

# Sri Lanka Tsunami Situation Report

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## Purpose of the Report

*To keep the civil society organizations, NGOs and partners of the Tamil Information Centre (TIC-UK) - the Centre for Human Rights and Development (CHRD-Sri Lanka), the Centre for Community Development (CCD-UK) and its partners - and other relief and development agencies and governments informed of developments since the Tsunami disaster in Sri Lanka on 26 December 2004, in particular the north-east region of the island.*

## Introduction

The fighting between the Sri Lankan government forces and the Liberation Tigers of Tamil Eelam (LTTE), which began after the closing of the Mavilaru sluice gates in Trincomalee District on 20 July 2006, blocking water supply to several villages, spread to other areas of the district and to Jaffna and Batticaloa. Some 1,000 people were killed and over 163,000 people were displaced, bringing the total number of the displaced since December 2005 to more than 200,000. The killing of civilians, abductions and disappearances increased and in many instances it was impossible to ascertain the perpetrators. The security forces arrested a large number of Tamils under the Emergency Regulations.

The Sri Lankan government imposed curfew in Jaffna and began aerial bombardment of LTTE controlled areas in Jaffna, Mullaitivu, Trincomalee and Batticaloa, while the LTTE shelled military camps. The government also imposed a blockade on the LTTE areas, preventing humanitarian aid, and introduced restrictions on aid workers and aid organizations. Security forces also massacred Tamil aid workers in Trincomalee. International observers expressed the view that the Sri Lankan government breached international law by using humanitarian aid and services as weapons of war and by placing many parts of the north-east under an information blackout and essential items blockade. On 29 August 2006, the government also froze the bank accounts of the Tamils Rehabilitation Organization (TRO), which provided relief to displaced people in LTTE controlled areas.

The international community expressed extreme concern and in a resolution on 7 September 2006, the European Parliament deplored the resumption of large-scale and widespread violence and the breakdown of peace negotiations and stressed that the immediate reintroduction of the nominally extant ceasefire agreement is essential for any progress towards a political solution and a lasting peace. The Parliament emphasized the need for government forces engaged in counter-insurgency and domestic security operations to exercise maximum restraint in accordance with international law in order to minimize any risk of innocent civilian casualties, and to behave impeccably in all their actions. It also condemned recruitment of child soldiers by the LTTE, pointing out that it is a war crime, and accused the LTTE leadership of intransigence over the years rejecting many possible ways forward.

The European Parliament urged the Sri Lankan government and the LTTE to grant unhindered access for humanitarian aid workers, UN organizations and truce monitors to all parts of the country and to ensure their security. It called on the government to clearly set out what the requirements are for NGOs to be active in the north-east and to speed up the process of issuing work permits for international staff working with NGOs, ensuring that the process is efficient and transparent.<sup>1</sup>

The Co-Chairs of the Tokyo Conference demanded guarantees for the safety of NGO workers and for ensuring access for NGOs and international organizations to help citizens and communities in need of essential humanitarian assistance and valuable reconstruction and development work. They warned that the failure to ensure safe working conditions of NGOs could result in the withdrawal of some international NGOs and their funding from Sri Lanka, which would be extremely detrimental to the situation of all Sri Lankan citizens in the concerned areas. The Co-Chairs also said that the parties must guarantee safety of media representatives, civil society activists and religious leaders and ensure true freedom of speech and expression can be exercised without fear.<sup>2</sup>

Although by the end of September 2006 the fighting in the north-east had abated, and the Norwegians intensified their efforts in peace diplomacy, both the government and the LTTE had not agreed on a date for peace talks. There are signs that India may be willing to become more involved in the peace efforts. There is all round agreement that without strict observance of the ceasefire agreement of February 2002, definite guarantees of safety for aid workers and improvement of human rights, the reconstruction efforts would be extremely difficult.

While there is heightened concern over killings, abductions and disappearances, the Sri Lankan Supreme Court has dealt a severe blow to the cause of human rights. The Court has declared that the International Covenant on Civil and Political Rights (ICCPR), despite accession in 1980, is not applicable within Sri Lanka and that the accession to the Optional Protocol to the ICCPR in 1997 was unconstitutional and illegal. Observers say that the decision effectively nullifies Sri Lanka's obligations under international law, except those that have been incorporated into domestic laws, places an obstacle to Sri Lanka's participation in any treaty bodies or other UN agencies for human rights, and as long as this judgment stands, Sri Lanka will not be able to protect and promote human rights under the laws and institutions of the UN. Sri Lankan human rights agencies say that in this disastrous circumstance, the human rights situation in Sri Lanka can only become worse.

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<sup>1</sup> *European Parliament Resolution on Sri Lanka* – Text adopted at the sitting of 7 September 2006 – [www.europarl.europa.eu](http://www.europarl.europa.eu)

<sup>2</sup> *Statement of the Co-Chairs of the Tokyo Conference of Reconstruction and Development*, Brussels, 12 September 2006 – [www.dellka.cec.eu.int](http://www.dellka.cec.eu.int)

# Tsunami relief and related events

## Peace and human rights

### The peace process

The peace process in Sri Lanka was put into great peril by events that followed the peace talks between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) at Geneva in February 2006. At the end of these talks both sides pledged to uphold the ceasefire agreement, to respect the rulings of the Sri Lanka Monitoring Mission (SLMM) on ceasefire violations and to ensure that there will be no intimidation, acts of violence, abductions or killings. But violence has continued with a dramatic rise in the number of civilians killed.

After a suicide attack at the Army headquarters in Colombo on 25 April 2006 seriously wounded Army Commander Lt. Gen. Sarath Fonseka, the Sri Lankan airforce launched retaliatory attacks in Trincomalee killing 12 civilians. On this day, the SLMM pleaded with the parties that there is a desperate need to resume talks at all levels, and warned that the conflict could escalate out of control and lead to war.

LTTE's chief negotiator Anton Balasingham met Norway's new special peace envoy Jon Hanssen-Bauer on 8 April in London and informed him that the violence of the paramilitaries has escalated since February Geneva talks and that there had been several offensive operations against the LTTE by the Karuna group with the active backing of the Sri Lanka troops. He said that the government's failure to disarm the paramilitary groups as agreed in Geneva has made the peace talks a meaningless, futile exercise. The government said that it was gravely concerned over the spate of provocative claymore mine attacks against the security forces and civilians by the LTTE in a calculated attempt create a communal backlash. The next round of peace talks were scheduled to take place from 19 to 21 April but were postponed 24 and 25 April on the request of the LTTE. Mr Hanssen-Bauer visited Sri Lanka on 18 April and held talks with the LTTE and the government. On 14 April, the LTTE announced that they would not participate in the second round of the peace talks, accusing the government of blocking air transport to regional commanders for consultation with local LTTE leaders in the Eastern Province.

The government said in statement on 22 April that in terms of the policy on air transportation for the LTTE subsequent to the assassination of Foreign Minister Lakshman Kadirgamar, air transport can be provided for senior members of the LTTE peace delegation to travel from the north-east to the Colombo airport for the purpose of talks, but helicopters cannot be provided for LTTE military leaders to travel within Sri Lanka. The LTTE decided not to use the civilian ferry arranged for 15 April to take its regional commanders from Mullaitivu to the Eastern Province, after it was found that naval vessels would escort the ferry.

