

# **SRI LANKA: WOMEN'S INSECURITY IN THE NORTH AND EAST**

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## SRI LANKA: WOMEN'S INSECURITY IN THE NORTH AND EAST

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

Women in Sri Lanka's predominantly Tamil-speaking north and east are facing a desperate lack of security in the aftermath of the long civil war. Today many still live in fear of violence from various sources. Those who fall victim to it have little means of redress. Women's economic security is precarious, and their physical mobility is limited. The heavily militarised and centralised control of the north and east – with almost exclusively male, Sinhalese security forces – raises particular problems for women there in terms of their safety, sense of security and ability to access assistance. They have little control over their lives and no reliable institutions to turn to. The government has mostly dismissed women's security issues and exacerbated fears, especially in the north and east. The international community has failed to appreciate and respond effectively to the challenges faced by women and girls in the former war zone. A concerted and immediate effort to empower and protect them is needed.

Thirty years of civil war between the government and Liberation Tigers of Tamil Eelam (LTTE) has resulted in tens of thousands of female-headed households in the north and east. Families throughout those areas experienced many waves of conflict, displacement and militarisation. In the war's final stages in 2008 and 2009, hundreds of thousands of civilians in the northern Vanni region endured serial displacements and months of being shelled by the government and held hostage by the LTTE, after which they were herded into closed government camps. Most lost nearly all possessions and multiple family members, many of whom are still missing or detained as suspected LTTE cadres. When families eventually returned to villages, homes and land had been destroyed or taken over by the military. There was less physical destruction in the east, which was retaken by the government in 2007, but those communities have also suffered and now live under the tight grip of the military and central government.

These events have left women and girls vulnerable at multiple levels. In the Vanni in particular, their housing is inadequate, and they have limited means of transportation and employment opportunities. Many do not have sufficient funds to feed their families, let alone to care for those who were maimed or disabled in the war. The continuing search for the missing and the struggle to maintain rela-

tions with the detained are further strains. Children's education was severely disrupted for years, and many are only slowly returning to school. The trauma of the war, especially the final months in 2009, is evident in every family. The conflict has badly damaged the social fabric.

The consequences for women and girls have been severe. There have been alarming incidents of gender-based violence, including domestic violence within the Tamil community, in part fuelled by rising alcohol use by men. Many women have been forced into prostitution or coercive sexual relationships. Some have also been trafficked within the country and abroad. Pregnancies among teenagers have increased. Fear of abuse has further restricted women's movement and impinged on education and employment opportunities. The fact that women must rely on the military for everyday needs not only puts them at greater risk of gender-based violence, but also prevents them from building their own capacity within communities. The island-wide spate of attacks on women by individuals labelled "grease *yakas* (devils)", which reached the north and east in August and into September 2011, and the lack of serious response by the security forces (except to brutally crack-down on protesters across the north and east, and especially in Jaffna), exposed the near-complete collapse of trust in law enforcement.

Militarisation and the government's refusal to devolve power or restore local civilian administration in the north and east have directly contributed to this complex societal distress, which comes on the heels of the collapse of the repressive regime run by the LTTE. Over decades, the Tigers created an elaborate coercive structure around which people organised their lives. The absence of this structure has left many adrift. While this has had some important positive consequences, including for women, the devastation of the final year of war and the replacement of the LTTE in effect by the military and its proxies negate the gains for these communities. The experience and perception of pervasive insecurity are having profound harmful effects on women's lives.

Instead of recognising these vulnerabilities and taking steps to protect women and girls, the government has largely ignored them. The heavily militarised and centralised sys-

tems of control in the north and east exclude most residents, but especially women, from decisions that affect their security. While there are some female civilian officials and some programs nominally directed at women, all activities occur within a male, Sinhalese, military structure. The government has constrained access for international humanitarian organisations and even more so for local civil society. The vision of security the government has pursued is a masculine, militarised one. Human security is lacking.

The current situation in the north and east comes in the wake of serious accusations of sexual violence by the military against Tamil women at the end of the war and in the months thereafter. There is credible evidence to support some of these accusations. Yet cultural stigma, decades of impunity, and the government's refusal to allow any independent investigation of the end of the war and its aftermath make it impossible to determine the full extent of misconduct. In a well-known rape case in the north in June 2010, criminal prosecution has been pending for eighteen months against four soldiers following concerted pressure from local women's groups. But this is a striking exception.

The government's overwhelming response to allegations of sexual violence has been to reject them, as it has done with video footage that shows what appears to be Sinhalese soldiers making sexual comments while handling the dead, naked bodies of female suspected LTTE fighters, some of whom have their hands bound. The long-awaited report of the government's Lessons Learnt and Reconciliation Commission (LLRC) was delivered to the president on 20 November 2011 and released to the public on 16 December. Among its recommendations is one that the government initiate yet another "independent investigation" into the footage, which officials repeatedly have said was "faked". Another government assessment of it now – without a complementary international one focused on alleged sexual violence – risks further feeding Tamil fears of such violence and the exploitation of those fears by some diaspora activists.

The international response to women's insecurity has been unnecessarily muted. Not only have Sri Lanka's international partners, including the United Nations, failed to speak out publicly and clearly about threats to women and allegations of abuse, but they have agreed to work within militarised structures that have amplified vulnerability and reduced transparency. Unless they do more to demand changes to those structures and to target funding and assistance at initiatives that can help protect and empower women, their engagement will be ineffectual, at best.

## RECOMMENDATIONS

The following recommendations supplement and complement Crisis Group's continuing calls – as set forth in Crisis Group Asia Report N°209, *Reconciliation in Sri Lanka: Harder than Ever*, 18 July 2011 – for an international inquiry into the alleged war crimes and crimes against humanity committed by both the LTTE and government forces in the final stages of the war, as well as for the restoration of the rule of law and an end to corruption, impunity and authoritarianism throughout the country. While the government has promoted the LLRC as the cornerstone of its post-war accountability process, serious deficiencies in its independence, mandate and witness protection capacity have crippled it. The LLRC's report, which acknowledges important grievances and makes a number of sensible recommendations, ultimately fails to question the government's version of events with any rigour. Thus, in terms of accountability, the question remains: is the government willing and able to hold accountable those responsible for alleged crimes? To date it has failed to demonstrate that it is.

### To the Government of Sri Lanka:

1. Acknowledge that women and girls in the north and east face serious threats to their economic and physical security and commit to reduce those threats, including by:
  - a) reducing the military presence in those areas substantially by closing military camps and checkpoints, returning all property seized by the military to rightful owners, ending the military's involvement in commercial activities, fully demobilising troops – including investigating and prosecuting alleged abuses – and reintegrating soldiers with their families and into their communities;
  - b) devolving power to provincial and local government structures and officials in the north and east, including by expediting elections for the Northern Provincial Council and decentralising decision-making on economic development;
  - c) reforming the police presence in those areas by recruiting male and female Tamils and Muslims at all ranks and giving them real authority to better reflect the populations served, and by training the police to anticipate and respond to the security needs of women and girls, including as regards gender-based violence; and
  - d) prioritising reconstruction and development projects that will protect the rights of and empower women in those areas, including by committing government funds (see Recommendation 5 below for suggested projects).

2. Revise government policies that are increasing women's vulnerability in the north and east, including by:
  - a) ending what is still in effect a state of emergency and military rule and ensuring anti-terrorism laws and practices are brought into line with international legal standards;
  - b) making available to family members the names and locations of all individuals detained for suspected involvement in the LTTE, including those in rehabilitation centres; providing detainees with access to lawyers and ensuring basic due process rights; and allowing the International Committee of the Red Cross (ICRC) to monitor conditions of detention and facilitate family visitation and communication with detainees in all parts of the country;
  - c) stopping all ad hoc visits by the military to women's homes as well as all surveillance of alleged former LTTE cadres unless it is demonstrated through a credible judicial process that they pose a threat to public safety; and otherwise ending the exercise of civilian functions by the military;
  - d) issuing accurate death certificates or declarations of absence for those who were killed or went missing in the conflict, without compromising the rights of family members to seek further information or remedies;
  - e) permitting full freedom of movement and assembly in the north and east, including for local women's organisations; and
  - f) reducing restrictions on and improving access for humanitarian and civil society groups, and allowing them to increase levels of assistance – including to address psycho-social issues, reproductive health and gender-based violence – with input from local communities and local women's groups.
5. Convene a high-level meeting of donors and other development partners, including the World Bank and Asian Development Bank, as well as community leaders and activists knowledgeable about women's issues in the north and east, to agree upon and ratify with the government a strong set of principles for the delivery and monitoring of assistance – including accountability for past and continuing human rights abuses; and to fully fund a concrete set of reconstruction and development projects to be completed in 2012 that will help protect and empower women in the north and east, such as:
  - a) a comprehensive, independent assessment of the needs and vulnerabilities of this population;
  - b) expedited construction of safe, permanent housing and sanitation facilities for those at greatest risk of violence;
  - c) training, equipment and professional support for mobile health clinics staffed in part by local female residents;
  - d) support to and protection for local women's groups to establish women's centres for meetings, training and collective work spaces;
  - e) a nationwide program led by ICRC and local non-governmental partners to register and trace missing persons and facilitate family access to detainees;
  - f) initiatives to start collecting comprehensive data on, and better respond to, gender-based violence, including a nationwide violence-against-women help-line, the appointment of judicial medical officers (JMOs) for every district, and the establishment of women-friendly desks in all police stations so women can make complaints in their own language and in the presence of female officers;
  - g) training on gender-based violence and national domestic violence laws for all government officials and police officers in the north and east; and
  - h) training on gender-based violence and national domestic violence laws, reproductive health education and support, psycho-social support and demobilisation counselling for current and, as needed, former members of the security forces – provided by qualified local or international experts, not by other national militaries.

**To Sri Lanka's International Partners, including China, India, Japan, the U.S., UK, EU and UN:**

3. Evaluate all aid, investment and engagement in light of the risks of a return to conflict and of increasing women's insecurity in the former war zone, and insist on meeting international standards and ensuring the highest levels of transparency, external monitoring and non-discriminatory community participation in setting priorities.
4. Highlight consistently in public and private communications the issues that affect all of Sri Lanka's ethnic communities, including growing authoritarianism, militarisation, weak rule of law, impunity, corruption and repression of dissent, as well as gender-based violence and economic inequities for women.

**To the UN and Member States:**

6. Endorse the findings and recommendations of various UN bodies regarding Sri Lanka, including the forthcoming report of the Secretary-General's Special Representative on Conflict-related Sexual Violence; the Secretary-General's upcoming review of UN actions during the final stages of the war, as announced

in September 2011; the November 2011 report of the Committee Against Torture; the April 2011 report of the Secretary-General's Panel of Experts on Accountability, and the February 2011 report of the Committee on the Elimination of Discrimination against Women – and ensure that the UN system, including the country team in Sri Lanka, works toward fulfilment of these recommendations.

7. Take action on these findings and recommendations, including at the Human Rights Council session in March 2012 and during Sri Lanka's second Universal Periodic Review in September 2012.
8. Ensure, in particular, that the UN country team in Sri Lanka takes a strong stand to demand access and speak out about protection concerns, including for women and girls in the north and east, and that all UN staff and staff for UN-funded programs working in the north and east are adequately trained on the post-war needs and concerns of women in those areas and to engage the expertise of local women's groups.
9. Review Sri Lanka's contributions to UN peacekeeping operations and refrain from accepting new participation of its troops until there is a credible investigation of the allegations against the military in the UN panel of experts report.

**Colombo/Brussels, 20 December 2011**

## SRI LANKA: WOMEN'S INSECURITY IN THE NORTH AND EAST

### I. INTRODUCTION

Sri Lankan women have borne the brunt of four decades of civil war and political violence.<sup>1</sup> While many, including political leaders and LTTE cadres, actively participated in the country's conflicts, a more widely shared experience has been that of losing family members, especially husbands, sons and fathers, at the hands of the government or insurgents.<sup>2</sup> As the country has struggled through generations of ethnic and political strife, women's security has been largely ignored by the government and international community. This is in part because Sri Lanka is in some ways a relatively safe and progressive place for women, compared to its South

Asian neighbours.<sup>3</sup> But the patriarchal nature of Sri Lankan society generally, and Tamil society in particular, and its impact on the conflict should not be underestimated. Continuing to discount the issue of women's insecurity, especially in the former war zone, is unwise.

Gender-based violence has shaped conflict dynamics.<sup>4</sup> Reports of abuse of Tamil women and girls in the north and east by government security forces energise Tamil separa-

<sup>1</sup> All Crisis Group reporting on Sri Lanka, starting in 2006, is available at [www.crisisgroup.org](http://www.crisisgroup.org). Of particular relevance to women's insecurity in the north and east today are Crisis Group Asia Reports N°135, *Sri Lanka's Human Rights Crisis*, 14 June 2007; N°146, *Sri Lanka's Return to War: Limiting the Damage*, 20 February 2008; N°159, *Sri Lanka's Eastern Province: Land, Development, Conflict*, 15 October 2008; N°165, *Development Assistance and Conflict in Sri Lanka: Lessons from the Eastern Province*, 16 April 2009; N°172, *Sri Lanka: Politicised Courts, Compromised Rights*, 30 June 2009; N°191, *War Crimes in Sri Lanka*, 17 May 2010; and N°209, *Reconciliation in Sri Lanka: Harder than Ever*, 21 July 2011.

<sup>2</sup> In addition to the 30-year civil war between the government and LTTE, which often saw the Muslim community caught in the middle, Sri Lanka has seen two insurgencies within the Sinhalese community: the 1971 and the 1987-1990 uprisings by the nationalist-Marxist Janatha Vimukthi Peramuna (JVP, People's Liberation Front), which were met by brutal counter-insurgency efforts by the Sri Lanka Freedom Party (SLFP) government in 1971 and the United National Party (UNP) government in the late 1980s. Today, many Muslim women in the north and east, especially those expelled from the north by the LTTE in 1990 and attempting to return, face many of the same vulnerabilities as Tamil women. Tens of thousands of Sinhalese women too – especially in the border villages in the north and east and throughout the south – have lost husbands, brothers and sons to the war and the JVP uprisings, and now head households and have to care for the disabled. For further discussion, see Crisis Group Report, *Reconciliation in Sri Lanka*, op. cit.

<sup>3</sup> In terms of literacy, primary education and life expectancy, women in Sri Lanka have relatively equal outcomes compared to men there, and much better outcomes compared to women (and men) in India, Pakistan, Bangladesh, Nepal and Afghanistan. See "The Global Gender Gap Report 2011", World Economic Forum (WEF), November 2011. At the same time, Sri Lanka's record in terms of economic participation and higher education for women is not as good as it once was. In the WEF's 2011 Global Gender Gap Report, its overall ranking slipped significantly (from sixteen to 31), falling out of the top twenty countries for the first time in five years, primarily because of gender disparities in income and higher education. Ibid, p. 25. Sri Lanka's strong performance in political empowerment in the WEF reports is also based almost entirely on the tenures of former Prime Minister Sirimavo Bandaranaike and her daughter, former President Chandrika Bandaranaike Kumaratunge. In terms of representation of women in parliament and ministerial positions today, the country ranks below India, Pakistan, Bangladesh and Nepal. Ibid, pp. 53-54. Indeed, there are just thirteen women in the current parliament of 225. There is only one Tamil woman and no Muslim women.

<sup>4</sup> The terms "gender-based violence", "violence against women" and "sexual violence" are often used interchangeably. This report uses "gender-based violence" in the broad sense to mean violence directed against a person on the basis of gender – here, limited to females, including acts that cause (or threaten to cause) physical, mental or sexual harm or suffering. It may include (non-sexual) physical assaults and economic deprivations. This report uses "sexual violence" more narrowly to mean "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting". Some sexual violence amounts to international crimes, including "rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization and any other form of sexual violence of comparable gravity, which may include indecent assault, trafficking, inappropriate medical examinations and strip searches". For the two preceding quotes and a general discussion of definitions, see "Analytical and conceptual framing of conflict-related sexual violence", UN Action against Sexual Violence in Conflict, 12 July 2011.

tism and deepen the community's sense of persecution. Such incidents, and the stories and rumours that surround them, also affect Tamils' feelings of attachment to the LTTE and to the notion of armed resistance. Institutionalised impunity for violence against women across the island, plus widespread perceptions in the north and east that the state is unwilling to protect and may in fact victimise women, make for a dangerous status quo. More broadly, the absence of physical and economic security for so many women in those areas will guarantee a slow and uneven recovery, adding to grievances that have driven violence in the past.

The vulnerabilities of women and girls in the north and east have changed with the end of fighting in 2009. During the war, they faced the threat of forced recruitment by the LTTE and unlawful detention and abuse by the security forces. Notwithstanding the difficulties in ensuring accurate data on sexual violence in armed conflicts,<sup>5</sup> research suggests that its incidence in Sri Lanka's civil war was low relative to some other ethnic conflicts.<sup>6</sup> Nevertheless, while there are strikingly few reports of rape by the LTTE despite their many brutal attacks on Sinhalese, Muslim and Tamil civilians, there has been a "moderate to low but persistent level of sexual violence by state forces" against Tamil women.<sup>7</sup> This violence and impunity for it was a core part of LTTE propaganda.

Women's security in the final stages of the war and during the detention of nearly 300,000 Tamils in government camps in the north in 2009 and 2010 was largely overlooked in the face of virulent government denials of any wrongdoing and the extreme suffering and vulnerability of that entire population. There were reports of rape and other sexual violence against Tamil women and girls – by the state security forces and by Tamil men – during that time. The government's response was to issue blanket denials and ensure a dangerous lack of transparency, at times reinforced by international agencies and the Tamil community itself.

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<sup>5</sup> There is an extensive discussion of these challenges in Elisabeth Wood, "Variation in Sexual Violence during War", *Politics & Society* vol. 34, no. 3 (September 2006), pp. 307-341, at pp. 318-320.

<sup>6</sup> See *ibid*; and Elisabeth Wood, "Armed Groups and Sexual Violence: When Is Wartime Rape Rare?", *Politics & Society* vol. 37, no. 1 (March 2009), pp. 131-162.

<sup>7</sup> Wood, "When Is Wartime Rape Rare?", *op. cit.*, p. 145. See further discussion in Section II below. While there is evidence that the LTTE used sexual torture in detention, often against men, there are very few reported incidents of the LTTE using sexual violence against women. It is worth recognising, however, that there has been no systematic survey to assess the prevalence of sexual violence in Sri Lanka's more than four decades of civil war and political violence. Actual rates could be higher.

Even where credible evidence of sexual violence emerged, little was done to investigate or take precautionary measures to increase protection for women.

Since families have left the camps and returned to "resettled" villages,<sup>8</sup> women and girls in the north and east are facing new, complex and deeply worrying challenges. These range from taking care of shattered families and dealing with increasing use of alcohol by Tamil men, to adjusting to the absence of the LTTE's restrictive code of conduct, while negotiating daily activities with the omnipresent military. Acute suffering continues, including persistent cases of gender-based violence. Excluding women from all decision-making on reconstruction and development exacerbates the vulnerabilities they face and the consequences that follow.

This report focuses on insecurity of Tamil women in the north and east of the country given its direct link to continuing conflict dynamics. Gender-based violence in the south and across the island's varied ethnic groups – some of which has been related to political violence – also deserves serious attention.<sup>9</sup> Indeed, there are suggestions that violence against women and children throughout Sri Lanka has worsened as a result of so many years of conflict.<sup>10</sup> These broader issues are beyond the scope of this paper but need to be addressed.

Research for this report was conducted in Sri Lanka, India, the U.S. and Europe from late 2010 to late 2011. Crisis Group interviewed dozens of Sri Lankan women and girls who experienced or witnessed gender-based violence or have worked directly with that population. It also interviewed numerous aid workers, academics and civil society activists, as well as a few government officials. Written questions were submitted to several government ministries and offices, but as of the time of publication, there had been no response.

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<sup>8</sup> The government, and as a result most humanitarian actors working in Sri Lanka, use the term "resettle" to refer to the return of displaced persons to their original homes or lands. It generally does not mean the settling of the displaced in new locations.

<sup>9</sup> In addition to the Sinhalese Buddhist majority and the largely Hindu Tamil minority (roughly ten per cent are Christian), the two other main ethnic minorities in Sri Lanka are Muslims and Up-country or Indian Tamils. All three minorities are Tamil-speaking but have distinct identities. For more on Muslims and Up-country Tamils, see Crisis Group Report, *Reconciliation in Sri Lanka*, *op. cit.* During the second JVP uprising 1987-1990, see above fn. 2, there were a number of alleged cases of sexual violence by state security forces against Sinhalese women. See, for example, "How security forces committed war crimes on innocent Sinhalese two decades ago?", *Sri Lanka Guardian*, 9 October 2011, which highlights an interview by Right to Life ([www.right2lifelanka.org](http://www.right2lifelanka.org)) with a woman allegedly raped by security forces in torture centres where JVP suspects were held.

<sup>10</sup> Crisis Group interview, domestic violence activist, Colombo, September 2011. See also Section III.A.2 below.

To the extent this report describes specific cases of women's insecurity, the identities of victims and witnesses are not disclosed because of the risk of retaliation by the authorities or from within their own communities. Care also has been taken not to identify alleged perpetrators and to note whether their ethnicity or any affiliation with the government or security forces is unknown or disputed. Given the levels of fear within the Tamil community and the willingness of some diaspora activists to assume the government is behind all violence, there is a real risk of misattribution. Nor does this report purport to suggest that all the incidents it describes reflect criminal conduct or require a law enforcement response. Many factors contribute to the extreme vulnerability of women in the north and east. What is clear is that there is no effective means to track, understand and respond to what is happening to these women. The government's indifference to this insecurity and the international community's failures thus far to address it head on – especially more than two years since the fighting has ended – are contributing to Sri Lanka's worrying post-war path.

