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Sri Lanka

Country reports are produced by the Science & Research Group of the Home Office to provide caseworkers and others involved in processing asylum applications with accurate, balanced and up-to-date information about conditions in asylum seekers' countries of origin.

They contain general background information about the issues most commonly raised in asylum/human rights claims made in the UK.

The reports are compiled from material produced by a wide range of recognised external information sources. They are not intended to be a detailed or comprehensive survey, nor do they contain Home Office opinion or policy.

Second edition (Scope of document section revised October 2005)

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1. Scope of document

- 1.01 This Country of Origin Information Report (COI Report) has been produced by Research Development and Statistics (RDS), 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 July 2005.
- 1.02 The 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.
- 1.03 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.
- 1.04 The structure and format of the COI 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.
- 1.05 The information included in this COI 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 unless stated.
- 1.06 As noted above, the 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. COI 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. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.
- 1.07 The 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.

- 1.08 This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS 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.
- 1.09 COI 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 COI 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 of Origin Information Bulletins, which are also published on the RDS website. They also have constant access to an information request service for specific enquiries.
- 1.10 In producing this COI 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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Advisory Panel on Country Information

- 1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk.
- 1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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2. Geography

2.01 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 by the Sri Lanka Department for Census and Statistics (Statistical Abstract 2004, Population of principal towns by sex, census, years, website accessed 18 September 2005) the principal towns are Colombo, Dehiwala-Mount Lavinia, Negombo, Moratuwa, Sri Jaywardene Kotte, Jaffna, Kandy, and Galle. [58c]

2.02 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 the population comprises: 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. [58a]

As stated in the US Department of State International Religious Freedom Report 2004, released on 15 September 2004 "Approximately 70 percent of the population are Buddhist, 15 percent are Hindu, 8 percent are Christian, and 7 percent are Muslim". [2e] (Section I)

2.03 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)

2.04 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 and 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. [58a]

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3. Economy

- 3.01 The US State Department Report 2004 (released on 28 February 2005) noted that:

“The country’s economy is market based and primarily driven by the manufacturing and services sector. The population was approximately 19.4 million in 2003, and gross domestic product growth was 5.9 percent in 2003. Public sector wages and benefits kept pace with inflation. On December 26 [2004], a large-scale tsunami devastated significant parts of the southern, northern and eastern coastal areas of the country, killing, injuring and displacing thousands of persons.” [2d] (Introduction)

- 3.02 As noted in the USSD 2004:

“While there is no universal national minimum wage, 38 wage boards established by the Ministry 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. In late 2003, the Ministry of Labor began increasing the minimum wages of all wage boards by a minimum of 15 percent; however, at year’s end, this process had not been completed for garment and hotel worker wages.” [2d] (Section 6e)

- 3.03 As reported by BBC News on 19 January 2005:

“The IMF said that the Sri Lankan authorities’ initial estimates have put the physical damage [of the 26 December 2004 tsunami] at \$1.3 to \$1.5bn, but added that the implications for the economy were much wider than this.... “The fishing industry has been devastated, agricultural production may be affected and tourism will suffer, especially in the short term,” the report said. The ILO estimated that 400,000 Sri Lankans have lost their jobs, mostly in these three industries.” [9dq]

As noted in the report, ‘The Economy, the Tsunami and Poverty Reduction’ from the World Bank Sri Lanka Development Forum 2005 held in Kandy on 16 and 17 May 2005:

“The tsunami that hit Sri Lanka on December 26, 2004 caused the worst devastation from a natural disaster in the country’s history. While the human and asset losses from the tsunami were extensive, the impact on output and GDP will be limited because the sectors affected only represent a small part of national production. The international community has come to Sri Lanka’s aid with unprecedented levels of financial assistance, particularly from private donors. While substantial financial resources have been committed, implementation will be a major challenge. Capacity constraints will limit the speed in which assistance can be delivered. Better and more durable coordinating mechanisms will need to be developed to ensure that aid is effectively channeled to the affected areas. Furthermore, aid flows need to be managed in a way that is consistent with overall macroeconomic stability. [55c] (Introduction)

The report from the World Bank forum also noted that:

“The impact of the tsunami on the nation’s output and GDP is not as considerable as the extent of asset and human losses. Output losses resulting from the damage of assets and the disruption in economic activity in the affected sectors are estimated at US\$330 million during 2005 and 2006 (around 1.5 percent of GDP). In terms of employment, an estimated 200,000 people (or about 3 percent of the labor force) might have lost their jobs, including 100,000 in fisheries, 27,000 in tourism and tourism-related activities, and the rest in other informal sector activities. The tsunami is expected to slow down GDP growth in 2005 by up to 1 percentage point from an original government estimate of 6 percent. The relatively limited impact is due to the fact that the most affected sectors of the economy – fishing, hotels and restaurants – together contribute only 3 percent to GDP. Other sectors that will also be negatively affected (but to a much lesser extent) include telecommunications and transport. The construction sector, on the other hand, is likely to partly mitigate losses in output and is expected to grow from an average of 5.5 percent in the recent past to 8 to 10 percent in the next three years.” [55c] (p12)

- 3.04 The approximate rate of exchange from xe.com Universal Currency Converter on 3 June 2005 was £1 = 182 Sri Lankan rupees. [33]

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4. History

INDEPENDENCE TO 1994

- 4.01 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)
- 4.02 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]
- 4.03 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]
- 4.04 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)
- 4.05 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)
- 4.06 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 five days in June 1981, and throughout the country from August 1981 to January 1982. [1] (p3932)
- 4.07 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)

- 4.08 The Dutch Ministry of Foreign Affairs report 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)
- 4.09 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, eight 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, nine 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 per cent, 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 reported 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 Sangilliyen Force claimed responsibility. [4f] 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. [4i]
- 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 Omathai, 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 the 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 per cent of the vote for the People's Alliance. Her nearest rival was Ranil Wickremasinghe of the United National Party, with 42.71 per cent. M.D. Nandana Gunathilaka of the People's Liberation Front received 4.08 per cent. [24] As reported in Keesing's in December 1999, the election commissioner D.M. Dassanayake said that the turnout was 73.31 per cent 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. [9g] President Kumaratunga immediately called for restraint. The 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. [9h] A further suicide bombing occurred on 15 September 2000 in Colombo in which at least eight 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. [9j]
- 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, six 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 US 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 the 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 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]

- 4.43 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]
- 4.44 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.” [9ar]
- 4.45 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.” [9bs] 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.” [9bt]
- 4.46 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.” [9bu] 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.” [9bw] 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. [9bx] 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]

- 4.47 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 Tiger 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]
- 4.48 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]
- 4.49 A BBC News report, dated 31 March 2004, noted:
- "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]
- 4.50 *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, eight 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]
- 4.51 The final official results were published in the official website 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

- 4.52 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." [9bj] 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)
- 4.53 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)
- 4.54 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)
- 4.55 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." [9bj]
- 4.56 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]

- 4.57 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." [9bl]
- 4.58 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.... Hargrup 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]
- 4.59 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. The 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]
- 4.60 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 [sic] 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. [16aq] 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]

- 4.61 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]

- 4.62 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]

- 4.63 On 19 November 2004 BBC News reported that a high court judge and his bodyguard had been shot dead in Colombo. "Judge Ambepitiya sentenced the leader of the Tamil Tiger rebels, Velupillai Prabhakaran, to 200 years in jail in absentia over a 1996 bomb attack. The judge had also just given a life sentence to a woman drug trafficker.... His killing came hours after he gave a life sentence to a woman heroin trafficker." [9di] On the following day the BBC reported that the Sri Lankan government was setting up a special security unit to protect the judiciary after the killing of a judge and that President Kumaratunga had also reaffirmed her country's commitment to capital punishment, saying it applied for murder, rape and drugs trafficking. [9dj] On 27 November 2004, the *Daily News* reported that Judge Amepitiya's murder was a revenge killing by a drug dealer who had been arrested with other suspects. [16bp]
- 4.64 On 26 December 2004, BBC News reported that thousands of people had been killed across southern Asia in massive sea surges triggered by the strongest earthquake in the world for 40 years.

"The 8.9 magnitude quake struck under the sea near Aceh in north Indonesia, generating a wall of water [tsunami] that sped across thousands of kilometres of

sea. Exact numbers of people killed, injured or missing in the countries hit, are impossible to confirm. Hundreds are still thought to be missing from coastal regions and, in Sri Lanka alone, officials say more than a million people have been forced from their homes. Sri Lankan President Chandrika Kumaratunga declared a national disaster and the military has been deployed to help rescue efforts.” [9dl]

The BBC News report At-a-glance: Countries hit, updated on 8 April 2005, summarised the subsequent situation:

“Impact: Sri Lanka suffered more from the tsunami than anywhere else apart from Indonesia. Southern and eastern coastlines have been ravaged. Homes, crops and fishing boats were destroyed. The International Labour Organisation estimates that at least 400,000 people lost their jobs. Toll: At least 31,000 people are known to have died, and more than 4,000 are missing. The number of homeless people is put at between 800,000 and one million.... Aid: Foreign troops have been helping to clear the wreckage. The government is set to begin rebuilding seaside towns – some from scratch – as part of a \$3.5bn reconstruction drive. There have been lingering tensions between the government and Tamil Tiger rebels over the distribution of aid.” [9dm]

4.65 On 3 January 2005, BBC News noted that:

“In Sri Lanka, the government and the Tamil Tigers have to an extent co-operated in the provision of relief, but a leading Tamil Tiger spokesman has indicated the government has not done enough to gain the Tamils’ trust. The spokesman, SP Thamilshelvan, told the BBC’s Frances Harrison that the Tamil people feared the government were just playing a game to attract international aid, but planned to cheat them once again. In particular, there were concerns, he said, that the Sri Lankan government had announced a plan for rehabilitation, but had not discussed it with the rebels. For its part, the Sri Lankan government dismissed these complaints and said that full cooperation had been offered. Peace talks between the two sides had stalled before the disaster, though there has not been large-scale fighting recently. It sounds at the moment as if the talks will not be unlocked by the opportunities afforded by the disaster. On the contrary, suspicions could be deepened, making a political solution even more difficult.” [9dn] **(See also Annex D on the Tsunami)**

4.66 On 8 January 2005, BBC News reported that Sri Lanka’s government had refused to agree to UN Secretary General Kofi Annan visiting tsunami-hit north-eastern areas under rebel Tamil Tiger control. As noted by the BBC:

“It appears the government was concerned a visit by the UN secretary general would legitimise the rebels’ demands. The Tigers say little aid has been sent to north-eastern areas of the country they control – claims denied by the government. And the rebels have warned of serious consequences if government soldiers are not withdrawn from welfare camps accommodating Tamil civilians. The commander of the Tamil Tiger rebels’ naval wing has dismissed Sri Lankan government reports that 5,000 of his men and a major naval base were wiped out in the tsunami. Special Commander Soosai said this and allegations that the Tiger leader and intelligence chief had been killed in the tsunami were false propaganda.... The Sea Tigers say they lost six men from their political wing, but not thousands, as alleged by the Sri Lankan government.” [9do]

4.67 As reported by BBC News on 17 January 2005:

“The Sri Lankan government has announced limits for building along the coastline following the tsunami disaster. The public security ministry said building restrictions would be imposed within 100 metres of the coastline in the south and west. In the north and east – areas largely controlled by Tamil Tiger rebels – buildings would be allowed 200 metres from the coastline. But the rebels say they are not bound by government rules on building limits.... The government said the differing limits were necessary because the average population density in the south and west was greater than in other areas of the country. [9dp]

4.68 On 22 January 2005, it was reported by BBC News that Sri Lanka’s Tamil Tiger rebels said they were willing to join the government in setting up a “common mechanism” for distributing foreign tsunami aid.

“The Tigers accuse the government of withholding relief from their areas – a charge the government has rejected. A rebel spokesman spoke about a joint effort after visiting Norwegian peace mediators met reclusive Tiger chief Velupillai Prabhakaran.... The Norwegian foreign minister, who earlier this week met Sri Lankan President Chandrika Kumaratunga, said a co-ordinated relief effort could yet be “conducive to a positive outcome” for the peace process. However, Jan Petersen said the focus of his meetings had been the tsunami relief effort – not the peace negotiations, which have been deadlocked since April 2003. Tigers’ spokesman Anton Balasingham told the BBC Mr Prabhakaran was willing to co-operate with the government on setting up a common body for distributing the aid.” [9dr]

4.69 As reported by BBC News on 21 February 2005, “At least two people have been killed and more than 30 injured in a blast in a courtroom in southern Sri Lanka. Police say a hand grenade exploded in the magistrate’s court in the town of Embilipitiya, 175km (110 miles) southeast of the capital, Colombo. “We suspect this to be the work of a man held in prison custody at the court premises,” a senior police official, Kingsley Ekanayake, told AFP. More than two dozen prisoners reportedly escaped after the blast.” [9dk]

4.70 On 2 May 2005, BBC News reported that Sri Lanka had been promised \$2bn in tsunami relief, but a deal on how the money should be distributed had yet to be reached. As noted by the BBC:

“The worst hit areas were in the north and east of the country, some of which are controlled by Tamil Tiger rebels. To ensure an equal allocation of funds, there has been discussion to set up a joint mechanism to work together on distribution. But four months after the tsunami there has still been no agreement. Rebel-held areas in the east are some of the worst hit by the tsunami, but they are still struggling to begin reconstruction.... With years of war and little investment, the east has always been poorer than the rest of the country. Now millions have been promised in tsunami aid. But months on, the government and Tigers are still deciding how to co-operate on its allocation, on the details for a joint mechanism to disburse the funds.” [9ds]

- 4.71 On 9 May 2005, BBC News reported that Tamil rebels in Sri Lanka had said any further delay in distributing aid to tsunami-hit Tamil areas would have serious implications for peace moves.

“They blamed President Kumaratunga for the hold-up in establishing a so-called ‘joint mechanism’ to share out aid. Mrs Kumaratunga was trying to deceive the international community, senior rebel SP Thamilselvan said, “He did not say what action the rebels might take....” Last week, Mrs Kumaratunga pledged to strike a deal with the rebels to distribute tsunami aid even if it risked bringing down her government. Mr Thamilselvan, the leader of the Liberation Tigers of Tamil Eelam’s political wing, said the president had squandered opportunities to involve the main opposition United National Party (UNP) in negotiations over the joint mechanism.... She now blamed her political rivals as well her own coalition partners, such as the hardline Marxist People’s Liberation Front (JVP), for the deadlock, he told the BBC’s Tamil service on Sunday.... President Kumaratunga has been trying to establish a consensus among major Sri Lankan political parties for the plan. So far, the efforts have been unsuccessful. [9dt]

- 4.72 As reported by BBC News on 16 May 2005, President Chandrika Kumaratunga, opening a major meeting of donors and lenders in Sri Lanka, had called for support for a planned deal with Tamil rebels over disbursing \$2bn in pledged tsunami aid. The BBC noted that:

“It had been hoped by many that a deal would be in place in time for the conference, to enable donors to unlock aid pledged. But a key coalition ally, the Marxist People’s Liberation Front (JVP), has threatened to bring down the government if the president goes ahead with her plans. The JVP says it fears any aid-sharing deal could promote efforts to set up a separate Tamil state.... Representatives from more than 50 donor countries and organisations are in Kandy to assess progress, and discuss improving the reconstruction process across the country. The meeting is the first since a donor conference in Tokyo in 2003, at which \$4.5bn was pledged to rebuild the country after years of civil war.” [9du]

- 4.73 On 18 May 2005, a media release posted on the government Secretariat for Coordinating the Peace Process (SCOPP) stated that:

“In his presentation to the Sri Lanka Development Forum on Tuesday (May 17th) afternoon Mr. Jayantha Dhanapala said, ‘there is a complex symbiotic link between peace and development’ The Secretary General of Sri Lanka’s Peace Secretariat said ‘the peace process in Sri Lanka has been a broad continuum, it has moved from chapter [sic] to chapter and there were lessons to be learnt from each chapter’. He said ‘the peace process and peace negotiations are not one and the same. Negotiation is only one component of the peace process.’... With Norwegian facilitation we have reached some finality to establish a structure to address the post-tsunami needs of the six districts in the North and East. This administrative mechanism will see to the infrastructure needs of the area within two kilometers of the coastline based on needs assessments without any discrimination whatsoever. This ‘mechanism’ would comprise three tiers: national, regional and district level. The high level committee will have equal representation from the Government, the Muslim community and the LTTE. The regional committees will have five representatives from the LTTE, three from the Muslim community and two from the Government. The District

Committees are already in place. There would be water-tight safeguards in place to protect the interests of the minorities, whoever they may be in each of the Districts. This structure will work within a democratic framework. It will make key policy decisions over the optimum utilization of resources and address the reconstruction requirements of the tsunami-hit areas of the six districts. All the finances will be handled by Government agencies. The structure will be called the 'Post-Tsunami Operational Management Structure'." [41f]

- 4.74 On 16 June 2005, BBC News reported that the Sinhala-nationalist People's Liberation Front (JVP) had left the coalition after an ultimatum for the government to stop the plan for a tsunami aid deal with the Tamil Tiger rebels had expired. "The JVP fears the aid agreement could help efforts to set up a Tamil state.... President Kumaratunga has said the proposed aid mechanism is purely an administrative tool to share out money.... The JVP has 39 seats in Sri Lanka's 225-member parliament, enough to deprive President Kumaratunga's government of its working majority by withdrawing." As noted by the BBC, violent demonstrations over the past few days had highlighted the unpopularity of the deal. [9ek]

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- 4.75 On 30 November 1999 the BBC reported that the 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. [9d] 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]
- 4.76 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. [9i] 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]
- 4.77 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. [4ad] 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]
- 4.78 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]

- 4.79 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]
- 4.80 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]
- 4.81 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]
- 4.82 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]
- 4.83 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]
- 4.84 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 three. [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]

- 4.85 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. [4s]
- 4.86 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 civilian 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)
- 4.87 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]
- 4.88 On 11 April 2002, *the Guardian* reported that LTTE leader Velupillai Prabhakaran had given his first press conference for 12 years. [18a]
- 4.89 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]
- 4.90 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 seven 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]

- 4.91 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. [4o]
- 4.92 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]
- 4.93 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]
- 4.94 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]
- 4.95 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]
- 4.96 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. [9ai] 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)
- 4.97 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. [16i] 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 per cent in 2002. [4j] On the same day the *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. [16i]

- 4.98 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]
- 4.99 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. [9ao]
- 4.100 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]
- 4.101 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. [16o]
- 4.102 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]
- 4.103 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]

4.104 On 21 April, 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]

4.105 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. [9ay]

4.106 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.” [9bf]

4.107 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)

4.108 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. [16h] As reported in the *Daily News* on 6 February 2004 the Sri Lanka Monitoring Mission’s new chief Trond Furuhoode said that the current political impasse had had no impact on the cease-fire agreement. Furuhoode, 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 Tellefsen declared “persona non grata” by President Chandrika Bandaranaike Kumaratunga over his alleged bias towards the LTTE. [16d]

4.109 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.” [9by] **(See also Section 4 on 1994 to the present)**

4.110 According to a BBC News report of 15 April 2004, the 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 Furuhoide, 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.” [9bz]

- 4.111 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]
- 4.112 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]
- 4.113 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 the 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]
- 4.114 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]
- 4.115 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. [38h] 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. [38i] 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]

- 4.116 As outlined in a 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.” [9cf] 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]

- 4.117 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.” [9cg] On 30 June 2004, the *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 cease-fire agreement. [16am] On 4 July 2004 the *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. [16an] 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]

- 4.118 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]

- 4.119 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]

- 4.120 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.” [9ci]
- 4.121 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. [9cj] As noted in 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]
- 4.122 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]
- 4.123 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 [cease-fire 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]
- 4.124 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, the *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]

- 4.125 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]
- 4.126 On 31 August 2004, BBC News reported that the Norwegian peace envoy to Sri Lanka, Eric Solheim, and the Norwegian ambassador to Colombo had met the chief negotiator for the Tamil Tigers Anton Balasingham in London. “Mr Solheim said that the talks lasted two hours, and embraced every aspect of the ceasefire agreement between the rebels and the Sri Lankan forces.” [9dw]
- 4.127 On 17 September 2004, BBC News reported that the latest attempt by Norway to kick start the stalled peace process in Sri Lanka had ended without any sign of progress. “Norwegian envoy, Erik Solheim, failed to make a breakthrough in meetings with the government and Tamil Tiger rebels. Mr Solheim held separate discussions with President Chandrika Kumaratunga and the leader of the rebels’ political wing, SP Tamilselvan.... A presidential spokesman said the government was unhappy at the Tamil Tigers’ indecision over whether to resume peace talks. For their part, the rebels said Mr Solheim had not brought any constructive message from the government.” [9dx]
- 4.128 On 22 September 2004, it was reported by the LTTE Peace Secretariat that the SLA (Sri Lanka Army) had met the district head of the LTTE political wing in Batticaloa in a meeting chaired by the head of the Sri Lanka Monitoring Mission (SLMM) and that the meeting had focused on the current political and security situation in Batticaloa and on upholding the cease-fire agreement. [42b]
- 4.129 On 4 October 2004 BBC News reported that Tamil Tiger rebels had dismissed the peace panel which the government said it had formed to help revive stalled talks.
- “The rebels said President Chandrika Kumaratunga’s National Advisory council for Peace and Reconciliation was a ‘time-wasting tactic’. Leader of the Tigers’ political wing, SP Tamilselvan, said such panels did not address rebel demands.... Four opposition parties, along with the pro-rebel Tamil National Alliance, all boycotted the meeting of the peace council on Monday in the capital, Colombo.... Tamil rebels insist that their proposal for an interim administration should be the basis for peace talks. The government has set out its own version of interim self-rule, which the Tigers have rejected.” [9dy]
- 4.130 As recorded on its website, the inaugural meeting of the National Advisory Council for Peace and Reconciliation (NACPR) was held on 4 October 2004.
- “Representatives of Political Parties, senior representatives of clergy representing the four main religious denominations, as well as distinguished

members of civil society, including academics, Non-Governmental Organizations both national and provincial as well as representatives from professional organizations were present.” [63a]

4.131 As stated in a NACPCR press release issued on that day:

“The NAC will be a broad-based national forum that will provide a means for the people of this country to contribute towards a political settlement and work towards reconciliation. The NAC will comprise three standing committees namely, a political, religious and civil society which is expected to consult, so as to ascertain the widest possible spectrum of views on how to bring about a negotiated political settlement and peace with dignity and democracy.” [63b]

4.132 On 17 October 2004, BBC News reported that the Tamil Tiger rebels had dismissed new government proposals to restart peace talks.