## Expert committee

An All Party Representative Committee (APRC) to consider constitutional reform met on 22 July 2006 and 14 political parties participated in the meeting. The President appointed an Advisory Committee of experts headed by lawyer H L de Silva to assist the APRC. Tamil observers have expressed concern over the appointment of the Advisory Committee, which is headed by a person, who in the past, has expressed his opposition to devolution in no uncertain terms. He is also currently appearing for the People's Liberation Front (JVP) in a fundamental rights application to the Supreme Court challenging the merger of the Northern and Eastern provinces into a single administrative unit.<sup>3</sup> A single unit constituting the Northern and Eastern Provinces for the purpose of devolution has been and is a fundamental demand of the Tamil people and this position was recognized by the Sri Lankan government and the international community in the Oslo Declaration. The observers also point out that a number of people in the expert committee are also opposed to devolution, and in the circumstances, it is difficult to believe that the appointment of the committees is other than a deliberate attempt to mislead the public.

## EU ban on the LTTE

The European Union (EU) decided on 29 May 2006 to include the LTTE in its list of terrorist organizations, bringing the number of countries which have banned or imposed restrictions on the LTTE to 30.<sup>4</sup> This list contains the names of persons, groups and entities against whom, for reasons of their involvement in terrorist acts, specific restrictive measures are taken, including:

- the freezing of funds and other financial assets or economic resources of the persons and entities specified,
- a ban on the provision of funds, financial assets and economic resources, and a ban on the provision of financial or other related services, directly or indirectly, for the benefit of these persons, groups and entities,
- police and judicial cooperation between EU Member States."

EU Regulations define 'terrorist acts' as intentional acts which may seriously damage a country or international organization by intimidating a population, exerting undue compulsion of various types or by destabilizing or destroying its fundamental political, constitutional, economic or social structures. The list of terrorist acts includes the following (Threatening to commit any of these acts is also treated as a terrorist offence):<sup>5</sup>

- attacks on a person's life or physical integrity;

<sup>3</sup> The two provinces were merged into the North-East Province under the Indo-Sri Lanka Agreement of 29 July 1987.

<sup>4</sup> European Parliament Resolution on the Situation in Sri Lanka, 18 May 2006 – [www.europarl.europa.eu](http://www.europarl.europa.eu); Statement of the Council of the European Union 31 May 2006 – [www.consilium.europa.eu](http://www.consilium.europa.eu)

<sup>5</sup> European Council Common Position of 27 December 2001 on Combating Terrorism [2001/930/CFSP]; Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism – [www.concilium.europa.eu](http://www.concilium.europa.eu)

- kidnapping or hostage-taking;
- causing extensive destruction to a public or private facility, including information systems;
- seizure of means of public transport, such as aircraft and ships;
- manufacture, possession, acquisition, transport or use of weapons, explosives or of nuclear, biological or chemical weapons;
- release of dangerous substances, or causing fires, explosions or floods;
- interfering with or disrupting the supply of water, power or any other fundamental natural resource;
- directing or participating in the activities of a terrorist group, including by funding its activities or supplying material resources.

The following are some effects of the ban by the European Union:

1. Funds, other financial assets and economic resources of the banned organization will be affected. These include, assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.
2. Funds, other financial assets and economic resources may be frozen. This will include the prevention of any move, transfer, alteration, use of or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.
3. Any service of a financial nature, including all insurance and insurance-related services, and all banking and other financial services will also be affected.

In imposing the ban, the EU said as follows:

*"The decision of the EU to list the LTTE is based on the actions of that organization. The EU still sees a need for the LTTE to amend its violent course and return to peace talks, and will maintain its dialogue with the LTTE where such contacts, in the pursuit of the peace process, may help to bring about a return to negotiations and an end to violence. Listing the LTTE will not diminish the EU's determination to play its role as one of the Tokyo co-chairs. The EU stresses that its decision is directed at the LTTE, and not at the Tamil people.*

*"At the same time, the EU calls upon the Sri Lankan authorities to curb violence in Government controlled areas. In this regard, the EU stands by all of the findings in the reports of the SLMM (Sri Lanka Monitoring Mission). The EU urges the Government of Sri Lanka to act effectively on the commitment of President Rajapakse to put a stop to the culture of impunity and to clamp down on all acts of violence in areas controlled by the*

*Government. The EU further urges the Government to ensure law and order for all citizens of Sri Lanka, and to investigate and prosecute all cases of violence that have so far not resulted in arrests or convictions.*<sup>6</sup>

While the Sri Lankan government welcomed the ban, the LTTE condemned the EU decision, calling it untimely and biased. Mr Balasingham warned that the ban will severely deepen the asymmetry between the Sri Lankan State and the LTTE, and thus make productive political engagement extremely difficult. He also said that the more the international community alienates the LTTE, the more the LTTE will be compelled to tread a hard-line individualistic path.

### **Norway poses questions**

The peace talks did not take place as scheduled, and on 8 June 2006, a worried Norwegian government said that the escalating violence in breach of the ceasefire agreement is intolerable for the civilian population and a cause of great concern to the international community. Norway took the unprecedented step of requesting both parties to provide responses in writing to five critical questions:

1. Will the parties stand committed to the Ceasefire Agreement (CFA) of 22 February 2002?
2. Do the parties want the continued existence and operation of the Sri Lanka Monitoring Mission as a mission coordinated, facilitated and led by the Royal Norwegian Government with diplomatic immunity to ensure its impartial operation?
3. Are the parties able to provide full security guarantees for all monitors, employees and physical assets of the SLMM in all situations, in accordance with CFA Article 3.9?
4. Will the parties accept amendments to CFA Article 3.5 in order to enable the continued functioning of the Sri Lanka Monitoring Mission at its current operational levels and with the necessary security guarantees?
5. In the event that amendments to Article 3.5 are made, will the parties provide full security guarantees for current SLMM personnel and assets during a six-month transition phase until an amended solution has been identified, decided and fully implemented?

Norway says that the Sri Lankan government responded affirmatively to all five questions. The LTTE responded positively to questions 1, 3 and 4. As regards question 2 and 5, the LTTE repeated its demand that SLMM monitors from EU countries - Denmark, Finland, and Sweden - be replaced saying that EU ban on the LTTE had "seriously disturbed" the

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<sup>6</sup> Declaration of the Council of the European Union 31 May 2006 – [www.consilium.europa.eu](http://www.consilium.europa.eu)

neutrality of these countries. Norway was concerned that the LTTE demand would affect 37 out of the 57 monitors and in the letter to the parties, asked for a six-month transition phase until an amended solution has been implemented. But the LTTE has stated that the monitors from EU countries should be withdrawn by 1 September 2006, and if they stayed in the north-east after this date, their safety could not be guaranteed.

Meanwhile, as a party to the ceasefire agreement, the Sri Lankan government expressed its opposition to any change in the constitution of the SLMM. However, on 29 July, Sweden and Finland announced that they would be withdrawing their ceasefire monitors by 1 September. On 2 August 2006 Sweden also announced withdrawal of its monitors. A statement by the Nordic country said that the LTTE demand may weaken the SLMM and that Sweden is prepared to send back the monitors if it is possible to find a solution to the issue of SLMM's composition and the safety of its personnel.<sup>7</sup>

### The Mavilaru conflict

The LTTE closed the sluice gates at Mavilaru, six km west of Eechilampatru in Trincomalee District on 20 July 2006 and blocking water supply to Sinhalese villages in Seruwila and Muthur areas. The government said that 15,000 people in the villages depend on water supply from the Mavilaru Anicut for drinking purposes and for agriculture and accused the LTTE of a hostile act against the civilian population in violation of the ceasefire agreement and international law. The government also said that 30,000 acres of paddy land was affected and the Sri Lankan military launched *Operation Watershed* in an attempt to open the gates, saying it was a limited humanitarian operation.<sup>8</sup>