## II. TAMIL WOMEN AND THE CIVIL WAR

Tamil women and girls in the north and east confronted multiple sources of insecurity from the start of the civil war in 1983 through to its final phases.<sup>11</sup> Threats to women shifted geographically over the years, as government forces and the LTTE took, lost and retook key cities and regions. Those threats also shifted as different armed groups stepped in to control civilian life, including the LTTE, various state security forces and allied Tamil paramilitaries, and the Indian Peacekeeping Force (IPKF) dispatched to enforce the 1987 Indo-Lanka Accord.<sup>12</sup>

Patriarchal norms rooted in Tamil culture – and in Sri Lankan society more broadly – shaped the patterns of women's insecurity that emerged and responses to those patterns. Despite cultural emphasis on education and some professional mobility for Tamil women, gender roles within the community have long been divided between public and private spheres.<sup>13</sup> The close association between Tamil women

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<sup>11</sup> This section deals with Tamil women's insecurity through 2008, when the government launched its final offensive in the northern Vanni region leading to the bloody end of the war and destruction of the LTTE in May 2009. Section IV addresses Tamil women's insecurity from 2009 to the present. For more detailed background on the origins and outbreak of the civil war, including the anti-Tamil pogroms of July 1983 and the Tamil militant attack on Sinhalese soldiers that preceded them, see Crisis Group Asia Report N°124, *Sri Lanka: Failure of the Peace Process*, 28 November 2006.

<sup>12</sup> The Indo-Lanka Accord was India's attempt to find a compromise between Tamil separatists and the Sri Lankan government by establishing some devolution of power to the north and east. Prior to that, India had supported Tamil militant groups against the government. The IPKF was to pacify the militants, get them to accept the accord and bring them into the political process. While all other groups put down their guns, the LTTE turned them on the IPKF. For the three years, the IPKF was fighting the Tigers in the north and east, while the Sri Lankan government was occupied with the Sinhalese nationalist JVP uprising in the south. For more on India's role, see Crisis Group Asia Report N°206, *India and Sri Lanka after the LTTE*, 23 June 2011.

<sup>13</sup> Given the prioritisation of education across gender lines, Tamil women often have been able to enter the public domain, including as doctors, lawyers and teachers. Yet this merit-based equality has often disguised continuing discrimination. "[T]hese improved standards in practical life are a facade. The inferior status of women was exemplified by lower pay for women's work, dowry payment by women to men of similar status and profession, and by restrictive cultural, and social practices. All these ramifications of patriarchy and the oppression of women in the economy and ideology, remained fully entrenched. ... Puritanism and repression in private life seemed effectively to co-exist with materialism and integration in public, and economic life". R. Thiranyagama, "No More Tears Sister", in R. Hoole, D. Somasundaram, K. Sritharan and R. Thiranyagama, *The Broken Palmyra: The Tamil Crisis in Sri Lanka – An Inside Account* (Claremont, 1990). Indeed, norms in what

and the home and family persisted throughout the war, as did the traditional Hindu notion of married women as auspicious and more valuable than unmarried women or widows.<sup>14</sup> Indeed, the idealised Tamil mother-figure frequently served as a symbol of national and communal identity.<sup>15</sup>

Partly as a result of these norms, the question of Tamil women's insecurity often went to the heart of the civil war. Threats to them reinforced perceptions and experiences of ethnic discrimination; they also motivated – and were used to justify – violent responses and demands for commitment to the LTTE's separatist cause and brutal tactics. Yet the same norms also stigmatised women who were targets of violence, especially sexual violence and, to varying degrees, forced recruitment.<sup>16</sup>

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are viewed as the “upper castes” in Tamil society require women to be loyal to their husbands regardless of their treatment, while “lower caste” women have been known to leave abusive situations but often have little economic mobility. See Y. Tambiah, “Turncoat Bodies: Sexuality and Sex Work under Militarization in Sri Lanka”, *Gender and Society*, vol. 19, no. 2, April 2005, pp. 243-261, at p. 249.

<sup>14</sup> Tamil culture values the *sumangali* – a married woman whose husband is still alive – above all other women. Widows, particularly young widows, are considered bad luck. They often cannot re-marry and are banned from festivals or other celebrations. Throughout the war, many Tamil women were labeled “widows” even in cases of divorce, desertion or detention. Widows who also were – or were believed to have been – raped are doubly stigmatised and especially vulnerable. See R. Thiranyagama, “No More Tears Sister”, op. cit.; and Rajasingham-Senanayake, “Ambivalent Empowerment: The Tragedy of Tamil Women in Conflict” in *Women, War and Peace in South Asia* (Sage Publications, Delhi, 2001), pp. 105-125, at p. 111.

<sup>15</sup> Nationalist discourse promoted the “mother-warrior” and “call[ed] on women to mother/nurture and birth a new nation through sacrifice and courage”. Neloufer de Mel, *Women and the Nation's Narrative: Gender and Nationalism in the Twentieth Century Sri Lanka* (Kali for Women, New Delhi, 2001), p. 215. The LTTE often used the imagery, common to many “revolutionary groups”, of women with a gun in one hand and a baby in the other. Ibid.

<sup>16</sup> While the stigma associated with sexual violence has remained relatively constant within Sri Lankan society broadly, within the Tamil community it has fluctuated to some degree at certain periods or for certain social classes. See this section at A. I. The stigma associated with forced recruitment – or indeed affiliation with the LTTE in general – also has varied within the Tamil community with shifting attitudes toward women's engagement in politics, which often mirrored the perceived successes and failures of the LTTE. Today, female cadres, including those forcibly recruited, face significant risk of ostracism within the Tamil community most often due to suspicion that they may have been subjected to sexual violence during and after surrender or while detained in “rehabilitation” camps and fear that they are still

Such women were often perceived as bringing shame, economic burden and further insecurity to their families and local communities.<sup>17</sup> Most of these cultural prejudices survived the war and the defeat of the LTTE.

The role of Tamil women during the civil war was not limited to that of victims. Nor were the consequences of the armed struggle and of the LTTE's rigid society all negative for them. Indeed, there was some semblance of security, equality and even empowerment for Tamil women living under the LTTE, and some freedom from forced recruitment for those living under the security forces. The broader conflict also spurred activism by and on behalf of women. Yet most of the perceived advantages were illusive or offset by disadvantages, while the activism was constrained by the intransigence of the warring parties and the weakness of state institutions. The cumulative experience of insecurity and powerlessness during the civil war is a strong influence on the lives of Tamil women and girls today.

## A. DECADES OF SHIFTING RISKS

The waves of conflict, militarisation and displacement that hit the north and east over two and a half decades of war were experienced in distinct ways by Tamil women. The militarised systems employed by both the state and the LTTE shaped women's lives, determining their security and economic opportunities.

There were many forms of violence. The LTTE forcibly recruited women and girls to join the insurgency and did not hesitate to threaten or kill Tamil women who challenged the Tigers' authority.<sup>18</sup> Government security forces and the IPKF were responsible for many incidents of rape, torture and killing of Tamil women. Both sides abducted or disappeared women's husbands and other family members, increasing economic and social vulnerabilities.

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under surveillance and thus likely to be detained or targeted for violence in the future. Crisis Group interviews, Vavuniya, October 2010, Colombo, September 2011.

<sup>17</sup> Stigma around sexual violence is of course common across Sri Lanka's ethnic groups and in many other cultures. Rape is directly tied to notions of women's honour. “Loss of virginity in a young girl, even if against her will, meant that she could not aspire to marriage in our society and, if already married, there is a good chance that she will be abandoned”. “The Psychological Aspects of the Indian Military Action” in *The Broken Palmyra*, op. cit. The view of rape victims as “spoilt goods” remains one of the most significant causes of under-reporting.

<sup>18</sup> The most prominent example is Rajini Thiranyagama, an activist and co-founder of the University Teachers for Human Rights (Jaffna) (UTHR), who was shot dead in front of her home in September 1989, a few weeks after the publication of *The Broken Palmyra*, which she co-authored. See fn. 13 above.

There is no complete catalogue of this suffering, in part because access for independent monitors and freedom of movement for civilians were often limited, while cultural stigma and fear discouraged reporting of certain abuses. The government and the LTTE also encouraged enmity and suspicion that inevitably led to some false accusations. Still, certain patterns of insecurity experienced by Tamil women are well documented and undeniable.<sup>19</sup>

### 1. Under the LTTE

Life for Tamil women under the LTTE has been the subject of much scholarship and debate.<sup>20</sup> While the Tigers actively promoted an ideology of “liberation” for Tamil women alongside “liberation” for the Tamil people, there was limited actual experience of it. For the most part, the LTTE dictated the daily activities and broader aspirations of Tamil women living in areas they controlled, just as they did for Tamil men. The male-dominated leadership of the organisation prioritised the fight for a separate Tamil nation, and their own survival, over all other goals.

When the LTTE emerged as the dominant Tamil militant group in the late-1980s, its reputation for brutality and intolerance of dissent already was well established. Led by Vellupillai Prabhakaran and benefiting from Indian training and arms, the Tigers assassinated moderate Tamil politicians and controlled Tamil society with fear and coercion. While trying to take and hold land in the north and east, they launched a series of attacks on military and central government targets, as well as Sinhalese and Muslim villagers. The Tigers honed their guerrilla tactics in fighting the IPKF from 1987 to 1990 and thereafter were locked in civil war with the government.

The most visible non-traditional role for Tamil women in the north and east during this time was that of fighting cadres. The LTTE and other Tamil militant groups recruited women starting in the mid-1980s. As the Tigers – known within the community as “the boys” or “our

boys”<sup>21</sup> – meted out intimidation and violence to female cadres from other groups, there were early signs of the limits of their commitment to gender equality.<sup>22</sup> Within the Tigers’ own ranks, women were given lesser duties and responsibilities.<sup>23</sup> Initially they “were involved in propaganda work, medical care, information collection, fundraising and recruitment”, but by 1987 they were receiving formal military training.<sup>24</sup>

Recruitment of women and girls increased substantially after the IPKF completed its withdrawal in March 1990. The Tigers had lost many male recruits to the IPKF and to emigration. In addition to a general “one person per family” policy of forced recruitment, the LTTE stepped up propaganda directed at women, incorporating the language of women’s liberation but with strong patriarchal overtones.<sup>25</sup> How many women and girls actually were recruited over the years is unknown, just as the overall strength of the insurgency was often debated.<sup>26</sup> Estimates suggest women made up 15 to 20 per cent, at times perhaps even a third, of the core fighting cadres.<sup>27</sup> There were large numbers in non-

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<sup>21</sup> Qadri Ismail, “Boys Will Be Boys: Gender and National Agency in Fanon and the LTTE”, *Pravada* 1/7 (1992), p. 6.

<sup>22</sup> For example: “[W]hen the E.P.R.L.F. was crushed by the L.T.T.E., many E.P.R.L.F. women were beaten-up by the L.T.T.E. One prominent member of the L.T.T.E. had said while beating some women: ‘What, liberation for you all. Go and wait in the kitchen. That is the correct place for you’”. R. Thiranagama, “No More Tears Sister”, op. cit.

<sup>23</sup> “Sri Lanka: Militarization of State and Society” in A.M. Chenoy, *Militarism and Women in South Asia* (Kali for Women, New Delhi, 2002), p. 104.

<sup>24</sup> M. Alison, “Cogs in the wheel? Women in the Liberation Tigers of Tamil Eelam”, *Civil Wars*, vol. 6, no. 4 (Winter 2003), pp. 37-54, at pp. 38-39.

<sup>25</sup> Some of the strongest propaganda is reflected in statements by Prabhakaran on the occasion of International Women’s Day. For instance, in 1992: “Our women are seeking liberation from the structures of oppression deeply embedded in our society. ... Tamil women are subjected to intolerable suffering as a consequence of male chauvinistic oppression, violence and from the social evils of casteism and dowry”. In 1993: “The ideology of women liberation is a child born out of the womb of our liberation struggle”. And in 1996: “The ideal of women’s liberation is the fervent child that had its genesis in the matrix of our national liberation movement. Its rise and progress is an incomparably unique chapter in history. For the awakening of the nation and the salvation of the women, the Tamil Eelam revolutionary woman has transformed herself into a tigress!”. Despite the intertwining of the goals of women’s liberation and national liberation, the national question remained the priority. See also fn. 15 above.

<sup>26</sup> Estimates of the total number of LTTE cadres varied between 3,000 and 18,000 through the last decade of the war, often shifting with reports of recruitment drives and government claims of success on the battlefield. For some of these estimates, see South Asia Terrorism Portal (SATP), [www.satp.org](http://www.satp.org).

<sup>27</sup> M. Alison, “Cogs in the wheel?”, op. cit., p. 39.

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<sup>19</sup> There is a significant body of work concerning Tamil women’s insecurity up to 2008. This includes the many detailed reports by Jaffna-based UTHR, the government’s commissions of inquiry on disappearances appointed between 1991 and 1998 (despite their significant shortcomings, see Crisis Group Report, *Reconciliation in Sri Lanka*, op. cit., pp. 7-8), and the publications of many academics, human rights activists, and national and international non-governmental organisations (NGOs).

<sup>20</sup> Scholars who have focused on women under the LTTE include: Miranda Alison, Sumantra Bose, Radhika Coomaraswamy, Nimmi Gowrinathan, Peter Schalk, Margaret Trawick and Elizabeth Wood. Some of their work is referenced herein.

combat support positions and in the Black Tigers, the LTTE's suicide unit.<sup>28</sup>

Tamil women and girls joined the LTTE for a variety of reasons and through avenues ranging from voluntary enrolment to forced recruitment.<sup>29</sup> Reasons cited by those who joined include: personal and communal experiences of state-sponsored violence, an ideological commitment to Tamil nationalism, oppression in a male chauvinistic society, having family members in the LTTE, and economic factors – often exacerbated by the conflict – such as poverty, displacement and lack of access to education.<sup>30</sup> “Women cadres often speak of earning the respect of men in the field they had never been able to achieve in Tamil society, of feeling like they were protecting their communities, and of being grateful to have the option to be trained to survive against the ‘enemy’”, said an academic based on interviews in Jaffna in 2005.<sup>31</sup>

Within the category of state-sponsored violence, sexual violence played a significant role both for women who had been directly victimised and for those who saw being an armed member of the LTTE as a means of protection.<sup>32</sup> While for the most part these motivations were rooted in the experience and fear of sexual violence by the IPKF and government forces – experience and fear that the Tigers exploited in their recruitment propaganda – they also reflected an additional layer of insecurity within the Tamil community when it comes to sexual violence. A researcher noted:

Similarly, Thamilini [then head of the LTTE's women's political wing, who has been detained without charge since May 2009<sup>33</sup>] answered that the fear of sexual violence was part of her motivation. She felt

that there was nobody who could protect her, so she had to be able to safeguard herself. She also reported that in normal Tamil society women are usually blamed for their own rape. She claimed that the LTTE does not do this and instead views sexual violence as an “accident”, meaning that it was not the victim's fault.<sup>34</sup>

Thus the LTTE transformed some of the cultural prejudices against sexual violence into slightly different social values, particularly in the Vanni. For the Tigers' purposes, a woman who was subject to sexual violence could find “salvation” by joining the movement, empowering herself and battling the “perpetrators” – always the Sinhalese state and its agents. Unsurprisingly, at least some women joined the LTTE to escape violence, including sexual violence, in their own families and communities and for greater social and economic security in general.<sup>35</sup>

The partial sense of safety that many Tamil women found under the LTTE was a direct result of the rigid code of conduct the organisation imposed on its cadres and on society in general. With the formation of the Women's Front of the Liberation Tigers in 1990, the LTTE more directly addressed women's insecurity.<sup>36</sup> Within Tiger-controlled areas, rape and other sexual violence, prostitution, pornography, domestic violence and abuse of alcohol were prohibited, as were all sexual relations outside marriage.<sup>37</sup> Married individuals were often exempt from forced recruitment, contributing to many early or forced marriages, while cadres already inducted into the organisation could marry but only on conditions determined by the leadership. The Tigers punished violations of these rules swiftly and severely, and often publicly.

<sup>28</sup> Crisis Group interview, academic, November 2011.

<sup>29</sup> While little can be truly “voluntary” in any coercive, heavily militarised society, especially when it comes to decisions being made by children, many women and girls who joined the LTTE have so described their decisions and were reasonably well informed about the group and alternative courses of action. See N. Gowrinathan, “How Women Rebel: Gender and Agency in Sri Lanka”, Unpublished Manuscript (Political Science, UCLA, 2012).

<sup>30</sup> M. Alison, “Cogs in the wheel?”, op. cit., pp. 39-44; R. Thirinigama, “No more tears sister”, op. cit.

<sup>31</sup> Crisis Group interview, academic, November 2011.

<sup>32</sup> M. Alison, “Cogs in the wheel?”, op. cit., pp. 42-43.

<sup>33</sup> In late September 2011, the Colombo chief magistrate reportedly directed Thamalini's counsel to discuss with the attorney general (AG) the possibility of sending her to “rehabilitation”. The criminal investigation division (CID) had said the AG was yet to take any action on the case. “AG's advice sought on Thamilini's Case”, *The Sunday Leader*, 27 September 2011.

<sup>34</sup> M. Alison, “Cogs in the wheel?”, op. cit., p. 43.

<sup>35</sup> For example, a 30-year-old female former cadre who was in a home for young women in 2011 told an aid worker that her mother's second husband had abused her when she was young, so she joined the LTTE. Crisis Group interview, Vanni, June 2011. Also, Crisis Group interview, academic, November 2011.

<sup>36</sup> “The aims of the Front, formulated in 1991, were: to secure the right to self-determination of the Tamil Eelam people and establish an independent democratic state of Tamil Eelam; to abolish oppressive caste discrimination and divisions, and semi-feudal customs like dowry; to eliminate all discrimination against Tamil women and all other discrimination, and to secure social, political and economic equality; to ensure that Tamil women control their own lives; and to secure legal protection for women against sexual harassment, rape and domestic violence”. M. Alison, “Cogs in the wheel?”, op. cit., p. 45.

<sup>37</sup> The protection of women fell under the broader LTTE ideology, linking moral purity with Tamil culture. For the Tigers' and the Tamil civilians they controlled, the Sinhala army became the “source of cultural-moral corruption via sexual violence, liquor, pornography, and prostitution”. Y. Tambiah, “Turncoat Bodies”, op. cit., p. 248.

Much of the LTTE's puritanical streak was for public consumption; some deviations and abuses – including rapes – were suspected to be covered up or simply not publicised.<sup>38</sup> Still, the prohibitions on sexual violence, in tandem with the disciplined and hierarchical nature of the LTTE, may in part explain why the Tigers apparently used sexual violence relatively rarely in the civil war – though with some disturbing exceptions.<sup>39</sup> The limited incidence is notable given the LTTE's willingness to impose so many other types of suffering on Sinhalese, Muslims and Tamils.

Even though LTTE rule reduced certain risks for Tamil women and girls, it increased or sustained others. The Tigers' nationalist project required that they create and defend a coherent national identity; this in some ways promoted progressive ideas but for women largely failed

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<sup>38</sup> Crisis Group interview, human rights activist, November 2011. A senior Indian military officer in Sri Lanka during the IPKF era claimed to have had "detailed knowledge of cases of rape and molestation by LTTE" at the time but no law enforcement institutions to report them to. Crisis Group interview, December 2011.

<sup>39</sup> Elisabeth Wood's research, which advances this explanation, notes fewer than ten alleged incidents of sexual violence against women by LTTE cadres or men associated with the LTTE. Wood, "When Is Wartime Rape Rare?", op. cit., pp. 146-152. Most involved Tamil women and girls, including one girl who had been forcibly conscripted. One incident involved the rape of a number of Sinhalese women by LTTE cadres involved in the massacre of Sinhalese villagers in the east in October 1995. Wood's primary written sources were the reports of UTHR. Notably, there were no allegations of sexual violence during the LTTE's ethnic cleansing of Muslims from the north in 1990. One high-profile case of alleged rape by LTTE cadres was in Batticaloa in the later stages of the war: in August 2003, four senior cadres – Ramanan, Reginald, Sivam and Thaththa – reportedly were imprisoned by the LTTE leadership after being found guilty of fraud and of "gang-raping Tamil women". Saman Indrajith, "LTTE imprisons four seniors for rape and fraud", *The Island*, 20 August 2003. Activists also recall incidents during the ceasefire period where alleged perpetrators of sexual violence against women and girls in Batticaloa crossed over into LTTE-controlled territory to avoid investigation and prosecution in the criminal justice system. Crisis Group interviews, December 2011. A general breakdown in discipline in the east has been linked to the 2004 split of the LTTE's eastern commander, Colonel Karuna, and 6,000 cadres, many of whom later went on to fight for the government. See Crisis Group Reports, *Sri Lanka's Eastern Province*; and *Development Assistance and Conflict in Sri Lanka*, both op. cit. The absence of allegations of sexual violence in the government's extensive reports describing LTTE atrocities is also notable. Crisis Group requested information from the government about alleged sexual violence by the LTTE but received no response.

to dismantle existing gender hierarchies.<sup>40</sup> While some female cadres did achieve a remarkable degree of equality in military roles, and there was some autonomy to work on social issues,<sup>41</sup> women were generally absent from any high-level discussion of the larger political goals and the means to attain them.<sup>42</sup>

## 2. Under the Indian Peacekeeping Force (IPKF) and government security forces

The deployment of the IPKF in the north and east starting in July 1987 brought its own set of problems. While many war-weary Tamil civilians and some militants welcomed them, and there were some significant achievements initially, the situation soon deteriorated. The LTTE refused to disarm, retreated to the jungles and engaged the IPKF in a guerrilla war that the Indians were ill-prepared to fight, despite their substantial troop strength.<sup>43</sup> This left tens of thousands of male IPKF troops, most of whom did not speak Tamil or Sinhalese, patrolling in Jaffna and other cities and at checkpoints across the north and east. During its three years in Sri Lanka, the IPKF detained hundreds of Tamils for suspected links to the LTTE and was accused of scores of unlawful killings and disappearances. While the LTTE propaganda machinery exaggerated claims of abuse by the IPKF, many alleged human rights violations were corroborated by independent groups.<sup>44</sup>

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<sup>40</sup> N. Gowrinathan, "How Women Rebel: Gender and Agency in Sri Lanka", op. cit.

<sup>41</sup> For example, women's "federations" were formed in LTTE-controlled areas in 2002. They consist of fifteen to twenty women elected to a collective in each village, from which one member is elected to a federation for the district. The initial purpose of the federation was to address women's concerns as well as manage and operate a revolving savings fund for the village. Since the end of the war, they have taken on more traditional NGO activities such as livelihood and education programs. Crisis Group interviews, civil society activists, Vanni and Batticaloa, October 2010, June 2011.