“They say peace talks could only resume on the basis of their own proposals for an interim administration.... Tamil Tiger rebels have already submitted their Interim Self-Governing Authority (ISGA) proposals for the country’s war-torn northeast region. Tigers have been insisting that ISGA should be the basis for resuming peace talks.... Reacting to reports of a senior government figure meeting the rebel leadership in northern Sri Lanka to discuss peace proposals, Tamilchelvan said none of their senior leaders met with government officials in recent days. He said Norwegians are facilitating efforts to restart the peace talks but the Sri Lankan government has not taken any constructive measures to resume a dialogue.” [9ea]

4.133 On 1 November 2004, BBC News reported that the Tamil Tigers had said that efforts by the Japanese special envoy to Sri Lanka to end the stalled peace process had not been productive. “Rebel spokesman SP Thamilselvan said that they still wanted interim self-rule in the north and east. But he said that the government had indicated that it was not prepared to resume talks on this issue. Special Envoy Yasushi Akashi met the president, prime minister and senior rebel leaders.” [9eb]

4.134 As reported by BBC News on 11 November 2004:

“Tamil Tiger rebels say they have put forward new proposals to revive the country’s peace process. The move follows talks between Tigers leader Velupillai Prabhakaran and Norwegian Foreign Minister Jan Petersen in northern Sri Lanka.... Prabhakaran and Mr Petersen met in the northern rebel-held town of Kilinochchi in the latest effort by Norwegian negotiators to get the rebels and government talking again.... Mr Peterson has already met President Chandrika Kumaratunga. She said on Wednesday that the government was totally committed to the peace process and an early resumption of talks ‘within an agreed framework’....Norwegian mediators regularly visit Sri Lanka but analysts say the foreign minister’s visit reflects growing impatience with the failure to resume negotiations.” [9ec]

4.135 As noted by the LTTE Peace Secretariat on 11 November 2004: “Mr. Balasingham [the LTTE chief negotiator] said that contrary to expectations and speculations, the facilitators did not bring any special message from the President that may be classified as a ‘breakthrough’”. [42i]

- 4.136 On 27 November 2004 BBC News reported that the Tamil Tiger rebels had threatened to return to war unless the government agreed to peace talks based on a rebel blueprint for self-rule.

“Tiger leader Velupillai Prabhakaran said he had “reached the limits of patience”, during an annual radio broadcast to mark the rebels’ war dead. He said government delays on discussing rebel demands would leave them “no alternative” to the ‘freedom struggle’. President Chandrika Kumaratunga last week urged the rebels to compromise.... In his radio speech, delivered from the rebel-held north, Mr Prabhakaran called on the government to end the deadlock in the Norwegian-backed peace talks.... The deadlock is over the rebels’ demand that interim self-rule should be in place before a permanent solution is reached. The government, on the other hand, insists the Tigers must agree to discuss lasting peace before any deal on self-rule can be made.” [9ed]

- 4.137 On 1 December 2004, BBC News reported that Sri Lanka’s government had rejected demands from Tamil Tiger rebels to unconditionally resume peace talks. “The government has rejected the rebel demands but says it remains committed to discussing their proposals for an interim self-governing authority in areas they control.... The announcement was the government’s first reaction to a statement issued by Tamil Tiger rebel leader Velupillai Prabhakaran on Saturday [27 November].” [9ee]

- 4.138 As reported by BBC News on 15 December 2004, foreign donor countries had strongly urged the Sri Lankan government not to allow a key coalition partner to undermine peace efforts.

“Japan, the US and the Netherlands say they are concerned by the activities of the JVP which is staunchly opposed to the Norwegian-brokered peace deal. The three countries co-chair efforts to attract international support to rebuild Sri Lanka.... Ambassadors from the three donor countries met President Chandrika Kumaratunga late on Tuesday as a top Norwegian envoy, Erik Solheim, arrived in Sri Lanka for more talks to try to bolster the peace process. Mr Solheim travelled to Kilinochchi in the north on Wednesday to see leaders of the Tamil Tiger rebels. He said after the meeting that the peace process was in ‘critical’ condition. ‘There has been a tendency recently that both sides have been acting to irritate the other side rather than to build up trust,’ Mr Solheim said.... After meeting the president, the donor representatives issued a statement expressing ‘deep concern about the ongoing JVP-led actions against the peace process in Sri Lanka and the government of Norway’s efforts as facilitators of that process’. They [the JVP] are strongly opposed to Norway’s role in the peace effort, and have mounted vocal street protests and repeatedly asked Oslo to quit. The party opposes any concessions to the Tamil Tiger rebels as part of a deal to revive the peace talks and have accused the Norwegians of being biased towards the rebels.” [9ef]

- 4.139 On 20 December 2004, BBC Sinhala.com reported that Norway special peace envoy Erik Solheim had said that reviving the stalled Sri Lankan peace talks was difficult but that it was a relief that both parties were committed to uphold the ceasefire agreement (CFA).

“The Norwegian diplomat was speaking from Heathrow airport after having a two hour long meeting with the chief Tamil Tiger (LTTE) negotiator, Anton Balasingham in London... He was conveying information from the Sri Lankan

President Chandrika Bandaranaike Kumaratunge to the LTTE leadership. During his five day visit to Sri Lanka he met the President and the LTTE political head S P Tamilselvan in Kilinochchi...The LTTE leaders in Kilinochchi and in London have reiterated that talks could start only on the basis of the Interim Self Governing Authority (ISGA) proposals.” [9eg]

4.140 On 7 January 2005, BBC News noted that:

“The Sri Lankan government and Tamil Tiger rebels were thrown together to bring aid to hundreds of thousands of tsunami victims. But many believe the antagonists have blown the chance for reconciliation. The relief operations offered a chance to mend fences and kick start a peace process stalled since April 2003 when the Tigers walked out of talks. But although the rebels and government are working together in specially formed district task forces in rebel-held territories in the north and east, there is already a lot of distrust. The rebels have protested against the government's decision to send soldiers to manage relief camps in their territories, and have accused the government of discriminating against them in distributing aid.... After a bright start when both sides made gestures of reconciliation, there is no sign of the hoped-for breakthrough.” [9eh]

4.141 As reported by BBC Sinhala.com on 22 January 2005:

“Sri Lanka's Tamil Tiger rebels say they are willing to join the government in setting up a 'common mechanism' for distributing foreign tsunami aid. The Tigers accuse the government of withholding relief from their areas – a charge the government has rejected. A rebel spokesman spoke about a joint effort after visiting Norwegian peace mediators met reclusive Tiger chief Velupillai Prabhakaran.... The Norwegian foreign minister, who earlier this week met Sri Lankan President Chandrika Kumaratunga, said a co-ordinated relief effort could yet be 'conducive to a positive outcome' for the peace process. However, Jan Petersen said the focus of his meetings had been the tsunami relief effort – not the peace negotiations, which have been deadlocked since April 2003. Tigers' spokesman Anton Balasingham told the BBC Mr Prabhakaran was willing to co-operate with the government on setting up a common body for distributing the aid. He said Mr Prabhakaran had so far been 'disillusioned' by the government's handling of the tsunami relief and it was time Colombo sought to 'win the confidence' of the rebels. The Tigers, he said, had temporarily put on hold their political struggle for greater rights to devote themselves to dealing with the disaster's aftermath.” [9ei]

4.142 As reported by BBC News on 8 February 2005:

“The shooting dead of a top Tamil Tiger and five others has raised fears that Sri Lanka could return to civil war. E Kaushalyan, a rebel political leader, is the most senior Tiger killed since a ceasefire began in February 2002. Sri Lanka's government has condemned Monday's ambush, saying it increased the risk of a return to conflict. The rebels, who blame the attack on paramilitaries working with the army, say it is a major blow to peace efforts. The army denies involvement.... The Sri Lankan authorities deny having anything to do with the attack and say they suspect supporters of a renegade Tiger commander, Colonel Karuna, who split from the rebels in March 2004. In a statement the government said the killings were a violation of the ceasefire. “The government calls on all concerned parties to prevent further violations of the ceasefire,

gravely risking a return to conflict, and instead to support the peace process and move ahead," it said. The statement said the timing of the attack was "clearly calculated" to disrupt improving relations between the government and the rebels after rifts over the distribution of aid to survivors of the Asian tsunami in December." [9em]

- 4.143 On 22 February 2005 BBC News reported that the Tamil Tiger rebels had warned that a truce with the government was under threat after the recent killing of one of its leaders.

"E Kaushalyan was the most senior Tiger killed since the ceasefire began in February 2002.... In the northern rebel-held town of Kilinochchi, the Tamil Tigers' political wing leader, SP Thamilselvan, accused the government of engaging in a 'secret war'. "The present incidents indicate that the ceasefire is at breaking point," Reuters news agency quoted him as saying. The rebels have blamed the government for carrying out the killing. The government has denied the accusation and has said it was carried out by a rival rebel faction." [9ei]

- 4.144 As stated by the head of the SLMM Head of Mission in a press release dated 22 February 2005:

"Today, the 22nd February marks the 3rd anniversary of the Cease Fire. I would like to use this opportunity to commend the Sri Lanka Government and the Liberation Tigers of Tamil Eelam's pure willingness to act with restraint in situations that could have escalated. SLMM can confirm, as a matter of fact, that there have been no clashes between the Parties' military forces after the signing of the CFA. Assassinations and killings are, however, still jeopardising the CFA. I strongly condemn these horrible acts, as they undermine and pose a serious threat to the peace process. They have without a doubt poisoned the atmosphere between the Parties and lead to an unsafe environment creating fear among the general public. The killings must be stopped and SLMM urges both sides to find the perpetrators and bring them to justice.... Lack of peace talks is putting a serious strain on the Cease Fire and creating dangerous uncertainty. The two Parties will inevitably have to return to the negotiating table. SLMM will do its utmost to assist both sides in upholding the CFA by continuing our work and confidence building measures." [22e]

- 4.145 As noted in a press release of the Sri Lankan Government Secretariat for Coordinating the Peace Process (SCOPP) issued on 25 February 2005:

"President Chandrika Kumaratunga received the Special Advisor of the Royal Norwegian Government Erik Solheim at President's House on Thursday, 24th February. Mr. Solheim briefed the President on his discussions with Anton Balasingham in London earlier this month and on his meeting with LTTE political wing leader S.P. Thamilselvan in Kilinochchi on Tuesday, 22nd February. Mr. Solheim conveyed to the President concerns expressed by Mr. Thamilselvan on the killing of Kausalyan and the implementation of Article 1.8 of the Ceasefire Agreement in relation to the disarming of paramilitary groups. He also conveyed the readiness of the LTTE to continue discussions on a working arrangement for the allocation and implementation of post-tsunami aid. The President, while unreservedly condemning the killing of Kausalyan, LTTE's political leader for Batticaloa – Ampara and five others by unidentified persons on 7th February, emphatically rejected the suggestion that there are any paramilitary forces operating in association with the Sri Lankan security forces.

She deplored the killing of a Sri Lankan soldier and the injuring of another by the LTTE on the third anniversary of the CFA. The President also reiterated the sincere commitment of the Government of Sri Lanka to establish a working arrangement with the LTTE for the equitable allocation and implementation of post-tsunami aid.” [41g]

- 4.146 On 1 March 2005, BBC News reported that an attack on a top female Tamil Tiger leader in Sri Lanka had raised more fears of a return to violence threatening a fragile three-year truce.

“Unidentified gunmen shot and wounded the female rebel leader, Kuveni, in the eastern district of Ampara on Monday, along with two other female rebels. European monitors say they are concerned about the violence.... The rebels have blamed the military for carrying out the attack. ‘[The] attack took place in an area very close to a Sri Lankan army checkpoint, so there is no doubt in our mind that it is the Sri Lankan military’, S Puleedevan, head of the Tiger’s peace secretariat, told Reuters. The army dismisses the rebel allegation.” [9fa]

- 4.147 As reported by BBC News on 7 March 2005:

“International monitors in Sri Lanka have warned that the three-year ceasefire between the government and Tamil Tiger rebels is under threat. The Sri Lanka Monitoring Mission says both parties need to stop violence worsening, after 10 people were killed at the weekend. The government blamed Tamil Tiger rebels for the killings. The rebels say they were carried out by breakaway rebels backed by Sri Lanka’s military, a charge the army denies.” [9ei]

- 4.148 On 18 April 2005 BBC Sinhala.com reported that the Tamil Tigers had said they agreed for the joint tsunami mechanism. “According to Norwegian proposals the regional bodies to have ten members; five Tamils, three Muslims and two Sinhallas. District joint bodies will consist of District Secretary (DS), representatives from LTTE, Muslim community, Civil society and the UN organisations. World Bank is to be the custodian of the funds allocated for joint tsunami mechanism.” [9en]

- 4.149 On 7 June 2005, the LTTE Peace Secretariat noted that in a joint meeting of the Norwegian Ambassador as facilitator to the peace process and the acting head of the Sri Lanka Monitoring Mission (SLMM) at the peace secretariat at Kilinochchi, S.P.Tamilselvan, Head of the LTTE Political Wing had said that the cease-fire agreement (CFA) was under serious threat by actions and inactions of the Sri Lankan Government and lamented over the delay in arriving at a consensus at the government level to sign the joint mechanism for post-Tsunami management. [42j]

- 4.150 On 22 June 2005, BBC News reported that the Norwegian peace envoy had held talks with Tamil Tiger rebel leaders about a controversial tsunami-aid sharing deal with the Sri Lankan government.

“Norway’s deputy foreign minister, Vidar Helgesen, met the head of the rebels’ political wing, SP Thamilselvan, in Kilinochchi, in the north. A key party in Sri Lanka’s governing coalition pulled out last week in protest against the tsunami-aid deal. The plan is meant to ensure an equal distribution of aid across Sri Lanka. Mr Thamilselvan said after the meeting: “We have agreed to sign the document, but the government is delaying it.” Mr Helgesen said the agreement would proceed but the timetable still had to be decided. Mr Helgesen discussed the plans with Sri Lankan President Chandrika Kumaratunga on Tuesday

before travelling north. Her office told him of the concerns of the Muslims at being left out. President Kumaratunga has pledged to back the aid-sharing deal, saying it could help in Sri Lanka's peace process." [9ep]

- 4.151 On 23 June 2005, it was reported by BBC news that Sri Lanka's tsunami-affected Muslims had expressed their dismay and anger over not being made a signatory to the proposed tsunami reconstruction agreement.

"The Norway-brokered deal would pave the way for the government and the Tamil rebels to share nearly \$3bn in foreign aid. But visiting Norwegian Deputy Foreign Minister, Vidar Helgesen, has reportedly told Muslim leaders in the east that at this point they will not be among the signatories to the deal. However, he has assured them that Muslims would be duly represented in the proposed power structure. Muslim community leaders say they are not convinced by the Norwegian assurances and now want President Chandrika Kumaratunga to intervene immediately to safeguard their interests. Officials say the president had conveyed the Muslim sentiments to Mr Helgesen, who also met the Tamil Tiger leaders in the rebel-held northern town of Kilinochchi on Wednesday. However, the rebels have not yet responded to the concerns of the Muslims. Muslims feel if they cannot be a signatory to this deal then they have no hopes of becoming a third party in the stalled peace process." [9eq]

- 4.152 As reported by BBC News on 24 June 2005:

"The Sri Lankan government and Tamil Tiger rebels have signed a controversial tsunami aid-sharing deal. It comes after weeks of protests by a powerful nationalist party and the influential Buddhist clergy, who say it threatens Sri Lanka's sovereignty. The plan is meant to ensure an equal distribution of aid to all parts of the country hit by December's tsunami, including rebel-held areas. Tens of thousands of Sri Lankans are yet to receive tsunami aid. 'The government signed the memorandum of understanding,' said leader of the house, Maithripala Sirisena, shortly after protests had forced a parliamentary debate to be abandoned. Norwegian peace brokers then took the document to the northern rebel-held town of Kilinochchi where the Tamil Tigers signed it, bringing the agreement into force. The Tsunami Joint Mechanism paves the way for the government and the Tamil rebels to share nearly \$3bn in foreign aid, and ministers say it could boost stalled peace efforts.... The joint mechanism [usually known as P-TOMS, Post-Tsunami Operation Management Structure], which was made public for the first time on Friday, has a three-member panel with representatives from the government, the Tamil Tigers and the Muslim community. Donors had pressed for the joint mechanism so that they could avoid channelling funds directly to the Tigers, as many countries list the rebel group as terrorist." [9er] On 15 July 2005 BBC Sinhala.com reported that "Sri Lanka's Supreme Court issued an interim order preventing the implementation of part of the Tsunami Relief Council (TRC) agreement signed between the government and the Tamil Tigers. The courts ruled that the part of the deal, widely known as Post-Tsunami Operational Management Structure (P-TOMS), is against Sri Lanka's constitution. The Supreme Court stressed that the whole P-TOMS agreement would not be suspended by the ruling. The courts suspended the establishment of tsunami financial office in Kilinochchi." [9fk]

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5. State structures

THE CONSTITUTION

- 5.01 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)
- 5.02 As confirmed in the US State Department Report 2004 (USSD) "Sri Lanka is a republic with an active multiparty system.... The April [2004] parliamentary election was deemed largely free and fair by the European Union Election Observation Mission, except in the north and east, where widespread voter impersonation and multiple voting allegedly occurred. [2d] (Introduction)...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. The President (elected in 1999 for a 6-year term) holds executive power, while the 225-member Parliament, elected in April, exercises legislative power." [2d] (section 3)
- 5.03 As noted in the USSD 2004:
- "The Constitution provides for equal rights under the law for all citizens, and the Government generally respected these rights in practice; however, there were instances where sex-based discrimination occurred. The HRC is a mechanism the Government has established to ensure enforcement of constitutional provisions in addition to access to the courts." [2d] (Section 5) "The HRC investigated the legality of detention in cases referred to it by the Supreme Court and by private citizens." [2d] (Section 1d)

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CITIZENSHIP AND NATIONALITY

- 5.04 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]
- 5.05 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 five 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]

- 5.06 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]

As specified in the website of the Department for Immigration and Emigration (accessed on 5 July 2005) ex-Sri Lankans now holding foreign Citizenship or Sri Lankans qualified for grant of Citizenship of a foreign country, who have contributed to the socio – economic development of Sri Lanka are eligible for citizenship. “Provisions were introduced to the Citizenship Act No: 18 of 1948 by the Citizenship (Amendment) Act No: 45 of 1987 for the resumption/retention of Dual Citizenship of Sri Lanka by ex-Sri Lankans/Sri Lankans qualified for grant of foreign Citizenship.” [71a]

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POLITICAL SYSTEM

- 5.07 As stated in Europa World Year Book 2004, 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 six 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]
- 5.08 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]
- 5.09 As recorded in Europa, Sri Lanka comprises nine 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 2004:

“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.” [2d] (Section 1d)

5.11 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)

5.12 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]

5.14 As noted in the USSD 2004:

“During the year [2004], the LTTE continued to expand the operations of its court system into areas previously under the Government’s judicial system in the north and east. On July 28 [2004], the LTTE opened a court complex in Mannar. 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. In June, according to press reports, LTTE courts tried two men for sedition near Batticaloa and ordered their execution.” [2d] (section 1e)

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LEGAL RIGHTS/DETENTION

5.15 As noted in the USSD 2004:

“The law prohibits arbitrary arrest and detention; however, there were reports of arbitrary arrest and detention during the year. Police do not need an arrest warrant for certain offences, such as murder, theft, robbery, and rape. 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. For certain offences, such as murder, the magistrate must remand the suspect, and only the High Court may grant bail. In all cases, suspects have the right of representation. Counsel is provided for indigent defendants in criminal cases before the high court and the courts of appeal, but not in other cases.” [2d] (section 1d)

5.16 The USSD 2004 continued:

“In criminal cases, juries try defendants in public. Defendants are informed of the charges and evidence against them, and they 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 Legal Aid Commission offered legal aid to assist those who could not afford representation; however, some sources report that its representatives extorted money from beneficiaries. There are no jury trials in cases brought under the PTA. Defendants are presumed innocent, and confessions obtained by various coercive means, including torture, are inadmissible in criminal proceedings but are allowed in PTA cases. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Subject to judicial review in certain cases, defendants may spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases came to trial, decisions were made relatively quickly.” [2d] (section 1e)

5.17 As stated in the USSD 2004:

“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. 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 existed in Tamil, and the Government has complied slowly with legislation requiring that all laws be published in English, Sinhala, and Tamil.”
[2d] (section 1e)

- 5.18 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 per cent 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 seven 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 per cent of PTA cases were based on confession alone, and 99 per cent of these cases are normally discharged. [11]
- 5.19 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]
- 5.20 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)**

- 5.21 A report in the *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 the *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]

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DEATH PENALTY

- 5.22 As recorded in the Amnesty International Death Penalty News of December 2004:

"The Office of the President of Sri Lanka announced on 20 November [2004] that 'the death penalty will be effective from today for rape, murder and narcotics dealings'. The statement followed the murder of a High Court judge, Honourable Sarath Ambepitiya, and a police officer who was providing security

for him, both of whom were shot on 19 November. A moratorium on executions has been in effect in Sri Lanka since June 1976 when the last execution took place. Successive presidents since then have automatically commuted all death sentences. In March 1999, amid reports of rising crime, the government announced that death sentences would no longer be automatically commuted when they came before the president (see DP News June 1999), but, following widespread condemnation, this policy was not implemented. At the time, AI suggested the appointment of a commission to study the apparent rise in criminality in the country and to make recommendations for effective measures which could be taken without resort to the death penalty. In June 2001 the then Minister of Justice indicated his interest in commissioning such a study. AI made a similar proposal to the Prime Minister and Minister of Interior in March 2003 but did not receive a response.” [3]

- 5.23 The ACHR (Asian Centre for Human Rights) review entitled ‘Sri Lanka: The return to the gallows’ issued on 1 December 2004 noted:

“The declaration of Sri Lankan President Chandrika Kumaratunga that executions of death sentences shall be effective from 20 November 2004 for rape, murder and narcotic crimes represents a serious setback for Sri Lanka. The declaration was a direct response to the assassination of Justice Sarath Ambepetiya of the Colombo High Court and his bodyguard, Inspector Upali on 19 November 2004 by an alleged accused in a murder case being heard by him.... Although, death penalty has not been enforced since 1976, the courts in Sri Lanka regularly award death sentences for murder and narcotic crimes. In July 2003, the Colombo High Court sentenced two police officers and three local residents of Bindunuwewa in the central district of Bandarawela in Sri Lanka for their involvement in the massacre of 27 young Tamil men held in Bindunuwewa detention centre in October 2000. The mainstream political parties and the state-controlled and private media and the Buddhist clergies have been lobbying for tough laws to curb the rise of crime, including reactivating the death penalty.... Article 8 of the Sri Lankan Constitution provides that “Every person has an inherent right to life and a person shall not be arbitrarily deprived of life. Any restriction shall not be placed on the rights declared and recognized by this Article.” The reactivation of the death penalty violates the constitutional guarantee on the right to life and Article 6 of the International Covenant on Civil and Political Rights to which Sri Lanka is a party.” [64]

- 5.24 The ACHR review continued:

“The death penalty also raises many questions about the administration of criminal justice system. Starting with the lodging of a complaint to the final judgement in the form of conviction, the police and investigating agencies play a critical role. Police is an integral part of the prosecution and routinely disregard evidence that may favour acquittal and prefer to document evidence that may support conviction. The use of torture in custody to extract confessions is well known in Sri Lanka and the chances of innocent people being executed for rape, murder and narcotic crimes are high.... With the reactivation of the death penalty, the procedure embodied in the 1999 Presidential Proclamation would be enforced. As per this procedure, death sentences imposed in cases of murder and drug trafficking can be carried out and would not be commuted to life imprisonment if the judge who heard the case, the Attorney General and the Minister of Justice unanimously recommend the execution. If the reports of the

trial judge, the Attorney General and the Justice Minister are adverse, the Presidential signing of the death warrant will take place and "... he (she) will be hanged by the neck until he (she) is dead." The power of the President to grant pardons, respites and remissions that has been earlier availed for commutation of the death penalty to life imprisonment pursuant to Article 34 of the Sri Lankan Constitution will have little meaning. The President has to sign the death warrant when the trial judge, the Attorney General and the Justice Minister unanimously provide adverse opinions against the condemned. This procedure is inherently unfair. The Attorney General and the Justice Minister represent the interest of the State and cannot be considered impartial." [64]

- 5.25 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." [9bb] 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

- 5.26 As outlined in the USSD 2004:

"The Ministry of Internal Security controls the 66,000-member police force, which is responsible for internal security in most areas of the country. 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 militia of more than 20,000 members drawn from local communities and who are responsible to the police, provide security for Muslim and Sinhalese communities located near LTTE-controlled areas. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed serious human right abuse." [2d] (Introduction)

- 5.27 The USSD 2004 further noted that the police force includes the 6,000-member paramilitary Special Task Force. [2d] (Section 1d) As outlined in the website of the Sri Lankan police (accessed on 18 September 2005): "The Special Task Force is the Para military arm of the Sri Lanka Police, deployed essentially for counter Terrorist and Counter Insurgency operations within the country. They are also deployed in the close protection Units providing security for VVIP's and at Key Installations." [43]

- 5.28 As outlined by the USSD 2004:

"Senior officials in the police force handle complaints against the police, as does the civilian-staffed National Police Commission. Impunity, particularly for cases of police torture, was a problem. Several NGOs claimed that corruption was also a problem in the police force. In 2002, the Government established the NPC, composed entirely of civilians, and authorized it to appoint, promote, transfer, discipline, and dismiss all police officers other than the Inspector General of Police; however, in practice, the NCP [sic] devolved responsibility for

discipline of less senior police officers to the Inspector General of Police. The NPC has the power to establish procedures to investigate public complaints against the police. During the year, the NPC handled 1,192 complaints, of which 10 percent were forwarded to local Superintendents of Police for further action.” [2d] (Section 1d)

- 5.29 As recorded in the USSD 2003 “In the past, the police paramilitary Special Task Force also engaged in military operations against the LTTE.” [2b] (p1)
- 5.30 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]
- 5.31 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

- 5.32 As outlined in the USSD 2004:
- “Prison conditions did not meet international standards; acute overcrowding and lack of sanitary facilities were the main causes. 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. The Government permitted visits by independent human rights observers and the International Committee of the Red Cross (ICRC), which during the year conducted 60 visits to 22 permanent places of detention, including prisons and some police stations. During the year, representatives from the national office of the HRC visited 142 police stations and 5 detention centers, while representatives from regional offices of the HRC visited 250 police stations and 19 detention centers.” [2d] (section 1c)
- 5.33 The Prison Brief for Sri Lanka of The International Centre for Prison Studies (last updated on 9 April 2005) recorded a total prison population of 20,975 at 31 December 2003 (including pre-trial detainees/remand prisoners amounting to 47.6 per cent of total) against an official capacity of prison system of 7,641 (in 2000). The prison population rate (per 100,000 of national population) was 110 in 2003 and 250 in 2004. In 2003 there were 62 establishments/institutions. [65]
- 5.34 As recorded in the website of the Sri Lanka Department of Prisons (accessed on 5 July 2005) in the country there were three Closed Prison (institution with a perimeter wall where prisoners are held normally under maximum security conditions); 16 Remand Prisons (closed prisons exclusively kept apart for remand

prisoners); six Work Camps (prisons without a perimeter wall where short-term or medium term offenders are detained under minimum security conditions); two Correctional Centers for Youthful Offenders; one Training School for Youthful Offenders and 28 Lock-up (prison buildings sited near courts to which prisoners with pending cases are transferred a day or two before the date of trial of the cases for the purpose of their production before court and removal back immediately afterwards. Similarly persons sentenced to prison by courts are temporarily kept in these buildings till their transfer to closed prison). [72]

- 5.35 As recorded in the UK 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)

- 5.36 The USSD 2004 noted:

“Conditions also reportedly were poor in LTTE-run detention facilities. The ICRC conducted 6 visits to 2 LTTE-controlled prison facilities, and 18 visits to 14 LTTE-operated police stations. Credible observers reported that conditions in these prisons were acceptable, in that they were on a par with local standards. The ICRC has not had access to other places of detention in LTTE-controlled areas in the Vanni and the east.” [2d] (section 1c)

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MILITARY SERVICE

- 5.37 As reported by War Resisters International in July 1998 (website last accessed on 28 June 2005), conscription does not exist. The legal recruitment age for the armed forces is 18. There is no known legal provision for conscientious objection. [36]
- 5.38 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. [36]
- 5.39 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. [9at]
- 5.40 On 14 May 2004, it was reported by the *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. [16ah]

5.41 On 24 November 2004 the *Daily News* reported that:

“Arrangements are being made by the Army to formally de-list Army deserters who were absent from service as at 08 January, 2003.... Lists of deserters specified for de-listing and related necessary information are published at all divisional secretariats in relevant districts from November 22 to 30, 2004. Necessary steps have been taken to repeat this programme in the Gampaha, Kalutara and Colombo districts for those who failed to obtain their legitimate legal resignation earlier, from the same place during December 20-24, 2004.” [16bq]

5.42 As reported on 7 December 2004 on the Sri Lanka Army website:

“De-listing of the Army deserters in Anuradhpaura district is now in full swing at the Army Directorate of Recruiting, Malay street, Colombo beginning today (06). This newly-devised scheme for de-listing was activated by the Army in 2003 in an attempt to let those deserters to formally leave the Army after producing legitimate documents. It was also reported that some of those deserters have allegedly taken part in a series of anti-social activities. The scheme had so far brought the desired results.... A total of 5250 deserters from Gampaha out of a registered total of 7500 showed up seeking their legitimate resignation. Likewise, 3517 deserters from a total of 5300 in Kalutara and a total of 2755 deserters from 4500 in Colombo have been earmarked for de-listing after necessary procedural matters are completed.” [66a]

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MEDICAL SERVICES

5.43 In a letter dated 30 March 2001, the British High Commission in Colombo outlined the standard 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]

5.44 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]

5.45 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]

- 5.46 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 in 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 2004 "Health care [for children], including immunization, was free". [2d] (Section 4)
- 5.47 As stated in information provided to the Home Office by the SCIS (Source Country Information System) Sri Lanka of the ICMPD (International Centre for Migration Policy Development) in November 2004, surgery, chemotherapy and radiotherapy treatments are available in the public sector in Colombo, Kandy, Galle, Jaffna, Vavuniya and Anuradhapura and all kinds of cancer can be treated. In the private sector, surgery, chemotherapy and radiotherapy treatments are available in Colombo, Kandy and Galle and all kinds of cancer can be treated. [69c]
- 5.48 On 6 July 2003, the *Daily News* reported that according to Ministry of Health sources, there were 160 private medical institutions and 800 private dispensaries including family physicians in the country. Over 60 per cent of the population obtained medical treatment from private medical institutions, and a majority of them sought medical treatment through channelled services and family physicians. [16q]

HIV/AIDS

- 5.49 As recorded in the UNAIDS (the Joint United Nations Programme on HIV/AIDS) 2004 Report on the global AIDS epidemic, in 2003 there were 3,500 adults and children living with HIV and there were less than 200 AIDS deaths. [28]
- 5.50 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. [15e]
- 5.51 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 per cent 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. [4e] 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]
- 5.52 As noted in the World Bank document of June 2005 entitled, 'HIV/AIDS in Sri Lanka':

“Despite an estimated low prevalence rate, there are mounting concerns because of the significant presence of risk factors and vulnerability.... Stigma and discrimination abound.... From 1998 to 2002, the World Bank provided about \$1 million of support each year to Sri Lanka’s HIV/STD program through the Health Services Project, adding to the financial and technical assistance being provided by other multilateral and bilateral agencies, such as WHO and other UN agencies and the Japan Bank for International Cooperation.... In December 2002, the Bank’s International Development Association (IDA) provided a \$12.6 million grant to help finance the National HIV/AIDS Prevention Project.” [55b]

- 5.53 As reported by BBC Sinhala.com on 1 December 2004:

“Sri Lankan health authorities will distribute free anti retroviral drugs to HIV sufferers. The announcement was made at the Aids awareness campaign in Colombo launched to mark the World Aids day.... Dr. Hettiarachchi [of the National Sexually Transmitted Disease and Aids prevention programme] said the government had decided to issue free anti retroviral medicines for HIV sufferers, ‘Under a scheme sponsored by the World Bank and the WHO, we are able to hand out Indian made antiretroviral medicines for the suffers.’ In a report issued on the World Aids day, French health charity *Medicins Sans Frontieres* said that ‘the medicine supplies are not the issue. The difficult part in delivering the drugs is the shortage of trained health workers on the ground.’” [9es]

- 5.54 As noted in the USSD 2004, “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.” [2d] (Section 6a)

- 5.55 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]

MENTAL HEALTH

- 5.56 As noted in the Mental Health Policy for Sri Lanka 2005 (website of Ministry of Health, Nutrition and Uva Wellassa Development accessed on 28 June 2005):

“Sri Lanka has one of the best Primary Care Services of its type in the world and is committed to achieving equally high standards in mental health care... Mental illness is extremely common. It has been estimated that some 376,000

Sri Lankans suffer from serious debilitating mental illnesses including bipolar illness, major depression and schizophrenia at any given time. Serious mental illness primarily affects people when they are young. About 10% of the population is thought to suffer from other mental illness such as phobic states, obsessional disorders, somatoform disorders, mood disorders and other forms of delusional disorders. More women than men suffer from depression. Sri Lanka has one of the highest suicide rates in the world. Other key issues which will affect the mental health of the population include the last 20 years of civil conflict and the recent tsunami. Between 20,000 to 40,000 people affected by the tsunami are expected to go on to develop mental illness, most notably depression and medically unexplained symptoms.... The current mental health services in Sri Lanka find it difficult to meet the clinical demands placed upon them. Because more than 90% of the mental health services are concentrated in Colombo and a few major urban cities, the majority of people have to travel long distances to obtain basic services. Such inequities in distribution primarily affect the poor. Most psychiatric facilities offer only a limited range of clinical services.” [67a] (p2)

5.57 The Ministry of Health Mental Health Policy 2005 continued:

“Although Sri Lanka began to decentralize its mental health services long ago, this process has been unduly slow and a major portion of patients are still treated in centrally placed large hospitals. 15 Districts have no inpatient provision.... The most important issue to be addressed to ensure implementation of the national mental health policy is the urgent innovation required to address significant shortages of skilled mental health staff. There are no psychiatric nurses, 13 occupational therapists and only 8 psychiatric social workers and few psychologists. In many countries about 10% of all community staff will be community mental health staff. In Sri Lanka there are none outside just a few areas. A major constraint for mental health services in Sri Lanka is a shortage of psychiatrists. Only 41 Ministry of Health and University psychiatrists are currently available for the whole country. These are unevenly distributed. 11 of the 25 districts have no psychiatrist. It must, therefore be a priority to appoint at least one psychiatrist in every District.” [67a] (p3)

5.58 The Ministry of Health Mental Health Policy 2005 further noted:

“Natural disasters [like the Indian Ocean Tsunami of 26 December 2004] take a heavy toll on mental health of those affected and can significantly increase the risk of distress, psychological symptoms and mental disorders. Between 30% - 50% of those involved may experience some level of mental distress and/or psychological problems. Between 5 to 10% are likely to develop a recognizable mental disorder. There is also substantial evidence that loss of employment and livelihood, particularly sudden loss, very frequently gives rise to anxiety and depressive disorders. On the basis of the above figures, acute stress is likely to affect some 130,000 to 220,000 people. Of these, about 22,000 to 44,000 people are likely to develop recognizable mental health problems and will need sustained help over the longer term. In the aftermath of trauma, post traumatic stress disorder, depressions, suicidality, addiction, medically unexplained symptoms, or anxiety and dissociative disorders arise (Gersons 2005). The most frequent diagnoses made include depressive and anxiety disorders, somatization disorders, acute stress disorder, and post traumatic stress disorder (PTSD). In addition and especially when families and loved ones are

lost suddenly or if there is uncertainty as to their whereabouts, grief reactions may be prolonged and take longer to resolve. However these figures may well be an underestimate given the scale of the tragedy. There will also be many people with pre-existing serious psychiatric disorders where sudden discontinuation of health care including medication will present problems. There may be as many as 6,000 people affected this way in the disaster areas.” [67a] (p7)

5.59 The Ministry of Health Mental Health Policy 2005 continued:

“Sri Lanka has three major mental hospitals in the Western Province: Angoda (1,700 patients), Mulleriyawa 1 and 2 (1000 patients) and Hendala (300 patients). In addition, the National Hospital situated in Colombo and 11 other General hospitals in urban centers provide specialist facilities for mentally ill patients. Beds provided for mentally ill patients constitute only 4.6 % of total beds in all government hospitals in the country. Rehabilitation of chronically ill patients has been just started and there are centers in several districts. These centers are manned by untrained staff and the resources are also very limited... There are no approved cadres of psychiatrists other than general psychiatrists.... [67a] (p7-8) There are several important NGOs including, Sahanaya in Colombo, Shanthiham in Jaffna and Basic Needs in various districts, Niwahana in Kandy, Nest in many areas and Richmond fellowship. These organizations provide psychiatric assessment and treatment, psychological interventions, rehabilitation for both individuals and families. Sahanaya, Nest and Shanthiham also have undertaken mental health training programs for medical staff and other health and social care professionals. There are also several International NGO’s involved with Sri Lanka such as VSO, IMC, MdM, and IOM who provide essential services.... All the patients receiving mental health services from the government sector receive the services and drugs free of charge. All hospitals with psychiatric services provide drugs identified in the essential drugs list.” [67a] (p9-10)

5.60 As recorded in the WHO (World Health Organisation) Mental Health Atlas – 2005: Country Profile Sri Lanka (website accessed 17 June 2005), the following therapeutic drugs are generally available at the primary health care level of the country: Carbamazepine, Ethosuximide, Phenobarbital, Phenytoinsodium, SodiumValproate, Amitriptyline, Chlorpromazine, Diazepam, Carbidopa, Levodopa. [55b]

5.61 As stated in information provided by SCIS Sri Lanka in February 2005, all treatments for acute psychological/psychiatric problems and disorders (severe depression and in particular potential suicide cases) can be provided in the public sector at Angoda and Mulleriawa mental hospitals in addition to the University Unit in the Colombo National Hospital at no cost. Anuradhapura General Hospital, Galle General Hospital and Jaffna Thellippalla Hospital can also provide treatment at no cost. Treatments are limited in the private sector because they are not normally willing to admit this type of patient. SCIS Sri Lanka stated that the total number of psychologists working in the public sector in the country was about 30, while there were 31 psychiatrists (21 in government hospitals and ten in university units. Figures for psychologists and psychiatrists working in the private sector were respectively four and eight although it was noted that most psychiatrists in the public sector simultaneously worked in the private sector. [69b]

- 5.62 Information provided by SCIS Sri Lanka of the ICMPD in December 2004 noted that treatment for PTSD is available in all private hospitals and clinics in Colombo. Private sector hospitals for this treatment are Nawaloka Hospital, Asiri Hospital, Asha Central Hospital, Durdans Hospital and Apollo Hospital. In the public sector, treatments are available in all teaching and general hospitals in Colombo. Treatments are also available in all teaching hospitals as well as in all private hospitals and clinics in Kandy, Anuradhapura and Jaffna. However, it was noted that there are no regular basic treatments in Sri Lanka for PTSD but only consultation with a psychiatrist. [69a]

DISABILITY

- 5.63 As noted in the USSD 2004:

“The law forbids discrimination against any person on the grounds of disability; however, there were instances of discrimination against the disabled in the areas of employment, education, and in the provision of other state services. The law does not mandate access to buildings for 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.” [2d] (Section 5)

- 5.64 As noted on the website of Disability Information Resources (DINF) of the Japanese Society for Rehabilitation of Persons with Disabilities (JSRPD) (website accessed on 5 July 2005):

“The government has introduced a policy of in every workforce, 3% of the employees must be people with disabilities. Although all major companies have been made aware of this the policy is not enforced and as a result it is largely ignored.... The building of separate schools for children with special needs was stopped over 20 years ago. The Ministry of Education hopes to build special units into all schools so children with special needs can be integrated into mainstream education with the help of specially trained teachers (also underway). The Government of Sri Lanka has no formal policy on accessibility to buildings for those who have mobility problems.... In Sri Lanka the Ministry of Social Services has used the data obtained from ongoing programmes and estimates that between 4 and 5% of the population as a whole have some kind of disability. The government has no official policy on disability and rehabilitation but sectional policies attempt to keep up with international developments... The causes of the disabilities in Sri Lanka are varied but conflict related disabilities seem disproportionately high. These come from landmines, attacks on border villages, fighting or being caught in the crossfire during fighting and, in areas such as Colombo, injuries from the explosions detonated by suicide bombers. Further causes include problems at birth or prior to birth, especially among older women or those suffering from poor health or malnutrition combined with an overstretched [sic] Health Service. Poor health

and malnutrition in children can cause disabilities as they get older. Another factor is Polio although the government has now taken steps to eliminate the problem leading to a negligible number of (occurrence) Polio victims.” [70]

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EDUCATIONAL SYSTEM

- 5.65 The USSD 2004 recorded that “The Compulsory Attendance at Schools Act requires children between the ages of 5 and 14 to attend school, and the Government demonstrated its commitment to children through extensive systems of public education and medical care. Approximately 85 percent of children under the age of 16 attended school. Education was free through the university level.” [2d] (Section 5) The USSD 2004 also recorded that the Government did not restrict academic freedom and that the LTTE restricted academic freedom and it repressed intellectuals who criticised its actions. [2d] (Section 2a)
- 5.66 As reported by UNICEF on 22 March 2005 182 schools were either destroyed or severely damaged by the tsunami [of 26 December 2004], “UNICEF is committed to supporting the Sri Lankan Ministry of Education in returning 200,000 children to learning. So far, this has required a massive logistical operation that included the distribution of emergency school supplies such as school furniture, uniforms and school-in-a-box kits as well as the clean-up of 102 schools.” [53e] On 17 June 2005 UNICEF reported that as, a consequence of the tsunami, 72,000 Sri Lankan children were left without schools. “UNICEF responded to the emergency quickly, building 97 temporary schools across Sri Lanka, providing school materials, and supplying water tanks and latrines. One of the temporary schools is in Batticaloa.” [53f]

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6. Human rights

6A HUMAN RIGHTS ISSUES

OVERVIEW

6.01 As noted in the US State Department Report 2004 (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, there were extensive reports of torture and 13 custodial deaths as a result of police torture. The Government continued investigations into past abuses by armed forces personnel and opened investigations into past abuses by police personnel. Prison conditions remained poor and there were reports of arbitrary arrests during the year. The Government continued to hold 38 Tamils under the Prevention of Terrorism Act (PTA) during the year; however, no new arrests under the PTA occurred. The PTA, like the repealed Emergency Regulations, permitted warrantless arrest and nonaccountable detention. Violence and discrimination against women, and child prostitution occurred. 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 child sex trade. Child labor, limitations of worker rights, especially in the Export Processing Zones (EPZs), and discrimination against persons with disabilities continued to be problems.” [2d] (Introduction)

6.02 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)

6.03 As stated in the USSD 2004:

“The LTTE continued to commit serious human rights abuses. The LTTE was responsible for politically motivated killings, arbitrary arrests, torture, harassment, abduction, disappearances, extortion, and detention. The LTTE continued to use and recruit child soldiers. 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 were instances of intimidation of Muslims by the LTTE during the reporting period. 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, killed candidates standing for office, did not provide for fair trials, infringed on privacy rights, and discriminated against ethnic and religious minorities.” [2d] (Introduction)

- 6.05 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]
- 6.06 As outlined in the Amnesty International 2005 Sri Lanka Country report:
- "The ceasefire between the government and the Liberation Tigers of Tamil Eelam (LTTE) remained in place, despite a number of violations and a failure to resume peace talks. The human rights situation in the north-east deteriorated following a violent split within the LTTE in April and a dramatic increase in politically motivated killings. Although a large number of child soldiers were released during the internal fighting, the LTTE continued to recruit children, including through abduction. In November the government announced a "reactivation" of the death penalty. Torture in police custody was widely reported and victims seeking redress faced threats and violence. There was little progress towards holding security forces to account for past human rights violations. Religious minorities came under threat, with attacks on Christians and Muslims, as well as the tabling of a bill aimed at curbing religious conversions." [3k]
- 6.07 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]

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FREEDOM OF SPEECH AND THE MEDIA

- 6.08 As noted in the USSD 2004:

"The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice and did not restrict academic freedom. Individuals could criticize the Government without fear of reprisal. In the past, the Government restricted press freedom, 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. Private television stations imposed their own, informal censorship on international television news rebroadcast in the country.” [2d] (Section 2a)

6.09 The USSD 2004 continued:

“Although the Government owned the country’s largest newspaper chain, two major television stations, and a radio station, private owners operated a variety of independent, privately owned newspapers, journals, and radio and television stations. Several foreign media outlets operated in the country. Most independent media houses freely criticized the Government and its policies. The Government imposed no political restrictions on the establishment of new media enterprises; however, in February, the Government cancelled the license of a new television channel planned by Asian Broadcasting Corporation. Unlike in previous years, travel by local and foreign journalists to conflict areas was not restricted.” [2d] (Section 2a)

6.10 The USSD 2004 also reported that “The LTTE tightly restricted the print and broadcast media in areas under its control. There were also reports of LTTE intimidation of Colombo-based Tamil journalists, and self-censorship was common for journalists covering LTTE controlled areas.” [2d] (Section 2a)

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 As noted in 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 As reported in 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.” [2b] (p11)

- 6.16 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]

- 6.17 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.” The 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.”