Successive Sri Lankan governments since independence have resorted to Sinhalese colonization of Tamil and Muslim areas in the north-east, forcibly ejecting Tamils and Muslims from their homes and lands. For this purpose, the entire government machinery has been used and the judiciary has often failed to uphold the rights of the people. Mavilaru and surrounding areas had suffered the fate of colonization. According to the LTTE, the Sri Lankan government earlier denied permission for an Asian Development Bank project for water supply to villages in the region, because one of the villages - Eechilampatru - was in the LTTE-controlled area. A year later, a new water supply project was launched by the Irrigation Department which would principally benefit Sinhalese villages, by diverting water from Mavilaru, while denying water to the Tamil people in Eechilampatru. In this light, the LTTE says, that the local people decided to close the sluice gates at Mavilaru and send a letter to the government making the following demands:<sup>9</sup>

<sup>7</sup> *Sweden recalls observers from Sri Lanka*, press release 2 August 2006, Ministry of Foreign Affairs, Sweden – [www.sweden.gov.se](http://www.sweden.gov.se)

<sup>8</sup> *Mavilaru Anicut closure by LTTE violates CFA and international law*, SCOPP report, 24 July 2006; *Limited operation conducted purely on humanitarian grounds*, press statement by Defence spokesman, 26 July 2006 – [www.peaceinsrilanka.org](http://www.peaceinsrilanka.org)

<sup>9</sup> *Facts behind GOSL's aerial bombing in Mavilaru region*, LTTE Peace Secretariat, 30 July 2006 – [www.ltteps.org](http://www.ltteps.org); *Mavilaru: eye for an eye, tooth for a tooth*, Northeastern Herald, August 2006 – [www.tamilcanadian.com](http://www.tamilcanadian.com)

1. Ensure security of civilians travelling between government and LTTE territories;
2. Remove the ban on materials imposed by the army;
3. Incorporate drinking water supply to their areas in projects.

The Sri Lankan airforce bombed the area killing and injuring civilians. The LTTE also launched a military operation and took over Muthur. Head of SLMM Maj. Gen. Ulf Henricsson said on 29 July that the four-year ceasefire was dead in all but name and a low intensity war continued. Civilians were caught up and many Muslim and Tamil civilians were killed. Both sides have been accused of massacring civilians. More than 50,000 people fled the area and sought refuge further south in Batticaloa and Amparai districts.

### Displaced people

A large number of people have been displaced since December 2005. The number of IDPs in the north-east as at 31 May 2006, according to the government was as follows:

| District     | Internally Displaced People |
|--------------|-----------------------------|
| Jaffna       | 147,101                     |
| Kilinochchi  | 66,931                      |
| Mullaitivu   | 73,832                      |
| Mannar       | 41,185                      |
| Vavuniya     | 50,891                      |
| Trincomalee  | 17,786                      |
| Batticaloa   | 3,957                       |
| Amparai      | 382                         |
| <b>Total</b> | <b>402,065</b>              |

*Ministry of Nation Building and Development, Sri Lanka*

As fighting continued in August 2006, the Sri Lankan government closed the Vavuniya-Jaffna A9 highway, which runs through the LTTE-controlled Kilinochchi. The closing of the road has cut off food and other supplies to Jaffna and the LTTE-held Vanni region. In the east, thousands of displaced families in Muthur and Eechchilampatru in Trincomalee District, and Vaharai in Batticaloa District, desperately need humanitarian relief. On 18 August 2006, UNHCR expressed serious concern about the welfare of civilians in areas inaccessible to humanitarian agencies because of strictly enforced travel restrictions. UNHCR called on the government and the LTTE, urgently to allow access for humanitarian aid workers so vital supplies can reach those in need.<sup>10</sup>

As of 18 August 2006, UNHCR recorded 162,200 newly displaced people since April 2006. This includes some 20,000 people displaced in LTTE-controlled Kilinochchi District as a result of repeated shelling and bombing by Sri Lankan security forces. This also includes more than 50,000 people who fled from Muthur and surrounding areas. Humanitarian

<sup>10</sup> *UNHCR calls for free humanitarian access to all areas of Sri Lanka*, UNHCR, 18 August 2006 – www.unhcr.lk

agencies believe that a further 15,000 are trapped in Muthur and Eechilampatru. According to press reports, some 30,000 people have been displaced in Jaffna.

| Place of refuge  | Number displaced |
|------------------|------------------|
| Kantalai         | 26,700           |
| Seruwila         | 10,900           |
| Kinniya          | 9,600            |
| Thambalakamam    | 6,500            |
| Muthur           | 5,900            |
| Trincomalee town | 3,500            |
| Vaharai          | 38,000           |
| Eechilampatru    | 32,000           |
| Jaffna           | 30,000           |
| <b>Total</b>     | <b>163,100</b>   |

Source: Newspapers, Sri Lanka

Amnesty International says while many civilians living in the north-east are affected by the increasing violence and human rights abuses, including killings, abductions, child recruitment and disappearances, the insecure circumstances in which IDPs live make them particularly vulnerable. The climate of fear and vulnerability of IDPs to intimidation and violence by armed groups and security forces have had an impact on the ability of displaced communities to provide input into consultation processes and publicly express views, as well as local NGOs to consult with and effectively support IDPs.<sup>11</sup>

## Refugees to India

More and more people fled to the southern Indian state of Tamil Nadu, taking the hazardous journey by boat across the Palk Strait. On 17 August, 414 people arrived in Tamil Nadu. Most of them were from Trincomalee District. A boat from Mannar capsized at mid-sea on the same day, and five people, including two children, from Vankalai in Mannar drowned. Earlier in May 2006, ten people drowned when their boat capsized. On 25 August 2006, UNHCR announced that 8,742 people had arrived as refugees in India since the beginning of 2006.<sup>12</sup>

## Human rights situation and rule of law

### Commissions

The Constitutional Council has not yet been appointed. But in April 2006 the President appointed the members of the Police Commission and the Public Services Commissions in breach of the 17<sup>th</sup> Amendment to the Constitution, which provides as follows: "*No person*

<sup>11</sup> Sri Lanka: *Waiting to go home – the plight of the internally displaced*, Amnesty International, 29 June 2006, ASA 37/004/2006

<sup>12</sup> More than 200,000 Sri Lankans now displaced by fighting – UN refugee agency – 25 August 2006, UN News Centre – www.un.org/apps/news

*shall be appointed by the President as Chairman or a member of any of the Commissions specified in the Schedule to this Article, except on a recommendation of the Council."*<sup>13</sup>

The delay in the appointment was disagreement over the appointment of a member of the Constitutional Council representing the minority parties. The Asian Human Rights Commission says that if the president genuinely wanted to resolve the delay in appointing the Constitutional Council and other commissions, he should have intervened with the minority parties, particularly the JVP, TNA and JHU, to have the member appointed.<sup>14</sup> But the President went on to appoint the National Police Commission and the Public Services Commission on 10 April 2006, after simply writing to the Parliament Speaker on 6 April to consult those who need to be consulted and take urgent measures to nominate the full complement of members to the Constitutional Council at the earliest and receiving a reply from the Speaker on 9 April that all efforts to reach a consensus among party leaders regarding nomination of minor political party representatives, have not been fruitful.

Sri Lankan agency Avadhi Lanka filed petition in April 2006 in the Court of Appeal challenging the President's appointments of the National Police Commission and the Public Service Commission.

The President also appointed the member of the Sri Lanka Human Rights Commission (SLHRC) on 17 May 2006. A member of the previous SLHRC and another person who were offered places in the new SLHRC declined the offer on grounds that the commission was not constitutionally constituted. The SLHRC currently has a backlog of 10,000 cases and human rights organizations say that some government agencies, public administrative authorities and statutory bodies have refused to comply with the recommendations of the SLHRC. Many people have also criticized the appointment of the commissioners. They say that some of the new commissioners have no experience in the human rights field or lack the commitment needed for the important position.