<sup>42</sup> The LTTE "did try to incorporate other societal voices, including women's, into its political project. But despite accounts by pro-LTTE figures like Adele Balasingham (2001), these structures did little to provide women an autonomous voice within the organization. Members of the women's wing were largely expected to toe the organization's line, and their numbers in the leadership were limited". Z. Mampilly, *Rebel Rulers: Insurgent Governance and Civilian Life During War* (Cornell University Press, 2011), p. 228.

<sup>43</sup> This, at its peak, reportedly reached four oversize infantry divisions comprising approximately 80,000 troops. See General Shankar Roychowdhury, "Remember the IPKF", *The Asian Age*, 15 June 2010.

<sup>44</sup> See generally, *The Broken Palmyra*, op. cit.; and various reports by Amnesty International, including "Sri Lanka: A Review of Alleged Human Rights Abuses", June 1988.

For Tamil women and girls, the list of alleged IPKF abuses expanded to include rapes and sexual assaults.<sup>45</sup> The often unsympathetic reaction of the Tamil community compounded the shame, anger and fear felt by these victims.<sup>46</sup> While the IPKF did investigate and reportedly punish some alleged rapes and other abuses, there was no functioning police force to track and respond to allegations, and follow up and discipline varied from commander to commander.<sup>47</sup> As a result, many women and girls – whether victimised by sexual violence or living in fear of it – restricted their movements and rarely left home, which reduced their access to education and employment and often interfered with their ability to search for missing loved ones. Prejudices within the Tamil community further reinforced these restrictions by suggesting that those who went out were inviting the IPKF's attention.

The IPKF era was a pivotal moment in the conflict. By the time the forces departed in March 1990 – under pressure from Sri Lankan President Ranasinghe Premadasa and having lost some 1,500 soldiers – many Tamils in the north and east resented the Indians, the LTTE had claimed victory over a much larger force,

and Colombo was under pressure to reassert its control across the island. For Tamil women and girls, the IPKF's legacy was largely defined by its abuses, especially the sexual violence. The LTTE exploited the scope of the abuse to increase the power of its recruitment propaganda. That culminated in the 1991 assassination of Indian Prime Minister Rajiv Gandhi by a female LTTE suicide bomber known as Dhanu, whose alleged rape by the IPKF is part of the prevailing narrative of that event.

The conflict between the LTTE and the Sri Lankan government escalated dramatically in the second half of 1990. For the next decade, the two sides battled for control over various areas, especially Jaffna and Kilinochchi, with civilians caught in the middle. Thousands of Tamils – mostly men but also women and children – were disappeared by government forces during these years. From 2002, a ceasefire was in place and peace talks underway. Conditions stabilised to some degree in the north and east, yet both sides violated the ceasefire and the Tigers in particular engaged in widespread human rights abuses. Starting in 2005, disappearances of Tamils by state forces were again on the rise, and the country soon slid back into all-out war.<sup>48</sup>

The vulnerabilities of Tamil women and girls during these years varied significantly from village to village – depending, among other things, on who was in charge of the area and how close the front lines were. Still, there were many shared experiences for those living under the partial or complete control of the government security forces. First was the challenge of coping with the death or disappearance of male family members. Beyond the emotional toll, these losses increased women's economic insecurity and susceptibility to displacement. They also increased their vulnerability to abuse and community isolation to the extent they had to rely on the Sinhalese security forces for information about their missing loved ones. While these challenges also spurred some activism and economic opportunities, in general women were dependent on the military for their livelihoods as much as they were dependent on the LTTE.<sup>49</sup>

Sexual violence by the security forces also affected many Tamil women, in part because the LTTE propaganda machinery encouraged widespread fear of it and the government did little to dispel that fear. From 1990 to 2002, dozens of alleged rapes of Tamil women by the security forces were reported, primarily in the north and east.<sup>50</sup> In the mid-

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<sup>45</sup> For a detailed account of women's experiences under the IPKF, see R. Thiranagama, "No More Tears Sister", op. cit. Sumantra Bose has written that there were "hundreds of rapes and assaults on women by Indian soldiers". Sumantra Bose, *States, nations, sovereignty: Sri Lanka, India, and the Tamil Eelam Movement* (Sage Publications, New Delhi, 1994), p. 109.

<sup>46</sup> This reaction to sexual violence is captured in a quote from a young woman: "Why can they not treat it as a wound sister and let it heal? The soldiers destroy once. But the village destroys us a thousand times", R. Thiranagama, "No More Tears Sister", op. cit. Another IPKF rape victim stated: "I have written to my husband and he says not to worry. But you know our men. Do you think he will accept me?". Ibid. Sexual harassment was also prevalent: "One of my young friends and her little sister once had to go through an I.P.K.F. checkpoint when they were fleeing from village to village. My friend said angrily how the hands of the soldiers had invaded the privacy of their bodies, pawing and feeling them all over. The worst was when after a long silence, her little sister had asked her 'Akka [elder sister] – what did the soldiers do to us – is that what they call rape?'" Ibid.

<sup>47</sup> Crisis Group interview, senior IPKF officer, December 2011. Amnesty International reported that "[i]n December 1987 a local magistrate reportedly found IPKF personnel guilty in seven cases of rape and in January 1988 an Indian court-martial sentenced four Indian soldiers to one year in prison for raping Tamil women". "Sri Lanka: A Review of Alleged Human Rights Abuses", op. cit. In *The Broken Palmyra*, op. cit., UTHR wrote: "We do not say that the Indian Army does not take any preventive measures. But the measures taken are very slow in forthcoming and the army goes to great lengths to exonerate the alleged rapist and build alibis".

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<sup>48</sup> For more, see Crisis Group Reports, *Sri Lanka's Human Rights Crisis, War Crimes in Sri Lanka and Reconciliation in Sri Lanka: Harder than Ever*, all op. cit.

<sup>49</sup> See de Mel, *Militarizing Sri Lanka*, op. cit., p. 40.

<sup>50</sup> As noted in Wood, "When Is Wartime Rape Rare?", op. cit., p. 146, some of the best compilations of these alleged incidents are "Women's Rights Watch Year Report 1999", Women and Media Collective (37 rapes by security forces reported in 30 newspapers

1990s especially, population movement in government-controlled areas was heavily restricted, and women regularly had to pass through checkpoints.<sup>51</sup> With the easing of hostilities in 2002, reports of sexual violence dropped off to some degree<sup>52</sup> but not entirely including in the context of torture of both men and women in more formal detention settings.<sup>53</sup>

For example, in June 2006 in Mannar, a woman named Mary Madeleine was raped and murdered, along with her husband, son and daughter in their home. Although neighbours saw three military personnel near the house at the time and the soldiers acknowledged their pres-

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in 1998); and D.B.S. Jeyaraj, "Sexual Violence against Tamil Women", 8 July 2001 (listing sixteen rapes in 1996, sixteen in 1997, five in 1998, three in 1999, one in 2000 and six in 2001), republished in D.B.S. Jeyaraj, "Sexual violence in the past by police and security forces against Tamil women", *dbsjeyaraj.com*, 5 October 2009. Amnesty International reported an increase in allegations of rape by the security forces in 2001. See its report, "Rape in custody", January 2002.

<sup>51</sup> One of the most infamous cases of rape at a checkpoint is the 1996 rape and murder of eighteen-year-old Krishanthi Kumaraswamy in the village of Chemmani in Jaffna. Soldiers also murdered her mother, brother and neighbour after they had come looking for her. Several low-level officers were prosecuted and convicted, and their trial revealed information about numerous mass graves in Jaffna. See Kishali Pinto-Jayawardena, *Still Seeking Justice in Sri Lanka: Rule of Law, the Criminal Justice System and Commissions of Inquiry Since 1977* (International Commission of Jurists, Bangkok, January 2010), pp. 46-48. Notably, recent articles in the Sinhala press have started to rewrite Krishanthi's story in interviews with some of the perpetrators, painting her as a "terrorist". See *Divaina*, 12 and 19 June 2011.

<sup>52</sup> In addition to the easing of hostilities, other factors that may have contributed to a decrease in reports of sexual violence against women, especially in locations such as checkpoints, are the high-profile campaign leading to prosecution in the Krishanthi Kumaraswamy rape and murder case and improved discipline within the security forces.

<sup>53</sup> The UK-based organisation Freedom from Torture (formerly the Medical Foundation for the Care of Victims of Torture) has documented endemic torture, including sexual torture, in Sri Lanka for over a decade. See M. Peel, et al., "The sexual abuse of men in detention in Sri Lanka", *Lancet*, vol. 355, issue 9220, p. 2069, 10 June 2000 (20 per cent of 184 male Tamil torture victims referred in 1997 and 1998 reported that they had been sexually abused in detention); "Out of the Silence: New Evidence of Ongoing Torture in Sri Lanka: 2009-2011", Freedom from Torture (discussed further in Section IV.B.1 below); and "Victims of Sri Lankan conflict arriving with increasingly severe scars", media release, Freedom from Torture, 9 April 2009. See also "Police Torture Cases, 1998-2011", Asian Human Rights Commission, 2011; and "State Violence in Sri Lanka: Alternative Report to the United Nations Human Rights Committee", coordinated by the World Organisation Against Torture, January 2004.

ence to conduct a routine check-up, the commanding officer ruled out any possibility of their involvement in the crimes and there was no independent investigation.<sup>54</sup> There was also an allegation that a Tamil paramilitary group in the east gang-raped a woman working with the LTTE-linked Tamil Relief Organisation (TRO) and then killed her and six male colleagues, who had been abducted in January 2006.<sup>55</sup> And in early 2008 in Akkaraipattu in the east, the police special task force (STF) conducted intensive cordon and search operations in a Tamil area during the day and at night. According to a women's rights group:

Several allegations of sexual harassment and abuse of women during these operations surfaced, but not a single official complaint was made due to fear of repercussions. Following these processes of "registration" and identification at night, men in civil clothes visited houses and committed acts of violence and sexual assault against women, including rape; again no formal complaints have been made due to fear of repercussions. Community outrage finally resulted in the removal of the STF camp.<sup>56</sup>

Indeed, in researching this paper, Crisis Group met several women who said they had been raped by the security forces between 2004 and 2008 and documented other alleged sexual assaults by the security forces between 2009 and 2011 (see Section IV.B.1 below). Among the earlier cases is a woman who reported being raped in Batticaloa in early 2005. As she described the incident in a written account:

Two persons who were armed and in their uniform entered the house saying that they wanted to search the house. They talked in Sinhala language. At that time I was all alone at home, as my parents had gone to one of our relatives' house[s] which is at a distance away from our home. While talking with me, one of the men who had come forcefully dragged me and committed the crime by force .... Due to the fear that my image and name would be tarnished by the community, I did not attempt

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<sup>54</sup> See "Appeal to the commission on investigation to probe the rape and murder of a young mother in Mannar", Mannar Women for Human Rights and Democracy, 30 January 2007. Witnesses also were reportedly harassed and intimidated. *Ibid.* This incident echoed two rapes in Mannar in March 2001 allegedly by the counter-subversive unit of the police. The victims filed fundamental rights petitions and identified alleged perpetrators, but were threatened repeatedly not to proceed. *Ibid.*

<sup>55</sup> D.B.S. Jeyaraj, "The tragic fate of TRO employees abducted by Karuna cadres", *transcurrents.com*, 3 February 2007. There were also allegations that the LTTE was responsible for the abductions. *Ibid.*

<sup>56</sup> See "Shadowing the State through CEDAW: A compilation of the Sri Lanka NGO Shadow Report, CEDAW Concluding Observations and other documents 2010/2011", The Women and Media Collective, June 2010, pp. 41-42 (hereinafter "CEDAW Shadow Report 2010").

to seek any justice for what had happened to me. However, to my shock and surprise the news had somehow or other reached the ears of one or two in the community. However, my parents managed to give my hand to a young man from our village. But after some time, without my knowledge and saying nothing, he simply deserted me.<sup>57</sup>

Those earlier cases also include a young woman from Jaffna, who had come to Colombo to study and was arrested and detained in 2007. She recounted sexual assault in detention – including cigarette burns on her thighs and rape with an object. After she was released, she tried to leave the country. A Muslim man offered to take her to Europe, arranging the travel and paperwork. When they arrived, according to the woman, he took her to a hotel and raped her multiple times.<sup>58</sup>

## B. INADEQUATE RESPONSES AND CONSTRAINED ACTIVISM

Insecurity for Tamil women in the north and east persisted in part because neither side was interested in addressing it. The Tigers capitalised on women's suffering and fears to consolidate support for their nationalist agenda, while Tamil women's organisations "were either subsumed or disintegrated under the LTTE".<sup>59</sup> The government similarly used the imagery of the female suicide bomber and forcibly recruited children to underline the LTTE's brutality. But the government's response more than anything was one of indifference. As the state poured more and more resources into a military solution to the war, it allowed the institutions that should have protected vulnerable groups, including women, to be politicised. There was insufficient training, supervision and support of the security forces to prevent abuses from occurring, and, with rare exceptions, impunity followed when they did.

The international community's response to women's insecurity was also ineffective. While the Norwegian-led peace process included a gender subcommittee, gender issues were never seriously prioritised – by the Norwegians, the donor co-chairs (Norway plus the European Union (EU), Japan and the U.S.), the LTTE or the government.<sup>60</sup>

Despite all this, there was a significant history of women's activism from the very early days of the war. Initially, there was a period of peaceful protest, led by the Jaffna Mothers Front as well as local groups of women, especially in poorer villages.<sup>61</sup> Organisations such as the Suriya Women's Development Centre, founded in Colombo and then moved to Batticaloa, led efforts starting in the 1990s.<sup>62</sup> Activism by southern women protesting the government's brutality against Janatha Vimukthi Peramuna (JVP, People's Liberation Front) suspects in the late 1980s also generated significant momentum, giving additional traction to women's movements in the north. There were a number of concerted campaigns by women across the island, including that leading to the prosecution and conviction of several soldiers in the 1996 rape and murder of Krishanthi Kumaraswamy in Jaffna.<sup>63</sup>

Yet, women's groups also faced significant barriers, not least the difficult task of maintaining ties across class, region, ethnic and language divides – an often debilitating weakness throughout Sri Lankan civil society.<sup>64</sup> While the war in many ways increased these societal fractures, it also gave women many opportunities to demonstrate their resilience and resolve to work together, and active networks of women's rights activists exists across the island. Still, addressing these structural problems remains a critical challenge for women's activists and organisations even two and a half years out from the end of the war.

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mon to women in the north and south, such as domestic violence, and the southern delegation was taken to visit psychosocial centres in the LTTE-controlled north for women who had suffered sexual violence or were mentally ill. Despite these genuine efforts from women on both sides, attention dried up as the peace process faltered. Crisis Group interviews, 2010.

<sup>61</sup> *The Broken Palmyra*, op. cit., highlighted this activism by women from poorer areas: "Village women in the East went out with rice pounders to stop the internecine fighting during the L.T.T.E.-T.E.L.O. clash. When the L.T.T.E. took on the E.P.R.L.F. on 14 December 1986, women from some low class villages in Jaffna near Keerimalai and Mallakam defied the L.T.T.E. by sitting on the roads armed with kitchen knives and chillie powder".

<sup>62</sup> Another important women's organisation which preceded Suriya was the Poorani Women's Centre in Jaffna. It was co-founded by the late Rajini Thiranagama and provided support to women affected by the conflict, including rape victims.

<sup>63</sup> See above fn. 51.

<sup>64</sup> See Sarala Emmanuel, "Strategic mapping of women's peace activism in Sri Lanka", Women and Media Collective, April 2008.

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<sup>57</sup> Crisis Group interview, Batticaloa, June 2011.

<sup>58</sup> Crisis Group interview, Europe, April 2011.

<sup>59</sup> Crisis Group interview, women's rights activist, Colombo, October 2010.

<sup>60</sup> Women's Wing leader Thamilini and three other female LTTE cadres participated in the subcommittee. A women's rights activist who was present described her as articulate and well-informed. The subcommittee discussed issues com-

### III. GENDER AND THE RAJAPAKSA GOVERNMENT

The LTTE has long been the government's greatest foil. First in its strength, then in its defeat and now in the eternal possibility of its regrouping, under President Mahinda Rajapaksa in particular, the LTTE has been the justification for governance largely devoid of any concept of security beyond "defeating terrorists".<sup>65</sup> As a result, many vulnerable groups – women, children, minorities and others – have been overlooked and often made worse off by government policies. This government is not the first to have disregarded these populations during the long civil war, but in the case of women and Tamil women in particular, its actions have been especially damaging. Instead of taking what is a historic opportunity to address grievances that affect well over half of the Tamil population in the north and east, and in doing so highlighting the responsibility of the Tamil political leadership and community to do the same, the government has continued policies of militarisation and centralisation of power that leave Tamil women vulnerable.

#### A. A MASCULINE, MILITARISED, SINHALESE NATIONALIST REGIME

Starting in 2005, the government carefully nurtured nationalist sentiment within Sri Lanka's Sinhalese Buddhist majority to build support for its efforts to destroy the LTTE. Since the end of the war in May 2009, it has used that same sentiment to reject any need for a political settlement with the Tamil minority. The single most important tool the government has with which to feed and reward that nationalism is the military – an institution that is almost exclusively male and Sinhalese.<sup>66</sup>

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<sup>65</sup> The Rajapaksa family dominates Sri Lanka's government. President Mahinda Rajapaksa was first elected in November 2005 and re-elected for a six-year term in January 2010. Together with his brothers, Secretary of Defence Gotabaya Rajapaksa and member of parliament and presidential adviser Basil Rajapaksa, the president directly controls a significant portion of the national budget. Both Gotabaya and Basil are naturalised U.S. citizens. The president's son, Namal, first elected to parliament in 2010, is being groomed as his successor. Another brother, Chamal, is currently speaker of the parliament.

<sup>66</sup> While these characteristics of the military are broadly accepted, precise statistics about its overall strength and demographics are not available on government websites. Crisis Group sent a written request to the government for information about the military presence in the north and east (the overall number and breakdown by ethnicity and gender), but received no response.

Instead of making any moves to reduce and reform the security sector with the end of the war, the government has increased its funding and expanded it into ever more civilian enterprises.<sup>67</sup>

The Buddhism practiced by Sinhalese does not share quite the same patriarchal pedigree as many other religions.<sup>68</sup> There is a significant history of gender equality in Sri Lankan society in certain legal and social realms, which is partly responsible for the relative empowerment Sri Lankan women enjoy today compared to other women in South Asia. But nationalism, and the continuing power of effectively feudal relationships of dependence and political patronage, has done much to undermine that equality. Just as the LTTE drew on traditionalism, Sinhalese nationalists have emphasised the role of Sinhalese women in preserving the purity and morality of their ethnic group and as mothers of "heroic sons".

After 30 years of civil war, the culture that now dominates the country is a masculine, militarised one. This has had negative consequences for women, both in terms of the violence the culture promotes and the restrictions it imposes on women's economic opportunities. Yet, even after the defeat of the LTTE, the government has done little to change this culture and in fact has further institutionalised it, making it even harder to address issues of women's security.

#### 1. The limits of progressive rhetoric

Sri Lanka has made many domestic and international commitments to gender equality.<sup>69</sup> The current government has also taken some potentially meaningful steps, including ap-

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<sup>67</sup> Sri Lanka's proposed defence budget for 2012 is \$2.1 billion, a nearly 7 per cent increase from 2011. While defence spending has remained at around 3 per cent of gross domestic product (GDP) for the last few years, it makes up 20 per cent of total expenditures, dwarfing those on education and health. See "Sentinel Security Assessment - South Asia", Jane's Intelligence, 29 November 2011. The military's work has expanded to building roads, selling vegetables, running hotels, offering whale-watching tours and renovating cricket stadiums. See "Sri Lanka's army: In bigger barracks", *The Economist*, 2 June 2011.

<sup>68</sup> See Kamala Liyanage, "Sinhala Buddhist Nationalism/'Fundamentalism' and Its Impact on Gendered Political Participation in Sri Lanka", in Claudia Derichs and Andrea Fleschenberg (eds.), *Religious Fundamentalisms and Their Gendered Impacts in Asia* (Friedrich-Ebert-Stiftung, Berlin 2010).

<sup>69</sup> Its international commitments include: the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and its Optional Protocol; the Vienna Declaration on the Elimination of Violence against Women; and the Beijing Declaration and Platform for Action on women's equality. Sri Lanka's constitution guarantees gender equality, and the president's 2005 election platform promises "[w]omen will be assured of enjoying equal status in the society", though it also assigns the "foremost place to the mother". *Mahinda Chintana: Victory for Sri Lanka*, 2005, pp. 5, 14.

pointing the first women to the posts of chief justice and attorney general.<sup>70</sup> Women are now more visible than ever in the civil and diplomatic services.<sup>71</sup> But the president and other powerful members of the government have also demonstrated their willingness to discount women's security and equality, often in the name of nationalism. Indeed, in his 2010 election platform, the president declared that "women in our country should not be afforded 'equal' status, but should be given 'higher priority'".<sup>72</sup> This regressive approach is particularly evident around the issue of domestic violence.

Near the end of President Chandrika Bandaranaike Kumaratunge's tenure, parliament in 2005 enacted a law to combat domestic violence that allows a victim, the police or the National Child Protection Agency to obtain a protective order from a magistrate.<sup>73</sup> While there have been implementation problems from the beginning, this law is a valued if imperfect tool for activists working on domestic violence.<sup>74</sup> Yet President Rajapaksa has criticised it. An article describing his "prisoners' welfare day" address in September 2010, noted:

Commenting on certain laws that had been introduced recently President Rajapaksa said he had come to know that there had been a sharp increase of divorce cases filed in places like Embilipitiya replacing criminal cases. President Rajapaksa hinted that new laws had prevented reconciliation among husband and wife in line with the old adage "Anger between husband and wife is only until the pot of rice gets cooked". There are instances when courts had barred husbands from going near the wife after the wife files a divorce case. This does not help to create conciliation between the two parties.<sup>75</sup>

Spousal rape, notably, is not a crime under Sri Lankan law unless there is a court-ordered separation.<sup>76</sup> Government officials have similarly made light of domestic violence in discussions with international representatives.<sup>77</sup>

The president also has not hesitated to assign stereotypical roles and responsibilities for women, focusing on them as mothers. This is reflected both in his decision to transform the women's affairs ministry into the child development and women's empowerment ministry and in various public addresses.<sup>78</sup> For example, for International Women's Day in 2010, the president stated: "The mother receives the foremost place in a family unit which is the foundation of our social structure. ... A challenging responsibility falls on women to save their husbands or children from alcoholism".<sup>79</sup> On the same occasion in 2011, he praised mothers for "their patriotism by sending their children to the battlefield to protect the country from the scourge of terrorism" and emphasised that mothers have the "responsibility of moulding their children with moral values".<sup>80</sup> Beyond questioning laws designed to protect women and assigning stereotyped roles, the government has gone further to protect political allies accused of violence against women – most notably parliamentarian Duminda Silva, accused in 2005 of raping an underage girl.<sup>81</sup>

## 2. Emerging trends?

Whether the government's regressive policies have translated into negative outcomes for Sri Lankan women's security generally is still an open question. Clearly some institutions that should help address women's safety and equality have

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dent always says [in Sinhala: the quarrel lasts only until the rice boils over]. ... 'Violence' is the wrong term to use in our context". Crisis Group interviews, Colombo, September 2011.

