



*Australian Refugee Rights Alliance*

*"No Compromise on Human Rights"*

Draft Discussion Paper

## The Sri Lankan conflict

2007

Security, Protection and Human Rights

The following briefing paper is based on a human rights monitoring mission to assess security, protection and human rights concerns in Sri Lanka in late 2006 and includes updated literature research<sup>1</sup>.

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<sup>1</sup> The full Hotham Mission report entitled *Hotham Mission Field Trip to Sri Lanka- Security, Protection and Humanitarian concerns*, October 2006. ([www.hothammission.org.au](http://www.hothammission.org.au))

### **Background to conflict**

Sri Lanka's history is one of unresolved nationalism and ethnic rivalry dating back to the nineteenth century. These divisions became even more apparent when competition for power, resources and identity surfaced and the implementation of discriminatory policies, which became the root of a protracted conflict lasting from the 1970s until now. The resulting civil war has caused the displacement of an estimated one million persons, the fleeing of 150,000 people to India by boat, and approximately 64,000 people killed.

### **Breakdown of the ceasefire**

In 2002 the Government of Sri Lanka (GoSL) and the Liberation Tigers of Tamil Eelam (LTTE) signed a formal but fragile Ceasefire Accord, monitored by the now Norwegian and Icelandic led Sri Lankan Monitoring Mission (SLMM). Despite the ceasefire, sporadic fighting and human rights abuses occurred between the GoSL and LTTE, and later including Karuna, a faction which split from LTTE in 2004. The assassination of Sri Lanka's Foreign Minister in mid 2005, allegedly by LTTE, led to a State of Emergency being implemented in August 2005. In April 2006 following an LTTE bomb attack in Colombo on the Army Headquarters, the GoSL began a military offensive in the east, which has led to escalated conflict and human rights abuses across the country.

### **Key Findings**

- Sri Lanka is again experiencing civil war. The 2002 ceasefire agreement has effectively broken down, with extensive fighting evident, particularly since April 2006. The escalation of violence has included widespread conflict in the north and east and an increased number of indiscriminate terrorist attacks in various parts of the country
- There have been increased incidents of LTTE, Karuna<sup>2</sup> and state-sanctioned torture, abductions, extrajudicial killings, disappearances, arbitrary detention and death of civilians
- There is a high level of fear of persecution and lack of civilian protection, with incidences of witnesses going into hiding or being killed and the arrest and death in custody of returned failed asylum seekers. In particular, the persecution of Tamils as a social group, due to their ethnicity and lack of protection, is occurring throughout the country
- There has been a general reduction of civil rights from much of the population in Colombo and elsewhere since August 2006, including the ongoing state of emergency, checkpoints, household registration requirements, raids and incidences of forced relocation by the state
- The closure of the A9 highway into the north of Sri Lanka is devastating the local population in terms of protection and humanitarian needs
- The protection and welfare needs of children affected by the conflict is of great concern, in particular the protection needs of the more than 100,000 children internally displaced and the reported cases of forced recruitment of more than 1,700 children.

### **Return to war**

Sri Lanka is again in a state of civil war, with the GoSL waging a concerted war against LTTE insurgency on a number of fronts, particularly in the north and east. The SLMM stated that both

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<sup>2</sup> The Karuna group, a break-away faction of the LTTE is officially called Tamileela Makkal Viduthalai Pulikal (Tamileela Peoples Liberation Tigers TMVP)

parties, the LTTE and the GoSL, have been violating the ceasefire agreement, to the point that since mid 2006 SLMM have been unable to effectively monitor the breaches to the ceasefire agreement, as they are far too numerous and have limited staff and capacity. UNHCR also stated, *"the SLMM have given up recording of incidents – there are too many. They were not set up for open war, it was set up to monitor peace time ceasefire violations"*<sup>3</sup>. To date, the officially ruled tally of ceasefire breaches totals 4125. The main ceasefire breaches highlighted by the SLMM include:

- Offensive strikes by both GoSL and LTTE in the north and the east
- Naval attacks
- Death and injury to civilians
- Child recruitment by the LTTE, and
- A9 closure, the main road connecting the north and south of Sri Lanka.