## Killings

There has been a terrible escalation in extra-judicial and arbitrary killings. The Sri Lankan security forces, the paramilitary groups aligned to the security forces and the LTTE have been accused of civilian killings. The deaths in the conflict in 2005 were estimated at 500. But in 2006, the deaths reached 1,000 by mid-August. In the period between 1 July and 5 August 2006 (36 days), the following deaths and injuries were recorded:<sup>15</sup>

<sup>13</sup> Article 41B (1) of the Sri Lankan Constitution – The Schedule to this Article includes the following Commissions: Election Commission, Public Service Commission, National Police Commission, Human Rights Commission, Bribery Commission, Finance Commission and Delimitation Commission.

<sup>14</sup> Sri Lanka: President blatantly violates constitution by appointing members to 17<sup>th</sup> Amendment commissions – Asian Human Rights Commission (AHRC), 11 April 2006, AS-063-2006

<sup>15</sup> These are figures compiled by the TIC from records available to us, and do not represent the total number of deaths and injuries during that period.

|                 | <b>Killed</b> | <b>Injured</b> |
|-----------------|---------------|----------------|
| Civilians       | 79            | 163            |
| LTTE            | 30            | 18             |
| Security forces | 78            | 103            |
| <b>Total</b>    | <b>187</b>    | <b>284</b>     |

Most of the civilian killings and injuries have been in the north-east and most have been carried out by unidentified persons arriving at homes and shooting or hacking people to death, taking away people from homes and killing them elsewhere, shooting people travelling vehicles, in shops, bus stations or on the road. Civilians have also been killed in grenade or claymore mine attacks or in security force shooting or shelling from camps.

During the same period more than 125 people were arrested and detained by the security forces under Emergency Regulations in the north-east as well as southern areas including Matale, Kandy, Kathirkamam and Colombo. In many of these arrests, no arrest receipts have been issued to relatives, in some instances despite demands made by the relatives for arrest receipts. According to reports, some 250 Tamil people have gone missing from the Jaffna peninsula alone since December 2005. Several people are also missing from other areas of the north-east. In a number of cases, the military has denied arresting Tamil civilians although people have witnessed the arrests. On 8 July 2006, representatives of the SLHRC met the Jaffna army commander and made representations regarding the people disappeared, arrests receipts and visits to people currently detained in military camps. Since fighting between the security forces and the LTTE began in Jaffna on 10 August 2006, many people have been arrested and many other have disappeared in Jaffna. SLHRC says it has received a number of complaints.

The explosions that killed security forces in Trincomalee on 12 April 2006 triggered off an anti-Tamil violence. Sinhalese gangs looted and burned Tamil shops in the town. They attacked people abducting several passengers from the bus station. Many were killed and their bodies were flung into the burning shops. Nineteen people, including seven women were killed and over 75 people were injured. Human rights agencies say that they heard evidence that the security forces stood by and allowed the arson and killing to take place.<sup>16</sup>

On 13 May 2006 13 Tamils were massacred by the Navy at Allaipiddy on Kayts Island near Jaffna.<sup>17</sup> The Police failed to carry out the orders of the Magistrate to provide security to the witnesses in the case. But in a statement to the press on 21 May, the Inspector General of Police (IGP) announced that no evidence of security force involvement had been found following an investigation. The affected families and lawyers have informed the TIC that the police investigating team never visited Allaipiddy and no enquiries had

<sup>16</sup> *Fact-finding mission to Trincomalee, Sri Lanka*, 16-17 April 2006 – INFORM, Law and Society Trust, Centre for Policy Alternatives, Devasarana Development Centre, Sri Lanka

<sup>17</sup> *Sri Lanka: Amnesty International condemns killing of civilians*, 16 May 2006, ASA 37/014/2006 – <http://web.amnesty.org>

been held. The police also twice defied the orders of the Magistrate to hold an identification parade.<sup>18</sup>

In a statement on 19 May 2006, the TIC called upon the Sri Lankan government to take all measures to protect all human rights and hold prompt, effective and impartial investigation into the massacre. The TIC also urged the international community to take necessary steps to influence the two parties to take proper and tangible action and to provide required assistance in establishing mechanisms for monitoring, investigation and training.<sup>19</sup>

On 17 June 2006, an old woman was killed and 44 others were injured when sailors threw grenades into St Mary's Church in Pesalai, where some 3,000 people had sought refuge from fighting between the LTTE and the Navy.<sup>20</sup> The sailors also executed six fishermen on the beach. They had all been shot through their mouths.<sup>21</sup> At least 58 Sinhalese civilians were killed and 45 others were wounded in a claymore mine attack on a passenger bus at Kebittigollewa in Anuradhapura District.<sup>22</sup> The SLMM says that the LTTE is the only element with the motive, capability and capacity to carry out the attack and must bear responsibility.

The LTTE has been accused of using masked persons to identify alleged informers of the Sri Lankan military from a large number of Muslim civilians fleeing the fighting in Muthur on 4 August 2006, and shooting them dead. On 8 August 2006, Sri Lanka Muslim Congress leader Rauf Hakeem said in the Sri Lankan Parliament as follows:

*"Vivid details of the atrocious and inhuman treatment meted out to the fleeing civilian population by LTTE cadres, in the vicinity of Pachchanur on the Muthur-Kantalai road starkly exposes the LTTE's brutality. The thousands of civilians who left Muthur on an assurance by the LTTE that no harm would be caused to them if they chose to leave were subjected to such harassment and cruelty resulting in the Muslims realising that as in instances before, the LTTE's assurances could not be taken for granted..... There, armed cadres of the LTTE separated the young and able bodied men from the women, the children and the elderly. Some of the cadres were seen beating the women, the children and the elderly who chose to plead on behalf of the detained men. An artillery attack which targeted this checkpoint, according to scores of eyewitnesses resulted in the death of some civilians as well as a few LTTE cadres. In the ensuing confusion many civilians managed to escape from the LTTE cadres and reach Kantalai after trekking for many hours through inhospitable terrain."*<sup>23</sup>

<sup>18</sup> Case Report No. 1 July 2006, Allaipiddy Case, Tamil Information Centre

<sup>19</sup> Investigative mechanism critical for ending impunity for human rights violations, TIC press release, 19 May 2006

<sup>20</sup> Sri Lanka: Over half a million displaced people suffer effects of intensifying violence, Amnesty International, 29 June 2006, ASA 37/017/2006 - <http://web.amnesty.org>

<sup>21</sup> The security forces are the perpetrators: A report on the Pesalai massacre, Centre for Peace and Reconciliation, Sri Lanka

<sup>22</sup> Sri Lanka: Amnesty International condemns attack on civilian bus, 15 June 2006, ASA 37/016/2006

<sup>23</sup> Sri Lanka Parliamentary Debates (Hansard), Vol. 165 No. 1, 8 August 2006

In a press statement on 5 September 2006, the TIC urged the LTTE leadership to take decisive action to prevent abuses and ensure that the rights of all minorities in the north-east are protected. The TIC said that the Tamil people's silence over human rights abuses of the LTTE, because of fear or misguided belief as wartime necessity, has created an unfettered environment for violence against the Muslims, and urged the Tamil community to take up the issue directly with the LTTE and make them accountable for their actions.<sup>24</sup>

The Sri Lankan airforce bombed children's refuge Chencholai at LTTE-controlled Vallipunan in Mullaitivu on 14 August 2006 killing 51 children and three staff and injuring 136 others. UNICEF which visited the place immediately after the bombing said that girls from various schools in the districts of Mullaitivu and Kilinochchi were staying overnight at the compound, attending a two-day course in first-aid, and called on all parties to respect international humanitarian law and ensure children and the places where they live, study and play are protected from harm.<sup>25</sup> But the Sri Lankan government was adamant that Chencholai was a military training centre. Defence spokesman and Plan Implementation Minister Keheliya Rambukwella said that the age or gender is of no concern to the government and that children would be targeted if they carried arms.<sup>26</sup>

## Presidential Directives

Sri Lankan President Mahinda Rajapakse issued directives on 5 July 2006, for the protection of people arrested and detained under Emergency Regulations (ERs) of August 2005<sup>27</sup> or the Prevention of Terrorism Act (PTA). Under the Directives, the arresting officer or the officer ordering detention is required to provide his/her name and rank, to the person arrested, or to any relative or friend, and the arrested person must be informed of the reason for the arrest. The arresting officer making the arrest must issue to the spouse, father, mother or any other close relation, an arrest receipt containing the name and rank of the arresting officer, the time and date of arrest and the place at which the person will be detained. The arresting officer must also inform the SLHRC within 48 hours and SLHRC must be provided access to the people in detention.