<sup>78</sup> See CEDAW Shadow Report 2010, op. cit., pp. 15-17. The government's stereotypes leave no room in Sri Lankan society for lesbian women; a pro-government media outlet recently warned that "lesbianism" is a "rampant ... abnormal anti-social mania". "Survey: 40,000 prostitutes 35,000 homosexuals & unaccounted lesbians", *Lankapuvath*, 14 September 2011.

<sup>79</sup> "Now there's suitable environment for women to live with self-esteem – President", official website of the government of Sri Lanka, priu.gov.lk, 8 March 2010.

<sup>80</sup> "President condemns attack on pregnant candidate", official website of the government of Sri Lanka, priu.gov.lk, 8 March 2011.

<sup>81</sup> While the case was before the courts, Silva defected from the UNP to join President Rajapaksa's UPFA in 2007. In 2008, he was accused of abducting a film actress. The latter case was dismissed by the attorney general in November 2010 for insufficient evidence. "Duminda acquitted", *Daily Mirror*, 19 November 2010. The underage rape case was withdrawn finally in March 2011, reportedly because the girl was "reluctant to give evidence during cross-examination". "UPFA MP discharged from rape charge", *The Sunday Times*, 27 March 2011. Silva returned to the spotlight in October 2011, accused of killing another member of parliament, presidential adviser Bharatha Lakshman Premachandra, in a municipal election-day shoot-out that also left Silva gravely injured. He was evacuated to Singapore for medical treatment in early November, but reportedly will face arrest upon his return. "CID informs Sri Lankan court that governing party MP would be arrested on arrival", *ColomboPage*, 29 November 2011.

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<sup>70</sup> Dr Shirani Bandaranayake was sworn in as chief justice on 18 May 2011. Shanthi Eva Wanasundara, President's Council, was sworn in as attorney general on 12 September 2011.

<sup>71</sup> See CEDAW Shadow Report 2010, op. cit.

<sup>72</sup> *Mahinda Chintana: Vision for the Future*, 2010, p. 22.

<sup>73</sup> Prevention of Domestic Violence Act, in effect from 3 October 2005.

<sup>74</sup> Crisis Group interviews, Colombo, September 2011.

<sup>75</sup> "Prison congestion a grave crisis: MR", *Daily Mirror*, 15 September 2010.

<sup>76</sup> See CEDAW Shadow Report 2010, op. cit., pp. 42-43.

<sup>77</sup> In a mid-2011 meeting between international aid workers and a government delegation (all male), the government officials started laughing when the issue of domestic violence was raised. One said, "Let me tell you something the presi-

stagnated and become politicised, as is especially evident in the judiciary and other law enforcement institutions.<sup>82</sup> Impunity for violence against women is endemic.<sup>83</sup> While the end of the war has created some space for women activists to speak out and for small increases in government transparency, the limited information available points to worrying patterns.<sup>84</sup>

For instance, there are numerous reports that domestic violence, trafficking and child abuse have increased or at least are more visible.<sup>85</sup> The growing attention to the

grave dangers faced by the hundreds of thousands of Sri Lankan women who work abroad, mostly as domestic workers in the Middle East, has highlighted that the government, while welcoming the substantial remittances from these migrants, has done little to improve the employment opportunities available to them at home.<sup>86</sup> Indeed, the income gap between men and women in Sri Lanka has grown.<sup>87</sup>

A particularly disturbing trend is the string of crimes reportedly committed by current and former members of the security forces against women and children in the south, including murders, rapes and sexual harassment.<sup>88</sup> The government's

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<sup>82</sup> See Crisis Group Report, *Sri Lanka: Politicised Courts, Compromised Rights*, op. cit.

<sup>83</sup> The causes of this impunity are many including lack of awareness of remedies among victims, as well as inadequate training, resources and gender sensitivity in the collection and processing of evidence and in judicial hearings and sentencing. Much of this "can be attributed to a society that has deep seated prejudice against women, in particular women victims of sexual violence, rape and incest". CEDAW Shadow Report 2010, op. cit., pp. 48-51. Neither the police nor the attorney general's department tracks whether alleged cases of violence against women result in prosecution or conviction. Ibid, p. 51.

<sup>84</sup> Any increase in government transparency should not be overstated. Complete and accurate information about the experiences of Sri Lankan women and other marginalised groups is still extremely difficult to obtain. The government often does not collect (or allow independent groups to collect) such information, or does not disaggregate it by sex, ethnic group or region. See, for example, "Concluding observations of the Committee on the Elimination of Discrimination against Women: Sri Lanka", CEDAW/C/LKA/CO/7, 4 February 2011, noting the lack of government data on domestic violence, education, internally displaced women and disparities between urban and rural women.

<sup>85</sup> For example, see "Increasing domestic violence against women", *Daily News*, 8 January 2011 (noting a recent survey indicated that "violence against pregnant women in Sri Lanka has increased by 40 percent", which a doctor in Matara said "would lead to frustration, suicidal syndrome, maternal death, disorder in reproduction system and unwanted pregnancy among women"). Those who work with domestic violence victims say they are seeing increasingly brutal abuse; for example, an acid attack on a Muslim woman and the severing of an arm of another woman. Crisis Group interview, Colombo, June 2011. Regarding child abuse, after instituting a free telephone helpline for children in 2010, the government saw recorded complaints jump from 1,391 in 2009 to 3,884 in 2010. In the month of August 2011 alone, there were nearly 400 recorded complaints. See data from the National Child Protection Authority; also Crisis Group interviews, Colombo, September 2011. See also "Lenient sentences in child abuse cases", *Daily Mirror*, 24 June 2011 (reporting that "A study carried out by Lawyers for Human Rights and Development (LHRD), has found that since 2008 there had been a trend in imposing suspended sentences in cases of rape and child molestation. ... [including] even convicts of gang rape of underage females"); and Melanie

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Bamunusinghe, "Traditional taboos vs. high numbers of abuse", *Daily Mirror*, opinion, 11 November 2010 (discussing reproductive health education and vulnerability of children to abuse).

<sup>86</sup> See "Exported and Exposed: Abuses against Sri Lankan Domestic Workers in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates", Human Rights Watch, November 2007 (reporting that over 125,000 Sri Lanka women migrate to the Middle East each year as domestic workers, that in 2006 remittances brought in \$2.6 billion or more than 9 per cent of Sri Lanka's gross domestic product, and that while the government had enacted some reforms overall, it treats migrant workers as an "export commodity"); "Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East", Human Rights Watch, April 2010; "Sri Lanka plans to deter unskilled migration", *The Telegraph*, 23 May 2011; and "Trafficking in Persons Report 2011 Country Narratives: Sri Lanka", U.S. Department of State, 27 June 2011 (while recognising the government's "significant efforts", especially in prosecutions, the report also noted "serious problems" including "official complicity in human trafficking").

<sup>87</sup> "Gender income gap widens in Sri Lanka", Indo-Asian News Service (IANS), 4 November 2011, reporting on the WEF's 2011 Global Gender Gap Report, op. cit. above at fn. 3.

<sup>88</sup> In July 2011, two serving soldiers and two deserters reportedly were arrested in connection with several, mostly unrelated murders of elderly women in the Kahawatta area in the south, some of which involved sexual assault. See "Kahawatta killings: All suspects arrested", *The Nation*, 10 July 2011; and Section IV.B.4 below. In September 2011, a former air force officer allegedly raped a ten-year-old girl at a school in Matara. "Sri Lanka: A former air force officer rapes a ten-year-old girl", Asian Human Rights Commission, 6 September 2011; and in three incidents in early December 2011, a soldier reportedly shot and threw a grenade at his wife in a police station where they had been summoned to resolve a marital dispute; a deserter of the elite special task force (STF) reportedly shot his girlfriends' parents and sister and then himself in their home; and an army deserter reportedly was found hanged along with two sisters (fifteen- and seventeen-years-old), having been released on bail for the alleged rape of the elder girl two years prior. See "Soldier shoots his wife inside the Thissamaharama police station", *lankasrinews.com*, 3 December 2011; "STF deserter mows down girlfriend's family", *The Island*, 8 December 2011; and "Love triangle cause of three tragic deaths?", *The Island*, 11 December 2011. See also "Soldier arrested for videoing bathing woman", *Sri Lanka Mirror*, 12 August 2011 (near Minneriya town, south east of Anuradhapura). Alleged crimes by deserters and serving soldiers have not been limited to those against women and children. For instance, in November 2011, an army

response has not been reassuring. After months of trying to arrest some 60,000 military deserters, it has decided to “delist” them instead, promising to pursue the “few dozen” allegedly involved in serious crimes.<sup>89</sup> It appears to have no intention of putting these men through a formal demobilisation process, screening for human rights abusers or those in need of psycho-social support, or providing any other reintegration services.

## B. SYSTEMATIC DENIALS OF SEXUAL VIOLENCE INVOLVING STATE FORCES

Sexual violence is notoriously difficult to document, all the more so in a conflict situation. In Sri Lanka, the strategy of the government has been to refuse any form of impartial access to the conflict zone; resist vehemently, and crudely, even the existence of allegations; and fail to engage in any form of investigation. Such a strategy, over time, inevitably raises concerns that they have something to hide.

The government's response to gender-based violence has been at its worst when allegations of sexual violence by the security forces against Tamil women are at issue. Like so many other aspects of the civil war, the government has viewed such allegations as part of an LTTE conspiracy to garner international sympathy and demonise Sri Lanka's “war heroes”. Indeed, its reaction has been so reflexive and dismissive it has inspired greater suspicion among Tamils and scrutiny from the international community. Instead of taking action to credibly investigate whatever sexual abuse might have occurred, the government has viciously attacked its accusers. This has ensured that actual victims have no incentive to come forward, especially given the social stigma they already face.

During and in the immediate aftermath of the war, three categories of alleged sexual violence were made public. The first, reported at the time exclusively by Tamil sources including *Tamilnet*, was that when groups of Tamil civilians had surrendered to the security forces in early 2009, a number of women had been taken away and sexually abused.<sup>90</sup> There were no international ob-

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captain was arrested for taking on a contract killing that was carried out by two soldiers. “Doctor arrested for contract killing of another doctor in Sri Lanka”, *ColomboPage*, 1 November 2011.

<sup>89</sup> “Sri Lanka abandons round-up of military deserters”, BBC News, 8 November 2011.

<sup>90</sup> See “Colombo's war crimes turn to rape of the fleeing”, *Tamilnet*, 28 January 2009; “Grand scale murder, rape of screened civilians feared, TNA MP alerts”, *Tamilnet*, 14 February 2009; “Slave camp suspected in Kilinochchi hospital building”, *Tamilnet*, 27 February 2009. In December 2009,

servers or independent media in the warzone at that time, and the allegations drew little public government response. The next, also early in 2009, involved video footage that appeared to show Sinhalese soldiers mutilating the dead bodies of female cadres – images that resurfaced with similar ones in reporting by the UK's Channel 4 in 2011.<sup>91</sup> The third category concerned alleged sexual abuse of Tamil women detained in government camps mostly near Vavuniya starting in April and May 2009. This was reported by international media.<sup>92</sup>

The response of government officials to these allegations was terse, crude and defensive. Replying to a question from a British journalist on 21 May 2009 about alleged sexual violence, Rajiva Wijesinha, then secretary to the disaster management and human rights ministry, had only the following to say: “There are a few blue-eyed children in that camp. So you know that some of the NGOs have had a jolly good time when they were up in Vavuniya. So when you go up, just have a look and try and identify them”.<sup>93</sup> Palitha Kohona, then secretary to the foreign ministry and now Sri Lanka's permanent representative to the UN, described allegations in July 2009 as “absolute rubbish” and claimed “[t]hese (the military) are the guys who were winning the war – they

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UTHR published an extensive report on the final stages of the war, including an account alleging that civilian girls were taken to Kilinochchi Hospital by the security forces and sexually abused. See “Let Them Speak: Truth about Sri Lanka's Victims of War”, UTHR, Special Report no. 34, 13 December 2009.

<sup>91</sup> On 6 January 2009, the Australian Special Broadcasting System (SBS) showed a video clip from a Tamil website in an interview with then secretary to the Sri Lankan foreign ministry, and Australian dual citizen, Palitha Kohona. The footage at 0:31 in this version of the SBS program, [www.youtube.com/watch?v=wdhtVjfsIRc](http://www.youtube.com/watch?v=wdhtVjfsIRc), corresponds to the footage at 38:52 of Channel 4's June 2011 documentary “Sri Lanka's killing fields”, available here: [www.channel4.com/programmes/sri-lankas-killing-fields/4od](http://www.channel4.com/programmes/sri-lankas-killing-fields/4od).

<sup>92</sup> On 6 May 2009, the UK's Channel 4 aired a video reporting: “Yesterday, aid workers found the bodies of at least three women dead at a bathing area in the camp called zone 2. It's not clear how they died. But the incident has caused the UN to ask for the soldiers guarding the bathing area to be replaced by 20 female police officers, and for civilians, not the police and army, to investigate claims of sexual abuse in the camps”. On 21 May 2009, the UK's SkyNews aired a video quoting a woman who asked not to be identified: “I believe that there is sexual assault and harassment in the camps. I believe these children and the young ones are going to get disappeared, but we don't know what is happening to them. Because there is no information, there is no transparency. We just don't know what is happening”. There was also an allegation in July 2009 that Tamil women in a remote detention camp in Pulmoddai were being forced into prostitution. Amanda Hodge, “Tamil refugees forced into sex rackets”, *The Australian*, 2 July 2009.

<sup>93</sup> SkyNews, 21 May 2009, op. cit.

could have raped every single woman on the way if they wanted to. Not one single woman was raped".<sup>94</sup>

The UN High Commissioner for Refugees (UNHCR) also received reports, as early as April 2009, of sexual violence in the government detention camps. That the UN was aware of allegations was publicised in early May 2009 by Wijesinha, who immediately accused UNHCR of improperly "leaking" information and failing to bring allegations to the government's attention before making them public. He accused junior UN employees of "tak[ing] their superiors for a ride" and dismissed the reported incidents as false without addressing them in any detail.<sup>95</sup> He has recycled this story on many occasions, including in response to the April 2011 report of the Secretary-General's panel of experts on accountability.<sup>96</sup> He uses three examples UNHCR shared by email on 1 May 2009 to argue they "[did] not suggest any great problem".<sup>97</sup> Those examples were: a soldier following a woman to the toilet and the military beating up the camp volunteer who came to her aid; soldiers encouraging a man to keep abusing his niece, including by giving him liquor; and reports of prostitution in Pampaimadu, a camp in Vavuniya.<sup>98</sup>

Far from "not suggesting any great problem", these alleged incidents point to very serious vulnerabilities for women in the camps, at least in the early stages. By publicly castigating the UN for even raising the issue – which for the most part was in private communications, not public statements – the government undermined the already limited protection mechanisms available to women in the camps. A female former camp resident commented: "We couldn't talk to the UN. They were there; also Save the Children came, but we didn't feel protected".<sup>99</sup>

UNHCR has confirmed that it did collect information about alleged incidents of gender-based violence generally in the north and east in 2009 and 2010, though

the data was insufficient to estimate the true prevalence of such incidents.<sup>100</sup> Still, there was reason to believe they were underreported, including in the IDP camps. According to UNHCR: "Menik Farm was further extraordinary, and prevalence [of gender-based violence incidents] is most likely underreported, given the significant restrictions to humanitarian access and highly controlled and militarised environment in 2009 particularly, but also continuing in 2010 and onward".<sup>101</sup> While information implicating the security forces in such incidents is limited, government policies have made it impossible to uncover whatever abuse there was – regardless of the identity of those involved.

The government stepped up its combative approach in October 2009 in response to U.S. Secretary of State Hillary Clinton's mention of Sri Lanka in a statement at the UN regarding sexual violence in conflict.<sup>102</sup> Loud protests won the government a response from U.S. Ambassador Patricia Butenis and a "clarification" from U.S. Ambassador-at-Large for Global Women's Issues Melanne Verbeke, which noted that: "the State Department as well as credible human rights organizations reported numerous cases of rape and sexual violence in Sri Lanka, particularly acts committed against women held in detention by the government", but added: "in the most recent phase of the conflict, from 2006-2009, though we remained deeply concerned about reports of extrajudicial killings, disappearances and mistreatment of detainees, we have not received reports that rape and sexual abuse were used as tools of war, as they clearly have in other conflict areas around the world".<sup>103</sup> The president and others

<sup>94</sup> Amanda Hodge, "Tamil refugees forced into sex rackets", *op. cit.*

<sup>95</sup> Rajiva Wijesinha, "Leaks, errors and improprieties of UN underlings", [www.lankaweb.com](http://www.lankaweb.com), 6 May 2009 (this article is erroneously dated 6 April 2009; it attaches correspondence between UNHCR and Wijesinha dated 1 and 4 May 2009).

<sup>96</sup> "Addressing concerns as to sexual abuse of the displaced", <http://rajivawijesinha.wordpress.com> (blog), 15 September 2011. For further discussion of the UN panel's report, see Crisis Group Report, *Reconciliation in Sri Lanka*, *op. cit.*

<sup>97</sup> "Addressing concerns as to sexual abuse of the displaced", *op. cit.*

<sup>98</sup> *Ibid.*; also Rajiva Wijesinha, "Leaks, errors and improprieties of UN underlings", [www.lankaweb.com](http://www.lankaweb.com), *op. cit.* (attaching 1 May 2009 email from UNHCR to Wijesinha).

<sup>99</sup> Crisis Group interview, Europe, March 2011.

<sup>100</sup> UNHCR compiled data at the field level in the north and east regarding the number of gender-based violence incidents reported to medical and law enforcement authorities in 2009 and 2010, irrespective of alleged perpetrator. In addition, UNHCR field staff would receive reports of such incidents directly in the course of their protection work. There was some potential for duplication of data (if, for instance, it were reported separately to medical and law enforcement authorities), but the primary concern was of underreporting. Information recorded by medical and law enforcement authorities also varied tremendously – for example, in terms of categorising types of violence or simply having the human resources to allow for consistent recording in certain areas. Crisis Group interview and email communication, UNHCR, December 2011.

<sup>101</sup> *Ibid.*

<sup>102</sup> The sentence at issue was: "We've seen rape used as a tactic of war before in Bosnia, Burma, Sri Lanka, and elsewhere". "Opening Remarks by Secretary of State Hillary Rodham Clinton on the Adoption of a UNSC Resolution [1888] to Combat Sexual Violence in Armed Conflict", 30 September 2009.

<sup>103</sup> Letter from U.S. Ambassador Verbeke to Foreign Minister Rohitha Bogollagama, 3 October 2009. For further details on the incident, see Anthony David, "Lanka-US in diplomatic ding-dong duel", *Sunday Times*, 11 October 2009; and a diplomatic cable released by WikiLeaks, "Secretary's comments on rape elicit strong reaction by GSL", U.S. embassy Colombo, 5 October 2009.

used this incident to rally support and criticise the U.S. for interfering in domestic affairs, ignoring subsequent U.S. statements of concern.<sup>104</sup>

The final source of allegations of sexual violence is the video footage, photographs and eyewitness accounts aired by the UK's Channel 4 between November 2010 and July 2011, especially its June documentary "Sri Lanka's killing fields".<sup>105</sup> Most of the footage and photos were reviewed by the UN Secretary-General's panel of experts and by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions. The latter found the video footage to be authentic.<sup>106</sup> Among other things, it depicts what appears to be Sinhalese soldiers filming the dead bodies of several Tamil women with hands bound behind their backs, in some cases removing coverings on the bodies to reveal underwear pulled down and genitalia exposed; another segment shows what appears to be soldiers loading dead, naked female bodies onto a truck, commenting lewdly about their figures. Channel 4 also interviewed a woman who claimed she and her daughter were raped when they surrendered to the army,<sup>107</sup> and a man who claimed he was with the army's

58th Division and saw soldiers rape women and cut off breasts.<sup>108</sup> Identities were not revealed for fear of retribution.

The government's primary response has been to flatly reject all the Channel 4 materials as "fake". The president's brother, Secretary of Defence Gotabaya Rajapaksa, and the defence ministry have gone beyond this, dismissing all allegations of wrongdoing regarding one female victim (shown in video footage and photographs dead, partially naked, with her hands apparently bound) because she was a "high-profile member of the Tamil Tigers",<sup>109</sup> and rejecting allegations of sexual violence in general because a British woman who had been in the Vanni and the detention camps and later appeared in the Channel 4 materials was "so attractive" but had not been raped.<sup>110</sup>

In a similar vein, Sri Lanka's representative to the UN, Palitha Kohona, reacted angrily to a September 2011 report in *The New York Times* on sexual abuse by UN peacekeepers, which included one line reminding the government that "[m]ore than 100 troops from Sri Lanka were sent home from Haiti in 2007 because of widespread accusations of sex with minors".<sup>111</sup> In a letter to the editor, Kohona claimed the report was "highly misleading" and further that:

When allegations of improper conduct by Sri Lankan troops were brought to the attention of the Sri Lankan authorities by the United Nations, an entire unit was

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<sup>104</sup> The Government of Sri Lanka never commented on subsequent U.S. statements which expressed deep concerns about alleged violations, including sexual abuse. The U.S. Human Rights Report for 2010, issued on April 8, 2011, stated that there "were reports that individual cases of gender-based violence perpetrated by members of the security forces occurred in areas with heavy security force presence, but others stated that military officials were responsive to reports of such incidents and showed a willingness to prosecute the offenders. The government did not release any details about prosecutions or punishments for such offenses, and some observers suggested that there was reluctance by victims to report such incidents in northern and eastern areas where security forces were much more prevalent. Statistics on numbers of such cases also were unavailable because few victims reported such incidents. Human rights groups in northern districts alleged that the wives of men who were killed as a result of the conflict often fell victim to prostitution because of their economic vulnerability".

