving the way for snap elections. The ballot was to be held on 2 April 2004, four years ahead of schedule.

March: One of the LTTE leaders Colonel Karuna splits to form his own breakaway group.

2 April: Early general elections held. Party of President Kumaratunga (UPFA) wins 105 of 225 parliamentary seats, falling short of overall majority. M. Rajapakse sworn in as a prime ministers a few days later.

April: President Kumaratunga invites Norway to resume its role as a negotiator between the government and the LTTE.

10 May: SLMM press release about the recent killings in the east as a threat to the ceasefire.

7 July: suicide bomb blast in Colombo, the first such incident since 2001

10 July: Party of President Kumaratunga (UPFA) wins local elections.

26 July: Norwegian deputy foreign minister V. Helgesen states he had failed to achieve a breakthrough in the stalled peace talks.

16 August: EPDP media secretary K.I. Balanadarajah is killed in Colombo.

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ANNEX B: POLITICAL ORGANISATIONS

All Ceylon Tamil Congress (ACTC)

Founded in 1944 and aims to secure Tamil self-determination. Won one seat in the general election of October 2000.

Bahajuna Nidahas Peramuna

Formed in 1990 and is a splinter group of the Sri Lanka Mahajana Party.

Ceylon Workers' Congress (CWC)

The CWC is both a trade union (with its main strength being among Tamil workers of Indian origin on tea plantations), and a political party seen as representing the community of Indian descent. It has held the rural development portfolio in the Government since 1978 through changes of administration. [8] (p437) As noted in the final report of the European Union's Election Observation Mission (EU EOM) to Sri Lanka's Parliamentary Elections [of 2 April 2004] "Its strongholds are the estate tea plantations in the central regions. The improvement of the estate Tamil workers' conditions represents the key issue of its manifesto." [40] (p10)

Communist Party of Sri Lanka (CPSL)

Founded in 1943 and advocates the establishment of a socialist society. It supports the national unity of Sri Lanka.

Democratic People's Liberation Front (DPLF)

Has operated as a national political party since 1988 and is the political wing of the People's Liberation Organisation of Tamil Eelam (PLOTE). [8] (p437)

Democratic United National Front (DUNF)

Formed in 1992 by a dissident group of UNP politicians. Supports the People's Alliance coalition. [8] (p438)

Democratic United National Lalith Front (DUNLF)

Split from the DUNF in 1994.

Democratic Workers' Congress (DWC)

Formed in 1939 as a trade union and in 1978 as a political party. Aims to eliminate discrimination against the Tamil-speaking Sri Lankans of recent Indian origin.

Deshapriya Janatha Viyaparaya (DJV)

(Patriotic People's Movement) Militant Sinhalese group associated with the JVP. Now defunct.

Desha Vimukthi Janatha Party (DVJP)

(National Liberation People's Party) Has operated as a national political party since 1988. A constituent part of the People's Alliance.

Eelam National Democratic Liberation Front (ENDLF)

A Tamil group which was operating during the IPKF period, and thereafter became defunct.

Eelam People's Democratic Party (EPDP) <http://www.epdpnews.com/>

A Tamil group formed in 1986. Supports the People's Alliance and won 9 of the 10 Parliamentary seats in Jaffna in the 1994 general election. Won 4 seats in the general election of October 2000, and agreed to help the PA form a coalition Government, along with the NUA. Representation dropped to 2 MPs at the 2001 general election. The party gained 1 seat at the 2 April 2004 elections for the National Assembly. [59] As noted in the final report of the European Union's Election Observation Mission (EU EOM) to Sri Lanka's Parliamentary Elections [of 2 April 2004] The Eelam People's Democratic Party (EPDP - Veena) is also a Tamil based party and has fought since 1990 against the LTTE. Their stronghold is Jaffna." [40] (p10)

Eelam People's Revolutionary Liberation Front (EPRLF)

Founded in 1981, this is a left of centre Tamil rights group. The EPRLF now functions as two groups - the Perumal faction and the Suresh faction.

Eelavar Democratic Front (EDF) previously known as the **Eelam Revolutionary Organisation of Students (EROS)**

A Tamil separatist group formed in 1975. Contested the 1989 and 1994 general elections. The EDF is also described as the political wing of EROS.