The TIC points out in a statement that the Directives in no way diminish or rectify the draconian nature of the ERs and that they are a clear attempt to mislead the public and to divert attention from atrocities that are consequences of the existence of the ERs.

The arresting officer need not issue an arrest receipt, because the Presidential Directives also provide an 'escape' clause. The Directives say that where 'it is not possible' to issue a document, it is sufficient for the officer to make an entry in the Information Book giving reasons as to why it is not possible to issue the document. The ERs provide for indefinite

<sup>24</sup> *LTTE's intolerance towards Muslims in the north-east only serves divisive policy*, TIC press release, 5 September 2006

<sup>25</sup> *Children are victims of the conflict in Sri Lanka*, UNICEF, press release 15 August 2006 – www.unicef.org

<sup>26</sup> *Sri Lanka schools close after blast in capital by Simon Gardner*, 15 August 2006 – www.tiscali.co.uk/news

<sup>27</sup> Emergency Regulations made by the President of Sri Lanka, 13 August 2005

detention, and have the effect of removing judicial oversight in relation to arrest and detention, and suspend the relevant provisions of the normal law. Under the ER, an investigating officer can take a person in detention from place to place for the purpose of investigation. It is also provided that a person in detention under any ER may be removed from detention by any security force officer, for the purpose of questioning or any other purpose connected with the questioning. The person can be in the custody of such officer, for a period of seven days at a time. He/she can be taken away from the place noted in the arrest receipt, any number of times and each time held for seven days. This means, the arrest receipts under the Presidential Directives are in fact useless.<sup>28</sup>

### Memorandum to the Human Rights Council

The TIC submitted an Information Note to the members of the UN Human Rights Council (UNHRC) before its second session in September 2006. The TIC pointed out that the Sri Lankan President, after announcing on 4 September 2006 that the government will invite an *'independent international commission to probe abductions, disappearances and extra-judicial killings in all areas of the country, which will have powers to investigate all such incidents'* and that *'the security forces and the police have been requested to extend their fullest cooperation'*, went back on his promise within two days. A new statement on 6 September said that the government will invite an *'international group of eminent persons to act as observers of investigations into alleged abductions, disappearances and extra-judicial killings'*. In Annex III to the Note, The TIC listed 107 massacres by the security forces since 1956, in which thousands of Tamils and Muslims perished. Most of the massacres remain uninvestigated and in many cases inquiries have abandoned. Where inquiries have been completed, the recommendations have not been implemented.

The TIC said that it is clear that the Sri Lankan government is intent on denying adequate and effective international involvement, and proper investigations into violations of human rights, and has miserably failed to take effective measures to ensure reconstruction of the war and tsunami damaged infrastructure in the north-east or provide adequate assistance for rehabilitation of the people affected in the areas by these disasters. The TIC called on UNHRC to urge the Sri Lankan government, among other issues, to take special measures to tackle impunity, paying attention to the laws and regulations that contribute to impunity and to demonstrate commitment to confronting impunity by initiating proper, adequate and impartial investigations into allegations of torture, rape, disappearances and extra-judicial executions, and prosecuting the perpetrators, irrespective of their ethnic origin, position or status. The TIC also urged the government to lift all restrictions on humanitarian agencies and enter into immediate negotiations with the LTTE to create the necessary climate and institutional structure for a joint mechanism to provide adequate relief and rehabilitation facilities to the people in the north-east affected by war and the tsunami, and to engage in the reconstruction process.<sup>29</sup>

<sup>28</sup> Presidential Directives inadequate for safety of people in custody of law enforcement agencies, TIC press release 19 July 2006

<sup>29</sup> *The UN Human Rights Council must ensure Sri Lankan State's human rights responsibility and accountability*, TIC Information Note to members of the UN Human Rights Council, 10 September 2006

The TIC also submitted a Briefing Paper to the UNHRC raising concern over the continuing disappearances in Sri Lanka. The TIC called up on the UNHRC to urge the Sri Lankan government to take immediate measures to halt the abductions and disappearances, including proper investigations to bring the perpetrators of justice, and to introduce legal and procedural safeguards in respect of arrest and detention, and provide for judicial intervention, which relatives can invoke to discover the whereabouts of the victims and ensure their wellbeing.<sup>30</sup>

## Tsunami and Relief and reconstruction

### Violence affecting reconstruction

Developmental and aid projects initiated and sustained by aid agencies and project implemented by local agencies in the north-east have come under severe pressure because of the restrictions on the movement of foreign aid workers to LTTE controlled areas imposed by the Sri Lankan government. The outbreak of the fighting with bombing and shelling in Trincomalee, Batticaloa, Mullaitivu and Jaffna, along with continuing arbitrary killings, targeting Tamil civilians and internal displacement have impeded the relief and reconstruction projects.

### Freedom of movement

As a result of the fighting, the freedom of movement of the people in the north-east was extremely restricted. The Sri Lankan government imposed an indefinite curfew in Jaffna peninsula from 7.00pm on 11 August 2006. The curfew continued except for a few hours on some days. The banks were closed and there is a severe shortage of food and fuel. Despite the claims of the government, observers say that the food transported by ship to the Jaffna peninsula can satisfy only 40% of the need. According to Government Agent (GA) K Ganesh, 5,800 people had registered with the Jaffna Secretariat up to 20 August 2006 to travel to Colombo, including many foreigners.

The government has closed the crossing point to the Vanni LTTE-controlled territory and has refused to open it despite repeated requests from local as well as international agencies, saying that it is considering opening a different route to Jaffna through Mannar District. The blockade has created a severe shortage of food, fuel, medicines and other essential needs in the Vanni. A large number of people, including foreigners, were also struck in the Vanni. The ICRC announced on 22 August 2006 that it facilitated a convoy of civilians to cross from Kilinochchi into government-controlled Vavuniya. The convoy which crossed at Omanthai consisted of 61 foreign citizens and 182 Sri Lankan nationals.<sup>31</sup> A

<sup>30</sup> *Sri Lanka: Urgent action needed for protection from abduction and “enforced disappearances”*, TIC Briefing Paper to members of the UN Human Rights Council, 20 September 2006

<sup>31</sup> *Sri Lanka: Kilinochchi, Trincomalee and Batticaloa Districts - Daily situation report, 22 August 2006* – www.reliefweb.int

similar blockade has been imposed on LTTE areas in the east causing severe hardship to the people.

Restrictions on the freedom of movement impacted on tsunami reconstruction projects. In a statement on 18 August 2006, eight members of Action by Churches Together (ACT), including Dan Church Aid and Christian Aid, deplored that there was disregard for international humanitarian law and pointed out that the situation was having a devastating impact on the tsunami work in the north-east, bringing much of the work to a halt and severely setting back the reconstruction work. They called on both parties to guarantee safe passage for all humanitarian agencies so that the reconstruction work may continue unhampered and the needs of the people wounded and displaced by the hostilities can be met.<sup>32</sup>

The blockade has denied essential medicines and medical equipment to vulnerable sections of the population. It has also prevented the sick and the injured people in LTTE areas being taken to government area for treatment, and has caused some deaths. In an incident reported to the TIC, a young woman died of snakebite in Vaharai, Batticaloa. The military at the checkpoint did not heed the desperate pleas of the relatives and refused to allow them to take her across.