## **Human Rights Concerns**

### **a) Severe and Extensive Human Rights Violations**

Coupled with the escalation in conflict has been the further breakdown of the general rule of law across much of the country, particularly since the continued state of emergency in August 2005, which give more power to security forces. SLMM and the Human Rights Commission noted the increased reports of LTTE, Karuna and state sanctioned torture, abduction, extrajudicial killings, arbitrary detention and disappearances.

A number of key factors were noted by the groups interviewed:

- GoSL and LTTE disregard for the rule of law and human rights policies
- Increasing perpetration of violations by the police and armed forces
- The Supreme Court's recent ruling that constitutionally Sri Lanka is not bound to adhere to its international human right convention obligations
- The further breakdown of the judiciary in response to human rights violations, particularly in cases of extrajudicial killings and abductions.
- Lack of a legitimate enforceable human rights monitor in Sri Lanka and the inability of the SLMM to monitor ceasefire breaches

### **b) Restrictions on rights of the population**

There has been a general reduction of the rights of much of the population following the introduction of emergency regulations and the state of emergency, which continues to the present, with Tamils particularly affected.

Groups and refugees interviewed noted the following concerns:

- Increased security roundups, checkpoints, roadblocks, household searches, mass arrests, forced road closures and forcible removals
- Restrictions of movement of people, information and access to essential goods and services in the north and east
- Reports of the Navy marking Tamil homes in Trincomalee, and the forcible removal of Tamils from Colombo in June by the police.

### **c) Protection concerns**

SLMM and UNHCR, as well as all other groups interviewed, outlined a range of serious protection concerns that directly affect the safety of both civilians within Sri Lanka and refused asylum seekers being returned at this time. These include the lack of effective state protection, no viable internal relocation options and no witness protection mechanism for individuals at particular risk, such as those with certain past affiliations or histories of arrest and witnesses to

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<sup>3</sup> CFA Violations at a Glance, February 22, 2002- October 31, 2006. ([www.peaceinsrilanka.org](http://www.peaceinsrilanka.org))

human rights abuses. It was found that Tamils, particularly from the north and east, experience persecution based on their ethnicity. Incidences of witnesses being forced into hiding or been killed and the arrest and death in custody of returned failed asylum seekers were reported.

### **Internal Displacement and Children**

The number of conflict-affected internally displaced people (IDPs) has dramatically increased in the past 18 months, with UNHCR stating that as of April 2007 there were more than 300,000 IDPs in Sri Lanka<sup>4</sup>. It is estimated that one third of these are children. There is a range of humanitarian and protection needs of people in IDP camps, including basic issues of safety, education, food and health access, with children in IDP camps particularly vulnerable to forced recruitment or sexual exploitation.

### **Child soldiers**

Despite international outcry, child abduction and forced recruitment continues to occur at alarmingly high levels in the north and east of the country by both the LTTE and increasingly also by the Karuna group. In a June 2007 report, UNICEF identified more than 1,700 outstanding cases of children forcibly recruited, which they estimate is only one third of actual children recruited.<sup>5</sup>

### **Recommendations**

Given the Mission's findings, there is grave and urgent concern about the impact of the breakdown of the ceasefire agreement, the rule of law and the escalation of the conflict and human rights violations on innocent civilians throughout Sri Lanka. The Mission thus makes the following recommendations to the GoSL, LTTE, Karuna and key international actors:

- To cease all military campaigns, emergency regulations and human rights abuses and reconvene peace talks, ensuring the Muslim minority have a place at the peace table
- Establish a UN human rights monitoring mission to help investigate, prosecute and make public human rights abuses
- Ensure an autonomous, enforceable human rights commission across the country, enabling an effective witness protection program
- Ensure humanitarian agencies' access to populations in need throughout the country
- Stop the forced recruitment of children and permit those unlawfully recruited to return to their families.

For a full copy of the Hotham Mission report entitled *Hotham Mission Field Trip to Sri Lanka- Security, Protection and Humanitarian concerns*, please go to: [www.hothammission.org.au](http://www.hothammission.org.au) or [grantmitch@yahoo.com](mailto:grantmitch@yahoo.com)

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<sup>4</sup> UNHCR, Statistical Summary of IDP Movements in North-East Sri Lanka, April 2007 ([www.unhcr.ch](http://www.unhcr.ch))

<sup>5</sup> UNICEF, Monitoring and Reporting Update, June 2007 (<http://www.unicef.org/srilanka>)