Eksath Lanka Jathika Peramuna (ELJP)

Founded by former members of the UNP in 1985. Now defunct.

Illankai Tamil Arasu Kachchi (ITAK) See TNA

Jathika Hela Urumaya (JHU) Buddhist party. It obtained 9 seats at the 2 April 2004 elections for the National Assembly. [59] As noted in the EU EOM June 2004 report: "Jathika Hela Urumaya (JHU - Conch shell) is a Buddhist Monks' party, whose aim is the protection of the Buddhist Sinhalese identity and values and the national unity. The party candidates were all monks. The issue of monks getting involved into politics has divided that community." [40] (p10)

Janatha Vimukthi Peramuna (JVP) <http://www.jvpsrilanka.com/>

(People's Liberation Front) Formed in 1964 and banned following a coup attempt in 1971. Regained legal status in 1977, but banned again in August 1983. Regained legal status in May 1988. A Marxist, Sinhalese group which was effectively eradicated as a result of military action in 1989-90, the JVP won the third highest number of seats (16) at the December 2001 general election. In January 2004, the JVP entered into an alliance with President Kumaratunga's People's Alliance (PA). It took part in the 2 April 2004 elections for the National Assembly as a member of United People's Freedom Alliance (UPFA) lead by President Kumaratunga. [59] As noted in the final report of the European Union's Election Observation Mission (EU EOM) to Sri Lanka's Parliamentary Elections [of 2 April 2004] "The People's Liberation Front (JVP - Bell) is a marxist-oriented party that grew out of disaffected educated Sinhalese youth....The party enjoys increasing support among students and in poor rural areas

of the country." [40] (p10)

Lanka Sama Samaja Party (LSSP)

(Lanka Equal Society Party) The LSSP originated in the 1930s and has been a rare example worldwide of a Trotskyist party with a significant political influence, participating in left-wing Governments from 1964. Supports the People's Alliance coalition. [8]

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

LTTE front organisations include:

World Tamil Association (WTA)

World Tamil Movement (WTM)

Federation of Associations of Canadian Tamils (FACT)

The Ellalan Force

According to the research institute ICT:

"Founded in 1976, the LTTE is the most powerful Tamil group in Sri Lanka and uses overt and illegal methods to raise funds, acquire weapons, and publicize its cause of establishing an independent Tamil state. The LTTE began its armed conflict with the Sri Lankan Government in 1983 and relies on a guerrilla strategy that includes the use of terrorist tactics. The group's elite Black Tiger squad conducts suicide bombings against important targets, and all rank-and-file members carry a cyanide capsule to kill themselves rather than allow themselves to be caught. The LTTE is very insular and highly organized with its own intelligence service, naval element (the Sea Tigers), and women's political and military wings. The Tigers control most of the northern and eastern coastal areas of Sri Lanka but have conducted operations throughout the island. Headquartered in the Wanni region, LTTE leader Velupillai Prabhakaran has established an extensive network of checkpoints and informants to keep track of any outsiders who enter the group's area of control.... Approximately 10,000 armed combatants in Sri Lanka; about 3,000 to 6,000 form a trained cadre of fighters. The LTTE also has a significant overseas support structure for fundraising, weapons procurement, and propaganda activities." [61]

As highlighted in the South Asia Terrorism Portal (SATP):

"Under the Prevention of Terrorism Act, 2002 (POTA) in India, the LTTE is a proscribed organisation. On October 4, 2003, the United States re-designated the LTTE as a Foreign Terrorist Organisation (FTO) pursuant to Section 219 of the US Immigration and Nationality Act. The LTTE has been proscribed, designated or banned as a terrorist group by a number of governments - India, Malaysia, USA, Canada, UK, Australia - countries where the LTTE has significant terrorist infrastructure for disseminating propaganda, raising funds, procuring and shipping supplies to support their terrorist campaign in Sri Lanka.... The LTTE leadership is organized along a two-tier structure: a military wing and a subordinate political wing. Overseeing both is a central governing committee, headed by the LTTE chief, Velupillai Prabhakaran.... This body has the responsibility for directing and controlling