<sup>105</sup> The Channel 4 news reports include: "Sri Lanka execution video: New war crimes claims", 30 November 2010; "Sri Lanka 'war crimes': woman's body identified", 8 December 2010; "Sri Lanka's killing fields", 14 June 2011; and "The Sri Lankan soldiers 'whose hearts turned to stone'", 27 July 2011 – all available at [www.channel4.com](http://www.channel4.com).

<sup>106</sup> See "Report of the Special Rapporteur on extrajudicial summary or arbitrary executions, Christof Heyns; Addendum, Summary of information, including individual cases, transmitted to Governments and replies received; Appendix I. Investigations into video footage which allegedly documents members of the Sri Lankan army committing extrajudicial executions", A/HRC/17/28/Add.1, 27 May 2011, pp. 423-482.

<sup>107</sup> "Sri Lanka's killing fields", Channel 4 News, op. cit.

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<sup>108</sup> "The Sri Lankan soldiers 'whose hearts turned to stone'", Channel 4 News, op. cit. Among other things, this man said, "when they were at the hospital, one day I saw a group of six soldiers raping a young Tamil girl. I saw this with my own eyes. ... If they wanted to rape a Tamil girl, they could just beat her and do it. If her parents tried to stop them, they could beat them or kill them. It was their empire".

<sup>109</sup> See "'Channel-4, Faceoff' – Exposing the appalling truth", [defence.lk](http://defence.lk), updated 30 June 2011, which includes a picture of the victim, Issipriya, apparently dead with hands bound behind her back, which was also shown by Channel 4 in its 8 December 2010 program "Sri Lanka 'war crimes': woman's body identified". Gotabaya Rajapaksa has claimed "she was never under our custody". See "Video: Defence Secretary Gotabaya Rajapaksa speaks to 'HeadlinesToday'", [transcurrents.com](http://transcurrents.com), 11 August 2011.

<sup>110</sup> "She says she is a civilian. It is not so. ... She was a cadre. No ... she says that there have been, you know, all these allegations: rape and murder and all these things. ... Now she is one person who will get attracted by the people ... (haha) soldiers ... that's right, because she's different from others. ... So, I want to know whether SHE was raped. ... She was there for one year ... she came with the IDPs ... and she was in the IDP camps ... Now she was talking about the rape. How can she talk about the rape when she ... a person so attractive ... safely came into this area ... was in IDP camps ... and released? ... She was not raped, she was not killed ... How can she ... comment like that?" See "Gotabaya Rajapaksa speaks to 'HeadlinesToday'", [transcurrents.com](http://transcurrents.com), op. cit.

<sup>111</sup> Neil MacFarquhar, "Peacekeepers' Sex Scandals Linger, On Screen and Off", *The New York Times*, 7 September 2011.

immediately withdrawn by the national security authorities. A thorough investigation was conducted subsequently and action was taken against a number of service personnel for breaching the rules of conduct of the Organization. The United Nations has highlighted the manner in which Sri Lanka dealt with the allegations as a model for other troop contributors.<sup>112</sup>

In fact, there is no indication that any of those troops received punishment beyond demotion or discharge, and at least one UN body has expressed concern about the lack of detailed information about any specific charges or punishments.<sup>113</sup> The original UN investigation into the allegations “found that the acts of sexual exploitation and abuse were frequent, occurred usually at night, and at virtually every location where the contingent personnel were deployed. In exchange for sex, the children received small amounts of money, food and sometimes mobile phones”.<sup>114</sup>

On 20 November 2011, the government's Lessons Learnt and Reconciliation Commission (LLRC) deliv-

ered its long-awaited report to President Rajapaksa.<sup>115</sup> He tabled the 400-page document in parliament and released it to the public on 16 December.<sup>116</sup> The LLRC largely ignores the problem of sexual violence except in the context of its review of the Channel 4 video footage and in its brief summary of the statement of a women's rights activist on violence against women and structural discrimination in the former war zone more broadly.<sup>117</sup> In reviewing the Channel 4 footage, the LLRC engaged its own technical experts and found “that there are troubling technical and forensic questions of a serious nature that cast significant doubts about the authenticity of this video and the credibility and reliability of its content”.<sup>118</sup> But because of various diverging expert opinions, the LLRC recommended that the government “initiate an independent investigation into this matter to establish the truth or otherwise of the allegations arising from the video footage”.<sup>119</sup>

As for women's insecurity in the north and east more broadly, the LLRC report correctly identifies many of the issues – including that women “feel unsafe in the presence of the armed forces, and in most of the resettled areas such presence is not very reassuring to women”.<sup>120</sup> Its recommendations also are generally positive, but few are concrete. Among the most important will likely be its insistence that family members have a right to know the whereabouts of the missing and detained and its call for a centralised and comprehensive database of detainees,<sup>121</sup> along with its emphasis on the need for a comprehensive approach to address the issue

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<sup>112</sup> “SL refutes NYT claims”, official website of the government of Sri Lanka, priu.gov.lk, 9 September 2011.

<sup>113</sup> The most detailed account of what happened to those implicated appeared in the U.S. State Department's 2010 human rights country report on Haiti, published 8 April 2011: “The Sri Lankan Ministry of Defense provided an update in 2009 on the status of 23 Sri Lankan UN peacekeepers who were convicted in late 2008 of sexually exploiting and abusing children while they were stationed in Haiti under UN auspices in 2007: 20 of them were discharged, demoted, formally reprimanded, or otherwise punished; and the other three were killed in military action”. The UN Committee against Torture (CAT), after the combined third and fourth periodic report of Sri Lanka in November 2011, “expresse[d] its grave concern over the alleged sexual exploitation and abuse of minors by military members of the Sri Lankan contingent [in Haiti] in 2007. While noting the information provided by the State party's delegation that the troops in question were repatriated and dealt with under military law, the Committee regrets the lack of information available regarding any specific charges or punishments faced by the 114 members of the Sri Lankan contingent who were repatriated on disciplinary grounds”. It also called on the government to “conduct investigations into the allegations of incidents of sexual exploitation and abuse ... and report their findings and measures taken in response, including the resulting number of indictments, prosecutions and convictions, and measures taken to prevent further occurrences”. Crisis Group wrote to the government requesting further information on this incident, but there was no reply.

<sup>114</sup> “Report on the activities of the Office of Internal Oversight Services for the period from 1 January to 31 December 2007”, A/62/281 (Part II), 25 February 2008, para. 50. Among those repatriated were one lieutenant colonel and two majors.

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<sup>115</sup> For background on the LLRC, see Crisis Group Report, *Reconciliation in Sri Lanka*, op. cit.

<sup>116</sup> See “LLRC report tabled in Parliament: ‘Security Forces had not deliberately targeted civilians in the NFZs’ – LLRC”, official website of the government of Sri Lanka, priu.gov.lk, 16 December 2011. The report (hereinafter “LLRC Report”) is available at [www.priu.gov.lk/news\\_update/Current\\_Affairs/ca201112/FINAL%20LLRC%20REPORT.pdf](http://www.priu.gov.lk/news_update/Current_Affairs/ca201112/FINAL%20LLRC%20REPORT.pdf). However, its annexes, including technical analysis of the Channel 4 video footage, were not available online when this Crisis Group report was published.

<sup>117</sup> “A representation made before the Commission claimed that violence against women and structural discrimination have increased in former conflict areas due to the lack of participation of women. It was stated that discriminatory policies and practices, heavy military presence, lack of authority to control their environment, limited access to basic needs combined with weak institutional protection mechanisms and breakdown of traditional support networks, norms and prejudices against women in the society and attitudes and behavior of power players have lead to a culture of violence and impunity. As such, it was claimed that such a situation exposes women to various forms of sexual and gender-based violence that compromise their dignity, security, well being and rights, and any effort to find durable solutions must take these issues into account”. Ibid, para. 5.108.

<sup>118</sup> Ibid, paras. 4.367 to 4.373.

<sup>119</sup> Ibid, para. 4.375.

<sup>120</sup> Ibid, para. 5.104; see generally paras. 5.102 to 5.117.

<sup>121</sup> Ibid, paras. 9.61 to 9.71.

of missing persons that should include cooperation with the International Committee of the Red Cross (ICRC).<sup>122</sup> Whether the government will actually take up any of the LLRC's recommendations – some of which were first made over a year ago in an interim report – remains to be seen.

#### **IV. WOMEN'S INSECURITY IN THE NORTH AND EAST**

The events of the last three years have created a complex situation of vulnerability for Tamil women and girls in the north and east.<sup>123</sup> No one factor is responsible for the threats they face. The actions of both the LTTE and the government during the final offensive in the northern Vanni region in 2009 shattered the already limited sources of security for women there. The destruction of the LTTE by government forces in May 2009 left many women in the Vanni with only the military and its proxies to rely on for certain basic needs – a situation confronted by many Tamil women in the east since 2007 and in Jaffna, to varying degrees, since 1995. The void left by the LTTE's coercive structures has been filled quickly by the military and allied Tamil paramilitary groups. But the damage done to Tamil society by the LTTE and the government over three decades of war has left the community frayed and distrustful.

The consequences for Tamil women have been severe. They are now overrepresented in the Tamil population across the north and east and will be for at least a generation. They continue to experience violence, and much of their lives are dictated by the fear of it, aggravating the existing shortage of economic and educational opportunities. Unless they are allowed to build networks locally and given support to access health services and develop sustainable livelihoods, these problems will likely worsen. Until the north and east are demilitarised and power is devolved to local civilian government structures, insecurity will continue to feed Sri Lanka's cycles of conflict.

##### **A. LAYERS OF VULNERABILITY**

###### **1. Death, displacement and detention**

The final stages of the civil war resulted in widespread deaths, displacement and detention of Tamil civilians and LTTE cadres across the north and east. Civilians in the Vanni suffered most intensely, witnessing the destruction of their homes, land and infrastructure, as well as the death and injury of many family members and neighbours. The civilian death toll for the final months of hostilities in 2009 is fiercely disputed and likely will never be known with precision.<sup>124</sup> Still, the credible evidence available to date

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<sup>123</sup> It is worth emphasising here again that, while this report focuses specifically on Tamil women in the north and east, the needs of all Sri Lankan women affected by the war deserve attention. See fn. 2 and 9 above.

<sup>124</sup> The Secretary-General's panel of experts noted in their April 2011 report: "Two years after the end of the war, there is still no reliable figure for civilian deaths, but multiple sources of information indicate that a range of up to 40,000 civilian deaths cannot

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<sup>122</sup> Ibid, paras. 9.43 to 9.60.

continues to support the conclusion that tens of thousands died or went missing.<sup>125</sup> Beyond that, hundreds of Tamil civilians were killed in the east, as the government and LTTE battled between 2005 and 2007, and thousands of Tamil combatants died in that fighting and in the LTTE's last stand in the Vanni. While Tamil women were among the civilians and combatants killed, the vast majority were men.

This has left tens of thousands of "war widows" and female-headed households in the north and east.<sup>126</sup> They are effectively a second generation in this role, joining the thousands of women whose husbands were killed or disappeared during the IPKF era and in the 1990s.<sup>127</sup>

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be ruled out at this stage. Only a proper investigation can lead to the identification of all of the victims and to the formulation of an accurate figure for the total number of civilian deaths", p. 40. In late November 2011, Defence Secretary Gotabaya Rajapaksa announced at a national conference on reconciliation that the government's 2011 census, which reportedly is now complete but being finalised, would show that "the real number of dead and missing is far too small to provide any substance to the absurd allegations of genocide and war crimes that have been made against our military by the rump of the LTTE and their cronies". He further said estimates of 10,000, 40,000 or even higher "are arbitrary figures with no basis in reality". "Sri Lanka today is one of the most secure and stable countries in the entire world – Secretary Defence", MOD News, defence.lk, 25 November 2011.<sup>125</sup> The LLRC's discussion of civilian casualties does little to advance this issue. See LLRC Report, paras. 4.340 to 4.360. Defence ministry officials appearing before it "estimated LTTE deaths to be 22,247 for the period July 2006 to May 2009, while 4,264 have been confirmed by name for the period January 2009 to May 2009". Ibid, para. 4.348. The LLRC also concluded "that eye witness accounts and other material available to it indicate that considerable civilian casualties had in fact occurred during the final phase of the conflict". Ibid, para. 4.359. Its primary – and important – recommendation to address the issue is that action be taken to "[c]onduct a professionally designed household survey covering all affected families in all parts of the island to ascertain first-hand the scale and the circumstances of death and injury to civilians, as well as damage to property during the period of the conflict". Ibid, para. 4.360.

<sup>126</sup> There have been a number of articles with first-hand accounts of the challenges faced by widows and single women, including: "Sri Lanka: Conflict over, but not for widows", IRIN, 26 October 2010; Abdul H. Azeez, "War ends, women struggle on", *Sunday Leader*, 13 March 2011; valkyrie, "'National security' in post-war Sri Lanka: Women's (In) security in the North", groundviews.org, 25 April 2011; Dilrukshi Handunetti, "Feeding families, feeding the economy", *Sunday Leader*, 1 May 2011; and "For Sri Lankan women, war for survival continues in peacetime", *Irrawaddy*, 12 May 2011.

<sup>127</sup> "The Jaffna widows group from the IPKF era was brought in to mentor new widows groups in the Vanni. It's sad – passing down those coping skills from generation to genera-

While estimates vary, the government has referenced up to 90,000 "war widows", with over half in the east.<sup>128</sup> Whatever the actual figures, single Tamil women are heavily overrepresented in villages and populations centres throughout the region.<sup>129</sup> Research conducted in Trincomalee town and Muthur in Trincomalee District in March and April 2011 illustrates the difficulty of widows' lives:

Without exception, every widowed mother interviewed for this assessment answered affirmatively when asked if they faced issues with negative labelling by the community and the family. ... A village mother describing the limitations of her circumscribed life said, "If we go out on the road they don't like to see us". Social ostracism and confinement results in loneliness; the women face gossip when they are compelled to go outside the house gate to take care of business; and they are excluded from auspicious ceremonies. ... a young mother whose husband was abducted in a rural village recalled a stinging comment directed at her, when another woman in her village who was upset said to her, "Half way through your life you have eaten your husband".<sup>130</sup>

One particularly vulnerable group are young widows. At the height of the fighting and the LTTE's forced recruitment, first in the east and then more so the north, many young women and girls – some as young as thirteen or fourteen – were forced into marriages to avoid being recruited. While these marriages were acknowledged by the families, they generally were not registered with the authorities, particularly in the case of those under eighteen, the legal age of marriage. Once the fighting ended, many of their "husbands"

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tion. The young widows with children are the primary concern". Crisis Group interview, aid worker, Colombo, September 2011.

<sup>128</sup> In September 2010, the child development and women's empowerment ministry said it had lists of 49,000 widows in the east and 40,000 in the north, and that of those in the east, 25,000 are from Batticaloa (approximately half below the age of 40 and one third with three or more children). "Sri Lankan government says some 89,000 war widows in the north and east", Colombo Page, 29 September 2010; and "Programme to rehabilitate war widows", official website of the government of Sri Lanka, priu.gov.lk, 30 September 2010. In August 2011, the ministry reportedly said it had identified 42,565 war widows in the east but only 16,936 in the north – an unexplained drop of some 23,000 from the north. "Over 59,000 war widows in Sri Lanka's North and East", *ColomboPage*, 13 August 2011. The ministry provided these same lower numbers, as "female-headed households" to the LLRC in September 2011. See LLRC Report, para. 5.103.

<sup>129</sup> The "Joint Plan for Assistance for the Northern Province 2011", drawn up by the government, the UN and NGOs, estimates that some resettled communities in the north will have up to 30 per cent female-headed households, p. 35.

<sup>130</sup> "Sri Lanka Supporting Regional Governance program (SuRG) post-war support for widowed mothers: a gender impact assessment", prepared for the U.S. Agency for International Development (USAID), May 2011, p. 6.

were dead or missing; some simply abandoned the girls.<sup>131</sup> These young “widows”, many of whom now have children of their own, struggle to provide for themselves and their dependants, and stigma often prevents them from remarrying. An experienced women's rights activist commented:

Engaging in any economic activity is also difficult because of their lack of experience and because of social and cultural prejudices and prohibitions. For example, even when female heads of household are allotted land, they find it difficult to hire male labourers who resist working for a female “boss”. There are also reports of sexual harassment and exploitation faced by widows and female heads of household when trying to obtain entitlements; they have to barter sex to get documents signed, etc.<sup>132</sup>

Another factor putting women at risk is the continuing search for missing family members – some of them known to be taken by the LTTE or the government, while others were lost in the fighting. While the context of losses varies, women across the north and east share the experience of mourning the absences and seeking information about whether their loved ones are still alive. Indeed, this was one of the primary grievances brought before the LLRC by the hundreds of women who testified and many more who made written submissions.<sup>133</sup>

These searches impose tremendous financial and emotional tolls on families, especially since women rarely have a regular income and often are trying to find the family's sole breadwinner. Efforts to support women in these searches are wholly inadequate.<sup>134</sup> While the gov-

ernment has used a family tracing program in Vavuniya run by the UN Children's Fund (UNICEF) to claim that only a few thousand people are missing in the north,<sup>135</sup> officials and aid workers recognise that the program's numbers represent only a fraction of those unaccounted for – not least because there needs to be a family member alive to register the case.<sup>136</sup>

Also taxing for women, especially single women, is the struggle to maintain relations with those detained or still displaced. The detained population consists of Tamils who surrendered or were identified as suspected LTTE cadres in the north in 2008 and 2009 and placed in “rehabilitation” facilities, as well as those who have been arrested by the government over the course of the war, some of whom also have been sent for rehabilitation. The government has actively withheld information about detainees, and there are serious concerns about secret detention centres.<sup>137</sup> Recent government figures indicate that there are some 700 people, including around 100 women, still detained in rehabilitation facilities that have been off limits to independent monitors – including the ICRC – since July 2009.<sup>138</sup> Up to 2,000 more Tamils are believed to be detained in other facilities,<sup>139</sup>

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stigmatised, harassed from within the Tamil community”. Crisis Group interview, Colombo, September 2011

<sup>135</sup> “UNICEF report proves lie of exaggerated repetitions of ‘40,000 conspiracy’”, defence.lk, 11 July 2011. The family tracing unit is currently trying to trace around 700 boys and girls; 50 already have been reunited with their family members. Another 1,800 adults have been reported to them, but they are not mandated to trace those cases. See “Tracing Sri Lanka's missing children”, AFP, op. cit.; and “Families search for thousands of missing victims from brutal war”, *The Independent*, 7 November 2011.

<sup>136</sup> See “Tracing Sri Lanka's missing children”, AFP, op. cit.; and “Families search for thousands of missing victims”, *The Independent*, op. cit.

<sup>137</sup> The UN Committee against Torture (CAT), after the combined third and fourth periodic report of Sri Lanka in November 2011, concluded: “Notwithstanding the statement of the Sri Lankan delegation categorically denying all allegations about the existence of unacknowledged detention facilities in its territory, the Committee is seriously concerned about reports received from non-governmental sources regarding secret detention centres run by the Sri Lankan military intelligence and paramilitary groups where enforced disappearances, torture and extrajudicial killings have allegedly been perpetrated”.

<sup>138</sup> See “Sri Lanka to release all detained ex-LTTE cadres by mid-2012”, *ColomboPage*, 10 December 2011. This is significantly lower than the figures provided by the commissioner general of rehabilitation to the LLRC as of 26 September 2011, which indicated that 2,727 were still undergoing rehabilitation. See LLRC Report, para. 5.49. For a more detailed discussion of this population, see Crisis Group Report, *Reconciliation in Sri Lanka*, op. cit., pp. 17-18.

<sup>139</sup> For further details on this population, most of whom are detained under the Prevention of Terrorism Act (PTA), see Crisis Group Report, *Reconciliation in Sri Lanka*, op. cit., p. 18.

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<sup>131</sup> A woman explained, “if people were married, the Tigers wouldn't take them for the battle. But after [the detention camps], these marriages weren't registered. So the husband leaves; he has another lady”. Crisis Group interview, Manar, June 2011.

<sup>132</sup> Crisis Group interview, Europe, December 2011.

<sup>133</sup> See LLRC Report, paras. 5.12 to 5.48 (expressing “alarm” at the number of allegations put to the LLRC about disappearances, abductions and missing persons). “When will they get justice? Failures of Sri Lanka's Lessons Learnt and Reconciliation Commission”, Amnesty International, September 2011; and Crisis Group Report, *Reconciliation in Sri Lanka*, op. cit.

<sup>134</sup> A recent report quoted an official who asked to remain anonymous: “Many people are coming to us, saying can you confirm whether the child is dead or alive, even if you cannot reunite us . . . . With that uncertainty they don't want to be resettled to their original districts because they feel they should stay here. They also feel unable to go back to work or to return to their fields until they recover their child”. Mel Gunasekera, “Tracing Sri Lanka's missing children”, Agence France-Presse (AFP), 23 November 2011. An aid worker in the east remarked: “In Battı, families of missing persons are

though some may now be in rehabilitation centres. The vast majority of detainees are men, and those in rehabilitation centres are held without charge or access to lawyers and without basic legal rights.<sup>140</sup>

Visiting detention centres, trying to locate loved ones in the system and negotiating access to deliver food or clothing are expensive, time-consuming and fraught with risk of sexual harassment and worse for Tamil women. The distances between detainees' homes and their places of detention make it literally impossible for most family members to visit regularly.<sup>141</sup> When detention or absence of a family member overlays continuing displacement – which in Jaffna includes over 70,000 people, in Vavuniya over 24,000 and in Trincomalee another 12,000<sup>142</sup> – the vulnerability of women to fraud, exploitation and violence only increases as they try to manage on their own.<sup>143</sup> It is further amplified by the paralysis and physical destruction of many essential services, especially schools and healthcare.<sup>144</sup>

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<sup>140</sup> See *ibid.*, pp. 17-18.

<sup>141</sup> ICRC does provide some travel assistance to families of detainees, but only if the detainee is registered with ICRC which excludes anyone sent to rehabilitation centres after July 2009 when the government ended ICRC access. See A. Satkunanathan, "Repressive laws: The impact of the national security regime on Tamil women in the North" (forthcoming), p. 11.