The IFJ president urged the government to act immediately to quash the heavy-handed approach taken by the security forces. The 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. [45b] According to a 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 was 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 the Sri Lankan authorities to fight impunity with which journalists are attacked. [27d]

- 6.18 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. [27e]

- 6.19 As recorded in the CPJ (Committee to Protect Journalists) Asia Report, 'Attacks on the Press 2004 – Documented Cases from Asia for 2004 – Sri Lanka' (undated, website accessed on 18 March 2005):

"The fragile cease-fire between the Sri Lankan government and the separatist Liberation Tigers of Tamil Eelam (LTTE) deteriorated in 2004, heightening tensions and challenges for the nation and its media. Even after a devastating tsunami in late December killed more than 30,000 people, the divisions held fast and hampered initial relief efforts. Tamil areas of the country, some of the hardest hit, were also among the most difficult for journalists to cover.... Throughout 2004, both sides feuded bitterly among themselves, sometimes putting journalists in the middle. Two Tamil journalists [Aiyathurai Nadesan and Kandasamy Iyer Balanadarajah] were gunned down in retaliation for their work this year – the first killed in the line of duty in Sri Lanka since 2000, according to CPJ research. A third journalist died in a December grenade attack at a controversial music concert." [73]

- 6.20 The CPJ report continued:

"Local and exiled journalists say the two murders had an extremely chilling effect on the ethnic Tamil media, both inside Sri Lanka and abroad, particularly ahead of the April 2 [2004] national elections. Journalists at the London-based Tamil Broadcasting Corporation (TBC) received numerous death threats in March after it began broad-casting in the United Kingdom and Sri Lanka.... Opposition parties and local press freedom advocates accused the state media of acting as a propaganda organ for the president and her ruling United People's Freedom Alliance (UPFA) in 2004, particularly during the election campaign in the spring. The press freedom organization Free Media Movement (FMM) called repeatedly in 2004 for the reform of state media to promote greater balance and diversity in news coverage. UPFA leaders countered with accusations that private media slanted their election coverage in favor of opposition politicians and parties." [73]

- 6.21 As noted in Reporters Sans Frontières (RSF) Sri Lanka – Annual report 2005 issued on 3 May 2005:

"The stalling of the peace process between the government and the Tamil Tigers (LTTE) was accompanied by a deterioration in press freedom. But it was

violence by Tamil factions, sometimes manipulated by the security forces, that most threatened journalists' safety and freedom of expression.... A schism between the LTTE and a group headed by the warlord Karuna unleashed a wave of violence from March 2004 for which journalists paid a heavy price.... Terror became widespread on the island where Karuna has numerous supporters. They were behind the murder on 31 May [2004], of Aiyathurai Nadesan, correspondent in Batticaloa for several Tamil media.... Newspapers believed to be close to the LTTE have been targeted by Karuna's men, the pro-government Tamil militia the EPDP and the security forces. Tamil newspaper *Thinakkural* was threatened with reprisals by Karuna and thousands of copies of the newspaper were burned in the east of the country.... Even though Tamil newspapers can be sold more or less freely and LTTE publications are distributed without significant obstruction in zones controlled by the Colombo government, the LTTE blocks distribution of the Tamil weekly *Thinamurasu* that is close to another armed group, the EPDP. Despite the intervention of Norwegian mediators who are monitoring the ceasefire, the LTTE harassment has persisted." [27f]

- 6.22 The RSF 2005 report continued: "Some Muslim journalists have also suffered LTTE harassment.... The ethnic divide in the press – Sinhala and Tamil are very different languages – does have negative effects for freedom of expression.... Stereotyping and manipulation are frequent in coverage of tensions between Muslims, Tamils and Sinhala." [27f]

- 6.23 The RSF 2005 report also noted:

"President demonstrates hostility to independent media. Violence was also directed at the press during the April legislative election campaign that resulted in victory for the coalition headed by Chandrika Kumaratunga. A grenade was thrown at the home of the managing director of the Asian Broadcasting Corporation in Colombo. This group is in conflict with the Media Minister, Lakshman Kadirgamar, who in February revoked the channel's terrestrial licence for a service it was set to launch within a few weeks. At the same time, Sri Lankan police searched the offices of *The Sunday Leader*, a Colombo-based weekly with a reputation for investigative reporting.... Chandrika Kumaratunga has retaken control of the state-owned media. Newly-appointed Media Minister, Mangala Samaraweera, who is close to the president, said in June that the role of the state media would henceforth be to attack the main opposition party." [27f]

- 6.24 The RSF 2005 report recorded that in 2004 two journalists were killed; nine journalists physically attacked; 26 journalists threatened and three media ransacked. [27f]

- 6.25 The IFJ (International Federation of Journalists) report, 'Courage and Censorship: Journalists and Press Freedom in South Asia 2004 – 2005', released on 3 May 2005 noted:

"Sri Lanka has not made any headway in improving freedom of expression in the last 12 months. An unstable and volatile social and political situation continued throughout this period, impeding the progress of democratic reforms.... There also have not been any decisive human rights or democracy campaigns from the opposition or from civil society in the past 12 months.... The last 12 months witnessed an unprecedented level of interference by ruling

politicians in the state owned media. Not only the partisan political interests of UPFA, but the internal contradictions within the alliance have affected the professionalism and independence of state-owned media. Editors have been removed or demoted on political grounds. Political appointees have taken control of the whole stateowned [sic] media, making a mockery out of editorial independence.... Ethnic conflict remains the main issue facing Sri Lanka, even in the context of the enormous challenges of post-tsunami recovery and reconstruction. Continued conflict also remains one of the main challenges for the development of a socially responsible media." [45c] (p22)

6.26 The IFJ report continued:

"Criminal defamation laws in Sri Lanka were repealed in 2003 after a nearly decade long campaign by freedom of expression groups. Under the UPFA government, several journalists, including two editors, were charged under obsolete contempt of court laws. Seven media organisations were threatened with contempt of court charges.... Inaccessibility to information remains one of the major roadblocks in freedom of expression in Sri Lanka. A culture of secrecy prevails.... Police and state security authorities have prevented journalists from carrying out their duties on numerous occasions during the last 12 months. Journalists also had to face violent civil groups and hostile politicians whilst carrying out of [sic] their duties. The partner in government JVP unleashed a vicious attack on private media in Sri Lanka using hate speech and discriminatory treatment." [45c] (p23)

6.27 On 29 April 2005 BBC, News reported that Dharmaretnam Sivaeram a leading journalist who wrote in support of Sri Lanka's Tamil Tiger rebels had been abducted and shot dead in the capital, Colombo. "The Tamil Tigers have blamed Sri Lankan military intelligence and rival paramilitary Tamil groups for the killing of Mr Sivaram, who they said was a fearless champion of the Tamil nationalist cause. Mr Sivaram had been close to the leader of a faction that broke away from the Tamil Tigers but his articles favoured the main rebel body.... The government condemned the killing and ordered an immediate investigation." [9et]

6.28 As noted in a further BBC report on the same day:

"Dharmaretnam Sivaram was an active champion of Tamil nationalism, both prolific and controversial. He turned full time to journalism after quitting the People's Liberation Organisation of Tamil Eelam, a Tamil rebel outfit led by the charismatic left winger, Uma Maheswaran. He was the driving force behind Tamilnet, the pro-Tamil Tiger website that has become a useful instrument over the past few years for accessing Tiger views and news. He also contributed to the Colombo-based English-language *Daily Mirror* and wrote columns in the Tamil media, including to the large-circulation Tamil daily, *Virakesari*. His work also appeared under the pseudonym Taraki. Mr Sivaram's past as a member of an armed Tamil group helped him gain an invaluable insight into militant movements and the armed conflict in Sri Lanka. He was also known to have contacts with elements of the Sri Lankan army.... Mr Sivaram created many enemies. Some Tamil observers feel he may have incurred the displeasure of Col Karuna because of the tone of an open letter he penned in the Tamil daily, *Virakesari*, following the rebel split. Sri Lankan media-watchers also point out that Mr Sivaram's hardline position on the ethnic conflict has not endeared him to the hardliners of the Sinhala majority. Despite his connections to the Sri

Lankan establishment, his house in Colombo was searched by security forces last year, allegedly for weapons.” [9eu]

- 6.29 On 15 June 2005, Reporters Sans Frontières welcomed the arrest of a suspect in the murder of Dharmeratnam Sivaram. “While welcoming the arrest, Reporters Without Borders stressed that it was essential to identify the killers and the instigators of the murder and to find the motive for this killing of one of the country’s best known Tamil journalists.” [27g]

INTERNET

- 6.30 As noted by Reporters Sans Frontières in the ‘Internet Under Surveillance 2004’ report – Sri Lanka, dated 22 June 2004:

“The Internet is fairly free, especially since the December 2002 ceasefire between the government and the Tamil Tiger (LTTE) rebels. No special law regulates the Internet. The telecom regulatory body gives technical approval of ISPs. Webmasters and editors have to register with the Council for Information Technology (Cintec) showing an ID or commercial licence, making it easy for the authorities to identify them. However no websites have been censored.” [27h]

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FREEDOM OF RELIGION

INTRODUCTION

- 6.31 As recorded in the US State Department Report for 2004 on Religious Freedom in Sri Lanka, published on 15 September 2004:

“Buddhism, Hinduism, Islam, and Christianity all are practiced in the country. Approximately 70 percent of the population is Buddhist, 15 percent is Hindu, 8 percent is Christian, and 7 percent is Muslim. Christians tend to be concentrated in the West, with much of the North almost exclusively Hindu. The other parts of the country have a mixture of religions, with Buddhism overwhelmingly present in the south.” [2e] (Section I)

- 6.32 As stated in the USSD 2004 Religious Freedom Report:

“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 while the Government publicly endorses this right, in practice there were problems in some areas. The Government’s official respect for religious freedom was unchanged; however, due to the actions of extremists, there was an overall deterioration in religious freedom.... Despite generally amicable relations among persons of different faiths, there has been an increase in violent resistance by some Buddhists to Christian church activity, in particular against evangelical groups.” [2e] (Introduction)

- 6.33 The USSD 2004 Religious Freedom Report also noted that despite pressure from extremists, the Government did not take action on draft bills that would criminalise religious conversion by “unethical” means. [2e] (Introduction)

6.34 As noted in the USSD 2004 Religious Freedom Report:

“Discrimination based on religious differences is much less common than discrimination based on ethnicity. In general the members of the various faiths tend to be tolerant of each other’s religious beliefs. However, there was a significant increase in the harassment of Christians, especially evangelical groups, and attacks on their property and places of worship during the period covered by the report.” [2e] (Section III)

6.35 As outlined in the USSD Religious Freedom Report 2004 “There are separate ministries in the Government 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. [2e] (Section II)

6.36 The USSD Religious Freedom Report 2004 confirmed that:

“Religion is a mandatory subject in the school curriculum and taught from an academic point of view. Parents and children may choose whether a child studies Buddhism, Islam, Hinduism, or Christianity. In public schools, students receive religious instruction based on the religion identified on their birth certificate (every birth certificate includes a religious designation) and other documents. Students of minority religions other than Islam, Hinduism, and Christianity must pursue religious instruction outside of the public school system. If the religion is not one of the four identified religions, the student must study a related religion or obtain the consent of the school authority for separate study. However, proof of religious study outside school is not mandatory. There are no separate syllabuses provided for smaller religions.” [2e] (Section II)

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BUDDHISTS

6.37 As noted in the USSD Religious Freedom Report 2004: “Most members of the majority Sinhalese community are Theravada Buddhists. [2e] (Section I) Despite the constitutional preference for Buddhism, a number of major religious festivals of other faiths are celebrated as national holidays.” [2e] (Section II) 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)

6.38 As recorded in the USSD Religious Freedom Report 2004 “In 2003 some Buddhist clergy were allowed to visit shrines in LTTE controlled areas for the first time in many years.” [2e] (Section II)

6.39 The USSD Religious Freedom Report 2004 recorded that:

“In May [2004] an MP of the Jathika Hela Urumaya (JHU) party presented a draft anti-conversion bill as a private member’s bill and, shortly after the end of the reporting period, presented the bill to Parliament formally. Several groups have submitted Supreme Court petitions challenging the constitutionality of the draft, and it has sparked intense discussion. As a private member’s bill it does not require (and has not received) Government support, and it faces a

protracted legislative process prior to any parliamentary vote. In June the Minister of Buddhist Affairs presented a separate draft anti-conversion bill to the Cabinet. It was not formally approved; however, it was sent to the Attorney General for a review that was ongoing at the end of the period covered by this report. There has been considerable public discussion of the bills, and many government officials expressed their concern about such legislation. The draft bill presented by the Minister of Buddhist Affairs will not be enacted automatically; it also faces protracted legislative review prior to any parliamentary vote.” [2e] (Introduction)

6.40 On 6 January 2005, TamilNet reported that:

“The Supreme Court said in its determination that the Bill tabled by Jathika Hela Urumaya (JHU) seeking to amend the Constitution prohibiting conversion of Buddhists and binding practising Buddhists to bring up their off spring in the same religion should be passed in parliament with two-third majority and also endorsed by the people in the country in a referendum, as some clauses in the Bill are inconsistent with the Constitution, legal sources said.... The clauses of the Bill were such that if enacted into law, it would effectively result in religious persecution not only of minorities, but also in certain respects, adherents of Buddhism with Constitutional sanction, which was an objective inconsistent with the very spirit of the Constitution, a secular state, norms of pluralist democracy and international obligations of Sri Lanka, stated the CPA [Centre for Policy Alternatives] in its objection, legal sources said.” [38s]

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HINDUS

6.41 As recorded in Europa World Year Book 2004 the majority of Tamil population are Hindu. [1] (p3953)

6.42 On 11 November 2004 the official website of the government of Sri Lanka reported the president’s message to the Hindus of Sri Lanka in the occasion of the ‘Deepawali Festival. “Hinduism and Buddhism two of the four main religions of this country have co-existed for centuries in our land. Our peoples have over the years maintained and respected the core values, philosophies and cultures, unique to each religion. This is the basis for peaceful co-existence and national integration.” It was also recorded in the website that “Hinduism is the religion practiced by around 15% of the country’s population and most the followers belong to the Tamil speaking community. There are Hindu temples in all parts of the country; some of them centuries old, such temples are revered by both the Hindus and Buddhists of Sri Lanka.” [44g]

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MUSLIMS

6.43 As stated in the USSD Religious Freedom Report 2004:

“Almost all Muslims are Sunnis, with a small minority of Shi’a, including members of the Borah community.... In 1990 the LTTE expelled some 46,000 Muslim inhabitants – virtually the entire Muslim population – from their homes in the northern part of the island. Most of these persons remain displaced and live

in or near welfare centers. Although some Muslims returned to the northern town of Jaffna in 1997, they did not remain there due to the continuing threat posed by the LTTE. There are credible reports that the LTTE has warned thousands of Muslims displaced from the Mannar area not to return to their homes until the conflict is over. It appears that LTTE actions against Muslims are not due to their religious beliefs, but rather that they are a part of an overall strategy to clear the North and East of persons not sympathetic to their cause. The LTTE has made some conciliatory statements to the Muslim community, but some Muslims viewed the statements with skepticism. The LTTE continues to encourage Muslim IDPs to return home, asserting they will not be harmed. Although some Muslim IDPs have returned home, the vast majority has not and instead is waiting for a guarantee from the Government for their safety in LTTE-controlled areas. Since the peace process began in 2001, the LTTE has also perpetrated a number of attacks in the East in which Muslims have been killed. No one has been arrested for perpetrating these attacks. In August 2003, four Muslims were killed; while the LTTE denied any involvement, this incident fueled tensions between the Hindu and Muslim communities in the area. The LTTE also commonly extorts money from Muslim families and businesses in the East.” [2e] (Section II)

- 6.44 The UNHCR Background Paper on Refugees and Asylum Seekers from Sri Lanka, dated April 2004 (but published in June 2004), noted:

“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)

- 6.45 The USSD 2004 reported that “There were instances of intimidation of Muslims by the LTTE during the reporting period. [2d] (Introduction) During the year [2004], the LTTE continued to detain civilians, often holding them for ransom, especially Muslims in the east. In July [2004], the LTTE abducted 13 Trincomalee area Muslims who were collecting firewood and demanded ransom for their release. The 10 who were released that same day were forced to provide manual labor, while the other 3 were held for several days and severely beaten before being released.” [2d] (Section 1b)
- 6.46 The USSD 2004 also recorded that there were 26 Muslims in the 225-member Parliament. [2d] (Section 3)

- 6.47 On 3 November 2004, BBC News reported that more than 700 Muslim families had fled their homes in Kattakundi near Batticaloa in eastern Sri Lanka after clashes between rival Muslim groups. "The clashes were between the mainstream Jamiyathul Ulama, which has more than 60,000 followers in the town, and the smaller Sufi group, which has about 4,000.... The town has one of the most concentrated Muslim majorities in Sri Lanka, with a population of about 75,000. Three different Muslim groups have emerged there since the late 1970s. Police say friction between the old-school Muslims and the new groups has been brewing for years." [9ew]
- 6.48 As reported by BBC News on 10 December, "Sri Lanka's Muslims are warning of a militant backlash as increasing tension between them and the Tamil community in the east of the country fuels feelings of frustration and anger. There is real concern among Muslims that a peace deal between the Sinhalese-majority government and Tamil Tiger rebels will mean they come under Tamil control and that their interests will be ignored.... Despite the potential for violence between the two communities, politicians sympathetic to the Tigers say that while Muslim issues will be addressed, the talks table is only for two." [9ex]
- 6.49 On 25 June 2005, the BBC reported that the main Muslim party in Sri Lanka had said it intended to boycott the tsunami aid-sharing deal between the government and Tamil Tiger rebels.