several specific subdivisions, including, an amphibious group (the Sea Tigers headed by Soosai), an airborne group, (known as the Air Tigers), an elite fighting wing (known as the Charles Anthony Regiment, named after Anthony, a close associate of Prabhakaran and is headed by Balraj), a suicide commando unit (the Black Tigers headed by Pottu Amman), a highly secretive intelligence group and a political office headed by Thamilselvam and Anton Balasingham, widely regarded to be the political advisor and ideologue of the LTTE. The central governing committee also has an International Secretariat, which is in charge of the outfit's global network...The LTTE has also set up a parallel civil administration within its territory by establishing structures such as a police force, law courts, postal services, banks, administrative offices, television and radio broadcasting station, etc." [37]

Mahajana Eksath Peramuna (MEP)

(People's United Front) Founded in 1956. A left-wing party with Buddhist and Sinhalese support.

Muslim United Liberation Front (MULF)

Operated as a national political party since 1988 and was set up to secure Muslim and Tamil rights under the Indo-Sri Lankan Peace Accord of July 1987.

National Unity Alliance (NUA)

A mainly Muslim party that won four seats at the October 2000 general election. Agreed to help the PA form a coalition Government along with the EPDP.

Nava Sama Samaja Party (NSSP)

(New Equal Society Party) A Trotskyist party founded in 1977.

People's Alliance (PA)

Formed in 1993 as a left wing alliance which includes the LSSP, the SLFP (President Kumaratunga's party) and the SLMP. [8] (p438) This was the ruling party in Sri Lanka from August 1994 until December 2001. (See also UPFA)

People's Front of the Liberation Tigers (PFLT)

Founded in 1989. Political wing of the LTTE.

People's Liberation Organisation of Tamil Eelam (PLOTE)

Formed in 1980 as a breakaway group from the LTTE. A Tamil militant party which advocated a separate socialist Tamil State, but supported the UNP and PA Government's military operations against the LTTE. Its political wing is the Democratic People's Liberation Front (see above).

Podujana Eksath Peramuna (PEP)

This is the Sinhalese term for the PA, and both represent one and the same party.

Singhalaye Maha Sammatha Bhumi Putra Paksaye

(Sinhalese Sons of the Soil Party) Formed by a former naval rating who attempted to assassinate the former Indian Prime Minister, Rajiv Gandhi, during a navy honour guard in Colombo in 1987.

Singhalaye Nithahas Peramuna

(Sinhalese Freedom Front) A nationalist, Buddhist party formed in 1994.

Sri Lanka Freedom Party (SLFP)

Founded in 1951, the SLFP campaigned for the attainment of republican status for Sri Lanka prior to adoption of the 1972 constitution. With a democratic socialist orientation, the party advocated a non-aligned foreign policy, industrial development in both the State and private sectors, and safeguards for national minorities. One family has led the party throughout its history. S.W.R.D. Bandaranaike (originally a leading figure in the United National Party) was the party's founder and first Prime Minister from 1956 until his assassination in September 1959. His widow, Sirimavo Bandaranaike, in 1960 became the world's first woman Prime Minister, holding this post until 1965 and again from 1970-1977. Following the party's return to power after 17 years in the August 1994 elections, she was again Prime Minister (the post by now being largely ceremonial) from November 1994 until her death in October 2000. Chandrika Bandaranaike Kumaratunga, the daughter of S.W.R.D. and Sirimavo, was Prime Minister from August - November 1994, becoming the elected President in November 1994, and is the leader of the SLFP. The SLFP returned to power in August 1994, heading the People's Alliance (PA) coalition. The PA secured another victory in general elections in October 2000, [8] (p438) but lost power in the December 2001 general elections. As noted in the final report of the European Union's Election Observation Mission (EU EOM) to Sri Lanka's Parliamentary Elections released on 17 June 2004: "The SLFP is strong in most of the provinces, except in the Northern and Eastern regions." [40] (p10)

Sri Lanka Mahajana (People's) Party

Founded by former members of the SLFP in 1984.