Observers have expressed the view that the Sri Lankan government has breached international law by using humanitarian services as a weapon of war and by placing many parts of the north-east under information blackout and essential items blockade.<sup>33</sup> The intention of the government seems to be to pressurize the LTTE. The Sri Lankan government resorted to the same tactic before the ceasefire, and the blockade in the 1990s resulted in the death of thousands of people, including hundreds of children.

### **Threat and attack on aid workers**

Aid workers are facing increasing risk and intimidation in Sri Lanka. Aid workers Shanmugaratnam Pathmanathan and Selvendra Pradeepkumar who worked for the Human Development Centre (HUDEC) in Jaffna were killed in a claymore mine explosion on 10 April 2006.<sup>34</sup> Five soldiers were also killed in the attack. Two other aid workers were injured.

Women NGO aid workers in Amparai and Batticaloa districts received threats in April 2006 through leaflets to quit their employment with international agencies. Many women

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<sup>32</sup> *A call for free access of aid agencies* – Statement of Action by Churches Together, 18 August 2006 –www.dca.dk

<sup>33</sup> *Sri Lanka: Blackouts and blockades – No respite for internally displaced people in war ravaged Sri Lanka* – Animesh Roul, 22 September 2006, International Relations and Security Network – www.isn.ethz.ch

<sup>34</sup> *Sri Lanka: Tsunami workers killed by explosion*, Catholic Agency for Overseas Development (CAFOD), 10 April 2006, Reliefweb – www.reliefweb.int

workers requested leave from work and were reluctant to go on field visits. Some workers submitted resignations as a result of the intimidation.<sup>35</sup>

The killing of seventeen aid workers of the French agency *Action Contre la Faim* (ACF) on 5 August 2006 has sent shockwaves through the humanitarian community. UN Under-Secretary General for Humanitarian Affairs Jan Egeland condemned the killing and appealed that humanitarians be allowed full and secure access to affected populations.<sup>36</sup> The TIC said in a statement that there was no mistaking that the killings were a deliberate action on humanitarian workers and a blatant war crime. The TIC also stated the vicious killing has demonstrated what the international community must expect if it allowed the impression to continue that humanitarian workers in Sri Lanka are a soft and cost-free target for armed factions seeking to make a political point or military gain, or to intimidate the international community.<sup>37</sup>

At the press conference in Paris on 9 August 2006, ACF indicated that a decision whether to withdraw operations in Sri Lanka may be taken in consultation with humanitarian actors in Sri Lanka, partners and donors. In a letter to the ACF President Jean-Christophe Ruffin, the TIC expressed concern pointing out that withdrawal of ACF or any international agency, will not only encourage the perpetrators of the atrocities, but would also seriously affect the people who are dependent on agencies in a climate of war and crisis and expose them to more danger and suffering. The TIC also said that the presence of ACF and the continuation of its programmes are essential to continue to urge a proper independent investigation and to press for respect for the neutrality of NGOs guaranteeing them secured access to civilians in need.

### **TRO assets frozen**

The Sri Lankan government decided to freeze the accounts of Tamils Rehabilitation Organization (TRO), from 29 August 2006. The TRO is a registered charity in Sri Lanka. The government has accused the TRO of LTTE links, but has not publicized any evidence that the funds of the TRO in Sri Lanka have been used for purposes other than humanitarian work. The Central Bank of Sri Lanka, did not issue any official notice to the TRO about the freezing of the funds, but in its press statement on 4 September 2006 alleged that persons connected with the TRO have been arrested recently in various parts of the world. The TRO says that this is a spurious allegation and that no TRO officer has been arrested. In its communication dated 4 September 2006, the TRO says that the government has not provided any reasons to the TRO for this drastic action of freezing the funds. The TRO also says that since registration as a charity, it had responded to all

<sup>35</sup> *Sri Lanka: Humanitarian Situation Report* - 13-26 April 2006, UN Office for the Coordination of Humanitarian Affairs, 26 April 2006 – [www.reliefweb.int](http://www.reliefweb.int)

<sup>36</sup> *Emergency Relief Coordinator condemns killing of aid workers in Sri Lanka*, Press release IHA/1211, 7 August 2006 – [www.un.org/News/Press/docs/2006](http://www.un.org/News/Press/docs/2006)

<sup>37</sup> *Call for an independent inquiry into killing of aid workers: A step in the right direction*, TIC press release, 11 August 2006

requests for financial and project information from government ministries and the Parliamentary Select Committee on NGOs, promptly and exhaustively.

In a press release on 6 September 2006, the TIC said that the government must recognize the essential humanitarian work that the TRO is carrying out in areas controlled by the LTTE, of its own and in partnership with local and international relief and developmental agencies, including UN bodies. These local and international agencies have recognized the vital task the TRO is performing in these areas. In this light, and the fact that the TRO has provided relief to the people of the north-east for many years, it is clear that the intention of the present action is to exploit the critical humanitarian situation in LTTE-controlled areas and to pressure the civilian populations in these areas to submit to the will of the government. The TIC notes that humanitarian aid has become a weapon in the government's arsenal. The government's deliberate linking of humanitarian aid and military operations is a collective punishment on the people in LTTE areas, most of whom are suffering without basic needs such as food, shelter and medicines, because the government has willfully neglected to provide adequate assistance and has deliberately denied the establishment of institutional structures for the purpose of war and tsunami recovery operations. The TIC noted that their situation will further deteriorate without the humanitarian operations of the TRO.

The TIC further said that the Sri Lankan government is creating an intolerable situation precipitating a humanitarian crisis, whereas its primary duty should be to provide relief and alleviate the sufferings of the people. Rather than taking steps to marginalize the organization, which has access to government-controlled and LTTE-controlled areas, it would be beneficial to all, if the government can utilize TRO's good offices to narrow the gap between itself and the LTTE towards achieving a peaceful resolution to the conflict. The TIC urged the government to refrain from exploiting the humanitarian situation in the northeast and lift the restriction on the funds of the TRO and provide the necessary assistance to deal with the humanitarian situation in the north-east.<sup>38</sup>

### **Reconstruction aid**

Although it was estimated Sri Lanka needed \$2.15 billion for long-term tsunami recovery, pledges totalled \$2.95 billion. NGOs pledged \$853 of this amount, and multilateral and bilateral donors pledged the remainder. Sri Lanka secured \$2.24 billion and \$710 is outstanding.

The Asian Development Bank (ADB) says that of the \$572 million committed from its Asian Tsunami Fund (ATF), \$76,202,298 had been disbursed for projects in the tsunami-affected countries as of June 2006. But in addition to this, ADB has provided \$862.3 million from the European Union and countries such as Japan and the UK. In relation to Sri Lanka, \$150 million has been committed for the Tsunami-affected Areas Rebuilding Project, but only \$14,568,106 has been disbursed. According to the ADB, political instability and the

<sup>38</sup> TIC urges the Sri Lankan government to lift restriction on TRO funds – TIC press release, 6 September 2006

security conditions have been partly responsible for the delays in implementing programmes. Activities related to community development have been particularly hampered by difficulty in finding contractors, rise in prices and scarcity of materials needed for projects. The ADB also says tenders for large international contractors have been postponed because of security concerns.<sup>39</sup>

More than 100 humanitarian agencies, including UN bodies, appealed for \$37.5 million in August 2006 to assist more than 200,000 newly displaced people. The funds are for economic recovery and infrastructure, health, education, food, protection of human rights/rule of law, security, shelter, non-food items, water and sanitation.<sup>40</sup>

## Buffer Zones

When the coastal buffer zones were introduced on 27 February 2005, the Sri Lankan government said that the purpose was to better safeguard the lives of coastal population and to protect the coastal environment from future natural disasters. Government ministers said that majority of the people who lost their lives would have survived if the buffer zone rule had been in force. The buffer zone was 100 metres landwards from mean high water line in southern districts and 200 metres in north-eastern districts, and it displaced thousands of people. The government's insincerity was demonstrated when lands near Arugam Bay in Amparai District were marked for development of tourist facilities and residents were offered land beyond 600 metres from the shore. The government demolished hundreds of houses rebuilt by the people after the tsunami. The Survey Department said that over 800,000 permanent structures were within the zone.