"The Sri Lanka Muslim Congress said the country's Muslims had been sidelined because they were not included as equal partners in the deal.... Under the controversial aid sharing deal, the Muslim community in Sri Lanka would be given its own representative on the panel administering aid funds.... But Sri Lanka Muslim Congress spokesman Rauf Hakeem said that more than half the tsunami victims were from the Muslim community and deserved to play a greater part in decisions about aid distribution.... Muslims comprise 1.3 million of Sri Lanka's 19 million people, and like the rebels, want autonomy in areas where the community is in a majority. The Sri Lanka Muslim Congress has six seats in the 225-member parliament." [9ey]

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CHRISTIANS

- 6.50 As stated in the USSD Religious Freedom Report 2004, 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 Protestant churches such as the Seventh-day Adventists, Jehovah's Witnesses and the Assemblies of God also present in the cities. Evangelical Christian groups have increased in membership in recent years, although the overall number of members in these groups remains small." [2e] (Section II)
- 6.51 The USSD Religious Freedom Report 2004 recorded that:
- "During the period covered by this report, Christians encountered increased harassment and physical attacks by local Buddhists who felt threatened by these groups.... Some Christian groups complained that the Government tacitly condoned harassment and violence; however, the Government at all levels publicly condemned these attacks. In some cases, police response was

inadequate, and local police officials reportedly were reluctant to take legal action against Buddhist monks involved in the attacks. NGOs have reported that in the majority of cases the police failed to protect churches and citizens from attacks. However, in some instances, police officials have investigated and arrested individuals in connection with attacks on churches.” [2e] (Section II)

6.52 The USSD Religious Freedom Report 2004 continued:

“The National Christian Evangelical Alliance of Sri Lanka reported that over 100 attacks took place during the period covered by this report. Between December 24 and 29, 2003, there were 20 violent attacks. To some extent, the attacks can be attributed to the sudden death on December 12 of a popular Buddhist monk, who was critical of the actions of both Buddhists and Christians. Consequently, the timing of attacks on churches during the Christmas period appears to be associated with the demonstrations surrounding his funeral (December 24) rather than a separate effort to attack churches during the holiday. A reputable NGO also reported that in the first 6 months of the year [2004], there were 48 documented attacks on churches, pastors, and congregations. While there was a reduction in violence following the April [2004] election, attacks have not ended.” [2e] (Section III)

6.53 The CSW (Christian Solidarity Worldwide) trip report, Visit to Sri Lanka, Wednesday 15-Saturday 25 September 2004 (published in October 2004) noted:

“In 2003 a total of 91 attacks on churches and Christians were reported. This year alone 66 such incidents have taken place. The anti-Christian violence was at its worst at the end of 2003 and the first few months of 2004. [74] (Summary) In 2003-2004 the NCEASL [National Christian Evangelical Alliance of Sri Lanka] recorded 146 acts of violence against Christian churches and communities. In 2004 alone, 66 acts of violence have so far been reported. This is a significant increase on previous years – in 2000 just 14 incidents were reported; in both 2001 and 2002, 13 attacks were reported; but in 2003, the number of attacks on Christian gatherings rose to 91, and in the past year over 140 churches have been forced to close due to attack, intimidation and threats.... The attacks have mainly affected evangelical and Pentecostal churches, although Roman Catholic, Methodist, Lutheran and other mainline denominations have also been targeted.” [74] (Anti-Christian violence section)

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FREEDOM OF ASSEMBLY AND ASSOCIATION

6.54 The US State Department Report 2004 (USSD) stated:

“The law provides for freedom of assembly and association, and the Government generally respected these rights in practice; however, some restrictions existed. 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. On May 26 [2004], according to the NGO Home for Human Rights, police in Kotagala used tear gas on a crowd of 2,000 persons protesting the closure of Sripada College. Police allegedly beat four protesters who sought medical

attention for their injuries. The Supreme Court did not hear the fundamental rights cases brought by the four injured protesters.” [2d] (Section 2a)

- 6.55 The USSD 2004 also noted that “The LTTE does not allow freedom of association in the areas it controls and reportedly used coercion to make persons attend its rallies. In July, the Sri Lanka Army protested LTTE coercion of large numbers of school children to attend the July 5 Black Tigers Day in Jaffna.” [2d] (Section 2a)
- 6.56 As noted in the Freedom House document, ‘Freedom in the World 2004: Sri Lanka’, “Freedom of assembly is generally respected, although both main political parties occasionally disrupt each other’s rallies and political events.... However, the LTTE does not allow for freedom of association in the regions under its control and reportedly uses coercion to force civilians to attend pro-LTTE rallies.” [46c] (Political Rights and Civil Liberties section) Sri Lanka’s status in terms of political rights (rating 3) and civil liberties (rating 3) was considered partly free by Freedom House in the document, ‘Freedom in the World 2005: Table of Independent Countries’. [46d] 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)
- 6.57 As outlined in 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)

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EMPLOYMENT RIGHTS

- 6.58 As noted in the USSD 2004:

“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. Nonetheless, approximately 20 percent of the 7 million-person work force nationwide and more than 70 percent of the plantation work force was unionized. In total, there were more than 1 million union members. Approximately 15 to 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.” [2d] (Section 6a)

6.59 The USSD 2004 also noted 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. In 2003, the Ministry of Employment and Labor registered 168 new unions and canceled the registration of 64 others, bringing the total number of functioning unions to 1,604 by the end of 2003. The Ministry of Employment and Labor is authorized by law to cancel the registration of any union that does not submit an annual report, the only grounds for the cancellation of registration. Employers found guilty of discrimination must reinstate workers fired for union activities but may transfer them to different locations. Antiunion discrimination is a punishable offense liable for a fine of \$200 (20,000 rupees).” [2d] (Section 6a)

6.60 As stated in the USSD 2004: “The law provides for the right to collective bargaining; however, very few companies practiced it. At year’s end, about 50 companies belonging to the Employers’ Federation of Ceylon (EFC), the leading employers’ organization, had collective agreements.” [2d] (Section 6b)

6.61 The USSD 2004 noted that “All workers, other than police, armed forces, prison service, and those in essential services, have the right to strike. By law, workers may lodge complaints with the Commissioner of Labor, a labor tribunal, or the Supreme Court to protect their rights. The President retains the power to designate any industry as an essential service. The law prohibits retribution against strikers in nonessential sectors; however, in practice employees were sometimes fired for striking.” [2d] (Section 6b)

6.62 As recorded in the USSD 2004:

“While there is no universal national minimum wage, 38 wage boards established by the Ministry 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. In late 2003, the Ministry of Labor began increasing the minimum wages of all wage boards by a minimum of 15 percent; however, at year’s end, this process had not been completed for garment and hotel worker wages.” [2d] (Section 6e)

6.63 The USSD 2004 continued:

“The law prohibits most full-time workers from regularly working more than 45 hours per week (a 5½-day workweek). New regulations limited the maximum overtime hours to 15 per week. Labor organizers were concerned that the new legislation did not include a provision for overtime with the consent of the worker. 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 that they would lose their jobs if they removed themselves from the work situation.” [2d] (Section 6e)

6.64 The USSD 2004 recorded that:

“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. Even though women constituted approximately one-half of the formal workforce, according to the Asian Development Bank (ADB), the quality of employment available to women was less than that available to men, as the demand for female labor was mainly for casual and low-paid, low-skill jobs in the formal and informal sectors.” [2d] (Section 5)

6.65 As noted in the USSD 2004:

“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. A recent amendment to the Employment of Women and Youth Act prohibits all other forms of family employment of children below 14.... Persons under age 18 may not be employed in any public enterprise in which life or limb is endangered.... Sources indicated many thousands of children were employed in domestic service, although this situation was not regulated or documented. Many child domestics reportedly were subjected to physical, sexual, and emotional abuse. Regular employment of children also occurred in family enterprises such as family farms, crafts, small trade establishments, restaurants, and repair shops. A 2003 International Labor Organization/International Program for Elimination of Child Labor (IPEC)-sponsored Rapid Assessment survey on domestic child labor in five districts found child domestic workers (under 18 years) in roughly 2 percent of households. The National Child Protection Authority (NCPA) is the central agency for coordinating and monitoring action on the protection of children. The Department of Labor (DOL), the Department of Probation and Child Care Services, and the Police Department are responsible for the enforcement of child labor laws. The NCPA and DOL have observed a declining trend in employment of children under 14 years due to stricter regulations and increasing public awareness regarding child labor.” [2d] (Section 6e)

6.66 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 BoI 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.” [16bc]

6.67 On 12 August 2004, the pro-LTTE website TamilNet reported that 20 Bata workers had been injured in Colombo when police assaulted them severely to

break up a 52-day long protest against the international footwear giant for sacking the 600 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. [381] 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]

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FREEDOM OF MOVEMENT

6.68 The USSD 2004 stated 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 these rights in practice; however, it restricted the movement of Tamils. 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. Unlike in previous years, Tamils no longer were required to obtain police-passes to move around the country; however, they were frequently harassed at checkpoints throughout the country. Limited access continued to certain areas 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 affected Tamil agricultural lands, particularly in Jaffna.... The LTTE limited travel on the road connecting Jaffna to the rest of the country.” [2d] (Section 2d)

6.69 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)

- 6.70 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]
- 6.71 On 20 June 2004, the *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]
- 6.72 On 17 July 2004, the *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 the *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]
- 6.73 As reported by the *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]
- 6.74 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 are 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]

6.75 On 20 August 2004, the *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]

6.76 As reported on 8 October 2004, by the *Daily News*:

“A bill to provide for making production of the National Identity Card compulsory for voting at future elections became law yesterday with the legislation passed unopposed. The Elections Act (Special Provisions) Bill went through incorporating amendments proposed by the opposition especially the minority parties. The Tamil National Alliance though abstained at the vote, registered its support for the Bill.... The law however, will come into effect one year after Government takes all necessary steps to issue identity cards to all eligible voters in the country.” [16br]

6.77 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 UK 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)

6.78 As stated in the website of the Sri Lanka Department of Immigration and Emigration (accessed on 22 July 2005), in Sri Lanka there are five types of travel documents: Diplomatic Passports; Official Passports and Ordinary Passports valid for all countries; Emergency Certificates valid for India and Nepal; Identity Certificates valid for All Countries issued to a person living in Sri Lanka, whose nationality is not established; Non Machine Readable Passports issued by Sri Lanka Missions abroad under special circumstances. “If Travel Document is lost a complaint should be made at the nearest Police Station and with a certified copy of the entry the matter has to be informed to the issuing authority. This document is required when applying for a new Travel Document in place of a lost one.” [71b]

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

“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)

- 6.80 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]
- 6.81 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 scanning 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 person 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. [16bi]
- 6.82 As noted in the USSD 2004:
- “The law does not provide for the granting of asylum and/or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. The Government has not established a system for providing protection to refugees; however, the Government cooperated with the UNHCR and other humanitarian organizations in assisting IDPs and refugees. There were no reports of refoulement, the forced return of persons to a country where they feared persecution.” [2d] (Section 2d)

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IMMIGRANTS AND EMIGRANTS ACT

- 6.83 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]
- 6.84 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]

- 6.85 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]
- 6.86 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]
- 6.87 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)
- 6.88 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]

- 6.89 As stated on the website of the Sri Lanka Department of Immigration and Emigration (accessed on 22 July 2005):

“Following are punishable offences [under the Immigrants and Emigrants Act No. 20 of 1948 it's [sic] regulations and subsequent amendments]. If found guilty upon prosecution imprisonment from 6 months to 5 years and a fine of Rs. 50,000 to Rs. 200,000 can be imposed. Submission of falsified or forged document/s to obtain a Travel Document. Applying for a Travel Document while in possession of such a document and / or possession of more than one valid Travel Document at a time. Despatch of a Sri Lanka Travel Document through the post, courier or another person from / to Sri Lanka without the prior approval of the Controller. For approval written request [in duplicate], Courier letter [in duplicate] and the Passport should be forwarded to the 3rd floor Unity Plaza Galle Rd Colombo 4.” [71b]

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6.B HUMAN RIGHTS – SPECIFIC GROUPS

ETHNIC GROUPS

TAMILS AND GENERAL HUMAN RIGHTS ISSUES

INTRODUCTION

- 6.90 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)

- 6.91 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)
- 6.92 According to the 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, and 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. [58a]
- 6.93 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

- 6.94 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)

- 6.95 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)
- 6.96 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]
- 6.97 As noted in the 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] Amnesty International 2005 Sri Lanka Country Report, issued in May 2005 recorded that “It was reported that around 40 prisoners remained in detention under the Prevention of Terrorism Act (PTA) at the end of the year. In July [2004], in response to a complaint brought under the Optional Protocol to the International Covenant on Civil and Political Rights, the UN Human Rights Committee concluded that the rights of Nallaratnam Singarasa had been violated and that he should be given an appropriate remedy such as ‘release or retrial and compensation. Nallaratnam Singarasa was detained under the PTA in 1993 and sentenced to 50 years’ imprisonment in 1995.” [3k]
- 6.98 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]
- 6.99 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.” [6i] 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)

6.100 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)**

6.101 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)

- 6.102 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)

- 6.103 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]
- 6.104 As noted in the USSD 2004 “The Government continued to hold 38 Tamils under the Prevention of Terrorism Act (PTA) during the year; however, no new arrests under the PTA occurred. The PTA, like the repealed Emergency Regulations, permitted warrantless arrest and nonaccountable detention.” [2d] (Introduction)

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DISAPPEARANCES AND EXTRA-JUDICIAL EXECUTIONS

- 6.105 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)

6.106 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]

6.107 As stated in Amnesty International’s, ‘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]

6.108 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)

6.109 The USSD 2003 recorded that:

“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)

6.110 As noted in 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)

6.111 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]

6.112 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]

- 6.113 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)
- 6.114 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]

- 6.115 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]
- 6.116 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]
- 6.117 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 cease-fire 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]
- 6.118 As noted in the 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’.” [3g]

- 6.119 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 the 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." The 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]
- 6.120 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]
- 6.121 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]
- 6.122 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]

- 6.123 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 the 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]

- 6.124 On 16 August 2004, the official website of the government of Sri Lanka reported a press statement of the European Union presidency issued after an 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 [sic] 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]

- 6.125 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 a 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]

- 6.126 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. [9db] 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. The 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.” [9dc] On 25 August 2004, the *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]

- 6.127 On 23 September 2004 BBC News reported that the brother of the man who led a split in Sri Lanka's Tamil Tigers had been shot and killed.

"The main faction of the Tigers say they killed the brother of Colonel Karuna in the east of the island. They said that Vinayakamoorthy Sivanesarurai, known as Reggie, was killed in an operation by Tiger special forces near Batticaloa. A senior member of a pro-government Tamil party has been shot dead in a separate incident, officials say. Mr Sivanesarurai is Colonel Karuna's older brother and is described by the mainstream Tigers as his deputy. The main Tiger faction says that two other senior associates of Colonel Karuna, Elilan and Thumilan were also killed in the latest operation." [9ez]

- 6.128 The BBC News report continued:

"Police say that the Tigers are also suspected of killing a prominent member of the pro government Eelam People's Democratic Party [EPDP] in Colombo on Thursday. They say that Somasundaram Varnakulasingham was shot with his wife while travelling in Colombo.... There have been a series of attacks carried out by the Tigers against Colonel Karuna's faction and the EPDP this year.... Last week-end an EPDP activist, Thambithurai Sivakumaran, was killed in an attack blamed on the Tamil Tigers." [9ez]

- 6.129 As reported in the Human Rights Watch (HRW) World Report 2005, Sri Lanka Country Summary (published on 13 January 2005):

"Political killings by the LTTE targeting rival Tamil party members, suspected Karuna sympathizers, and journalists intensified in 2004. Human rights workers who criticize the LTTE have also been threatened. On July 25, 2004, police found the bodies of eight persons shot dead while asleep in a government safe house outside Colombo. Most were believed to be senior aides to Karuna. Police investigating the killings said they appeared to have been committed by someone within the house. The LTTE declared that the perpetrators were 'dissidents' within Karuna's own faction. The LTTE claimed responsibility for the public executions of Balasuntaram Sritharan and Thillaiampalam Sutarajan on July 8, 2004 at Illupadichai junction, saying the two men had been sentenced to death as pro-Karuna 'traitors'. The Karuna faction is suspected in a number of political killings, including that of journalist Aiyathurai Nadesan on May 31, 2004, and Eastern University lecturer Kumaravel Thambaiah on May 24, 2004." [21e]

- 6.130 The HRW World Report 2005 continued:

"Members of rival Tamil parties, particularly the ex-militant groups who refuse to accept the LTTE as the "sole representative" of the Tamil people, have been targeted. Killings in 2004 have included: Valli Suntharam, a 61-year-old trade union activist and member of the Eelam People's Revolutionary Liberation Front

(EPRLF), shot dead in Jaffna on September 27; Selvarajah Mohan, a 22-year-old Eelam People's Democratic Party (EPDP) supporter, stabbed to death after being taken from his home in Jaffna district on September 24; Rajadurai Sivagnanam, killed in Batticaloa district on September 22; and Somasundaram Varunakulasingham, a central committee member of the EPDP, shot dead in Colombo on September 23." [21e]

- 6.131 The USSD 2004 recorded that in 2004 there were no reports of political killings by the Government [2d] (Section 1a) and it also recorded that:

"During the year [2004], there was credible evidence that, in addition to the 120 cadres and civilians killed in fighting between LTTE factions in March, the LTTE killed more than 81 members of anti-LTTE Tamil political groups, LTTE cadres loyal to Karuna, alleged Tamil informants for the security forces in the north, the east, and in Colombo, and civilians. Both current and former members of anti-LTTE Tamil political parties were targeted by the LTTE. During the year, 10 current and past anti-LTTE Eelam People's Democratic Party (EPDP) members were killed, including V. R. Kamalan, an eastern town council leader, and Media Secretary Balanadarajah Iyer. In March, unknown assailants killed Sinnathamby Sunderpillai, a candidate in the country's parliamentary elections.... Credible sources indicated that after the fighting in March, the LTTE killed an additional 43 members of breakaway military leader Karuna's group.... The LTTE also targeted alleged Tamil informants to the military, killing 10 during the year, including Kandaiah Yoharasa and Tissaveerasingam Dushyanthan." [2d] (Section 1a)

- 6.132 The USSD 2004 continued:

"After the fighting in March [2004], Karuna's group allegedly killed 26 LTTE cadres, including S. Senathirajah, the LTTE political leader for Batticaloa. Karuna's group also killed 7 civilians, including LTTE supporter, journalist Aiyathurai Nadesan, who was killed in Batticaloa on May 31.... There were reports that the Government provided protection and military aid to Karuna and his cadres to assist them in their fight against LTTE cadres." [2d] (Section 1a)

- 6.133 The USSD 2004 also recorded that:

"There were no reports of politically motivated disappearances at the hands of the security forces during the year. The 2000 U.N. Working Group on Enforced or Involuntary Disappearances listed the country as having an extremely large number of "unclassified" disappearances. There were no developments in any of these cases during the year. From 1995 to 2003, the Rehabilitation of Persons, Property & Industries Authority paid compensation to the next of kin of 17,740 missing persons. At year's [2004] end, the Ministry of Relief, Rehabilitation and Reconciliation was seeking cabinet approval to compensate another 960 next of kin. Since 2000, 12 disappearances were reported by the U.N. Working Group, 7 of which are still pending.... Unlike in previous years, there were no indictments, investigations, or prosecutions of security force personnel for past disappearances.... At year's [2004] end, there were more than 120 reports that the LTTE had abducted adults." [2d] (Section 1b)

- 6.134 A HRW document, dated 11 February 2005, noted that:

“The killings of a senior Tamil Tiger official and a former parliamentarian underscore the need for all sides to address human rights concerns in the Sri Lankan peace process, Human Rights Watch said today. On February 8, E. Kaushalyan, the political head of the rebel Liberation Tigers of Tamil Eelam (LTTE) in the eastern Batticaloa-Amparai region, was killed in an ambush in a government-controlled area while returning from discussions in Kilinochchi on post-tsunami relief and recovery work. Five members of his convoy were also killed, including Chandraneheru Ariyanayagam, a former parliamentarian and a member of the LTTE human rights body, the North East Secretariat on Human Rights (NESOHR). While the perpetrators of the killings are not yet known, it is widely believed that they were carried out by forces loyal to Colonel Karuna, who broke away from the LTTE in March. Some in the LTTE have accused government forces of complicity, though no evidence has been offered.” [21f]

(See also Section 4 on Peace Process)

6.135 The HRW document continued:

“Political killings have continued in Sri Lanka despite the ceasefire between the government and LTTE that has been in effect since 2002. Frequent political murders and violent clashes between LTTE members and persons loyal to Karuna pose a grave threat to civilian security in eastern Sri Lanka. The LTTE has long carried out politically motivated killings in order to strengthen its hold over the north and east of Sri Lanka, and has used violence and intimidation against perceived opponents to its claim that it is the sole representative of the Tamil people in Sri Lanka.... In a welcome if unusual move, the Sri Lankan government has condemned the killing of LTTE leader Kaushalyan. Human Rights Watch said that the government must do more than simply condemn the killing. In light of a possible complicity by government forces, the government should immediately establish a commission of inquiry into the deaths and ensure that proceedings and conclusions are credible and transparent. Human Rights Watch stated that while LTTE officials were the victims in this case, the Tamil Tigers have also been carrying out politically motivated killings with impunity. Since November there have been numerous murders and attempted murders of LTTE members, as well as assassinations and abductions of the rebel group’s opponents and critics.” [21f]

6.136 On 8 March 2005, the head of Sri Lanka Monitoring Mission (SLMM) issued a press release which stated:

“SLMM perceives the recent killings in the eastern parts of the country as a direct threat to the CFA and the Peace Process, and we condemn these barbaric and cowardly acts in the strongest possible terms. The violence has raised serious fears and created uncertainty, not only in the East, but also in the whole of Sri Lanka, and is preventing Sri Lankans from living a peaceful life. SLMM monitors are currently making inquiries into all the incidents. However, it is important to underline that the SLMM is tasked to monitor and assist the Parties in implementing the Ceasefire Agreement. SLMM is not here to conduct police investigations. Such work falls outside of our mandate, which is spelled out in the CFA. We, thus, encourage and sincerely hope that the Police will be able to shed light and bring the perpetrators to justice. We urge the Government of Sri Lanka and the LTTE, not to let these acts of violence damage the Ceasefire Agreement. We strongly recommend that both sides unite in an effort to do all in their power to prevent these senseless attacks. SLMM will continue

to do everything possible to assist the two Parties to stop these atrocious and violent attacks.” [22f]

6.137 On 14 March 2005, a media release posted on the official website of the Sri Lankan Government's Secretariat for Coordinating the Peace Process (SCOPP) stated that President Chandrika Kumaratunga on 3 March 2005 had named two judges to serve on the Presidential Commission of Inquiry on alleged attacks on LTTE cadres in the East of the country. “The Commission will record evidence from Civilians, Armed Forces, Police and the LTTE to ascertain the circumstances and/or the motive leading to the attacks on those alleged to be LTTE Cadres. Evidence will be restricted to the circumstances relating to the incidents of killing, causing injury and attempts to kill or injure by use of firearms or explosives mainly in the Batticaloa and Ampara Districts of the Eastern Province during the period 1st February, 2005 to 2nd March, 2005.” [41h]

6.138 On 15 March 2005, BBC News reported that police near the central Sri Lankan town of Welikanda said they were investigating the killing of two youths in the area late on Monday [14 March] night.

“They say unidentified gunmen wearing combat fatigues took the youths from their homes and shot them dead.... Military sources said the two were believed to be supporters of the Tamil Tiger rebel group, but this could not be independently verified. The town of Welikanda is close to the eastern district of Batticaloa – which has been the scene of rival Tamil killings after the renegade Tiger commander, Colonel Karuna, split from the main Tiger faction in March last year.” [9fb]

6.139 On 21 March 2005, BBC News reported that official said that two Tamil Tiger rebels had been killed in a clash with a rival faction in eastern Sri Lanka.