Sri Lanka Muslim Congress (SLMC)

The SLMC was formed to represent the Tamil-speaking Muslim population of the Eastern province and was organised as an all-island party in 1986. Won 5 seats in the 2001 general election. Led by Rauf Hakeem. [8] (p438) At the 2 April 2004 elections for the National Assembly the party won 5 seats. [59] As noted in the EU EOM June 2004 report: "The Sri Lanka Muslim Congress (SLMC - Tree) is the other [together with NUA] officially recognised party representing the Muslim minority community. Their electorate is largely based in the East, Kandy and central Colombo. The SLMC is a member of the UNF [formed for the General Elections of 2 April 2004]; some of its candidates stood under the UNP in central areas while others ran alone in the East." [40] (p10)

Tamil Eelam Liberation Front (TELF)

No record of any recent activity by this Tamil separatist group.

Tamil Eelam Liberation Organisation (TELO)

Formed in 1972. Has operated as a national political party since 1988. It has assisted the Sri Lankan security forces in their fight against the LTTE. Won 3 seats in the October 2000 general election. (See also TNA)

Tamil National Army (TNA)

Created by the Indian Peace Keeping Force in 1990. TNA cadres were drawn from the EPRLF, the ENDLF and the TELO. The TNA hunted down LTTE cadres, but after the withdrawal of the IPKF, the tables were turned and the LTTE began a hunt for members of the TNA. As far as is known, the TNA has not functioned since 1990.

Tamil National Alliance (TNA) As noted in the EU EOM June 2004 report: "The Tamil National Alliance (TNA - House), a Tamil-based alliance, is the political proxy of the LTTE. The alliance includes the Tamil United Liberation Front (TULF) and the Tamil Eelam Liberation Organisation (TELO). The TNA's strongholds are the LTTE controlled areas in the North and some areas in the East. The TNA's primary aim is the creation of a "Tamil homeland" in the North and East." [40] (p10) The party gained 22 seats at the 2 April 2004 elections for the National Assembly. [50]

Tamil United Liberation Front (TULF)

Founded in 1976 following the merger of the All Ceylon Tamil Congress and Federal Party, it has the declared aim of the peaceful creation of an independent Tamil State. It was the main Tamil political organisation and was the main opposition party in Sri Lanka after the 1977 elections. Its support has waned, but it won 5 seats in the 1994 elections and increased that to 15 seats at the 2001 elections. (See also TNA)

Tamil United National Front (TUNF)

This was a combination of several parties including TELO, EROS and PLOTE. The groups contested the 1994 elections under their separate titles. Now defunct.

Tri-Star (or Three Stars)

Formed shortly after the 1987 Indo-Sri Lankan Peace Accord. It comprised PLOTE, TELO and the EPRLF. It supported the IPKF in return for a scheme of substantial devolution for the northern and eastern provinces. Now defunct.

United National Party (UNP)

The conservative UNP was founded in 1947 and claims to have 1.4 million members. It advocates the development of the country through free markets and inter-communal co-operation. The UNP formed the Government from 1947-1956 and again from 1965-1970. In 1977 it secured a landslide victory under J.R. Jayawardene, holding office for the following 17 years. The party lost power in 1994, [8] (p438) but regained power in the December 2001 elections. As noted in the EU EOM June 2004 report: "The United National Party (UNP - Elephant) is the party of the former Prime Minister, Mr. Wickremesinghe. The UNP has governed the country for 30 years since independence and it enjoys the confidence of the business community." For the General Elections of 2 April 2004 the United National Front (UNF) was formed as a coalition composed of the centre-right United National Party (UNP), the Sri Lanka Muslim Congress (SLMC) and the Ceylon Workers Congress (CWC). [40] (p10)

United People's Freedom Alliance (UPFA) <http://www.freedomalliance.lk/>

As stated in UPFA website "The United People's Freedom Alliance is made up of the People's Alliance (PA) and the Janatha Vimukthi Peramuna (JVP)". Former Opposition Leader and UPFA member Mahinda Rajapakse was nominated as the

new Prime Minister by President Chandrika Kumaratunga further to the 2 April 2004 general elections. [60] As noted in the EU EOM June 2004 report:

"The Sri Lanka Freedom Party (SLFP), the President's party, represents the main force within the alliance....The alliance between the SLFP and the JVP was very controversial. Although both parties support a larger role of the state in economic and social life, there are substantial ideological differences between them. In addition, the JVP is considered responsible for the assassination of the President's husband in 1988. The UPFA political platform is based on issues such as the improvement of the state worker's conditions, the subsidizing of the agricultural sector, the amendment of the constitution (through the abolition of the executive presidency and the change of the electoral system) and measures to reduce the cost of living." [40] (p10)

As reported in the official website of the government of Sri Lanka on 6 August 2004 "Minister Ratnasiri Wickremanayake a former Prime Minister has been nominated to lead the ruling United People's Freedom Alliance.... The position of UPFA leadership fell vacant after President Kumaratunga's decision to step down due to pressure of work on Wednesday 4th August." [44e]

Up-Country People's Front

Represents the interests of workers, mainly of Indian Tamil origin, on tea plantations. At the 2 April 2004 elections for the National Assembly it gained 1 seat [59]

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ANNEX C: PROMINENT PEOPLE

BALASINGHAM Anton

As noted by BBC News on 17 March 2004 A. Balasingham, who lives in exile in London is the chief Tiger ideologue. [9cn] On 13 May 2004 BBC News referred to Balasingham as the Tigers spokesman and chief negotiator. [9cm]. Pro-LTTE website Tamilnet referred to Balasingham as political advisor to the Liberation Tigers on 14 May 2004 [38n] and as LTTE's political strategist political strategist on 17 June 2004 [38o]

BANDARANAIKE Sirimavo

Widow of Solomon Bandaranaike, the founder of the Sri Lanka Freedom Party and former Prime Minister who was assassinated in 1959. Assumed the leadership of the SLFP after her husband's assassination and became Prime Minister. She was defeated in 1965, but was Prime Minister again between 1970 and 1977, and for a third term between 1994 and 2000. She resigned in August 2000, at the age of 84, citing ill health as one of her reasons. She died on 10 October 2000 shortly after casting her vote in the country's general election.

JAYAWARDENE Junius

Appointed Prime Minister when the UNP won the 1977 general election. In 1978 he became the country's first executive President following a Constitutional amendment. In 1987 he signed the Indo-Sri Lankan peace accord with Rajiv Gandhi, the Indian Prime Minister. He remained President until January 1989.

KARUNA Colonel (nom de guerre of Vinayagamoorthi Muralitharan)

As highlighted by BBC News in a profile of 5 March 2004 Colonel Karuna was once a bodyguard of the LTTE leader Velupillai Prabhakaran.

"He joined the militant outfit in 1983 and, within a few years, became the top commander in his native eastern province....Colonel Karuna's importance in the Tamil Tiger hierarchy became clear when rebel leader Velupillai Prabhakaran elevated him to the rank of special commander for the eastern Batticaloa-Amparai districts in 2003. He replaced special commander Karikalan, who was ousted following his remarks over the communal situation in the district. Prabhakaran later made Colonel Karuna part of the team that negotiated with the Sri Lankan government during several rounds of peace talks in Bangkok, Oslo and Tokyo....He felt his personal promotion was not enough for the east and has been seeking better representation for eastern cadres within the Tamil Tiger hierarchy." [9cr] On 4 March 2004 BBC had reported that Colonel Karuna, had broken ranks after facing the threat of disciplinary action. "He was thought to be unhappy that the bulk of the rebel fighters come from the east and yet all the top leadership comes from the north of Sri Lanka." [9ba] According to a BBC News report of 5 March 2004, Tamil Tiger rebels in Sri Lanka had expelled the renegade commander but he had stated he would not relinquish control of his 6,000 troops. [9bu]. According to BBC News reports of 12 and 13 April 2004 he was reported to have fled after his troops were defeated and dispersed by the LTTE main faction in April 2004 in the east. [9bi] [9bm] As noted in BBC News reports dated 21 and 24 June 2004 and 1 July 2004 Tamil Tigers rebels had accused the Sri Lankan

security forces of aiding and abetting Colonel Karuna but President Kumaratunga had rejected allegations that the government had authorised military activities in the Eastern Province in support of the Karuna faction. [9bq] [9bbr]