<sup>142</sup> Government data shared with donors as of 31 October 2011. In addition, in Kilinochchi, Mullaitivu and Mannar combined, there are over 2,000 displaced persons, and in Batticaloa there are 300. These figures represent the current location of IDPs, not the districts from which they were displaced. Around two thirds of the IDPs in Jaffna were displaced before April 2008; the remainder were displaced after. The pre- and post-April 2008 proportions are similar for Mannar, but reversed for Vavuniya and Trincomalee. Nearly all the IDPs in Kilinochchi and Mullaitivu (around 750) were displaced after April 2008, while nearly all in Batticaloa were displaced before. Only 15,000 of the total IDPs in the north and east are still in camps (8,700 in Vavuniya and 6,400 in Jaffna); the rest – over 90,000 – are primarily with host families (with over 5,000 in transit locations).

<sup>143</sup> There are many reports of women paying "ransoms" for family members who are then not released and threats against women who lead groups trying to locate abducted or missing family members. See, for example, "SuRG post-war support for widowed mothers: a gender impact assessment", *op. cit.*, pp. 16-17.

<sup>144</sup> As of September 2011, none of the 25 primary medical care units in Kilinochchi and the 42 in Mullaitivu were functioning; nine out of ten divisional hospitals in Kilinochchi and five out of nine in Mullaitivu were. "Joint humanitarian and early recovery update" (JHU), compiled by UN Office for the Coordination of Humanitarian Affairs (OCHA), September 2011 – Report #36. Severe teacher shortages – especially in remote areas – lack of supplies and damaged schools

The screening and detention process that some 300,000 Tamils went through in the north in 2008 and 2009 also imposed particular hardships on women. The military's aggressive efforts to identify LTTE cadres were frequently degrading and a further blow to already traumatised people. A number of women report being forced to remove their clothing when crossing to government-held territory. While the security forces likely had a legitimate rationale for this in some cases, given the risk of suicide bombs, those being screened in this manner experienced humiliation and dishonour.<sup>145</sup> Women also had reason to fear sexual violence, given the history of rapes by the security forces and their complete control over the screening and internment process. The sense of constant surveillance in the crowded camps for the displaced was also distressing for some. A former internally displaced person (IDP) said, "Most of us were in Sampal Camp in Settikulam [in Vavuniya]... We couldn't take a bath, everyone was looking. We couldn't change our clothes".<sup>146</sup> Others did not report such exposure as a problem, suggesting conditions varied widely; they also eventually improved.

Women who actually were LTTE cadres faced additional risks in the screening process. Some were forced into relationships to escape detection. "As female cadres came through army lines", a woman explained, "they would say they were married to a young boy and walk with him, so they would be less suspicious. In the camp, they would behave as if married, because of the CID [Criminal Investigation Division] operatives in the camps. The young boys then would have sex with them. It's hard to call it 'rape'".<sup>147</sup> This also often left those women susceptible to abandonment and stigmatised within the community.

Women who were identified by the security forces as cadres – most of whom were sent to rehabilitation centres, some for more than two years, and later released – encountered similar challenges and worse. The community views many of these women and girls as security risks, mostly because they are constantly monitored by and required to report in to the security forces. This surveillance, like the detention that preceded it, is arbitrary and occurs outside of any legal framework. The fact that the women were detained in the first place and now are forced to have frequent interactions with the security forces also creates a risk that the community will assume they have been sexually assaulted or "spoilt".

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are also serious problems. See "Sri Lanka: Education – could do better in the east", IRIN, 3 November 2011; and "Sri Lanka: High demand for teachers in former conflict zone", IRIN, 16 August 2011.

<sup>145</sup> It is important to note that some women report being screened by female soldiers, and many were not asked to remove clothing at all. Crisis Group interviews, Vanni, October 2010, June 2011.

<sup>146</sup> Crisis Group interview, Vavuniya, June 2011.

<sup>147</sup> Crisis Group interview, Vanni, October 2010.

All of this limits their employment, education and social opportunities and generates fear and uncertainty.<sup>148</sup> As an aid worker explained, “the girls face a stigma when they go back to the community, even if they were in the LTTE just one day or were forcibly recruited. The LTTE brainwashed them that the army is bad, but the girls are scared of both the LTTE and the army”.<sup>149</sup> The mental health needs within this population are also a serious concern.<sup>150</sup>

## 2. Militarisation and centralised control

The context in which these women and girls are now living – back in their villages or with host families – is dominated by the military and central government. While many are “home”, they often have to rely on male Sinhalese soldiers for information, goods and services; in some areas, that role is played by the government’s Tamil paramilitary allies. Whether in rural or more urban areas, women are often heading households that exist within a dense web of military camps and checkpoints. The military is also increasingly involved in running shops and businesses and is the government’s labour force of choice for many of the road and other infrastructure projects it has started across the north and east – creating a risk that funding from international donors will be used to support the military. These projects

also often bring Sinhalese male labourers from the south to stay in work camps. While there are differences between and within the north and east, including in terms of the density of militarisation,<sup>151</sup> there are also many commonalities.

In addition to the checkpoints, which have been a longstanding risk factor for women, the military now has relatively easy access to women’s homes. This is new, especially in the Vanni, where more than two and a half years after the end of the war many people continue to live in flimsy, temporary shelters. Although the government often claims to be hiring Tamil police officers and deploying female police and soldiers,<sup>152</sup> both still remain the exception for women trying to negotiate their daily lives.<sup>153</sup> The military is also the gatekeeper to all detainees, determining whether and when women will be able to see their husbands or other family members. Finally, it is monitoring all released suspected former LTTE cadres – male and female – requiring them to report in and often visiting them at home.

All of this compounds women’s exposure to risks. The situation is worse, because there are very few local structures to mediate the relationship with the military. There is “huge lack of capacity locally”, commented a Sri Lankan aid worker. “The civil service is totally degraded and weakened. In contrast, the army is the entity that can do everything. People want to work with the army because they can get you an answer. While the government has invested and to some degree professionalised the army, a similar investment and empowerment of the civil service has not happened”.<sup>154</sup> There are a few Tamil women in relatively high civil service positions, including the government agents (GAs) for Jaffna

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<sup>148</sup> “A woman [who had been in a rehabilitation centre] who wished to obtain a bank loan explained that when she approached an individual known to her to sign as the guarantor for the loan, he refused saying that ultimately he would become responsible for the loan and be forced to pay it as she might get abducted one day. Another young woman who was released from [rehabilitation] said that due to fears for her security her parents did not allow her to leave the house without a companion”. A. Satkunanathan, “Repressive laws”, *op. cit.*, p. 17.

<sup>149</sup> Crisis Group interview, aid worker, Vanni, June 2011. Many of the younger girls who were cadres or otherwise associated with the LTTE were not sent to rehabilitation camps but to orphanages or other homes. One such home in the Vanni received around 100 girls after the end of the war: 80 were from an LTTE orphanage in Kilinochchi and 25 were former cadres; all had lost one or both parents, and many had no siblings. The girls reported being depressed and teased by men as they walked in the streets. When they were initially in the IDP camps, many of the girls stayed together so “nobody messed with us”. Crisis Group interviews, Vanni, October 2010.

<sup>150</sup> A medical worker present in late 2010 in a rehabilitation centre for suspected female cadres – many of whom were teenagers – observed many cases of post-traumatic stress disorder (PTSD). Crisis Group interview, medical worker, December 2010. This person did not observe any abuse and reported that a female army officer was in charge of the facility, although access to the detainees for medical personnel was somewhat limited.

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<sup>151</sup> There is little publicly available information about the number and location of the security forces in the north and east. In an October 2011 report to parliament, the Tamil National Alliance (TNA) claimed: “Out of a total land mass of 65,619 sq km, Tamil people inhabited 18,880 sq km of land in the north and east, but after May 2009, the defence forces have occupied more than 7,000 sq km of land owned by Tamil people. There is one member of the armed forces for approximately every ten civilians in the Jaffna Peninsula”. “Situation Report: North and East Sri Lanka”, 21 October 2011. Anecdotally aid workers and activists report a less pervasive military presence in the east, although the provincial governor for the east and the government agent for Trincomalee District are retired Sinhalese army officers, as is the provincial governor in the north. Crisis Group sent a written request to the government for information about the military presence in the north and east, but received no response.

<sup>152</sup> “Sri Lanka police to employ Tamil speaking constables to serve in north and east”, *ColomboPage*, 11 December 2011 (reporting that the government was looking to employ 350 Tamil speakers).

<sup>153</sup> Crisis Group interviews, Vanni, Jaffna, Batticaloa, Colombo, October 2010, June 2011, September 2011. A Tamil woman commented: “In Jaffna, when I am stopped at the checkpoints, I’ve never seen a female there to check women. At Omanthai, there was one woman”. Crisis Group interview, Jaffna, June 2011.

<sup>154</sup> Crisis Group interview, Colombo, September 2011.

and Kilinochchi, but they are perceived by most locals as being weak – not because they are women, but because it is clear to everyone that all decisions are made by the central government and the military.<sup>155</sup>

While this restricts local capacity, it also gives individual military commanders and officers significant discretion. The result has been some variation in the military's approach to women's insecurity from area to area. "The army is operating at two levels", commented a medical worker in Kilinochchi. "There are those officers that are helpful. For instance, one we met with asked us to come help work on toilets because young women were being assaulted when going out to use latrines. But then there is the soldier on the street – uneducated, young and completely different".<sup>156</sup> An activist in Colombo similarly noted:

It's not a black and white issue. Remember, part of what the military should be doing is some "winning hearts and minds". Take the girls-and-mobile-phones issue [soldiers offering to "top up" or charge girls' phones, which was criticised by some because it puts the girls at risk of the soldiers later demanding favours or worse]. At the beginning of resettlement, the only charging stations anywhere were at the army posts. The army was willing to let them charge their phones – that's a positive thing.<sup>157</sup>

There is no question that there are many individual soldiers and officers who have taken actions with the intent and effect of helping women in the north and east. Overall, however, the impact of the military presence – especially when there is no effort to devolve power and build local capacity and institutions – has been to increase risks to women's economic and physical security. There is little sign of this changing. "The government's priority now is to change the north", explained an aid worker. "They think they have the east. Demographically they do. Batti is the last majority-Tamil area. If the goal were just security, why is Jaffna still so militarised? The military will stay until the demographics change".<sup>158</sup>

### 3. Poverty, trauma and family fragility

Further complicating the situation for Tamil women in the north and east is the precarious socio-economic context in which most of them live. The Vanni is deeply impoverished as are many parts of Jaffna. In September 2011, over 300,000 people in the north received food assistance from the UN.<sup>159</sup> An April 2011 food security assessment "demonstrated that widespread food insecurity, low income levels, asset depletion, high indebtedness and the adoption of relatively harmful coping behaviors prevailed in the province".<sup>160</sup> Tens of thousands of families in the north are still without permanent housing.<sup>161</sup> A woman from Kilinochchi commented:

Only a few families get a good, safe house. The rest are living in tiny huts without doors or windows. At night there are various visitors – mostly from the armed forces side. People do hear screams at times, but there are also instances where nothing is heard. I've asked why they keep quiet. They say "these are our own lands, property, etc. We have to protect them, otherwise the military will take over".<sup>162</sup>

The 2011 Joint Plan of Assistance for the north that the government, UN and other partners agreed upon early in the year is grossly underfunded; two thirds (nearly \$200 million) of the requested funds are outstanding.<sup>163</sup> Unsurprisingly, government services have lagged, especially in the health and education sectors, with limited financial evidence of the government's own commitment to restoring them.

While in the east the recovery has progressed further overall, the province also includes some of the poorest and most neglected villages. Batticaloa, which has been hit by flooding and natural disasters as much as conflict, performs as poorly on many food security indicators as does the northern province.<sup>164</sup> The fatigue that donors now feel in the north has been true for the preceding few years in the east and has left many women there to fend for themselves. A similar

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<sup>155</sup> "It's not as if the women in power take a principled position on gender. In this country, nobody does. You can't take up women's issues". Crisis Group interview, male aid worker, Colombo, June 2011.

<sup>156</sup> Crisis Group interview, medical worker in Kilinochchi, Colombo, June 2011.

<sup>157</sup> Crisis Group interview, Colombo, September 2011.

<sup>158</sup> Crisis Group interview, Colombo, September 2011.

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<sup>159</sup> JHU, October 2011 – Report #37.

<sup>160</sup> JHU, September 2011 – Report #36, *op. cit.* The full assessment, "Food Security in the Northern, Eastern and North Central Provinces: A Food Security Assessment Report – Sri Lanka", Hector Kobbekaduwa Agrarian Research and Training Institute, ministry of economic development and United Nations World Food Programme, April 2011, is available at <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp243519.pdf>.

<sup>161</sup> According to the UN, there is a "need" in excess of 100,000 houses in the north. As of 16 November, fewer than 16,000 had been completed or repaired. JHU, October 2011 – Report #37, *op. cit.*

<sup>162</sup> Crisis Group interview, Colombo, September 2011.

<sup>163</sup> JHU, October 2011 – Report #37, *op. cit.*

<sup>164</sup> See "Food Security in the Northern, Eastern and North Central Provinces", *op. cit.*

shift in priorities – from east to north – can be seen in many activities of the Tamil diaspora as well.

This general situation of financial insecurity has made livelihoods – whether creating new ones or restoring old ones – a huge challenge for Tamil women across the north and east. Especially for those who are now heading households, the limited opportunities available often conflict with their other roles and responsibilities. This often leaves women with the least remunerative options near home or undesirable (and often gender-specific) options further afield, including migrating south or abroad.

The choices women make in terms of livelihoods are often influenced by other factors, including their mental health (and that of their family members) and strife within the family or community. One powerful source of the latter has been rising alcohol use among Tamil men. While there has been no comprehensive study of the issue,<sup>165</sup> reports from Jaffna, Vavuniya, Kilinochchi and Batticaloa suggest that Tamil men are drinking licit and illicit alcohol (traditionally *kassipu*) more openly, frequently and in greater quantities than before the end of the war. “The brewing of illicit alcohol and all the shacks selling alcohol – you never would have seen that before. They are selling it in the community and to the army. There are reports that the army has a stake in the production. People would not be able to survive without the patronage of the army”.<sup>166</sup> Similarly, while war-related mental health conditions have received only limited attention – often because of government reluctance and at times cultural taboos – aid workers, activists and even many government officials agree that levels of trauma are high and impeding recovery.

The overall effect within families is that “there is shouting and fighting”, said one man from Kilinochchi. “Every day it’s a fight about what is missing”.<sup>167</sup> Women are deeply affected by this and other sources of fragility and are being required to cope in ways that many Tamil men are not:

Things are worse for women now; that I can say. With the LTTE, they had protection, there was little or no alcoholism, and everyone was employed – by the LTTE. Now there is no armed force that is responsive to their security concerns, rampant alcoholism, and many women are taking on the role of

breadwinner. In many ways, women are coping with adverse conditions better than men. The burden is falling on them so they have to manage. With the Tamil men, it’s difficult to get them to work or do anything. They’d rather sit around and drink *kassipu*. Some of this is definitely trauma. But the government also is giving all the jobs to the military.<sup>168</sup>

#### 4. Continuity and change in post-LTTE Tamil society

A final layer of insecurity for women derives from the patriarchal norms that have shaped the Tamil community for generations. The LTTE’s puritanical rules and notions of gender equality challenged those norms at some levels but ultimately did more to reinforce them. Since the end of the war and of the LTTE in 2009, many traditional prejudices and expectations about Tamil women and men have been reasserting themselves in some contexts and challenged in others.

The shift in gender demographics in the north and east has required many more women to seek employment outside of the home. While necessitated by circumstance, it has placed Tamil women in competition with Tamil men for limited opportunities and resources. The reaction has often been to label working women as immoral and a threat. Indeed, a common refrain is “any woman who works is said to be a prostitute”.<sup>169</sup> While many certainly are viewed as such, that sexist framework is also used to romanticise life for women under the LTTE.

As a male civil society activist in Mannar argued:

The LTTE was puritanical with gender rules. Now women have no choice but to sell themselves. Now you have girls from the Vanni and ex-fighters mixed in with society. Whereas before they were heroes, now they may be seen as stupid. If a girl is assaulted or caught, Tamil society will think this is a consequence of girls’ fighting. Society will revert back to more traditional roles for girls, as safer. We missed the period where the LTTE could have empowered them.<sup>170</sup>

And a woman from Kilinochchi:

Before the war, there was order and discipline. Misconduct was unheard of. All these values have now degenerated. People have a new-found freedom to do what they want. ... School teachers are abusing children, [as are] step fathers, even fathers themselves. All these un-

<sup>165</sup> For analysis of rising alcohol consumption by Sri Lankan men more broadly, along with the repercussions for male gender identity and domestic violence, see Michele Ruth Gamburd, *Breaking the Ashes: The Culture of Illicit Liquor in Sri Lanka* (Cornell University Press, 2008).

<sup>166</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>167</sup> Crisis Group interview, September 2011.

<sup>168</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>169</sup> Crisis Group interview, aid worker, Colombo, June 2011.

<sup>170</sup> Crisis Group interview, October 2010.

favourable trends emerged after the war. Even in the buses, culture breaks down. Young [Tamil] men are harassing the young women. ... "When the LTTE was here, such indiscipline was not allowed" – lots of women say this.<sup>171</sup>

Others see the absence of the LTTE, combined with the presence of the military, as an opportunity for some Tamil men to marginalise women and other segments of the community more openly. "Hierarchies – gender and caste – are coming back because there is no LTTE, not because of the militarisation", explained a human rights activist. "Tamil men are opportunistically using the militarisation to impose control and restrict women's movements. This is especially true in Jaffna, perhaps mostly in Jaffna. The caste issue is also prominent there".<sup>172</sup> Another activist saw it more simply: "The LTTE culture is gone now, and Tamil men are also taking advantage of it".<sup>173</sup> In at least some areas, they are taking advantage of the void both to abuse women and to reclaim control in the name of protecting them.

There are also strong views and often unfounded judgments within the community about the effect of the mass displacement and detention in the north in 2009 and 2010 on Tamil women's "honour" as opposed to their security. An activist explained:

I was in Vavuniya recently, and a Tamil guy at a guest house was complaining about the "loose" Vanni women. The police talk about the "tent culture" that people have brought with them. They say they are "shameless", that they strip their clothing in front of others. You have to understand – families were living in tents with twenty or more people in [the IDP camps in Vavuniya]. Everything was open. It was different from other camps in that there was absolutely no private space. No one even looked at the issue of women's space or security there. Now the women are back in villages, and there is no bathroom, no private place to have sex. They were never this exposed before.<sup>174</sup>

The sense that Tamil culture has lost its "values" and Tamil women their "dignity" is a source of resentment in the community. For now, it is mostly playing out in the domestic sphere, with women often to blame. The community rarely holds the LTTE responsible for un-

dermining Tamil society and promoting violence. On the other hand, it often does see the government and the security forces – and the Sinhalese community more generally – as culpable.

Patriarchal norms have also affected women's economic insecurity, particularly in the area of land rights.<sup>175</sup> A number of national laws give preference to males in land inheritance or ownership.<sup>176</sup> In the north, the Tamil customary law of *Tesawalamai* restricts a married woman's right to dispose of immovable property without her husband's consent.<sup>177</sup> These forms of legal discrimination add to social and cultural practices that already limit women's control over their financial futures. Muslim women in the north and east also face distinct economic challenges due to the legal and cultural frameworks imposed on them, as well as specific forms of violence from within the community.<sup>178</sup>

## B. ALARMING CONSEQUENCES: GENDER-BASED VIOLENCE

The cost of this complex set of risks has been high. There are numbingly regular reports of deaths and suicides of Tamil women, as well as child abuse and teen pregnancies across the north and east.<sup>179</sup> Explicit allegations of domestic violence and sexual abuse do not make the headlines as frequently – unless the security forces are implicated, in which case many Tamil media outlets more readily pick them up – but those who have access to survivors hear a steady stream. There is still significant stigma associated with being a victim of sexual abuse or seeking separation from a husband, and impunity for violence against women remains the rule – as is true across Sri Lanka. As a result, many incidents are not reported at all, while others are exaggerated. This leaves the Tamil community, the government and the rest of the country with an incomplete picture of the experiences of women in the north and east. Publicising available information about this population, and then collecting and shar-

<sup>171</sup> Crisis Group interview, Kilinochchi resident, Colombo, September 2011.

<sup>172</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>173</sup> Crisis Group interview, women's rights activist, Colombo, September 2011.

<sup>174</sup> Ibid.

<sup>175</sup> For a comprehensive assessment of land issues in the north, see Bhavani Fonseka and Mirak Raheem, "Land in the Northern Province: Post-War Politics, Policy and Practices", Centre for Policy Alternatives, December 2011.

<sup>176</sup> Ibid, pp. 112-114 and annex 1.

<sup>177</sup> Ibid.

<sup>178</sup> The Muslim personal law gives preference to male heirs and discriminates against women in land ownership. It also allows girls as young as twelve to marry. See CEDAW Shadow Report, op. cit.

<sup>179</sup> For example, the Kilinochchi police department's records for violence against women from January to August 2011 included five suicides, three murders, fourteen grave injuries and two rapes. For the whole Northern Province, another source had recorded 29 murders or suicides of women in 2011 through 11 September. Crisis Group interviews, September 2011.

ing more, should be a priority for the government and its international partners.

### 1. Rape and sexual assaults by the security forces

The information deficit is perhaps greatest around the issue of sexual violence. This is partly the result of the Rajapaska government's angry reaction to allegations of abuse by the security forces in 2009, at least to the extent that its reaction and generally aggressive approach have convinced the UN and other international organisations to tread lightly.<sup>180</sup> This has not only silenced many of the Tamil women who did in fact suffer sexual violence by the military, it has also reduced attention to sexual abuse by Tamil men.

Crisis Group research for this paper suggests that in the final months of the war and the initial stages of screening and internment camps in the Vanni, there were various acts of sexual violence by the military, including rape of civilians and suspected cadres. But as life in those crowded camps continued, sexual violence within the Tamil community increased. Now, for women in the resettled villages across the north and in the east, domestic violence within the community (including sexual violence), as well as sex work and coercive sexual relationships more broadly are serious problems. The fear of and potential for more widespread sexual violence by the security forces also remain.