“Military spokesman Daya Ratnayake said he believed three others had been hurt in the fighting in Welikanda, 25km (15 miles) east of the town of Polonnaruwa. There has been no word from the Tigers, but the pro-rebel TamilNet website said three members of a breakaway rebel faction had been wounded in the clash...’At least two people from the main LTTE [Liberation Tigers of Tamil Eelam] group were killed and about three injured from the other side’, military spokesman Daya Ratnayake told the AFP news agency. TamilNet, however, said local police had identified the dead men as belonging to a rebel splinter faction led by the Tigers’ former commander in the east, Col Karuna.... The Tamil Tigers accuse the government of backing the Karuna faction – a charge the authorities deny.” [9fc]

6.140 As reported by BBC News on 15 April 2005:

“Five renegade Tamil Tiger rebels are reported to have been killed in shooting in eastern Sri Lanka. Two others have been injured in the incident, the Sri Lankan military and international peace monitors say. It is not clear who is behind the killing as details of the latest violence are still unclear.... There has been a shooting incident in the jungle. ‘At the moment we know five are dead and two injured,’ Steen Jorgensen, head of the Sri Lankan Monitoring Mission in the eastern district of Batticaloa is quoted as saying by Reuters. However, Sri Lankan army spokesmen Brigadier Daya Ratanayake told the BBC that the five dead were led by Col Karuna, the rebel who broke away from the main Tamil Tiger organisation last year. The attack took place in the Welikanda area of

Polonnaruwa, nearly 150 km (95 miles) northeast of the capital Colombo, in territory controlled by the government.... Brigadier Ratanayake said it looked like an insider had led the attack. However, it is not clear if that would have been someone who had infiltrated into the breakaway rebels or someone who had become disaffected with it. There has been no word from the Tamil Tigers but the pro-rebel Tamilnet website reported that nine renegades were killed in the attack, without specifying who was behind it." [9fd]

6.141 On 21 April 2005 BBC News reported that:

"Five Tamil Tiger rebels in Sri Lanka have been killed in fighting with former colleagues, the army says in a report denied by the group. Army spokesman Brigadier Daya Ratanayake said the Tiger fighters had been killed by breakaway rebels loyal to Col Karuna, the former deputy leader of the organisation. He said seven people were injured in the incident. The pro-Tamil Tiger website, Tamilnet, quoted a Tamil Tiger commander as saying that the rebels had suffered no fatalities." [9fe]

6.142 As reported by BBC News on 13 May 2005:

"Military police in Sri Lanka say a suspected Tamil Tiger rebel has been found dead in Batticaloa – some 200km east of the capital, Colombo. A police spokesman said he appeared to have been killed by a renegade faction of the Tamil Tiger rebel movement.... Police blamed Col Karuna's faction for the attack. They say that initial investigations revealed that the victim, Manoj Kumar, was a member of the rebels' sea tiger unit, which has ordered suicide attacks on Sri Lanka's navy." [9ff]

6.143 As noted in the Amnesty International 2005 Sri Lanka Country Report, issued in May 2005:

"There was a dramatic escalation in political killings, especially in the east, following the split in the LTTE. From April [2004] onwards an increasing number of civilians, including members of opposition Tamil groups, were assassinated by the LTTE and Colonel Karuna's supporters. Some of these killings took place in government-controlled territory or near Sri Lankan Army (SLA) checkpoints, leading the LTTE to accuse the SLA of providing support to Colonel Karuna's faction. The continued killings and intimidation created an atmosphere of fear among the civilian population in the east as well as putting the ceasefire under strain. A number of people were also killed in Colombo. On 31 May journalist Aiyathurai Nadesan was shot and killed on his way to work in Batticaloa. It was believed that Colonel Karuna's supporters carried out the killing. On 8 July the LTTE publicly executed Balasuntaram Sritharan and Thillaiampalam Sundararajan in the eastern village of Illuppaiadaichenai. In a statement released by its Batticaloa-Amparai political wing, the LTTE claimed the two men had been sentenced to death as 'traitors'. On 10 August Balanadarajah Iyer, a senior EPDP spokesman, was shot and killed in Wellawatte, Colombo. It was believed that the LTTE carried out the killing." [3k]

6.144 A HRW document issued on 24 May 2005 noted that:

"Ongoing killings and abductions of Tamils throughout Sri Lanka have created a climate of fear among Tamils across the country, Human Rights Watch said today. Human Rights Watch called for the establishment of an independent

commission of inquiry into the killings and abductions in order to identify those responsible and recommend measures to end the abuses. The killing in early May of well-known Tamil journalist D. Sivaram by unknown assailants is only one of a long line of assassinations of outspoken members of the Tamil community. Since the beginning of the ceasefire between the government and the Liberation Tigers of Tamil Eelam (LTTE) in February 2002, an estimated 200 Tamils have been killed for apparently political reasons, though numerous such killings occurred prior to the ceasefire. As of November 2004, there had been 900 reports of abductions, of which almost 400 have been certified by the Norwegian-led Sri Lanka Monitoring Mission (SLMM) as violations of the ceasefire agreement.” [21g]

6.145 The HRW document of May 2005 continued:

“The evidence available places responsibility for many of the killings on the Tamil Tigers. Most victims were considered to be LTTE opponents and in many cases there is circumstantial evidence of LTTE involvement, such as threats from LTTE members or agents prior to a killing. Other killings have been linked to persons loyal to Colonel Karuna, a Tamil Tiger commander who broke off from the LTTE in March 2004. A number of the victims were persons deemed to be supporters of one faction or the other. The LTTE denies all involvement in the killings. The Sri Lankan government has not responded forcefully to the killings. The government claims it can do little to protect even obvious targets and the few investigations into killings it has conducted have been ineffectual.... In a country where Tamil grievances have been the primary cause of a protracted and complicated civil war, the failure by the government to pursue these killings is particularly troubling and raises serious questions about its stated commitment to take Tamil human rights concerns seriously.” [21g]

6.146 As noted in a statement by the Asian Human Rights Commission (AHRC) issued on 31 May 2005:

“The Asian Human Rights Commission (AHRC) is shocked to learn about the assassination of a high ranking Sri Lankan military intelligence officer Major Nisam Muthalif today in Colombo. The AHRC condemns this murder and further reiterates that Sri Lanka is rapidly heading towards a major breakdown of law and order. The AHRC urge for rapid and effective inquiries into this crime and the perpetrators being brought to justice. Another brutal killing took place at the heart of Colombo on 28 April 2005 when a Tamil journalist Mr. Sivaram Dharmeratnam was abducted and killed. There were earlier killings of a High Court Judge Mr. Sarath Ambepitiya on 19 November 2004 immediately followed by the assassination of a torture victim Mr. Gerald Melvin Perera who was shot in public while he was traveling in a bus on 21 November 2005 [sic] and his subsequent death in hospital while undergoing treatment.... Though this type of violence poses great difficulties to a law enforcement agency to control it still remain their primary duty and also to rapidly investigate and to deal with such violence. If they are unwilling or incapable of dealing with this situation, further retaliations will spread everywhere.” [47i]

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TORTURE

6.147 As stated in the USSD 2004:

“The Convention Against Torture Act (CATA) of 1994 makes torture a punishable offense; however, the CATA does not implement several provisions of the U.N. Convention Against Torture, and human rights groups maintain that while torture is prohibited under specific circumstances it is allowed under others. According to Human Rights Commission (HRC) and other sources, the use of police torture to extract admissions and confessions was routine and conducted with 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; however, no arrests were made under the PTA during the year.” [2d] (Section 1c)

6.148 The USSD 2004 noted that:

“There were credible nongovernmental organization (NGO) reports that some police tortured individuals in custody. For example, the Asian Human Rights Commission (AHRC) reported that on January 5 [2004], police in uniform and civilian attire from the Matale Police Station poured boiling water for 10 minutes on the genitals and thigh of Jayasekara Vithanage Saman Priyankara, resulting in serious burns. Priyankara was again tortured after Matale police illegally arrested him following his filing of a complaint against police for the initial torture. The National Police Commission (NPC) was investigating the incident at year’s [2004] end. On February 2, according to AHRC and media reports, Palitha Tissa Kumara Koralaliyanage was illegally arrested and tortured in the Welipenna Police Station in Kalutara District. Police severely beat Koralaliyanage with a cricket bat and forced a tuberculosis patient to spit into his mouth. Koralaliyanage was later diagnosed with tuberculosis. In May, the Supreme Court agreed to hear Koralaliyanage’s case, which was still pending at year’s end. On September 27, Mr. Ruwan Chandrasekera, an officer at the Jaffna Human Rights Commission office, was assaulted by police from the main Jaffna Police Station while investigating a complaint from a detainee’s family about incommunicado detention. HRC filed a torture case against the police officer. At year’s end, the HRC and the Senior Superintendent of Police in Jaffna were investigating the case. Unlike in previous years, there were no reported cases of rape or sexual assault in custody.” [2d] (Section 1c)

6.149 The USSD 2004 also reported that the LTTE used torture on a routine basis. [2d] (Section 1c) The USSD 2003 reported 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].” [2b] (p6)

6.150 As recorded in the USSD 2004:

“Methods of torture included beatings, often with wire or hose, electric shock, the suspension of 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 during the year 13 deaths occurred in police custody.” [2d] (Section 1c)

6.151 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)

- 6.152 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.” [6k] (p3)
- 6.153 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, two 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). [13]
- 6.154 Out of the 49 clients in the Medical Foundation case study, nine 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]
- 6.155 In their 2000 report, the Medical Foundation pointed out the degree of involvement with the LTTE of their sample of 49 Tamils. 31 per cent of the sample were forced to do occasional work for the LTTE, 16 per cent worked voluntarily, 8 per cent were forced to fight for the LTTE, and 4 per cent were working full time for the LTTE. A further 4 per cent were involved with other militant Tamil groups. This leaves 37 per cent 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]

- 6.156 As reported in the Human Rights Watch (HRW) World Report 2005, Sri Lanka Country Summary (published on 13 January 2005):

“The police continue to torture detainees. In 2003, the National Human Rights Commission and the Police Commission agreed on a set of steps to remedy the situation, including ensuring that families and lawyers have access to detainees, displaying written summaries of detainees’ rights in police stations, and holding officers in command responsible for torture in their stations. However, cases of police torture continue to be reported. On November 5, 2004, twenty-one-year-old Don Mahesh Duminda Weerasuriya was illegally arrested and tortured by police officers at Panadura North Police Station who apparently wanted information about Weerasuriya’s uncle. After being tortured at the police station, he was charged and held at Kalutara Prison where he was detained until November 10.” [21e]

- 6.157 As outlined in the Amnesty International 2005 Sri Lanka Country report:

“There were numerous reports of torture by police, as well as some reports of death in police custody. Some torture victims seeking redress in the courts were reportedly put under pressure to withdraw their cases. Among them was Gerald Perera, a torture victim due to give evidence against seven police officers in the High Court, who was shot on 21 November [2004] and subsequently died. In August the National Police Commission announced that addressing torture by police would be its top priority. It also announced that it would be responsible for the disciplinary control of all police officers, revoking the previous authority of the Inspector General of Police (IGP) in disciplinary matters relating to officers below the rank of inspector. The National Human Rights Commission (NHRC) established a Torture Prevention and Monitoring Unit to investigate allegations and carry out surprise checks on places of detention. However, in September the IGP issued a directive, based on the Attorney General’s advice, stating that the NHRC must notify senior police officials before inspecting police barracks and other unauthorized places of detention.” [3k]

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GOVERNMENT ACTION

- 6.158 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)**
- 6.159 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)

6.160 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)

6.161 The USSD 2004 noted 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 many human rights organizations, the HRC often was not as effective as it should have been. The HRC did not have enough staff or resources to process its caseload of 6,720 pending complaints. The HRC adopted a tribunal-like approach to investigations and declined to undertake preliminary inquiries [sic] in the manner of a criminal investigator. In December, HRC issued an annual report for 2003. In June, the HRC established a Torture Prevention Monitoring Unit in its headquarters and three of its regional offices to implement its zero tolerance torture policy. HRC provided extra training for officers assigned to this unit, and established a policy of quick investigation for torture complaints. To ensure its sustainability, HRC urged the Treasury to cover costs of the Torture Prevention Monitoring Unit. During the year [2004], there were instances of interference with HRC investigations. In June, HRC officers attempting to investigate a complaint of torture were harassed and intimidated by police officers at the Paiyagala Police Station in Kalutara District. On September 27, a police officer assaulted HRC officer Ruwan Chandrasekera who was investigating a complaint at the Jaffna Police Station.” [2d] (Section 4)

6.162 The USSD 2004 further noted that:

“In June, the HRC established a Torture Prevention Monitoring Unit to implement its ‘zero tolerance’ torture policy (see Section 4). The HRC provided extra training for officers assigned to this unit and established a policy of quick investigation for torture complaints. The HRC also assigned special teams to investigate deaths in police custody. By year’s end, it was not possible to assess the success of this unit in handling torture complaints.” [2d] (Section 1C)

- 6.163 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]

- 6.164 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]

- 6.165 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)

- 6.166 The USSD 2003 also stated:

“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)

6.167 As recounted in the UK 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)

6.168 As reported on the website of the Sri Lanka Army on 9 February 2004:

“A new bout of the intensive training course for service personnel on International Humanitarian Law and Human Rights (IHL & HR), organized by the Army’s Directorate of Human Rights and Humanitarian Law, commenced today (09) at the Hector Kobbekaduwa Agrarian Research and Training Institute (HKARTI) at Colombo. This new batch of 36 Officers selected from different Regiments and Units of the Sri Lanka Army will undergo this Advanced Refresher Training Course for Officer Instructors until 20th February 2004. This is the third group to be trained under the Army’s five year long programme on IHL & HR, funded by the British High Commission. This third course is meant for Commissioned Officers who have already followed the Basic Training Course on IHL and HR prior to this course. The Sri Lanka Army has hitherto conducted a number of courses of this nature for 177 Commissioned Officers and 128 Senior Non Commissioned Officers. Their contribution has produced effective results in the Armed Forces’ attempt to minimize violations of human rights.” [66b]

6.169 On 16 June 2005, TamilNet reported that, as stated in a press release issued by the US Embassy in Colombo, American law enforcement instructors had completed two weeks of training Sri Lanka Police at the Police Higher Training Institute in Colombo on ‘Interview and Interrogation Techniques, Human Dignity and Ethics, and Community-based Policing.’ [38t]

6.170 As stated in an undated news item on the website of the UN Refugee Agency in Sri Lanka (website accessed on 13 September 2004):

“A workshop on international humanitarian law and human rights for the LTTE Police, was heralded a success by both facilitators and participants. The

UNHCR organised these training sessions in accordance with its mandate to promote greater understanding amongst all in positions of authority, as part of a series of sessions throughout the country, targeting both Government and LTTE officials. Held from 26th-28th May 2004 at the LTTE Police Headquarters Meeting Hall, the workshop attracted 36 senior officers from the LTTE Police Headquarters and OICs from several LTTE Police Stations.... The session themes covered and their facilitators were as follows: 1) Introduction to Human Rights – Human Rights Commission (HRC) 2) Arrest and Detention – HRC 3) IDP Rights – UNHCR/Legal Aid Foundation (LAF) 4) Women's Rights and Sexual and Gender-based Violence (SGBC) – UNHCR 5) Child Rights – UNICEF.” [6o]

6.171 The USSD 2004 noted that:

“In 2002, the Government established the NPC, composed entirely of civilians, and authorized it to appoint, promote, transfer, discipline, and dismiss all police officers other than the Inspector General of Police; however, in practice, the NPC devolved responsibility for discipline of less senior police officers to the Inspector General of Police. The NPC has the power to establish procedures to investigate public complaints against the police. During the year, the NPC handled 1,192 complaints, of which 10 percent were forwarded to local Superintendents of Police for further action.” [2d] (Section 1d)

6.172 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]

6.173 On 16 October 2004 the *Daily News* quoted the IGP (Inspector General of Police) Chandra Fernando inaugurating the Police Tamil Language Training Course at the Police Child and Women Secretariat in Colombo as saying that learning a second language, other than one’s own mother tongue, was very important to build a peaceful Sri Lanka and that the Police Higher Training Institute had organised several seminars and Tamil-language training programs to enhance Tamil knowledge among police personnel. “Police personnel working in the North and the East should know Tamil language to assist people living in those areas. About 17,000 police personnel are working in the North and the East but only 1,000 know Tamil. It is very difficult for police personnel to work in those areas without a knowledge in Tamil, the IGP said.... The IGP emphasised the importance of conducting Tamil classes in areas like Batticaloa, Ampara and Trincomalee. He appealed to the [Official Languages] Commission to conduct lectures among police personnel in those areas to help police stations to run efficiently.” [16bs]

6.174 As stated in USSD 2004:

“Special sections of the A.G.’s [Attorney General’s] Office and the Criminal Investigation Unit focused on torture complaints. During the year, the units forwarded 44 cases for indictments, of which 11 resulted in indictments, with the remaining cases pending at year’s end. There were two convictions from indictments in earlier years. The Interparliamentary Permanent Standing Committee and its Interministerial Working Group on Human Rights Issues also continued to track criminal investigations of torture.” [2d] (Section 1c)

6.175 As noted in the Amnesty International 2004 Sri Lanka Country Report:

“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.” [3g]

6.176 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 the 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]

- 6.177 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]

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PROSECUTION OF SECURITY FORCE PERSONNEL

- 6.178 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." [6f] (p2)

- 6.179 The USSD 2004 confirmed 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 \$142 (14,200 rupees) to \$1,825 (182,500 rupees). The guilty party paid fines based on the decision of the judge hearing the case. In some cases, the Government did not pay fines incurred by security force personnel found guilty of torture." [2d] (Section 1c)

- 6.180 As stated in 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)

- 6.181 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)

- 6.182 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]

- 6.183 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)

- 6.184 As noted in the 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.” [3g]

- 6.185 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.” [47e]

- 6.186 On 18 May 2004, the *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 the *Daily News*, the compensation for the incident that took place in June 2003 was payable by the State. [16bk]

6.187 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. Lamaheewage Lal Meddagoda (36) who had been tortured to death by the Negambo 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. Lamaheewage 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]

6.188 As reported in the *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]

6.189 As noted in the USSD 2004:

“Security force impunity remained a problem. At year’s [2004] end, the Government continued to investigate 5 past cases of rape, 100 past cases of torture, and approximately 1,240 past cases of disappearance. In July 2003, 5 individuals, including 2 police officers, were sentenced to death in the court proceedings involving the 2000 Bindunuwewa rehabilitation camp deaths of 27 Tamil men. The sentences were immediately commuted to 23 years’ rigorous imprisonment.... In 2003, representatives of the victims of the 1992 massacre of 35 Tamil civilians in the village of Mailanthani requested that the Attorney General (A.G.) appeal the 2002 acquittal of the 21 soldiers accused of the killings. The A.G. did not grant the appeal during the year [2004], and the case remained closed on the final verdict.” [2d] (Section 1a) “Impunity, particularly for cases of police torture, was a problem.” [2d] (Section 1d)

6.190 The USSD 2004 also recorded that:

“On November 21 [2004], unknown assailants shot Gerald Perera in Wattala. Perera, who was scheduled to testify on December 2 about alleged torture he had undergone in 2002, died 3 days later from the shooting. On December 23, a police sub-inspector and the suspected gunman were arrested in the case, and at year’s [2004] end, their trials were pending. No charges were filed against police in the July 2003 death in custody of Sunil Hemachandra, and there were no developments in the November 2003 S.L. Kulatunga death in custody.” [2d] (Section 1a)

- 6.191 As stated by the Asian Human Rights Commission in a press release issued on 7 January 2005:

"The Asian Human Rights Commission (AHRC) criticised Sri Lanka's attorney general on Friday [7 January] for undermining the dispensation of justice after deciding not to indict the police officers in charge involved in two torture cases. The Hong Kong-based regional human rights group said it was 'completely erroneous' and had 'no basis in law' for the attorney general to exclude the two officers from prosecution. Under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994, in Sri Lanka, aiding and abetting of torture and conspiracy to commit the crime are much an offence as direct participation in torture. The two separate criminal cases of torture, in which victims Gerald Perera and Lalith Rajapakse were seriously injured in 2002, are pending in the Negombo High Court...The AHRC said the exclusions of the criminal liabilities of the officers in charge in these two torture cases would encourage other police officers to carry out abuses through their subordinates. If an act of torture is exposed, the blame will be placed on the subordinate officers, the rights group noted...The AHRC has sent letters to the attorney general's office arguing that the two police officers in charge should be held responsible criminally because Perera and Rajapakse were arrested, interrogated and tortured under their direct supervision." [47]

- 6.192 As noted in a written statement posted on the website of the Asian Legal Resource Centre on 17 February 2005:

"This murder [of Gerald Pereira] has raised serious concerns about the future of cases under the Convention against Torture Act of Sri Lanka (Act No. 22 of 1994). If a chief witness were killed before a trial takes place, then it would be virtually impossible to proceed with the criminal trial as required under this act. The result might be that more alleged perpetrators accused in criminal cases, particularly those involving torture, may resort to the killing of key witnesses in the hope that trials against them will be withdrawn. Indeed, there have been other cases where there have been attempts at murder and serious torture of victims for a second time with the expectation that legal proceedings will be terminated due to a lack of evidence." [49b]

- 6.193 The Asian Legal Resource Centre statement continued:

"Though the Convention against Torture Act of Sri Lanka was adopted in 1994, hardly any cases were filed until there was a serious civil society campaign and pressure from the international community to enforce it. As a result, according to statistics given by the Attorney General's department, about 40 cases are now pending before various high courts. In two cases there have been convictions. These two convictions and the increasing number of investigations leading to the filing of more cases have had a chilling effect on the police in recent months. The use of torture, once accepted as the only mode of conducting criminal investigations, has now become a visible offence carrying a mandatory seven-years' imprisonment and of a fine Rs. 10,000 (US\$0.00) [sic] ...Though serious representations have been made to the Inspector General of Police, Attorney General and other relevant state agencies to implement a witness protection programme, there has been no attempt to bring about such a programme through the law. Although regrets are expressed over deaths, no positive attempt has been taken to introduce a witness protection programme and to provide resources for it.... Under these circumstances victims of torture

who take cases to trial are faced with serious danger. On the one hand they wish to have the perpetrators of torture punished. On the other hand they are afraid of jeopardising the life and freedom of their family members and also themselves. Many torture victims have relocated to other areas in search of security.” [49b]

- 6.194 As noted in the Amnesty International 2005 Sri Lanka Country Report “[In 2004] There was little progress towards holding security forces to account for past human rights violations.” [3k]

- 6.195 As stated by the Asian Human Rights Commission in a press release issued on 20 May 2005:

“The attorney general of Sri Lanka has received praise for filing charges against the alleged torturers of Chamila Bandara in the high court...The attorney general had ensured ‘proper implementation of law’ by filing charges against the accused under the country’s Convention against Torture Act (No. 22 of 1994), the Hong Kong-based regional human rights group said...’The determination shown in this case to act strictly within the law and the international obligations of Sri Lanka as a state party to the ICCPR [International Covenant on Civil and Political Rights] needs to be valued very greatly,’ Bijo Francis, programme officer of the AHRC said in the letter [to the AG]. ‘It is an indication that the impunity enjoyed by some state officers who flout the law is now being challenged,’ he said.” [47k]

- 6.196 On 27 May 2005, BBC News reported that four men had been freed from custody in Sri Lanka after the Supreme Court acquitted them of involvement in the killing of 27 Tamils five years ago.