(See also Section 4 on History and The Peace Process)

KUMARATUNGA Chandrika Bandaranaike

President of Sri Lanka. As outlined in a BBC News profile dated 3 April 2004:

"Chandrika Kumaratunga was came to power as president of Sri Lanka for the first time in 1994....Both her parents had been prime ministers of Sri Lanka: her mother, Sirimavoh Bandaranaike, was the world's first woman prime minister. At the time of Mrs Kumaratunga's election she said that politics was in her blood, even though her father [Solomon Bandaranaike] had been assassinated when she was 14 years old, and her husband was gunned down in 1989....During her 1994 election campaign and in power, Mrs Kumaratunga moved rapidly to accelerate the process of economic liberalisation in Sri Lanka. The victory of her Peoples' Alliance (PA) coalition ended 17 years of rule by the United National Party (UNP)". She was almost killed in an attack by a suspected Tamil Tiger suicide bomber on the final day of campaigning for presidential elections in 2000 but she went on to be re-elected for a second successive term as Sri Lanka's president. "In December 2001, Mrs Kumaratunga suffered a setback when her political opponent Ranil Wickramasinghe took office as Sri Lanka's new prime minister....She continues as president, but has a rocky relationship with Mr Wickramasinghe's government.... In February 2002, Mr Wickramasinghe's government and Tamil Tiger rebels signed a permanent ceasefire agreement, paving the way for talks to end the long-running conflict... But Mrs Kumaratunga has been a vociferous opponent of the way the peace initiatives with the rebels have been conducted. In May 2003, she indicated that she would be prepared to sack Mr Wickramasinghe's government if she felt it was making too many concessions to the rebels. The president has also expressed displeasure with the Norwegians - who brokered the February 2002 ceasefire - and are now the peace monitors.... Mrs Kumaratunga's belief that Mr Wickramasinghe was too lenient with the Tamil Tiger rebels came to a climax in November, 2003, when she took over control of three ministries in his government, including defence." [9cr] As reported by BBC News on 14 January 2004 President Kumaratunga had told the nation on the previous day that a secret swearing-in ceremony had extended her term by a year - until the end of 2006. [9bd] On 2 February 2004 it was reported by BBC News that President Kumaratunga has dissolved the parliament, paving the way for snap elections that would be held on 2 April, nearly four years ahead of schedule [9ar] On 4 April 2004 BBC News reported that President Chandrika Kumaratunga's party had won the country's parliamentary elections, but without enough seats for a majority. [9az]

(See also Section 4 on History and The Peace Process)

PRABHAKARAN (PIRAPAHARAN) Velupillai

Leader of the Liberation Tigers of Tamil Eelam. As outlined in a BBC News profile dated 25 November 2003:

"From a secret jungle base in the north-east of Sri Lanka, Velupillai Prabhakaran heads the Liberation Tigers of Tamil Eelam (LTTE). He has a

reputation as a fearless and ruthless guerrilla leader, and under his leadership, the LTTE, or Tamil Tigers, have become a highly-disciplined and highly-motivated guerrilla force.... To his followers, he is a freedom fighter struggling for Tamil emancipation from Sinhala oppression. To his adversaries he is a megalomaniac with a brutal disregard for human life....His movements between his various jungle hideouts are the subject of great secrecy, and he is reported to have narrowly avoided assassination or capture on numerous occasions..... He soon became heavily involved in the Tamil protest movement, and in 1975 was accused of being responsible for the murder of the mayor of Jaffna.... The killing of the mayor of Jaffna is not the only high-profile murder for which Mr Prabhakaran is the prime suspect. He has also been accused by India of playing a key role in the murder of the former prime minister, Rajiv Gandhi, in 1991....Despite the conflicting views surrounding Mr Prabhakaran, there is one point on which both the Sinhala and Tamil communities agree: he is the dominating force in the rebel movement, and without his consent peace in Sri Lanka will never be attainable." [9ae]
According to BBC News, on 27 November 2002 Velupillai Prabhakaran for the first time stated in a speech that his movement was ready to drop its long-standing demand for independence, and declared that he would settle for provincial autonomy and self-rule in Tamil-dominated areas in the east and north. [9ao]

PREMADASA Ranasinghe

UNP Prime Minister of Sri Lanka under President Jayawardene. He was elected President in December 1988 and sworn in the following month. He was assassinated by a bomb explosion in Colombo on 1 May 1993.