#### *During screening and detention at the end of the war*

There is credible evidence of several alleged incidents of sexual violence involving the security forces at the end of the war, in addition to the video footage aired by Channel 4 as discussed above. For example, an eyewitness recounted an incident in which multiple civilian women were raped by soldiers around February 2009. She described how a group of civilians were crossing over to government-held territory deep in the jungle. She also described how, when they were met by the security forces, the men were separated from the women, several of the women were raped and some of them were killed.<sup>181</sup> Another eyewitness recounted an incident in which a soldier came into a civilian tent in the IDP camps near Vavuniya and raped a woman. The witness saw the victim and the perpetrator in the immediate aftermath. The incident was reported to government and military officials, but nothing was done.<sup>182</sup>

While other allegations of sexual violence in the final months of the war and in the IDP camps have been less specific – in part because access was so limited, and the UN generally did not share allegations publicly – there is also indirect evidence. Some of the most disturbing concerns dozens of mostly unmarried pregnant women and recent mothers who had been in the camps and were separated from the population of IDPs and suspected cadres to give birth to, and usually adopt out, their babies. While the precise circumstances of the pregnancies are unknown, multiple people familiar with these women confirmed that the fathers of several of the babies were soldiers, while others were Tamil men. Within both categories, many of the young mothers had described coercive circumstances or more overt violence.<sup>183</sup>

Additional allegations emerged during the most recent session on Sri Lanka before the UN Committee Against Torture (CAT) in November 2011. For example, Amnesty International submitted an account of a grandmother who described “how she and other displaced women attempting to flee the conflict in May 2009 were tortured by Sri Lankan army personnel, who she alleged forced them to parade naked, perform acts of a sexual nature and raped them in front of family members, including her grandchildren”.<sup>184</sup> The UK-based organisation Freedom from Torture detailed 35 cases – 27 male and eight female – of alleged torture perpetrated in Sri Lanka between May 2009 and February 2011.<sup>185</sup> Six of the eight female cases and fifteen of the 27 male cases reported being victims of sexual violence. The organisation noted that “all instances of rape (both male and female) are reported to have been perpetrated in cells by guards or by officers usually at night, sometimes repeatedly and sometimes by more than one individual”. These accounts are consistent with the long record of routine torture and abuse in prisons and detention centres throughout Sri Lanka.<sup>186</sup>

Sexual violence is far from a universal experience of those going through the screening and detention process, but the extent of abuse is extremely difficult to determine. “I’ve spoken to dozens of female ex-cadres”, explained one activist, “and none has mentioned sexual abuse. Maybe it’s cultural taboo, maybe they did not experience it”.<sup>187</sup> Without spaces for women to freely and safely discuss sexual violence, uncertainty about its prevalence will only continue.

<sup>180</sup> Crisis Group interviews, aid workers and activists, Colombo, September 2011.

<sup>181</sup> Crisis Group interview, Europe, March 2011.

<sup>182</sup> Crisis Group interviews, Colombo, September 2011.

<sup>183</sup> Crisis Group interviews, Vanni, October 2010, June 2011.

<sup>184</sup> “Sri Lanka: Briefing to Committee against Torture”, Amnesty International, October 2011.

<sup>185</sup> “Out of the Silence: New Evidence of Ongoing Torture in Sri Lanka: 2009-2011”, Freedom from Torture.

<sup>186</sup> See for example, “Police Torture Cases, 1998-2011”, Asian Human Rights Commission, 2011.

<sup>187</sup> Crisis Group interview, Colombo, September 2011.

### *In homes and villages post-war*

There have also been credible allegations of sexual assaults by the military since resettlement started in the north. The one case in the Vanni about which there is some public record, and the only known case in which there has been any legal action, took place in Visuamadu in June 2010. A person familiar with the case described:

The victim's husband had gone to Vavuniya for the night. He is a farmer, and they are able to fend for themselves, though they have been reduced to living in a makeshift structure. The victim got an older woman to stay with her while he was away. Early in the day, six army soldiers came to her house and asked where her husband was. Then after midnight, four came again and raped and sexually assaulted her. Her children and the older woman ran out of the house to the victim's parents' house and got them. The police came the next morning and investigated. The police superintendent of the area said they were taking a special interest in the case because the government had been saying people were safe, and he was afraid people would lose confidence. The suspects were identified at the police post by the victim and the older woman. ... The husband and the community have been very supportive of the victim.<sup>188</sup>

Thus far, the criminal proceedings seem to be progressing without political interference. A magistrate in Kilinochchi found there was prima facie evidence to charge the accused and committed the case to the Jaffna High Court. The case file has been sent to the attorney general's department for preparation of the indictment. However, at least one of the defendants, who are out on bail, absconded, and there is concern the proceedings will be endlessly delayed as has happened in other cases.<sup>189</sup>

The fear of sexual violence in the home is widespread in part because the military's access is unfettered and women often have no choice but to interact with them. An alleged incident in Mullaitivu in September 2010 illustrates this:

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<sup>188</sup> Crisis Group interview, Colombo, September 2011.

<sup>189</sup> Crisis Group wrote to the foreign ministry, the attorney general's office and to military and police officials requesting further information on the case, but there was no reply. Other cases of alleged rape by the security forces have remained unresolved for years. For example, three soldiers who were convicted in the rape and murder of a Tamil woman in Jaffna in 1996 were still appealing their convictions (and death sentence) this year. See "Three army men sentenced to death", *Daily Mirror*, 31 March 2011; and "Death sentence for Sri Lankan soldiers", BBC Sinhala, 31 May 2011.

A soldier brought food to the house of a widow for one day. The next day he asked her something in Sinhalese. She didn't understand – took it to mean, shall I bring you food tomorrow as well? When he came back the next day, he tried to have sex with her, but she shouted, and cut him with a knife on his shoulder. The villagers ran out and then complained to the senior commander for the village. He said it wasn't one of his men. They said to look for someone with a cut on his shoulder. The military found him, and made him come apologise. The commander then told the village women not to talk about the incident any further since he had punished his officer. The victim moved away from her home for some time due to fear of the soldier returning.<sup>190</sup>

There are also alleged incidents of sexual violence when women go to the security forces for information about their detained husbands. These cases are especially difficult to corroborate – perhaps in part because these victims would put their husbands at risk if they came forward – but their stories are mostly similar.<sup>191</sup>

The challenges for human rights activists, government officials and others in documenting sexual violence by the security forces can be substantial. This is partly due to fear and stigma, which both perpetuate rumours and deter real victims from reporting incidents.<sup>192</sup> A diplomat noted: "If [sexual violence by state forces against civilians] were occurring systematically, the people in the UN who should hear about it, don't. There are lots of allegations, but very few confirmed incidents".<sup>193</sup> But at least as far as the UN is concerned, the focus should not be on whether there are "confirmed incidents" but on whether there is a credible and transparent process to investigate any allegations, including sufficient access to and sharing of information. Until the UN insists on that access and openness, allegations most

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<sup>190</sup> Crisis Group interview, woman from the Vanni, September 2010. Similarly, a women's rights activist reported: "Last month there was an incident in Manikulam. We talked to the women. A man had entered the home. They managed to wrap him up in a mosquito net and turn him over to the police – it was an army person". Crisis Group interview, Colombo, September 2011.

<sup>191</sup> A woman described two incidents told to her by friends: in one a woman said she was raped in late 2009 during an inquiry about her husband, an LTTE cadre who had surrendered and was detained; in another a woman reported being groped while visiting her husband in detention in mid-2009. Crisis Group interview, Europe, March 2011.

<sup>192</sup> A woman from Kilinochchi summed up the cycle of stigma, fear and impunity: "You have to go to courts to identify the perpetrator, and after that you are marked .... We complain to the higher-ups, the perpetrator gets called and maybe slapped on the wrist, but that is all. Then they are transferred to the next village, and the higher-ups monitor the NGO that reported it". Crisis Group interview, Colombo, September 2011.

<sup>193</sup> Crisis Group interview, Colombo, September 2011.

likely will be dismissed by the government but believed by the local communities.

Another factor that makes documentation difficult is the degree to which Tamil women are balancing risks in an overwhelmingly coercive environment. Whether sexual encounters with soldiers are rape, sex work (some forced) or voluntary – or any of the shades in between – is extremely difficult to determine. “It’s hard to call it rape” is a common reflection in discussions on this issue. For example, a local woman who works with women in the Vanni said, “because of poverty and husbands in detention, it is hard to say whether it is rape, because women may give in to advances in exchange for something”.<sup>194</sup> But what is clear in these interactions is that they are occurring in a context where Tamil women have no control over their economic and physical security, where power relations are hopelessly imbalanced and where fears of sexual assault run high. An incident in Jaffna in mid-2011 is illustrative:

Two women reportedly were sexually assaulted and one killed by the army. A community member filed a complaint with the authorities claiming that one woman was mutilated in front of her husband. We haven’t been able to confirm those events. But what we do know is that the military brought one of the victims to the schoolyard, asked her in front of everyone “did it happen”, and she said publicly “nothing happened”. It’s crazy to think she would voluntarily go and do that [speak publicly about rape, even to deny allegations]. The shame in this culture is too much.<sup>195</sup>

There is also a sense now among many who live and work in the north that women “are not scared of the army like before and the army is not seen to openly engage in violence against women” as they were in the immediate aftermath of the war.<sup>196</sup> Part of that reflects an adjustment by women and the security forces to a seemingly permanent state of military surveillance and control. A human rights activist summed up the situation in the Vanni in late 2011:

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<sup>194</sup> Crisis Group interview, October 2010.

<sup>195</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>196</sup> Crisis Group interview, Tamil politician, Colombo, September 2011. The male politician went on to say, “There are many single women – widows or wives of men who are in detention. Life for them is difficult. They have needs and look for support. If someone talks to them nicely or assures of help, then they are willing to fall into a relationship. It is only natural”. Ibid.

The one thing women have now to negotiate with is sex. They are exposed everywhere. They may be bathing in a closed space, but then there will be a military tower looking down on them. Is the military watching women bathe? Yes. Are they taking photos? Yes. Are they topping up or charging girls’ cellphones? Yes. But are we hearing about lots of cases of rape or sexual abuse by the army? No.<sup>197</sup>

## 2. Sex work, trafficking and exploitation

Sri Lanka has a long history of women from all ethnic groups migrating within the country and abroad for economic and social reasons (including to escape domestic violence), with the attendant risks of abuse and exploitation. Much of the internal migration of women, including through work in the garment sector and the sex industry, has been shaped by the militarisation of society and the large number of men in the security forces. Military transit sites, such as the city of Anuradhapura in the North Central Province, were centres of prostitution throughout much of the war.<sup>198</sup>

Economic vulnerabilities and the militarisation of the north and east in recent years have shifted more of these risks to Tamil women from those areas. While information about specific cases is limited, activists and residents are certain of a growing problem. “There are definitely cases of Vanni women being promised work in the south and ending up in brothels or sexually abused on the way to garment factories where the terms and conditions are not what they were told”, said one activist.<sup>199</sup> Another noted that “this trafficking has been happening in the hill country for ages. It’s new in the

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<sup>197</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>198</sup> An interesting study published in January 2009 by a research centre in Kandy, reported the results of a survey of over 900 soldiers passing through Anuradhapura or Ratmalana (near Colombo) between June 2007 and December 2008. While only 11 per cent admitted to having sex with a prostitute within the last year, 53 per cent admitted having sex with a casual acquaintance or a girlfriend. The survey found that condom use was generally low, and many soldiers reported condoms were not freely available at their camps. Over 30 per cent of respondents reported having had sex with another male, and of these nearly half reported having done so in the last year. Condom use within this group was particularly low. See “A Survey of HIV/AIDS Awareness and Risky Sexual Behaviour in a Vulnerable Population in Sri Lanka”, International Centre for Ethnic Studies (ICES), ASCI Research Report no. 22, January 2009. While reported rates of HIV in Sri Lanka have been low, this study and other sources express concern about a possible HIV/AIDS epidemic given the prevalence of sexually transmitted infections in general, the growing number of commercial sex workers, and cultural stigma and discrimination associated with HIV. Ibid; also Crisis Group interviews, Mannar, March 2011, Colombo, September 2011.

<sup>199</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

north. They're now more vulnerable, so the network is expanding and spreading".<sup>200</sup> Tamil paramilitary groups and government officials are suspected of being involved, though they have not been linked with specific incidents.<sup>201</sup>

In one of the few well-reported cases, nine girls – six from the north and one from the east, ranging in age from sixteen to 24 – were discovered in a brothel in Colombo in June 2011.<sup>202</sup> The media reported that one of them, a sixteen-year-old from Mullaitivu, who was brought to Colombo by a "broker", managed to escape from Colombo National Hospital where she had been taken for an operation to prevent pregnancy. Another, an eighteen-year-old, reportedly had been living in the IDP camps in Vavuniya and was also trafficked by a "broker" who promised her employment.<sup>203</sup> There are few details of what happened to the girls and whether there has been any criminal investigation of the suspected traffickers. One of the girls reportedly is back home and has a baby, but the birth was not registered and the girl is marginalised locally.<sup>204</sup>

Some of the exploitation of Tamil women is taking place in the north and east. In a questionnaire of widows in Trincomalee, over 65 per cent said that a woman without a husband faces "pressure to have sexual relationships to get work done".<sup>205</sup> There are now well-known brothels in Jaffna and smaller ones in Kilinochchi, including in some rural areas, something not possible while the LTTE controlled the north. They are frequented by Tamil, Sinhalese and Muslim men, including the security forces. Like all sex workers in Sri Lanka and most other countries, the Tamil women who find themselves in prostitution face serious risks of violence, disease and social ostracism.<sup>206</sup>

A final category of cases includes those where Tamil women and girls go off with men, often on promises of marriage, and end up abandoned and sometimes abused. Some of these alleged incidents involve men from the security forces who take women to "lodges" for a night or more and then leave them.<sup>207</sup> The circumstances of these cases are often ambiguous – and indeed, the general scenario of promise of marriage then abandonment is not uncommon across Sri Lanka – but the impact on women and girls who already are so vulnerable can be devastating.

### 3. Sexual violence within the Tamil community and collapse of previous norms

Increasing violence within Tamil families and villages is one of the greatest current concerns of aid workers and activists working in the north and east. There are stories of rape and physical abuse within families.<sup>208</sup> Women report that their husbands now have pornography on their mobile phones and pressure women to do things they do not want to do, especially in the makeshift housing in which many still live with their children.<sup>209</sup> There are also reports of men abandoning their wives for other women and intimidating them to not challenge the second marriage or pursue claims for support.<sup>210</sup> This physical and sexual aggression, combined with growing alcohol use and other pressures, has been debilitating for many Tamil families.

The impact on children is especially worrying. There are widespread reports of an increase in under-age pregnancies.<sup>211</sup>

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demanding free sex from or raping prostitutes, the risk of such abuse is high.

<sup>207</sup> For example, a soldier in Mannar asked a family for their daughter's hand in marriage in October 2010. When the family agreed, he said he was taking the girl to meet his parents, but stopped for the night at a lodge in Anuradhapura. The young woman said she was given something in her food that made her faint, and woke in the morning to find she had been raped and he was gone. Upon discovering she was pregnant, she went in search of the soldier to find he was married with two children. Crisis Group interview, Vavuniya, June 2011.

<sup>208</sup> For example, in a resettled village near Vavuniya in mid-2010, a girl was raped by her father. Because the family did not want the community to find out, they dropped the girl at a children's home and told everyone she was doing vocational training. Crisis Group interview, children's home, Vanni, October 2010.

<sup>209</sup> Crisis Group interview, women's rights activist, Colombo, September 2011.

<sup>210</sup> A. Satkunanathan, "Repressive laws", op. cit., p. 10 (noting instances where husbands who had connections to the army pressured their wives to withdraw claims for support).

<sup>211</sup> A recent article in the Tamil-language *Tamilwin* reported that, the government agent (GA) for Jaffna, Imelda Sukumar, recently stated that there were 256 under-age pregnancies in Jaffna between January and August 2011, of which 90 girls were unmarried; and that in September and October 2011 alone, there were 346 under-age pregnancies, of which 114 girls were unmarried.

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<sup>200</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>201</sup> Crisis Group interviews, human rights activists, Colombo, September 2011.

<sup>202</sup> Damith Wickremasekara, "Teen call-girl racket from North busted", *The Sunday Times*, 26 June 2011.

<sup>203</sup> Ibid.

<sup>204</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>205</sup> "SuRG post-war support for widowed mothers", op. cit., p. 49.

<sup>206</sup> The January 2009 ICES study, op. cit., included a small and less robust sample of commercial sex workers from Anuradhapura and Colombo, several of whom reported having "non-paying clients" including from the military. Non-response rates to certain questions suggested that the interviewees may be underreporting non-paying military clients. Ibid, p. 31. While there was no evidence to suggest that soldiers were

A source from Kilinochchi reported that “In one village, there are four girls under the age of fourteen – all of whom are pregnant by men from within the community. This happened while their mothers were away working in the paddy field. The fathers and the men in the community are visibly drunk”.<sup>212</sup> There is also a perception that more parents are sending their children to children’s homes, as well as disturbing reports of mothers killing or abandoning babies.<sup>213</sup> While there undoubtedly was some level of infanticide during the war, “you certainly did not hear about it before”, commented an experienced activist.<sup>214</sup>

Violence within the Tamil community also is not limited to what occurs in homes or families. Many women complain of increased sexual harassment on buses and in public places. And there have been reports of men exposing themselves to women and girls. Patriarchy within Tamil society means that such experiences bring great shame and dishonour to women, at the same time men are breaking down other conservative norms.

#### 4. The “grease devil” saga: danger, rumour, and distrust of law enforcement and the military

In August 2011 there was a series of attacks on women in the north and east by individuals labelled “grease yakas (devils)”. The government went to lengths to dismiss the incidents as “imaginary” or the product of an anti-government or terrorist conspiracy.<sup>215</sup> Yet, detailed accounts from Batticaloa, Puttalam, Trincomalee, Man-

nar, Vavuniya and Jaffna leave no doubt that many women were physically assaulted by men whose identities were concealed.<sup>216</sup> These attacks, combined with the absence of any effective law enforcement response and perceptions that the security forces were in fact harbouring perpetrators, resulted in vigilante attacks on suspected “grease devils” and others. A policeman in Puttalam was killed by villagers on 21 August, and several civilians were killed in vigilante attacks or confrontations with the security forces.<sup>217</sup>

The fear inspired by the attacks and sensationalist media coverage, including from the Tamil diaspora, distorted the factual record to some degree. Points that are easily lost in the competing narratives include:

- The incidents in the north and east started soon after public outcry led to arrests in July 2011 for the murders of seven mostly elderly women in the Kahawatta area in the south between 2008 and 2011. These murders, some of which involved sexual assaults, had sparked rumours of a “bhoothaya (ghost)” in the area, echoed in the “grease devil” label. Two soldiers and two military deserters reportedly were among those arrested.<sup>218</sup>
- Some of the earliest “grease devil” attacks in August were in the central highlands, including Hatton.
- None of the victims in the north and east, or in the central highlands, were sexually assaulted or murdered. Nor were lactating mothers or other specific women chosen by the attackers – it appears to have been random within localities. Attackers often approached from behind and put hands around victims’ necks and on their chests, but there is no evidence that the attacks were sexual.
- Many of the victims were Muslim women, especially in Puttalam and Batticaloa, and many of the attacks occurred during Ramadan. In Jaffna and elsewhere, they

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She cited hospital records as her source. *Tamilwin*, 7 December 2011

<sup>212</sup> Crisis Group interview, Kilinochchi resident, Colombo, September 2011.

<sup>213</sup> For example, see “Unwanted post-war babies abandoned or killed in North”, *Sunday Times*, 24 July 2011.

<sup>214</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>215</sup> In announcing on 25 August 2011 that the longstanding emergency regulations would not be renewed, President Rajapaksa claimed: “From the time when terrorist activities ended in May 2009 until today there have been no reports of any terrorist activities, other than the imaginary ‘Grease Demon’”. “No extension of emergency regulations – President”, official website of the government of Sri Lanka, priu.gov.lk, 25 August 2011. The removal of the emergency regulations has in fact been meaningless. See Crisis Group, *Sri Lanka: Post-War Progress Report*, 13 September 2011. See also “‘Grease Devil’ another ruse to destabilize country – Religious leaders”, *The Island*, 27 August 2011. In Batticaloa, the deputy inspector general (DIG) of the police reportedly told a crowd that: “The evil forces of the Tamil diaspora, resentful of the President’s development programme in the North and the East, are deliberately spreading malicious rumours about a grease yaka”. “Devil of a problem”, *The Sunday Times*, 21 August 2011.

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<sup>216</sup> Crisis Group has discussed these events extensively with activists working with the victims and has reviewed various written accounts and other evidence, including photographs and medical records. At least seventeen incidents are strongly corroborated. Some occurred in early September 2011.

<sup>217</sup> These included a man killed in Pottuvil in Ampara District on 13 August when the police reportedly opened fire on a crowd that had started to stone the police station, two men reportedly “hacked to death inside a tea estate at Haputale after they were suspected to be grease yakas”, a young man “electrocuted while giving chase to a suspicious person in Kandy”, and another man “hacked to death by a woman at Amparai after he tried to pull a ‘grease yaka’ scare on her while she was sleeping at her home”. “Slippery situ over grease yakas”, *The Sunday Times*, 14 August 2011.

<sup>218</sup> See fn. 88 above. Another suspect, a labourer, reportedly had been arrested earlier in 2011. See “Kahawatta killings: All suspects arrested”, *The Nation*, 10 July 2011; also Manjula Fernando, “Is the ‘Kahawatte Bhoothaya’ a figment of imagination?: Sex predator on the prowl”, *Sunday Times*, 3 July 2011.

were mostly Tamil women. One or two of the victims were male.