“One of those freed, a policeman, was on duty on the night the young Tamil men died when locals stormed the detention centre where they were being held. Judges severely criticised the role of the police in the massacre.... The four acquitted on Friday – police officer Jayampathi Karunasenawere and three local men, DM Sepala Dissanayake, MA Samee and RM Premananda – were sentenced to death by the Colombo High Court in July 2003, but appealed. Another policeman, Tyronne Roger Ratnayake, was sentenced to death at the same time. He was ordered freed last year by the Supreme Court for lack of evidence.” [9fg]

- 6.197 As noted by Human Rights Watch on 2 June 2005:

“Last week’s acquittal by the Sri Lankan Supreme Court of all defendants in the mob killing of 27 Tamil detainees at the Bindunuwewa detention facility in October 2000 demonstrates the failure of the Sri Lankan justice system to address crimes against alleged Tamil Tiger members, Human Rights Watch said today. Human Rights Watch called for a new investigation to be launched immediately to identify those, including senior police officials, responsible for the killings.... Though there were approximately 60 police officers stationed around the camp, not a single officer arrested any member of the attacking crowd. Subsequent independent investigations revealed that not only did the police not do anything to prevent or stop the killings, but some police officers also participated in the attack.” [21h]

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UP-COUNTRY TAMILS

6.198 The Dutch Ministry of Foreign Affairs 1997 Report noted 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)

6.199 The USSD 2003 recorded that “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)

6.200 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.” [16r]

6.201 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.” [16z]

6.202 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]

6.203 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)

6.204 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]

6.205 As noted in the USSD 2004:

“There were approximately 1 million Tamils of comparatively recent Indian origin, the so-called hill, tea estate, or Indian Tamils, whose ancestors originally were brought to the country in the 19th century to work on plantations. In the past, approximately 300,000 of these persons did not qualify for citizenship in any country and faced discrimination, especially in the allocation of government funds for education. In October 2003, Parliament passed a bill granting full citizenship to over 300,000 tea estate Tamils. In August [2004] UNHCR began awareness campaigns to alert Tamils to the new legislation and by year’s end had registered approximately 200,000 persons.” [2d] (Section 5)

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INDIGENOUS PEOPLE

6.206 The USSD 2004 recorded that “The country’s indigenous people, known as Veddas, numbered fewer than 1,000. Some preferred to maintain their traditional way of life, and 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 their land in protected forest areas. [2d] (Section 5)

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WOMEN

6.207 The USSD 2004 noted that:

“The Constitution provides for equal rights under the law for all citizens, and the Government generally respected these rights in practice; however, there were instances where sex-based discrimination occurred.... Women have equal rights under national, civil, and criminal law; however, questions related to family law, including divorce, child custody, and inheritance, were 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 may follow their customary marriage practices and marry at 15. Women were denied equal rights to land in government-assisted settlements, as the law does not institutionalize the rights of female heirs. Different religious and ethnic practices often resulted in uneven treatment of women, including discrimination.” [2d] (Section 5) “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.” [2d] (Section 1e)

6.208 As outlined in the USSD 2004:

“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. 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 was necessary. During the year, the Bureau for the Protection of Children and Women received 1,190 complaints of violent crimes against women.... Services to assist victims of rape and domestic violence such as crisis centers, legal aid, and counseling were limited.... Sexual harassment is a criminal offense carrying a maximum sentence of 5 years in prison; however, these laws were not enforced.... In December, UNHCR launched a media campaign to promote awareness of sexual and gender-based violence, including sexual harassment in the workplace, and violence against women and children, and domestic abuse.” [2d] (Section 5)

6.209 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]

- 6.210 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 [sic] 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)

- 6.211 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)

- 6.212 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." [3d]

6.213 As recorded in 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) The USSD 2004 recorded that "Unlike last year, there were no reported incidents of rape or attempted rape by security forces.... At year's [2004] end, a case was pending in the October 2003 charge that two policemen attempted to rape Mrs. Selvarajan in Uyilankulam in Mannar District. No case was filed in the August 2003 charge that three soldiers attempted to rape a woman in Vadamarachchi in the Jaffna Peninsula. During the year, police reported approximately 928 rape investigations in the country compared with 900 rape investigations in 2003." [2d] (Section 5)

6.214 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 extent [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 extent 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]

6.215 According to an undated list on 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

6.216 As stated in the USSD 2004:

“Many NGOs attributed the problem of exploitation of children to the lack of law enforcement rather than inadequate legislation. Many law enforcement resources were diverted to the conflict with the LTTE, although the police’s Bureau for the Protection of Children and Women conducted investigations into crimes against children and women. In 2002, police opened an office to work directly with the National Child Protection Authority (NCPA) on children’s issues, to support NCPA investigations into crimes against children, and to arrest suspects based on those investigations.” [2d] (Section 5)

6.217 The USSD 2004 continued:

“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 included representatives from the education, medical, retired police, and legal professions and reported directly to the President. During the year, the Bureau for the Protection of Children and Women received 1,841 complaints of violent crimes against children.” [2d] (Section 5)

6.218 As noted in the USSD 2004:

“The Government pushed for greater international cooperation to bring those guilty of pedophilia to justice. The penalties for pedophilia range from 5 to 20 years imprisonment and an unspecified fine. During the year, 39 cases of pedophilia were brought to court and were pending at year’s end. 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 as high as 6,000. Citizens committed much of the 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 (see Section 5, Trafficking). 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.” [2d] (Section 5)

6.219 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]

6.220 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]

- 6.221 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.” [4i]

- 6.222 As reported by the *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]

- 6.223 On 15 June 2004 the *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]

CHILD SOLDIERS

6.224 As highlighted in a UNICEF news note of 11 April 2003, the LTTE, the government of Sri Lanka, local and international organisations 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]

6.225 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]

6.226 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)

6.227 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 Vakkarai 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]

6.228 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]

6.229 On 7 May 2004, the *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."

6.230 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]

6.231 An Amnesty International press release of 7 July 2004 stated:

“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]

6.232 As stated in an Amnesty International press release issued on 6 October 2004:

“At a meeting with a senior Liberation Tigers of Tamil Eelam (LTTE) delegation visiting Geneva, Amnesty International, Human Rights Watch and the International Commission of Jurists (ICJ) called on the LTTE to end political killings and the recruitment of child soldiers and demonstrate how they will respect international humanitarian and human rights law in Sri Lanka.... UNICEF has documented that in May, June and July 2004 alone, the LTTE recruited 259 children, while releasing 106 – and UNICEF acknowledges that they learn about only a small proportion of child recruitment.” [31]

6.233 The HRW report, ‘Living in Fear Child Soldiers and the Tamil Tigers in Sri Lanka’, dated November 2004 noted:

“Despite an end to active hostilities and repeated pledges by the LTTE leadership to end its recruitment of children, the practice has continued not only in LTTE controlled areas, but now reaches into government areas in the North and East where the LTTE previously had little access...Tamil children are vulnerable to recruitment beginning at the age of eleven or twelve. The LTTE routinely visits Tamil homes to inform parents that they must provide a child for the ‘movement.’ Families that resist are harassed and threatened. Parents are

told that their child may be taken by force if they do not comply, that other children in the household or the parents will be taken in their stead, or that the family will be forced to leave their home. The LTTE makes good on these threats: children are frequently abducted from their homes at night, or picked up by LTTE cadres while walking to school or attending a temple festival. Parents who resist the abduction of their children face violent LTTE retribution. Once recruited, most children are allowed no contact with their families. The LTTE subjects them to rigorous and sometimes brutal training. They learn to handle weapons, including landmines and bombs, and are taught military tactics. Children who make mistakes are frequently beaten. The LTTE harshly punishes soldiers who attempt to escape. Children who try to run away are typically beaten in front of their entire unit, a public punishment that serves to dissuade other children who might be tempted to run away.” [21i] (Summary)

6.234 The HRW document of November 2004 continued:

“As of October 31, 2004, the United Nations Children’s Fund (UNICEF) had documented 3,516 new cases of underage recruitment since the signing of the cease-fire agreement (including the re-recruitment of formerly released child soldiers noted below). The LTTE formally released only 1,206 children during this time. Of the cases registered by UNICEF, 1,395 were outstanding as of November 2004. UNICEF notes that the number of cases it registers represent only a portion of the total number of children recruited, as some families may be unaware of the possibility of registering, may be afraid to do so, or may have difficulty reaching a UNICEF office. Of the children who have been released or returned from the LTTE, only about 25 percent were previously listed in the UNICEF database. This suggests that the total number of children remaining with the LTTE may be as much as four times higher than the 1,395 figure suggests.” [21i] (Summary)

6.235 The HRW document of November 2004 further stated:

“In April 2004, the Vanni LTTE attacked and defeated Karuna’s eastern forces, which quickly disbanded. Some 2,000 child soldiers under Karuna fled or were encouraged by their commanders to return to their families. The children’s return home, primarily to Batticaloa district, only marked the beginning of a new ordeal. Within a few weeks, the LTTE began an intensive campaign to re-recruit Karuna’s former cadres, including child soldiers. Vanni LTTE members, often armed and in uniform, went from village to village, house to house, insisting that the former soldiers report back to the LTTE. The LTTE organized village meetings, use motorized three-wheeled vehicles to make announcements, and sent letters to families, demanding their return. The LTTE has re-recruited many of the returned children, often by force. Parents who have resisted their children’s being taken away a second time by the LTTE have been intimidated and sometimes beaten. The remaining children and their families live in fear. The families are afraid to allow their children to return to school, worried that the LTTE will abduct them as they walk between school and their home. Some children refuse to leave their homes at all. Others go to live with relatives or even leave the country to seek jobs in the Middle East. Because there is a general perception that the LTTE does not recruit from among married persons, some boys and girls have married believing that it will provide a measure of protection against recruitment. Girls feel particularly vulnerable – they can instantly be identified as former cadres by the short haircuts that the LTTE gives its recruits.” [21i] (Summary)

6.236 The HRW document of November 2004 continued:

“The secretary-general of the LTTE’s peace secretariat, S. Puleedevan, told Human Rights Watch that the LTTE is ‘working very hard on this issue,’ and denied that the LTTE practices forced recruitment. ‘We don’t ask people to join; they voluntarily come and join. There is no threat of forced recruitment. The LTTE is voluntarily giving their service to the people.’ He conceded, ‘There may be some lapses. Some forces may force one or two children, but that doesn’t mean that the leadership is giving a green light to do those kind of forcible recruitment cases... Abduction is marginal.’ Puleedevan did not address the issue that even ‘voluntary’ recruitment of children violates the LTTE’s international law obligations.... In a meeting with Human Rights Watch, the secretary-general of the LTTE’s political wing, S.P. Tamilselvan, referred to child soldiers and claimed that ‘We do not have such a phenomenon.’ He said that the LTTE did not practice forced recruitment of children: ‘We reject the term of forced recruitment. Nobody forces them...No, definitely not, we do not do that.’ He acknowledged some that children sought to join the LTTE because of poverty, lack of educational and vocational opportunities, or because they had lost their parents and had no one to care for them, but claimed that when the LTTE discovers that a child is underage, the child is released to the transit center... Tamilselvan, like Puleedevan, acknowledged to Human Rights Watch that there were some ‘lapses’ of child recruitment and that the ‘leadership was not always very diligent in applying standards.’ He said that in mid-September, the LTTE took disciplinary action against some individuals responsible for child recruitment, but did not provide details. Both Tamilselvan and Puleedevan complained that both UNICEF and the international community place too much importance on the child soldier issue.” [21i] (Section IX)

6.237 As stated in a HRW press release, issued on 14 January 2005:

“The rebel Liberation Tigers of Tamil Eelam (LTTE, or Tamil Tigers) are recruiting children affected by the tsunami for use as soldiers, Human Rights Watch said today. Human Rights Watch said that the Tamil Tigers, who were already recruiting large numbers of child soldiers, now may seek to replace forces lost to the tsunami with child recruits. The United Nations Children’s Fund (UNICEF) reported Thursday on three cases of children recruited from camps for tsunami survivors in Batticaloa and Ampara, on Sri Lanka’s eastern coast. Human Rights Watch has received additional information on LTTE recruitment of children in Trincomalee and Jaffna.... Human Rights Watch called for intensive international monitoring of camps for tsunami victims, with special attention to vulnerable children. It urged international governments providing aid to affected areas in Sri Lanka to publicly condemn the LTTE’s recruitment of children and call on the LTTE to release the children in its ranks. The organization welcomed UNICEF’s efforts to register all orphaned and separated children and monitor under-age recruitment cases.” [21j]

6.238 On 26 January 2005 BBC News reported that the United Nations Children’s Fund, Unicef, had said that Sri Lanka’s Tamil Tiger rebels have recruited 40 child soldiers since December’s [2004] tsunami. “Unicef said it was acting on complaints from families of the children recruited. Most of the 22 boys and 18 girls taken were aged between 15 and 17, it said. The organisation says it has raised the issue with the rebels but as yet has received no response.” [9fh]

- 6.239 As noted in the Report of the UN Secretary-General to the Security Council of the General Assembly, 'Children and armed conflict', dated 9 February 2005:

"Despite some progress achieved in Sri Lanka with the July 2003 signing by the Liberation Tigers of Tamil Eelam (LTTE) of the Action Plan for Children Affected by War, in which that armed group agreed to halt recruitment and release all children within its ranks, LTTE has continued to use and recruit children. During 2004, more than 1,000 cases of new recruitment and re-recruitment were reported to UNICEF, a high percentage of the recruits being girls. Re-recruitment was particularly high in the eastern part of the country. Altogether, there have been more than 4,700 cases of child recruitment, some involving children as young as 11, since April 2001. Of these children, more than 2,900 have returned or been released to their families, including approximately 1,230 who were formally released and over 1,660 who went home following fighting in eastern Sri Lanka in April 2004 and the fall of the Karuna faction of LTTE. In addition, at least 550 children have run away from LTTE during the reporting period. LTTE has often carried out recruitment by force, abducting children while on their way to school or during religious festivities, and beating families and teachers who resisted the seizure of the children." [6p] (p12)

- 6.240 The USSD 2004 stated:

"The LTTE used child soldiers and recruited 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 or the Sri Lanka Monitoring Mission, and credible reports indicated that the LTTE stepped up recruiting efforts, especially in the east. During the year [2004], credible sources reported that there were over 1,000 cases of forcible child recruitment by the LTTE and that more than 5,000 children remained in LTTE custody at year's end. In 2003, the LTTE and UNICEF reached an agreement on the demobilization and rehabilitation of child soldiers and began work on an action plan to address issues relating to child labor, including underage recruitment. Several sources reported that the action plan was not working because of LTTE obstruction. Senior LTTE officials alleged to foreign officials that child soldiers were volunteers." [2d] (Section 5)

- 6.241 As noted in the Amnesty International 2005 Sri Lanka Country Report:

"It was reported that a large number of child soldiers were deployed in the fighting between the LTTE and the Karuna faction in April and that there were some child casualties. Following the fighting, over 1,600 child soldiers from the east, who had fought alongside Colonel Karuna, were disbanded and spontaneously returned to their homes. In May and June [2004] it was reported that the LTTE were re-recruiting many of these demobilized children, using tactics of intimidation, abduction and violence. Parents in the east, angry that their children had been used in internecine fighting, attempted to mobilize in an effort to resist re-recruitment. There was also an increase in child recruitment in the north in mid-2004 as the LTTE tried to make up for the large number of cadres it had lost during the split." [3k]

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CHILD CARE ARRANGEMENTS

- 6.242 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]
- 6.243 A news article posted with Global Information Network on 3 October 2002 confirmed that, the Tamil Rehabilitation Organisation (TRO) based in Kilinochchi, runs eight 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]
- 6.244 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]

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HOMOSEXUALS

- 6.245 The USSD 2004 noted that:
- "Penal Code Section 365a criminalizes homosexual activity between men and between women; however, it was not enforced. NGOs working on lesbian, gay, bisexual, and transgender issues did not register with the Government. During the year, human rights organizations reported that police harassed, extorted money from, and assaulted gay men in Colombo and other areas. 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." [2d] (Section 5)
- 6.246 As recorded in 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] As reported in 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]

6.247 As reported in one BBC News article dated 20 May 2005:

“Companions on a Journey is a drop-in centre in Colombo that’s become a lifeline for Sri Lanka’s gay community.... When he [Sherman de Rose, the founder of Companions on a Journey] started the group last year, he used to receive death threats. It got so bad, he says, he had to leave the country for a while until religious groups, political leaders, and some sections of the media, the most vehement opponents to his organisation, calmed down. ‘But attitudes have begun to change,’ he says.... One of the most difficult things for gay men and women in Sri Lanka is simply coming to terms with their homosexuality. Given the social intolerance, it is very difficult, Sherman says.... Companions now have two more drop-in centres in Sri Lanka, one in Kandy and one in Anuradhapura. They put out a monthly newsletter and every full moon they organise a big party... Working with a network of lawyers, they are trying to persuade lawmakers to change Sri Lanka’s criminal code, which outlaws homosexuality. ‘There is still a lot of opposition,’ he says, ‘and we still aren’t even close to Europe or the United States when it comes to gay rights.’” [9fi]

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6.C HUMAN RIGHTS – OTHER ISSUES

TREATMENT OF RETURNED FAILED ASYLUM SEEKERS

6.248 As noted in a letter from the British High Commission in Colombo, dated 26 September 2005:

“We have spoken to the International Organisation of Migration locally about returns. They say that to their knowledge most returns are detained briefly and then released to their families. Our Airline Liaison Officer has contacted the Canadian, Australian and German Missions here, to ask about their experiences with returns. All of their experiences are similar. In August [2005] a charter plane returned approximately 40 failed asylum seekers from Germany. The Sri Lankan Police (CID) have told us that these were processed by them “in a few hours”. In general, the Sri Lankan Immigration services and CID are informed in advance of the passenger’s arrival. The passenger is handed over to Immigration who briefly interview them and then hand them to CID. In most cases a record is kept by both of the returnees arrival and they are then allowed to proceed. Usually family are at the airport to meet them.

In a few cases CID have detained people where there was an existing warrant for their arrest when they left Sri Lanka. DII (Directorate of Internal Intelligence)

may also have an interest in these individuals and keep records on them. There is no reason to think that they have any information regarding asylum claims in the UK or elsewhere. There does not appear to be any involvement in the process by the Sri Lankan Army.” [15d]

According to the UK 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]

6.249 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]

6.250 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]

EU RE-ADMISSION AGREEMENT

6.251 As reported on 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]

UNHCR’S VIEWS ON RETURNS TO SRI LANKA

- 6.252 The UNHCR Position on Returns to Sri Lanka, dated 1 January 2005, gives UNHCR’s views on returns to Sri Lanka:

“It is the position of the UNHCR Representation in Sri Lanka that conditions in the country are not yet conducive to any large scale, organised 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, as well as physical, legal 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 organisation 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.” [6q]

- 6.253 The UNHCR position paper on returns to Sri Lanka further noted:

“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 [sic] 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).... In order to avoid potential gaps in the continuum of return, reintegration, rehabilitation and reconstruction (“4Rs”), UNHCR remains engaged in dialogue with international and national actors, including donors, to ensure continuity during the transitional period. UNHCR will also continue to work closely with the Governments of Sri Lanka and India to facilitate repatriation of priority cases and prepare for organised voluntary repatriation in the future, when the circumstances change to favour large-scale voluntary returns.” [6q]

- 6.254 A UNHCR position paper entitled ‘Returns of Tamil Asylum Seekers with scars’ dated 1 January 2005 stated:

“UNHCR maintains its position, as cited in para 6.63 of the April 2004 Country Information and Policy Unit (CIPU) country report on Sri Lanka, that ‘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.’ We take objection to the Home Office Reports that make vague reference to scarring not being an overriding reason for arrest, seeking to rebut our assertion that scarring puts failed asylum seekers from the UK at risk upon their return to Sri Lanka. Please note that

UNHCR's comments are strictly limited to the risk of adverse identification, rigorous questioning, and potential ill-treatment of returned persons with scars upon their arrival at the airport, not the potential risk of arrest subsequent to the initial interrogation at the airport." [6r]

- 6.255 UNHCR's comments regarding Home Office reports above refer to paragraph 6.63 of the CIPU April 2004 country report which, quoting the UK Home Office fact-finding mission report 2001, noted that: "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." [35a] (p23-24) The UK Home Office report on Visit to Sri Lanka 14-23 March 2002 noted that: "Scarring is not seen to be a significant issue, although obvious scarring could draw attention and result in further enquiries and detention by the authorities." [35b]

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TREATMENT OF NON-GOVERNMENTAL ORGANISATIONS (NGOS)

- 6.256 As noted in the USSD 2004:

"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. Many domestic human rights NGOs, including the Consortium of Humanitarian Agencies; Home for Human Rights; 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 restrictive 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 the registration process it requires at an NGO's commencement of work and every 5 years thereafter. 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. Most NGOs complied with these reporting requirements." [2d] (Section 4)

- 6.257 As reported by the *Daily News* on 27 May 2005:

"ALL Non Governmental Organisations (NGOs) should be registered with the special section set up for NGO registration at the Women's Empowerment and Social Welfare Ministry, says Acting Social Welfare Minister S.M.Chandrasena. But some NGOs which have not been registered with the Ministry are active in tsunami-affected areas, he said.... There are about 100 NGOs working in the tsunami-affected areas alone and the Ministry has requested the Centre for Humanitarian Agency (CHA) to make a complete list of NGOs working in those areas. There are NGOs which do have not [sic] complied with this arrangement.... Fewer NGOs operated before the tsunami disaster. After the

disaster, the number of NGOs started to increase rapidly which forced the Finance Ministry and Central Bank to intervene, the Acting Minister added.” [16bt]

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INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)

- 6.258 As stated in the UK Home Office Report of its fact-finding mission to Sri Lanka in 2001:

“There is an officer within SLRCS [Sri Lanka Red Cross Society] (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)

- 6.259 As noted on 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]

- 6.260 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]

- 6.261 On 9 July 2004, the *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]