On 14 October 2005, the government announced a new decision which exempted some areas from the 100/200 metre rule. In these areas, smaller "setback zones" may be decided at the level of the local Grama Sevaka (Village Headman) Divisions and the Divisional Secretariat divisions by the District Secretariat in consultation with the Coastal Conservation Department. The efforts by the District Secretariat will be supported at the centre by the Reconstruction and Development Agency (RADA). The government has recommended the setback zones (See Annex 1).

## Shelter

The introduction of the buffer zone and the changes made later affected construction of shelters for the affected people. According to a revised Tsunami Housing Policy in May 2006, increased the housing needs to 120,000 from the earlier estimate of 97,000. The government says that this policy will promote owner-driven housing construction. The new policy had the following components:

<sup>39</sup> *Status Report Asian Tsunami Fund*, Asian Development Bank, August 2006 – [www.tsunamispecialenvoy.org](http://www.tsunamispecialenvoy.org)

<sup>40</sup> *Sri Lanka; Humanitarian Action Plan 2006*, September-December, August 2006, Common Humanitarian Action Plan (CHAP) – [www.humanitarianinfo.org](http://www.humanitarianinfo.org)

- 1) The existing Donor-Driven Housing Programme in which houses are built by donors in land provided by the government, primarily for those who lived in the previous buffer zone.
- 2) New house is built on land provided by government with Rs 250,000 cash grant from the government and up to Rs 250,000 assistance from donors.
- 3) Government cash grant of Rs 150,000 for three divisions of Amparai District and Rs 250,000 for Colombo District to buy land, and government cash grant of Rs 250,000 and up to Rs 250,000 donor assistance to build a new house.
- 4) Government grant of Rs 250,000 to reconstruct fully damaged houses and Rs 100,000 for partially damaged houses and donor assistance to complete only fully damaged houses.

According to RADA, as of June 2006, under the government and NGO funded Resettlement Housing Programme, 37,770 houses were completed and 33,962 were under construction. Under the donor funded Relocation Housing Programme 11,213 were completed and 6,627 were under construction. Some 6,500 houses had been completed by private donors. Under a Relocation Housing Programme, government will fund 30,499 houses. In other words, only 46% of the needed houses have been completed. At the end of June 2006, 32,367 families were still living with relatives and a further 42,196 families were in transitional shelters.

In the north-east, more than 63,000 houses were damaged and some 10,500 were partly damaged by the tsunami. This was in addition to the 326,700 houses damaged or destroyed in the war. The deteriorating security situation since December 2005 and shelling and airforce bombing in the fighting in recent months have not only affected reconstruction to a great extent but also damaged or destroyed many more houses and other buildings. In many areas of the north-east, temporary shelters of displaced people were destroyed by the tsunami. They were displaced in the first place, because the military is occupying their lands and houses. In many places, the military is not paying any rent.

### **NGO Impact Initiative**

In August 2006, the UN Deputy Special Envoy for Tsunami Recovery visited tsunami affected countries, including Sri Lanka, as part of a NGO Impact Initiative announced in April 2006 by UN Special Envoy Bill Clinton. As NGOs represent over a third of the funds pledged for tsunami recovery and have become donors as well as implementers, the initiative would focus on five areas: Accountability, enhancing local capacity, professionalism, co-ordination and human rights and disaster response.<sup>41</sup>

In tsunami recovery projects, beneficiaries have not been consulted regarding projects; aid providers have not communicated well about their projects and have not engaged local

<sup>41</sup> *Responsibilities and Challenges: Eric Schwartz, UN Deputy Special Envoy looks at the special role of NGOs play in enabling the reconstruction of countries affected by the tsunami, July 2006 – www.tsunamispecialenvoy.org*

communities in identifying and addressing priorities. The initiative would identify barriers to accountability and complement and support existing initiatives designed to ensure a greater role for accountability in the culture and profile of NGOs.

Local capacities were not appropriately drawn upon as part of the tsunami projects; local institutions are not taking on leading roles in humanitarian assistance despite repeated commitments by the aid community to promote such outcomes. The initiative will focus on strengthening institutional capacity for partnership development, encouraging retention of skilled personnel working with local civil service and local civil society strengthening cooperation and collaboration with local government, and promoting concrete models for enhancing local capacities.

Some NGOs made promises that were not kept; they built structures that will not stand the time; they stretched their mandates beyond their level of expertise. The initiative will offer external or other validation of NGO performance, consider the issue of training NGOs, especially smaller ones with limited resources, on standards of professionalism.

At field level, there is lack of information sharing among NGOs and duplication of the efforts; at head quarters level. There is need for more engagement between NGOs and international organizations and more effective representation through the secretariats of umbrella organizations. The initiative will focus mainly on constraints, challenges and opportunities in coordination among NGOs, both international and local, while recognizing the role of national and local government authorities, UN agencies and donors. The initiative will also provide ideas for reducing duplication and consider ways of increasing information exchange.

The initiative notes that NGOs role in implementing a rights-based approach may include: monitoring the degree of attainment of rights by individuals affected by disaster; advocating with governments and other actors to meet their obligations to rights holders; providing protection and services to rights holders; providing training and awareness-raising for individuals and community-based organizations to enable them to advocate on their own; advocating with donors for recognition of rights issues and support for programmes.

### **Aid agencies**

Evaluation of the tsunami recovery efforts in the affected region, including Sri Lanka, found a huge number of problems, many of which could have been avoided with adequate planning. Multiplication of agencies, instead of assisting the people, has become a problem in itself. The following were noted regarding the aid agencies:

- The large number of agencies, particularly the assessment carried out by each agency, increased the burden on the local population, local authorities and coordinating structures.

- Many assessments were carried out by simply questioning people rather than involving them in assessment and planning.
- Costs increased due to replicated offices and overheads. There was duplication and confusion of efforts, and assessments were not shared with others.
- There was competition for projects, clients, facilities, materials, staff and publicity. This affected accountability. High levels of funding led to heightened competition.
- In many places, aid materials provided were inappropriate or unfamiliar to beneficiaries.
- The problems were exacerbated by inexperienced or irresponsible agencies, which failed to apply international humanitarian principles, undermining community-based approaches and the reputation of NGOs in general.

## Evaluation

Surveys on the tsunami recovery say that there is growing frustration with the speed, direction and ownership of the process. In the affected countries, including Sri Lanka, the affected populations were not only concerned about the programmes of international agencies, but felt that local leaders had failed them in ensuring equity and inclusion. There was inequity nationally, geographically or socially. Despite mechanisms introduced by aid agencies, accountability and complaints mechanisms were not commensurate with the scale of funding. Wastefulness and negligence were seen among internationally, nationally and locally managed recovery programmes.<sup>42</sup>

Evaluations say that existing legislation and post-tsunami emergency regulations adversely affected empowerment of local government. Actions of some umbrella government authorities resulted in disempowerment of local administration. The conflict in the north-east districts continually hampered independent decision-making at all levels. There was deep dissatisfaction with the government, strong suspicion of local leaders and no regard for NGOs, showing the general dissatisfaction with delivery of goods and services. International agencies failed to recognize the extensive and diverse local and national capacities, which reduced people's ownership of relief and recovery initiatives. This has significantly eroded sustainability, appropriateness and efficacy of the international tsunami response. The international response also failed to local capacities in a serious and sustainable manner.