- Of the perpetrators who were caught, most were Sinhalese and some were members of the security forces. Witnesses saw attackers run into military camps or police stations in several incidents.
- There were a number of incidents labelled “copy-cat” incidents. A well-informed researcher estimated: “30 to 40 per cent of the reports are real. 60 per cent are fabrications – people taking advantage of the situation to commit other crimes or carry out vendettas and blame the grease devil”.<sup>219</sup>

Even with a more balanced understanding of the events, many Tamil nationalists and some activists believe that what happened was political. “You simply cannot have that many attacks without the endorsement of the security forces”, said an activist. “If it’s not the government, then it’s the military. If it’s the military, the Rajapaksas cannot admit it, because the south will react [to any perceived split, which could undermine the regime]”.<sup>220</sup> Others, however, are more sceptical that there was any coordination of the attacks or the responses.<sup>221</sup>

Whether political or not, the events had profound effects on women’s sense of security and mobility in the north and east, lasting beyond the short duration of reported attacks in August and into September 2011. “[Grease devils are] now so commonly talked about, that we hardly sleep at night”, said a woman from Kilinochchi. “The story we heard was that this person comes and slashes women’s breasts. If it were our hands or feet, at least we could go to the hospital. But if it’s a woman’s breasts, there’s shame if she goes. Right now I have ten or fifteen women staying with me at my house”.<sup>222</sup> In Batticaloa, the streets emptied at 5pm. “[T]he panic generated by the whole grease devil thing was new”, said an aid worker. “I was calling taxi drivers, but they would not come because they said they have to stay to protect the women. This vulnerability in the home is different from what people were experiencing before”.<sup>223</sup> The events were also used by the Tamil community to restrict women’s activities on the pretext of insecurity.

The government’s reaction only increased the levels of fear and anger in the north and east. While officials dismissed the attackers as “imaginary” or “mischievous people” – and indeed at times burst into laughter when discussing it with international representatives – people in the north and east felt compelled to take the law into their own hands and protest the security forces’ inaction and perceived complicity. The government’s response to this expression of discontent resulted in various clashes, culminating in Navanthurai, Jaffna on 22 August, when around 100 young men were detained at a police station, many of them dragged from their homes and severely beaten.<sup>224</sup> The government’s response made clear that it is stuck in an anti-terror mindset that cannot provide effective law enforcement.<sup>225</sup>

Overall the grease devil saga has confirmed various realities for women in the north and east: they feel vulnerable; when something happens, they are helpless; turning to the government is not the solution; and impunity for violence against them is more or less guaranteed. It has also demonstrated how their fear and insecurity can be exploited for various agendas, whether those of hardline Tamil nationalists, men wanting to restrict women’s roles or the military perpetuating a non-existent “war on terror”. All this has left women insecure and with little control over their lives.

<sup>219</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>220</sup> Crisis Group interview, human rights activist, Colombo, September 2011.

<sup>221</sup> Crisis Group interviews, Colombo, September 2011, Europe, November 2011.

<sup>222</sup> Crisis Group interview, Kilinochchi resident, Colombo, September 2011.

<sup>223</sup> Crisis Group interview, aid worker, Colombo, September 2011.

<sup>224</sup> Most sought treatment in hospital; twenty sustained severe injuries and were admitted to hospital by court order, while a further 35 were admitted later. See Kusai Perera, “Did the devil get into the military”, *The Sunday Leader*, 28 August 2011. Several fundamental rights petitions filed by the victims are pending before the Supreme Court.

<sup>225</sup> In a 23 August news report, Secretary of Defence Gotabaya Rajapaksa was quoted as saying at a meeting with mosque leaders: “Surrounding military camps and attacking the forces are terrorist acts. Our forces are capable of facing any threat after facing a 30-year brutal terrorist war. So do not try to joke with the forces”. “More than 100 arrested in new Sri Lanka ‘Grease Devil’ clash”, Reuters, 23 August 2011.

## V. WHAT SHOULD BE DONE

Creating a truly secure environment for women in the north and east will require the government to address the underlying political and ethnic conflicts that drove the long civil war. While the Rajapaksas have shown little inclination to do so, it should remain a key priority of those who wish to see a peaceful Sri Lanka in the years to come, including its international partners. But even short of those broad reforms, there are a number of steps the government and international community could take to improve women's security. The barrier is not a lack of good ideas. What is needed is for the government to prioritise them and for donors to support and hold the government to its commitments.

### A. RESTORING DEMOCRACY AND THE RULE OF LAW: SPECIFIC PRIORITIES

The broader project of restoring democracy and the rule of law should underlie all reform efforts. The government needs to demilitarise the north and east. This means not only steadily reducing the military presence by closing military camps, removing checkpoints and returning property to rightful owners, but also fully demobilising troops and helping them to reintegrate with their families and communities. It also means returning decision-making authority – now held by the military and central government – to the civil administration and devolving power to the provincial and local governance structures, especially on issues of economic development. Holding elections for the Northern Provincial Council in 2012 would be an important step in that direction. More specific priorities to improve physical and economic security for women include the following:

#### 1. Police reform

The government needs to repair its badly damaged rule-of-law institutions, including the police and judiciary. The police in particular need to become a credible institution to which women in the north and east can report crimes and threats to their safety. To do this, the police need to recruit male and female Tamils and Muslims at all ranks to better reflect and serve the populations of the north and east.<sup>226</sup> Female Tamil-speaking officers

need to have real authority in carrying out their duties and responsibility for helping address the needs of women. It continues to be difficult to file complaints in the Tamil language in many parts of the region, despite years of promises by the government to rectify the problem. Women's desks need to be established throughout the north and east, not just in a few major stations.

Police across the island need better training to implement existing laws on domestic violence and sexual assaults. More broadly, the government needs to end what is in effect still a state of emergency and military rule, as well as impunity including for sexual and other gender-based violence. It also must immediately begin investigating and prosecuting the many credible allegations against members of the security forces and individuals connected to the government. These changes are essential to restoring the reputation and authority of the police.

#### 2. Access to detainees

De facto military rule and weak rule of law increase women's vulnerability in the north and east in more direct ways. This is especially true of the lack of transparency around individuals detained for suspected involvement with the LTTE, including those in rehabilitation centres and secret detention facilities. The government should immediately make available to family members the names and locations of all detainees. It should also ensure they have full due process rights and access to the ICRC. While the government has managed to severely restrict the ICRC's role since the end of the war, it should not continue to do so. ICRC expertise and assistance, particularly in tracing missing persons, are a desperately needed resource for many women in the north and east.

#### 3. Security in the home and freedom of movement

The government also should immediately end all ad hoc visits by the security forces to women's homes. If information needs to be gathered or goods distributed, that should be done by civilian authorities only. Alleged former LTTE cadres, male and female, also need basic due process rights. They should not be required to report in to the security forces or kept under surveillance, unless it is demonstrated through a credible judicial process that they pose a threat to public safety. These and other efforts to permit full freedom of movement and assembly would significantly improve women's experience and perception of security.

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<sup>226</sup> A more representative police force should help alleviate some social barriers to approaching law enforcement. "One reason women do not report incidents is because they have to go to the police station multiple times. People resent that. Society sees her going multiple times. There's a social stig-

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ma. So there's a tendency to keep quiet". Crisis Group interview, Kilinochchi resident, Colombo, September 2011.

## B. BETTER ACCESS AND INFORMATION FOR CIVIL SOCIETY AND INTERNATIONAL PARTNERS

One major obstacle to effectively addressing women's insecurity in the north and east is the absence of information about what they are experiencing, how they are coping and what they need.<sup>227</sup> This is partly an issue of access by researchers, activists and humanitarian agencies, which the government has tightly controlled in the north especially.<sup>228</sup> Less discussed is the lack of transparency among those who do have access, including government and international agencies. There is a widespread perception among aid workers and within local civil society that the UN, other international agencies and the government are not sharing information they have about threats to women's security, especially around the issue of sexual violence.<sup>229</sup> Indeed, there is a sense among some local actors that the UN is starting to be seen by residents in the north and east as "going with the government" and allowing the government to direct the UN's resources to undermine efforts at community capacity building.<sup>230</sup> The UN, it and all other actors with a protection mandate or working with vulnerable groups should take steps to dispel that notion by committing to the highest levels of transparency while still protecting the rights of victims.

The UN should also take a critical look at how information is shared internally, within the country team and with New York and Geneva, and how decisions are made about whether to speak publicly about protection concerns and human rights abuses. The Secretary-General's September 2011 announcement that he was appointing Thoraya Obaid, former executive director of the UN Population Fund (UNFPA), to review the UN's actions during the final stages of the war was a wel-

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<sup>227</sup> "But to do anything about it, we need more information about what exactly is going on. To get more information, we need more access". Crisis Group interview, international aid worker, Colombo, September 2011.

<sup>228</sup> "INGOs still are not 'allowed' to do software. But we're trying to add it on/incorporate it. Still, it's difficult for INGOs to access women and for women to access us. The first step is access to information – so you can talk about it". Crisis Group interview, international aid worker, Colombo, September 2011.

<sup>229</sup> Crisis Group interviews, various locations, 2010-2011. UNHCR reports that, with regard to information about gender-based violence it was collecting, it did share "appropriate data" within groups linked to the gender-based violence network in each district and pushed for responses by authorities at the local and central level. Crisis Group email communication, UNHCR, December 2011.

<sup>230</sup> Crisis Group interview, Colombo, November 2011.

come development.<sup>231</sup> It is critical to get that review underway as soon as possible and with adequate staffing, resources and mandate. Lessons learned from that exercise should inform ongoing operations, and UN member states should publicly and privately support the country team in insisting on a principled and transparent relationship with the government.

Beyond greater access and transparency, there is also a need for better data about women. Much of what is currently collected (or supposed to be collected) is not disaggregated by gender or ethnicity and often fails to distinguish between urban and rural settings. Data about gender-based violence also suffers from regional variations in definitions and in capacity to collect and process it.<sup>232</sup> Understanding women's experiences across Sri Lanka's diverse regions is essential to formulating policies to address gender issues. This is an island-wide problem and should be addressed as such. A more specific study of the needs and experiences of women in the north and east is also needed and should be one of the primary goals of the international community and government for 2012.

## C. PROJECTS AND GOALS FOR 2012

While there are a number of initiatives aimed to address women in the north and east, they need to be coordinated and prioritised. Sri Lanka's international partners have funded some important work, including supporting women development officers, conducting trainings on gender-based violence with police and other government officials, and supporting local women's organisations.<sup>233</sup> But what is desperately missing is a sense of urgency commensurate with the risks women are facing in the north and east. Also missing is an overall strategy to understand and address them.

The government and its international partners need to commit, financially and politically, to specific goals and projects that will improve women's security. The starting point for this should be a high-level meeting of donors and other development partners – including China, India, Japan, the

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<sup>231</sup> See "Secretary-General forwards Sri Lanka expert panel report to Human Rights Council, High Commissioner for Human Rights", press release, 13 September 2011. The panel of experts had recommended an internal review in its April 2011 report.

<sup>232</sup> For a brief but good discussion on the challenges of collecting data on gender-based violence, see "Do we need numbers?", Centre for Poverty Analysis, Sri Lanka 16 Days Campaign Blog, 10 December 2011, at <http://srilanka16days.wordpress.com/2011/12/10/guest-post-do-we-need-numbers/>.

<sup>233</sup> See, for example, "Norway helps empower Women Development Officers", *The Island*, 11 December 2011. UNFPA, which is the lead agency on gender-based violence in Sri Lanka, has done a number of projects to address women's reproductive health needs and to help establish women's centres.

World Bank and Asian Development Bank – as well as community leaders and activists knowledgeable about women's issues in the north and east, to agree upon and ratify with the government a strong set of principles for the delivery and monitoring of assistance. Those principles should include the highest levels of transparency, external monitoring and non-discriminatory community participation in setting priorities, as well as mechanisms to evaluate links between aid, investment and engagement, and risks of a return to conflict or increased women's insecurity.<sup>234</sup> The government's contribution should come from the national budget with the aim of reducing the proportion of overall spending on defence and increasing that on health, education and women's empowerment. Donors also should insist on accountability for human rights abuses.

The outcome of the donors conference should be to fund fully a concrete set of reconstruction and development projects to be completed in 2012 that will help protect and empower women in the north and east, such as:

- a) a comprehensive, independent assessment of the needs and vulnerabilities of this population;
- b) expedited construction of safe, permanent housing and sanitation facilities for those at greatest risk of violence;
- c) training, equipment and professional support for mobile health clinics staffed in part by local female residents;
- d) support to and protection for local women's groups to establish women's centres for meetings, training and collective work spaces;
- e) a nationwide program led by ICRC and local non-governmental partners to register and trace missing persons and to facilitate family access to detainees;
- f) initiatives to start collecting comprehensive data on, and better respond to, gender-based violence including a nationwide violence-against-women help-line, the appointment of judicial medical officers (JMOs) for every district, and the establishment of women-friendly desks in all police stations so women can make complaints in their own language and in the presence of female officers;
- g) training on gender-based violence and national domestic violence laws for all government officials and police officers in the north and east; and

- h) training on gender-based violence and national domestic violence laws, reproductive health education and support, psycho-social support and demobilisation counselling for current and, as needed, former members of the security forces – provided by qualified local or international experts, not by other national militaries.

One of the overarching goals of these initiatives should be to help build up a new, autonomous civil society in the north and east. Much of what existed previously was destroyed by the war, by the Tigers' totalitarianism and by the government's military rule and restrictions on NGOs. These initiatives can also help create institutions that will last over time. But most urgently, they should give women the tools and resources they need to better manage the risks they face. In the medium to long term, these same tools and resources will help create space for women within their communities to discover and decide upon their own solutions to security and livelihood concerns.

In an environment of decreasing funding for humanitarian aid and development, donors and investors need to be strategic. A key priority should be to insist that the government begins investing in the goal of improving security for women in the north and east. It will also require some acknowledgement of the complicated forms of vulnerability women face. Dismissing events such as the "grease devil" incidents and ignoring women's requests for information about their detained or missing family members deny women in the north and east any legitimate place in the national narrative. For much of the rest of the country, especially in the Sinhalese majority south, their experiences are not seen or understood at all.

Sri Lankan civil society more broadly also has a critical role to play in improving the security of women in the north and east. But to be effective, activists and others need to find a way to bridge the gaps in information and understanding between the north and south, and between Colombo and the rest of the country. Many of the experiences of insecurity for women in the north and east are shared with women in other areas and from other ethnic groups, and some of the policy responses need to be nationwide. But there is a real risk that time and effort will be lost, unless civil society overcomes the fears and prejudices that 30 years of war and political violence have ingrained.<sup>235</sup>

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<sup>234</sup> For more detail on proposed principles, see Crisis Group Report, *Reconciliation in Sri Lanka*, op. cit., pp. 39-40.

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<sup>235</sup> A good example is the 2010 conference for tenth anniversary of UN Security Council Resolution 1325, attended by some 80 women from grassroots organisations all over the country. Lack of security for women was one of the main topics. The conference began to break down, however, when some of the Sinhalese participants felt there was too much focus on sexual violence and an implication that Sinhalese men were "rapists", while some of the Tamil participants felt that advocacy around the issue of intra-Tamil violence would detract from what they thought were the

A final priority of Sri Lanka's partners, both in the context of improving women's security and more broadly, should be to press the government to begin the all important process of reducing the size of the military. Demobilisation will be a difficult and long-term endeavour, but the sooner it starts the more likely it will succeed. In addition to generating real jobs for the hundreds of thousands of young men in the military – and the many more who expect to join or have deserted – the government and its international partners need to find ways to provide the psycho-social support many will require in order to live civilian lives. Dialogue on demobilisation and demilitarisation needs to start and progress should be a condition of continued engagement.

#### D. UTILISING EXISTING INTERNATIONAL FRAMEWORKS

In 2011 a number of UN entities have done detailed reviews of the current state of laws, policies and practices in Sri Lanka that are directly relevant to the issue of women's security. These include the February 2011 report of the Committee on the Elimination of Discrimination against Women, the April 2011 report of the Secretary-General's Panel of Experts on Accountability, and the November 2011 report of the Committee against Torture. In addition the Secretary General's review of the UN's action in Sri Lanka during the final stages of the conflict should commence soon.

At the end of 2011, the Secretary-General's Special Representative on Conflict-related Sexual Violence, Margot Wallström, is due to submit the Secretary-General's first full annual report to the Security Council.<sup>236</sup> All of

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primary issues – protection from the army and demilitarisation. Crisis Group interview, participant, June 2011.

<sup>236</sup> Wallström's mandate under UN Security Council Resolutions (SCRs) 1888 (2009) and 1960 (2010) is to drive and empower efforts across the UN system to end sexual violence in armed conflicts. The key operational aspects of SCR 1960 are to improve "monitoring, analysis and reporting arrangements on conflict-related sexual violence", and to secure "commitments by parties to conflict to prevent and address sexual violence". See "Implementation of SCR 1960", provisional guidance note, June 2011. SCR 1960 requires the Secretary-General to include in his annual report under SCRs 1888 and 1960 "detailed information on parties to armed conflict that are credibly suspected of committing or being responsible for acts of rape or other forms of sexual violence" as well as "an annex with a list of parties that are credibly suspected of committing or being responsible for patterns of rape and other forms of sexual violence in situations of armed conflict on the Security Council agenda". Thus, any situation can be included in the annual report based on incidents of conflict-related sexual violence, while only countries on the UNSC agenda can be listed in the annex and only for "pat-

Sri Lanka's international partners should take note of the substance and recommendations in these reports. The UN country team in particular should be encouraged and supported to work toward fulfilling the recommendations. UN headquarters in New York should refuse to accept any new Sri Lankan contributions to peacekeeping operations until there is a credible investigation of the alleged war crimes and crimes against humanity by government forces at the end of the war.

In addition, there are two critical opportunities at the Human Rights Council in 2012 to act on these recommendations – its regular session in March 2012 and during Sri Lanka's second Universal Periodic Review in September 2012. The government will argue that international action is unnecessary in light of the LLRC report and its long-awaited and much-touted National Human Rights Action Plan. Neither document recognises the crisis of insecurity and impunity faced by women in the north and east; as a result, the handful of sensible recommendations in each are far from adequate to address women's real protection needs.<sup>237</sup> Given

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terms". For SCR 1960 reporting purposes, "conflict-related sexual violence refers to incidents or patterns (for SCR 1960 listing purposes) of sexual violence, that is rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity, against women, men, girls or boys. Such incidents or patterns occur in conflict or post-conflict settings or other situations of concern (eg, political strife). They also have a direct or indirect nexus with the conflict or political strife itself, that is, a temporal, geographical and/or causal link. In addition to the international character of the suspected crimes ..., the link with conflict may be evident in the profile and motivations of the perpetrator(s), the profile of the victim(s), the climate of impunity/State collapse, cross-border dimensions and/or the fact that it violates the terms of a ceasefire agreement." See "Implementation of SCR 1960", provisional guidance note, June 2011.

<sup>237</sup> For the LLRC's recommendations related to women's security, see Section III.B above. The human rights action plan proposes a number of sensible, but often vague, reforms. These include promises to "review existing legal regime to identify implementation gaps that are required to enhance protection of women [and] ... introduce necessary changes to make implementation more efficient and effective"; "introduce a section on violence against women in training programmes for civil servants in the administration of justice"; "ensure gender disaggregated data collection with regards to crimes"; "strengthen women and children's desks of police department", and formulate "a policy on war widows in all parts of the country". The report also emphasises the need to "identify and put in place facilities and infrastructure that will enhance the safety and reduce vulnerability of women IDPs to violence and abuse"; "set up protection committees that can prevent as well as monitor incidence of violence and abuse"; and "formulate gender sensitive grievance mechanisms to facilitate access to and pursuit of legal and other remedies and create awareness on available remedies". The action plan, however, makes no mention of the need to improve the investigation and prosecution of crimes against women nor proposes reforms to end impunity for such crimes.

the government's track record of weakening institutional protections of human rights, it is hard to be optimistic that even the modest reforms proposed will be implemented.<sup>238</sup>

## VI. CONCLUSION

The trauma experienced by women in the north and east over the last five years has been immense. The brutal rule of the LTTE is over, and the fighting has come to an end. As a consequence, an opportunity for real improvement in the lives of women has emerged. But whatever gains might have been made, they are quickly disappearing as various new forms of oppression and exploitation have replaced the Tigers'.

The militarisation of the north and east is one of the greatest sources of insecurity for women there. It also provides cover for men within the community to take control of women's lives and determine their futures. Tamil nationalists – and to some degree Tamil political representatives in general – remain preoccupied with the elusive political solution and are willing to highlight women's insecurity in its service without grappling with the deep prejudices and inequities within Tamil society that make women vulnerable. Some Tamil activists in the diaspora, too, have tended to use reports of violence against women in instrumental ways, to further delegitimise the Sri Lankan state, rather than reflect on the fuller range of problems and sources of insecurity and injustice for Tamil-speaking women. Until all of these actors, but the government especially, recognise the profound vulnerabilities women in the north and east face and take action to address them, a truly sustainable peace in Sri Lanka will remain out of reach.

**Colombo/Brussels, 20 December 2011**

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<sup>238</sup> The eighteenth amendment to the constitution, adopted in September 2010, took away even the limited independence previously enjoyed by the Human Rights Commission, the National Police Commission, and a range of other such bodies.

## APPENDIX A

### MAP OF SRI LANKA



## APPENDIX B

### ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh, Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyz-

stan, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, Russia (North Caucasus), Serbia and Turkey; in the Middle East and North Africa, Algeria, Egypt, Gulf States, Iran, Iraq, Israel-Palestine, Lebanon, Morocco, Saudi Arabia, Syria and Yemen; and in Latin America and the Caribbean, Bolivia, Colombia, Ecuador, Guatemala, Haiti and Venezuela.

Crisis Group receives financial support from a wide range of governments, institutional foundations, and private sources. The following governmental departments and agencies have provided funding in recent years: Australian Agency for International Development, Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Belgian Ministry of Foreign Affairs, Canadian International Development Agency, Canadian International Development and Research Centre, Foreign Affairs and International Trade Canada, Czech Ministry of Foreign Affairs, Royal Danish Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, European Commission, Finnish Ministry of Foreign Affairs, French Ministry of Foreign Affairs, German Federal Foreign Office, Irish Aid, Japan International Cooperation Agency, Principality of Liechtenstein, Luxembourg Ministry of Foreign Affairs, New Zealand Agency for International Development, Royal Norwegian Ministry of Foreign Affairs, Slovenian Ministry of Foreign Affairs, Swedish International Development Agency, Swedish Ministry for Foreign Affairs, Swiss Federal Department of Foreign Affairs, Turkish Ministry of Foreign Affairs, United Arab Emirates Ministry of Foreign Affairs, United Kingdom Department for International Development, United Kingdom Economic and Social Research Council, U.S. Agency for International Development.

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**December 2011**

## APPENDIX C

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