6.262 As noted in the USSD 2004, “The Government continued to allow the ICRC unrestricted access to detention facilities...The ICRC provided international humanitarian law training materials and training to the security forces. During the year, the ICRC also delivered health education programs in LTTE-controlled areas in the north and east.” [2d] (Section 4)

6.263 As highlighted in the ICRC Annual Report 2004 on Sri Lanka, released on 17 June 2005:

“Since access to the north-east began to improve in 2002, the ICRC gradually cut back the emergency assistance intended to alleviate difficulties caused by years of isolation. The delegation then concentrated on two aspects of its protection activities that reinforced the peace process: assisting the parties in addressing the problem of the missing and facilitating trade and other movement between government- and LTTE-controlled areas. While it maintained this focus in 2004, the ICRC slowed down its cutbacks in assistance as reconstruction plans faltered and it became clear that gaps in basic services would not be filled quickly. It prolonged and extended its programme of well maintenance, and further developed its support to Sri Lankan Red Cross preventive health services in the north-east (implemented as delegated projects by the Canadian and Norwegian Red Cross Societies).” [34e]

6.264 The ICRC 2004 report continued:

“The tsunami prompted the ICRC to shift its priorities, at least in the short term. Working closely with Red Cross branches and local authorities in the north-east, the ICRC immediately began to distribute aid to tsunami victims. It used up stocks that it had helped local branches build up in the north-east and purchased household necessities such as jerrycans, tarpaulins, blankets, soap and cooking utensils, distributing them to people who had sought shelter in public buildings. It evacuated the sick and wounded and provided medicines and other medical materials to hospitals. Engineering staff ordered or purchased locally pumps, tap stands, water purification tablets, chlorine and cleaning materials and began assessing priorities for providing safe water and sanitation facilities.” [34e]

6.265 The ICRC 2004 report further recorded:

“The ICRC continued to visit detainees held by the government in connection with security issues. While there were no detainees killed by the tsunami, some prisons were damaged, and in one prison two detainees were killed in the panic that ensued. 204 detainees visited (including 102 newly registered, 9 women and 5 minors) in 54 places of detention, 88 family visits to detainees funded. The ICRC made visits to LTTE police stations and some of its prisons. It saw over 300 detainees and requested access to others. 335 detainees visited in 18 places of detention, 18 family visits to detainees funded.” [34e]

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INTERNALLY DISPLACED PERSONS (IDPs)

6.266 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)

- 6.267 As recorded in 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)

- 6.268 The September 2003 Refugee Council report also noted:

“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. [10b] (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.” [10b] (p36)

6. 269 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.” [16j]

- 6.270 A document of the Norwegian Refugee Council/Global IDP Database, entitled ‘Profile of Internal Displacement: Sri Lanka’, dated 7 April 2004 noted:

“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.” [54a] (p12)

6.271 On 20 April 2004 the *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]

6.272 On 29 April 2004, the government Secretariat for Co-ordinating the Peace Process (SCOPP) reported on 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]

6.273 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)." [57a]

- 6.274 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]

- 6.275 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." [55a]

- 6.276 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." [6j] (p57)

- 6.277 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]

6.278 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]

6.279 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 a boat service between India and Talaimannar to transport Sri Lankan Tamil refugees who were 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]

6.280 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 [sic]. 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]

6.281 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]

6.282 As stated in the USSD 2004:

“According to the United Nations High Commissioner for Refugees (UNHCR), as of October [2004], 377,776 IDPs had returned to their places of origin, leaving roughly 353,624 IDPs displaced by the conflict in the country. There were 295 camps for those displaced by ethnic conflict, and during the year, 78,398 persons were in welfare centers, and 275,226 were staying with friends or relatives. According to various sources, approximately 65,000 IDPs were unable to resettle as a result of the High Security Zones. The UNHCR found sexual abuse to be endemic in IDP camps. According to the UNHCR, 5,633 Tamil refugees had returned from India during the year. During the year, the Government began a program to relocate 1,500 IDPs to state lands in Vavuniya and Kilinochchi Districts in the north. Most of the 46,000 Muslims expelled in 1990 by the LTTE remained displaced and lived in or near welfare centers. Unlike in previous years, the LTTE invited the Muslim IDPs to return home, asserting they would not be harmed. Although 500 Muslim IDPs returned home during the year, the majority did not move and awaited a guarantee from the Government for their safety in LTTE-controlled areas.” [2d] (Section 2d)

6.283 The USSD 2004 further noted that:

“The LTTE expropriated food, fuel, and other items meant for internally displaced persons (IDPs), which resulted in a high rate of anemia, high levels of malnutrition, and low birth rates for IDPs in LTTE-controlled areas. 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 IDPs and rebuilding. At the end of 2002, a U.N. team established oversight for a mine removal program. In 2003, a U.N. team established a landmine map database, which was shared with all 10 demining agencies that worked in the country. The Government reported 20 mine-related deaths and 34 mine-related injuries during the year.” [2d] (Section 1g)

6.284 As stated in a press release issued on 27 May 2005:

"The European Commission adopted today the weight allocation of humanitarian aid to Sri Lanka since the February 2002 ceasefire agreement. The longest period of truce ever since the conflict started in 1983 has allowed more than 380 000 internally displaced persons living in the north and north-east of Sri Lanka to return home. The new funding decision, to be implemented by the Commission's Humanitarian Aid department (ECHO), will help the new returnees to restart quickly their livelihood as well as providing basic support to vulnerable displaced people living in welfare centres. Also ECHO will help to improve the nutritional status of Tamil women and children still exiled in refugee camps in Tamil Nadu in India." [57b]

- 6.285 As noted in a document of the Norwegian Refugee Council/Global IDP Project entitled, 'Sri Lanka: Response to tsunami crisis must also target conflict-affected IDPs', dated 3 March 2005:

"The devastating tsunami wave that hit 14 of Sri Lanka's 25 districts on 26 December 2004, killed over 30,000 persons, destroyed 80,000 households and displaced one million people. The total number of people currently displaced by the tsunami is estimated to be around 553,000. In addition to the displacement caused by the tsunami, more than 350,000 people remain displaced as a result of the conflict between the LTTE and the Government of Sri Lanka, despite a ceasefire that was signed three years ago. Furthermore, while some 379,000 people have returned home many are not adequately protected and assisted during the reintegration phase. Wide-reaching reconstruction and rehabilitation efforts are needed in order to find durable solutions for the returning population as many continue to face threats to their safety, dispossession of their property, landlessness and a lack of basic infrastructure and basic services. Two large groups, in particular, are in need of better security arrangements before returning: non-Tamils displaced from rebel-held areas and Tamils displaced from government High Security Zones. Displaced women, especially female-headed households, are among the most vulnerable. Some 78,000 displaced are still accommodated in government-run welfare centres where they live in precarious conditions." [54b] (Introduction)

- 6.286 The Norwegian Refugee Council/ Global IDP Project continued:

"At the end of November 2004, some 352,000 people were still registered as internally displaced. The majority are located on the northern districts of Jaffna (63,800), Mullaitivu (58,500), Kilinochchi (28,100) Vavuniya (38,900) and Mannar (30,600), while in the east the districts of Batticaloa (20,400) and Trincomalee (19,400) are amongst those most affected by displacement. Puttalam district in the west is home to some 46,500 internally displaced, most of them Muslims evicted by the LTTE in early 1990s from Jaffna and Mannar (MRRR & UNHCR, 30 November 2004)." [54b] (p3)

- 6.287 The Norwegian Refugee Council/ Global IDP Project further recorded that:

"The total number of people currently displaced by the tsunami is estimated to be around 553,000. Of these, 142,000 are in 315 'welfare centres' and 411,000 are with relatives or friends (OCHA, 24 February 2005). The humanitarian situation has stabilised, with needs generally met in all key sectors. According to a government plan, around 30,000 temporary accommodations will be constructed over a six month period (UNJLC, 16 February 2005). The international response to the tsunami crisis has been generous, to the extent

that certain sectors have been significantly overfunded. IDPs previously displaced by conflict and now also affected by the tsunami will receive the same assistance as those displaced by the natural disaster.” [54b] (p7-8)

6.288 As recorded in the UNHCR Sri Lanka Statistical Summary of May 2005, there were 511,428 people (87,270 in welfare centres, 424,158 with relatives) displaced by the tsunami (at 2 May 2005). 63,447 houses were completely damaged and 43,361 partially damaged. In the country there were also 352,374 people displaced by the conflict (at 28 February 2005). [6u] (chart on Population of concern by UNHCR AORs and districts)

6.289 As stated in the UNHCR Global Report 2004: Sri Lanka published on 1 June 2005:

“In 2004, over 33,700 IDPs returned to their places of origin, bringing the total number of spontaneous returns since the signing of the 2002 Ceasefire Agreement to almost 380,000. UNHCR’s field presence continued to be a vital means of monitoring returnees, ensuring respect for their rights and providing them with emergency humanitarian assistance. In addition, nearly 10,000 registered refugees returned from India in 2004, either spontaneously or in an organized fashion. Durable solutions still need to be found for the remaining 352,40 [sic] IDPs, of whom 73,000 live in government run welfare centres, and the 131,000 refugees who live abroad, approximately 61,000 of them in camps in Tamil Nadu, India.... Though fewer in number than the previous year, IDPs continued to return spontaneously to, and within, the north and east of the country in 2004. Continued protection problems, including human rights violations such as forced recruitment of children and adults, are believed to have contributed to the lower return rate. Nevertheless, significant numbers who were able and willing to return did so in safety in 2003 and 2004.” [6s] (p378-379)

6.290 The UNHCR Global Report 2004 continued: “On the morning of 26 December 2004 the Indian Ocean tsunami struck the coast of Sri Lanka, causing enormous devastation. Over 30,000 people were killed and some 860,000 displaced. Twelve of the country’s 25 districts were severely damaged. The Government of Sri Lanka immediately declared an emergency and requested international assistance to complement national efforts.” [6s] (p379)

6.291 The UNHCR Global Report 2004 further stated that:

“In order to achieve enduring peace, fundamental issues such as human security, violations of human rights and forced recruitment need to be addressed. Other significant challenges to achieving solutions for IDPs include lack of basic infrastructure, employment or income-generation opportunities, landlessness and the continuing presence of landmines and unexploded ordnance. The lack of basic infrastructure is a challenge for returning IDPs and host communities alike. The return of significant numbers of displaced people will depend on tangible progress in the peace talks.” [6s] (p379)

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PEOPLE TRAFFICKING AND SMUGGLING

- 6.292 The US Department of State Trafficking in Persons Report, released on 16 June 2005, notes:

“Sri Lanka is a source country for women and children who are trafficked internally and to the Middle East, Singapore, Hong Kong, and South Korea for the purposes of coerced labor and sexual exploitation. Small numbers of women from Thailand, China, Russia, and other former Soviet states are trafficked to Sri Lanka for sexual exploitation. Boys and girls are victims of sexual exploitation by pedophiles in the sex tourism industry. Trafficking takes place in areas controlled by both the government and the Liberation Tigers of Tamil Eelam (LTTE). The LTTE continued to traffic children into forced labor and military service, taking at least 100 children after the tsunami in December [2004]. 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. In LTTE-controlled northern and eastern Sri Lanka, the government was unable to enforce anti-trafficking measures during the reporting period. Sri Lankan officials have taken strong measures in the wake of the December 2004 tsunami to prevent the trafficking of children made vulnerable by this natural disaster. Reports indicate that certain airline officials and NGO representatives have been allegedly involved in trafficking. The government should develop a comprehensive national plan of action to combat trafficking and appoint a national coordinator to oversee implementation of the plan.” [2c] (Sri Lanka Section)

- 6.293 The US Department of State Trafficking in Persons 2005 Report further noted:

“The government uses various means to monitor and apprehend traffickers, including making effective use of its CyberWatch Project, which relies on a ‘watch list’ database of suspected sex offenders. However, the government achieved no prosecutions or convictions related to trafficking during the reporting period. It encourages victims to assist in the investigation and prosecution of trafficking cases. The government, however, has not provided any specialized training to its officials responsible for combating trafficking. The government should stop imposing fines on women trafficked for sexual exploitation.... Over the reporting period, the government made commendable progress in protecting victims of trafficking, considering its limited resources. Sri Lanka provides child victims with monthly food supplements and uses various means to shelter victims. It runs rehabilitation camps that offer medical and counseling services to victims of internal trafficking, and places victims in shelters run by NGOs. Sri Lankan diplomatic missions abroad operate shelters for its nationals who have fallen into trafficking situations. Sri Lanka established a new Child Protection Unit within the Attorney Generals’ Office in 2004 to combat child trafficking, allocated additional funds and resources to the anti-Human Smuggling and Investigation Bureau, and continued to assign welfare officers to assist victims in destination countries.” [2c] (Sri Lanka Section)

- 6.294 As stated in the USSD 2004:

“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. The country was a source for women who were trafficked to Lebanon, Saudi Arabia, Kuwait, the United Arab Emirates, Bahrain, and Qatar for the purposes of coerced labor and sexual exploitation. A smaller number of Thai, Chinese, and Russian

women were trafficked to the country for commercial sexual exploitation. Women and children were trafficked internally for domestic and sexual servitude. Boys and girls were victims of commercial sexual exploitation by pedophiles in the sex tourism industry. 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.” [2d] (Section 5)

6.295 The USSD 2004 also recorded:

“In 2003, law enforcement efforts against trafficking improved with the introduction of a computerized immigration system that expanded the number of officials who could input names of suspected traffickers or sex tourists, thereby subjecting them to investigation and preventing them from leaving the country. The NCPA instituted a CyberWatch Project to monitor suspicious Internet chat rooms. Sting operations were conducted based on information gathered in these chat rooms, leading to several trafficking arrests. For those convicted, the sentence was 1 year of rigorous imprisonment and a fine of \$1,000 (100,000 rupees).” [2d] (Section 5)

6.296 As outlined in the USSD 2004:

Internal trafficking in male children was also a problem, especially from areas bordering the northern and eastern provinces. Protecting Environment and Children Everywhere, 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.” [2d] (Section 5) **(See also Section 6.B on Children)**

6.297 As reported in 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 Thurairatnam 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]

6.298 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.” [16f]

- 6.299 According to a report by Belgian newspaper De Standaard website on 10 December 2003 entitled ‘Wanted: Someone like Eliot 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]
- 6.300 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]
- 6.301 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]
- 6.302 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]
- 6.303 On 14 June 2004 the *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.” [16ai]

6.304 On 18 September 2004 the *Daily News* reported that:

“Twenty five persons who attempted to travel on forged Sri Lankan passports to the UK via Maldives and a SriLankan [sic] Airlines official were remanded yesterday by the Negombo Magistrate.... The Criminal Investigations Department (CID) also deployed a special team to trace a millionaire businessman in Colombo who is alleged to have attempted to send the 31 persons to the United Kingdom on forged N-Series Sri Lankan passports with British visas alleged to be genuine. CID investigations revealed that the businessman had collected fees ranging from Rs.1.7 million to Rs.2.5 million from each passenger. The CID is looking for another senior SriLankan officer alleged to have been the kingpin of the whole racket. According to investigations directed by a Senior Superintendent of the CID, the 31 persons had come to the Bandaranaike International Airport (BIA) apparently to go to the Maldives. They had cleared Immigration and were waiting to board the flight. Later a SriLankan [sic] Airlines officer had collected the passports from the 31 passengers and had given them forged Sri Lankan passports with British visas. The SriLankan [sic] Airlines officer had allegedly collected Rs.50,000 from each adult passenger.... The SriLankan [sic] Airlines official working at the BIA was arrested in connection with this incident. The 25 adults who attempted to leave the country on forged passports were produced before the Negombo Magistrate and remanded pending the completion of investigations.” [9bx]

6.305 As reported by the *Daily News* on 30 November 2004:

“Police acting on a tip-off yesterday arrested a 35 feet long trawler along with 18 would be illegal immigrants to New Zealand in the sea off Kalpitiya early yesterday, Kalpitiya Police said. According to Police, the 18 would be illegal immigrants are from various parts of the country including Vavuniya, Ampara, Chilaw, Puttalam and Kalpitiya. According to initial investigations there had been more than 100 would be illegal immigrants who were due to board the trawler. Investigations have revealed that each person had paid between Rs. 50,000 to Rs. 170,000 to a businessman in Katuneriya for their journey.” [9bw]

6.306 On 19 December 2004 the *Sunday Observer* reported that:

“A massive racket involving top police officers, immigration and emigration officials and customs officers where Chinese and Thai nationals had been brought to Colombo and sent to Italy for employment as Korean nationals on forged Korean passports had been bared.... These forged passports printed abroad make their way through the Katunayake airport with the assistance of the Immigration officials, the probe revealed. The Koreans had charged US dollars 6,000 from each Chinese and Thai youth as fees and had paid US \$2,000 per case to the officials who assisted in the racket.” [9bu]

(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. One hundred 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 seven 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 is 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 dismisses the ministers of defence, interior and mass communications and assumes 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 tells 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:** Renegade Tamil Tiger commander, known as Karuna, leads split in rebel movement and goes underground with his supporters.
- 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 prime minister 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 cease-fire.
- 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.
- 19 November:** High Court judge Ambepitiya killed in Colombo.
- 26 December:** More than 30,000 people killed when massive waves, generated by a powerful undersea earthquake (Tsunami) off the coast of Indonesia, devastate coastal communities in the North, East, South and South West. Hundreds of thousands forced from their homes. National disaster is declared by government.

2005 **8 February:** Senior Tamil Tiger leader E. Kaushalyan and five others killed.
June: Deal reached between the government and the Tamil Tiger rebels to share nearly \$3bn in tsunami aid among Sinhalas, Tamils and Muslims. Marxist party JVP pulls out of coalition in protest. [See Section 4 on The Peace Process for the subsequent Constitutional Court Ruling]

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Annex B: Political organisations

Information on the main political parties in Sri Lanka can be also found at:

<http://www.electionworld.org/srilanka.htm> [59]

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 nine of the ten Parliamentary seats in Jaffna in the 1994 general election. Won four 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 two MPs at the 2001 general election. The party gained one 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 nine 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 the United People's Freedom Alliance (UPFA) led 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/ltte/>

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 Bhumiputra 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 five 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 five 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 three 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. [59]

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 five 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 one 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 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 Vinayagamoorathi 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." [9bs] 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. [9bl] [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. [9bp] [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 had 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-year-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 Thamilchelvan 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. [9q] 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. [18b]

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Annex D: The tsunami (Indian Ocean earthquake of 26 December 2004)

As recorded in the BBC report on the tsunami entitled 'At-a-glance: Countries hit', dated 22 June 2005:

"Impact: After Indonesia, Sri Lanka suffered more from the tsunami than anywhere else. Its southern and eastern coastlines were ravaged. More than 100,000 homes were damaged or destroyed, along with crops and fishing boats. The International Labour Organization estimates more than 400,000 people lost their jobs as a result – mostly in the fishing, hotel and tourism sectors. Toll: More than 31,000 people died and more than 4,000 have been reported missing. More than half a million people were made homeless. In one of the worst incidents, more than 800 people died when a train was struck by the tsunami at Telwatta, in the south-west. Aid: In the wake of the basic humanitarian relief effort, the government plans to rebuild coastal resort towns – some from scratch. About \$2bn has been pledged to help reconstruction efforts. But the issue of sharing aid with north-east areas controlled by Tamil Tiger rebels has caused tension and divisions. President Kumaratunga suffered a setback when a key coalition partner opposed to a deal with the rebels quit in June." [9fj]

As outlined in the European Commission Tsunami Indicative Programme adopted on 23 May 2005:

"After Indonesia, Sri Lanka has suffered the most from the tsunami. Its southern, northern and eastern coastlines have been ravaged. Some 40,000 dead, 443,000 displaced and between 1 and 2 million affected (about 10% of total population). Of those killed, 27,000 belonged to fishing families. Around 65 percent of the country's fishing fleet – 29,700, boats – has been completely destroyed or damaged. Total job losses estimated at 380,000. The Eastern part of the country was worst hit, taking the brunt of the north-westerly moving tsunami wave. Well over 40 percent of the total damage is focused in the east. The south – especially the Galle District – was also very heavily impacted with well over 30% of the damage. The North sustained about 20 percent of the damage. The damage ranges from 500 metres to 3 kilometres inland. As in Indonesia, the main result is the devastation of poor coastal communities. The tsunami has destroyed or damaged: 130,000 houses, 168 public schools, four universities, 18 vocational centres; 92 local clinics, hospitals and drug stores; significant losses in power, transportation (roads and railways), water supply and sanitation. Sri Lanka's tourism industry has been very hard hit since the disaster occurred during one of their busiest periods of the year destroying key infrastructure. Environmental damage has also been significant.... The human impact has been even more staggering than the damage to infrastructure. This is aggravated because the tsunami hit the particularly impoverished coastal communities the hardest. The north and east suffer a double effect as the tsunami comes on top of damage caused by the twenty-year civil conflict in the country. With humanitarian aid running from early January, the government of Sri Lanka (GoSL) worked with the World Bank and others on the needs assessment for reconstruction. This was released in February. GoSL is now trying to produce a further assessment which also integrates the LTTE's own needs assessment work. Overall damage is estimated at well over a billion dollars (4.5% of GDP) with a large proportion of losses concentrated in housing, tourism, fisheries and transportation." [57c] (p8)

Further information on the Indian Ocean earthquake (tsunami) of 26 December 2004, its consequences and the recovery process can be found on the following websites:

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<http://www.lk.undp.org/ndmc/Situation%20Reports/SitReps%20Home.htm> – NDMC (National Disaster Management Centre) [76]

<http://www.statistics.gov.lk/Tsunami/index.htm> – Department of Census and Statistics [58b]

<http://www.mrrr.lk> – Ministry of Relief, Rehabilitation and Reconciliation of Sri Lanka [12]

<http://www.reliefweb.int/rw/dbc.nsf/doc108?OpenForm&emid=ACOS-635PHK&rc=3> – the online gateway on humanitarian emergencies and disasters administered by the UN Office for the Coordination of Humanitarian Affairs (OCHA) [31]

<http://www.unhcr.lk/unhcr%20tsunami%20page/tsunami.htm> – UNHCR response to the tsunami disaster in Sri Lanka [61] <http://www.unhcr.lk/stats%20and%20maps.htm> – UNHCR Sri Lanka Statistics and Maps [6u]

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