International agencies often hired international staff for the tsunami recovery programmes on short-term contracts, complaining about local capacity and experience. But the time taken by the new recruits to become familiar with the complex and dynamic local

<sup>42</sup> Joint evaluation of the international response to the Indian Ocean tsunami: Synthesis report, by John Telford and John Cosgrave, Tsunami Evaluation Coalition (TEC) – [www.tsunami-evaluation.org](http://www.tsunami-evaluation.org)

contexts, and the costly mistakes precipitated by their ignorance, was not accounted for, nor was the reasonable alternative of hiring local staff with appropriate contextual knowledge and then training them in the relevant sectors, followed. There is strong and persistent evidence on the question of “poaching” within the UN system and international NGOs in relation to local community-based organizations.

Pressure to spend is cited as the biggest single obstacle to sustained engagement with local and national capacities. This was worsened by the over-estimation of the international capacity to deliver, coupled with an under-estimation of delivery costs. In general, although the vulnerable position of women has been acknowledged, gender-sensitive programmes have been inadequate. Often women are majority of the participants, but their decision-making role remains unclear. Gender-based violence is a serious concern. The majority of the programmes have adopted a “gender neutral” or “gender-blind” policy, whereas the requirement is specific targeting or affirmative action.

Information sharing was minimal. This led to lack of ownership, impossibility of proper coordination and the absence of meaningful participation. International agencies have not done the changes needed for accountability and transparency in tsunami recovery and rehabilitation phases. The essential conditions for the empowerment of local people include comprehensive information sharing and setting up appropriate contextually sensitive communication strategy.<sup>43</sup>

### CCD observations

The Centre for Community Development (CCD), which is implementing a Village Regeneration Project (VRP) in six villages in the north-east, has had first hand experience in some of the issues raised in the above-referred evaluation reports. The main focus of the VRP initiative is to encourage and assist institutionalizing systems of local village governance, capacity building of local groups, resource mobilization, making local groups and bodies more representative, mainstreaming their activities towards greater efficiency and equity and enhancing civic engagement for improved transparency in decision-making and accountability in implementation.

On the question of transparency and accountability, the task of the CCD was made more difficult by the prevalent culture and the activities of some of the local leaders who were accustomed to unilateral action without any local consultation. It appears that such unilateral action had been encouraged by some local and international agencies as well as the local government authorities. This had resulted in rampant corruption and misuse of the funds earmarked for relief and reconstruction. The CCD faced stiff resistance to change from such leaders, who were sometimes manipulated by individuals with political and personal motives rather than the interests of the people at heart. Although majority of

<sup>43</sup> *Impact of the tsunami response on local and national capacities, Sri Lanka country report*, April 2006 by Arjuna Parakrama, Elisabeth Scheper and Sudarshan Gunawardena, Tsunami Evaluation Coalition – [www.tsunami-evaluation.org](http://www.tsunami-evaluation.org)

the people were against such activities and welcomed changes, they often found it extremely difficult to overcome unfair local practices and prejudices. But the use of local talent and experience has proved vital to the success of the CCD work.

The insistence on institutionalizing systems of local governance with appropriate representation, including gender representation, has proved important. Women have always faced discrimination in villages and were discouraged from participating in public life. The CCD found that despite obstacles caused by local discriminatory practices, more and more women are willing and enthusiastic to take part in affairs that affect their lives. The CCD encouraged greater participation of women in the public activities.

The CCD assisted the local partners in the VRP to prepare their constitutions and register the organizations in keeping with the aim of promoting accountability. Consultations among the village population on problem assessment and planning need to be a regular feature. Transparency is a vital element in the affairs of organizations. Regular committee meetings, minute-keeping and reporting procedures have been encouraged.

Communication is difficult in remote village areas where modern communication tools such as telephones and computers are too expensive to acquire and maintain. The CCD has assisted each of the partners to publish its own monthly newsletter containing information about local issues, problems, projects and local events. The newsletter is a useful communication tool for the villagers, while also serving to inform agencies and individuals outside Sri Lanka. The CCD has encouraged the organizations to make greater use of the newsletters for discussions of the local, regional and national problems.

The problem of "poaching" by international agencies is common in the areas. Many members of staff have left local agencies after receiving training, to join international agencies which are able to pay higher wages, resulting in the necessity to train new staff. The CCD has also suffered from this problem. Some local organizations have found it extremely difficult or impossible to continue their work effectively. This is an ongoing problem, which will have the effect of stifling local organizations, completely contrary to the stated objectives of international agencies, and some remedial action is necessary.

A common local practice is the appointment of persons to positions in organizations solely on the basis of personal "loyalty". This practice also has a stifling effect on the organizations and has proved to be an obstacle towards empowering the people. This practice must be brought to an end. There are many persons in the north-east who are committed to serving and empowering the people and are also willing to take risks to continue their work in any volatile situation. Such persons should be identified and their work recognized by everyone involved in post-tsunami recovery work. They should also be assisted to continue and extend their work. The CCD believes that these persons will contribute immensely towards uplifting and empowering the people in the future, and aims to encourage and promote them.

**Annex 1****Buffer Zone – Recommended Setback***Source: Sri Lanka government press release 14 October 2005*

| District    | Divisional Secretariat | Grama Sevaka Division                    | Recommended setback (in metres) |
|-------------|------------------------|--|---------------------------------|
| Colombo     | Thimbirigasyaya        |  | 55                              |
|             | Dehiwela               |  | 55                              |
|             | Ratmalana              |  | 45                              |
|             | Moratuwa               | Angulana to Egoda Uyana                  | 45                              |
| Kalutara    | Panadura               | Sagara Pedesa to Molligoda               | 45                              |
|             | Kalutara               | Pohoddaramulla                           | 35                              |
|             | Beruwela               | Kalmula                                  | 60                              |
|             |                        | Maggona                                  | 40                              |
|             | Beruwela Maradana      | 60                                       |                                 |
| Galle       | Bentota                | Angagoda to Warahena                     | 40                              |
|             | Balapitiya             | Randombe                                 | 45                              |
|             | Ambalangoda            | Ambalangoda police Station area          | 45                              |
|             |                        | Hikkaduwa                                | Narigama                        |
|             |                        | Thiranagama                              | 35                              |
|             |                        | Patuwatha                                | 35                              |
|             | Galle                  | Closenberga                              | 25                              |
|             |                        | Rumassala                                | 25                              |
|             | Habaraduwa             | Unawatuna                                | 40                              |
|             |                        | Pihilagoda                               | 40                              |
| Matara      | Weligama               | Kapparatota                              | 35                              |
|             |                        | Mirissa                                  | 35                              |
|             | Devinuwara             | Nilwella                                 | 35                              |
|             |                        | Wawwa                                    | 35                              |
|             | Dickwella              | Waththegama North to Dodampahala Central | 35                              |
|             | Matara                 | Browns Hill, Eliyakanda                  | 25                              |
| Hambantota  | Tangalle               | Goyambokka                               | 35-60                           |
|             |                        | Pallemalala                              | 60                              |
| Amparai     | Pottuvil               | Arugam Bay                               | 50                              |
|             | Kalmunai               |  | 65                              |
| Batticaloa  | Kathankudi             |  | 80                              |
| Trincomalee | Muthur                 |  | 50                              |
|             | Kinniya                |  | 50                              |
|             | Kuchchaveli            |  | 50                              |
|             | Kadawathsathara        |  | 50                              |
| Jaffna      | Maruthankerny          |  | 100                             |
|             | Point Pedro            |  | 100                             |