RAJAPAKSE Mahinda

Prime minister. As announced in the official website of the government of Sri Lanka on 6 April 2004 Mahinda Rajapakse was sworn in as the new Prime minister on that day. As outlined in a BBC News profile dated 6 April 2004 the 58 years old Buddhist lawyer in 1970, then aged 24, had become the youngest ever parliamentarian.

"He comes from a political family - his father, DA Rajapakse, represented the same region of Hambantota from 1947 to 1965. As labour minister, Mr Rajapakse tried to push through legislation to guarantee the rights of workers - but failed after complaints from big businesses....Until his appointment as prime minister, he was opposition leader in parliament. He is a member of the coalition led by President Kumaratunga, the United People's Freedom Alliance.... Unlike some hardliners in the coalition, Mr Rajapakse is believed to strongly support peace talks as a means of ending the decades-old civil war against the island's Tamil Tiger rebels." [9cp]

TAMILSELVAN (THAMILCHELVAN) Sinniah Paramu

S.P. Tamilselvan was mentioned BBC News on 11 July 2004 (and on many other occasions) as the head of the Tigers' political wing. [9cx] Pro-LTTE website Tamilnet referred to Thamichelvan as head of the Tigers' political division on 14 May 2004 [38n] and as head of the Liberation Tigers' political wing on 17 June 2004 [38o]

WICKREMASINGHE Ranil

Minister of Industries, Science and Technology under President Premadasa, he was appointed Prime Minister following the latter's assassination in 1993. As leader of the UNP, he again became Prime Minister in December 2001 after his party's victory in the general election, as reported by BBC News on 7 December 2001. [94] As reported by The Guardian on 5 April 2004 the United National Party of Ranil Wickremasinghe was defeated by the UPFA in the general election of 2 April 2004. [186]

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ANNEX D: REFERENCES TO SOURCE MATERIAL

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a Wavering Commitment to Human Rights, August 1996

b Sri Lanka: Government's response to widespread "disappearances" in Jaffna, November 1997

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d Landmark judgement on rape case, ASA 37/003/2002, 28 January 2002

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e AIDS treatment costs slashed in Sri Lanka: 1 December 2002 (via Xinhua News Agency)

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o Colombo allows LTTE office in north: 14 June 2002 (via Gulf News)
p Sri Lanka defends decision to end key war campaign: 5 December 1998
q Tamil Tigers sign pact with Muslims: 14 April 2002 (via PTI news agency and BBC Worldwide Monitoring)
r Lanka opposition appoints new leader: 6 February 2002 (via the Times of India Group)
s Nordic observers start monitoring Sri Lanka truce: 2 April 2002
t Sri Lanka jails principal, soldiers for abductions: 10 February 1999
u Lanka Army takes rebel area in new offensive: 7 March 1999
v Sri Lanka Army recaptures areas in north west: 23 March 1999
w 41 indicted in Bindunuwewa camp massacre: 27 March 2002 (via The Hindu)
x Sri Lanka troops capture fresh rebel territory: 16 May 1999
y Sri Lanka indicts policemen over disappearances: 26 May 1999
z Sri Lanka's ruling party sweeps polls: 21 March 2002 (via Channel News Asia)
aa Sri Lanka eases curbs on Tamils to push peace bid: 6 March 2002
ab Chandrika sets up "Truth Commission" to probe 1981-84 riots: 21 July 2001 (via Press Trust of India)
ac Sri Lanka announces final results of parliamentary elections: 7 December 2001 (via Xinhua News Agency)
ad Sri Lanka announces month-long cease-fire with rebels: 22 December 2001 (via Dow Jones International News)
ae Sri Lankan main opposition supports Government's effort for peace: 28 December 2001 (via Xinhua News Agency)
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ag Residents caught by surprise as Colombo lifts barriers to movement: 28 December 2001 (via Straits Times)

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