

**DEVELOPMENT ASSISTANCE AND CONFLICT IN SRI LANKA:  
LESSONS FROM THE EASTERN PROVINCE**

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## **DEVELOPMENT ASSISTANCE AND CONFLICT IN SRI LANKA: LESSONS FROM THE EASTERN PROVINCE**

### **EXECUTIVE SUMMARY AND RECOMMENDATIONS**

Violence, political instability and the government's reluctance to devolve power or resources to the fledgling provincial council are undermining ambitious plans for developing Sri Lanka's Eastern Province. The east continues to face obstacles to economic and political progress and offers lessons for development agencies and foreign donors considering expanding their work into newly won areas in the Northern Province. While there is still potential for progress in the east, it remains far from being the model of democratisation and post-conflict reconstruction that the government claims. Donors should adopt a more coordinated set of policies for the war-damaged areas of Sri Lanka, emphasising civilian protection, increased monitoring of the effects of aid on conflict dynamics and collective advocacy with the government at the highest levels.

International attention is currently and rightfully focused on the need to protect upwards of 100,000 civilians at risk from fighting in the northern Vanni region, but at the same time, there are still important challenges in the so-called "liberated" area of the Eastern Province. Even now, the Eastern Province is still not the "post-conflict" situation that development agencies had hoped it would be when they started work there in late 2007 and early 2008. Despite the presence of tens of thousands of soldiers and police in the east, the Liberation Tigers of Tamil Eelam (LTTE) have proven able to launch attacks on government forces and on their rivals in the Tamil Makkal Viduthalai Puligal (TMVP). There have also been violent conflicts between different factions of the pro-government TMVP, and impunity for killings and disappearances, many of them apparently committed by government security forces and/or their allies in the TMVP. Extortion and criminality linked to the TMVP also remain problems. Insecurity and fear are undermining the ability of agencies and contractors to implement projects.

Violence between Tamils and Muslims has been kept to a minimum since June 2008, but tensions between the communities over land and political power remain high, and there seems little prospect of reconciliation

so long as current government policies remain in place. Tamils are largely alienated from the government, thanks to the heavy hand of government security forces and TMVP activities. Many Muslims feel threatened by TMVP control of the provincial council and what they see as Tamil domination of the provincial administration. Both communities continue to suspect the government has plans for large-scale "Sinhalisation" of the east. Sinhalese villagers, students, contractors and government employees have, in turn, been victims of violent attacks.

The government still has not devolved power to the Eastern Province, as required by the Thirteenth Amendment to the constitution, which established the provincial council system in 1987 in response to Tamil demands for regional autonomy in the north and east. The governor of the province, appointed by the president, is blocking the council's initial piece of authorising legislation, and development planning and implementation continues to be run from Colombo and central government ministries. The government has yet to articulate any plans for a fair and lasting distribution of resources and political power that would satisfy all communities.

In this environment, development of the east remains affected by the conflicts and threatens to exacerbate them. Despite the need for development, there is a danger of funds being wasted or misused. Donors should not be treating the situation as a typical post-conflict environment. Instead, there is a need for additional monitoring and additional coordinated political advocacy. This is all the more important now that donors are considering assistance for the reconstruction of the Northern Province, once security conditions allow.

Bilateral and multilateral donors need to work with the government in a coordinated way and at the highest levels to ensure that its policies provide for effective and sustainable development. This should include a written agreement on basic principles, to be signed during a high-level donor development forum and prior to the commencement of any new projects. The government should agree to provide the basic level of human

security necessary to successful development work by ending impunity for human rights violations and placing its counter-insurgency campaign under strict legal accountability.

It should establish a political context conducive to addressing the inevitable future conflicts over land and development in the north and the east by empowering the respective provincial councils to address development and security needs. In the north, this must begin with free and fair elections that feature the full range of Tamil political parties and are conducted with international monitoring. Independent representatives of all communities, including from opposition parties, should be given a significant role in key development decisions. Finally, Tamils and Muslims need assurances that there are no current plans for Sinhalisation – either of the east or the north – and that demographic issues will be dealt with only through negotiation with independent representatives of all three communities as part of a settlement of the larger conflict.

At the same time, donors and development agencies need to establish stronger procedures to understand the political dynamics in the east and in the north and to monitor the effects and uses of their development projects, so as to limit the risk that their assistance will aggravate existing conflicts or provoke new ones. To do development right, it will have to be done slowly, carefully and with greater political investment. It will also require additional staff and resources. Major donors should form a joint donor task force or monitoring unit to analyse current conflict dynamics in the east (and when possible, in the north) and develop the shared principles for more “conflict-sensitive” work which the government would be requested to adopt.

For these efforts to work, development agencies need to defend the work of local and international non-governmental organisations more vigorously. Threats and intimidation are crippling the necessary information flows, and general insecurity undermines meaningful project monitoring and public consultation. Multilateral donors in particular need to send strong messages to the government that harassment and denial of visas to international humanitarian and development workers and intimidation of local NGOs and community activists undermine their ability to do responsible development work and must stop.

## RECOMMENDATIONS

### **To Japan, the World Bank, Asian Development Bank, United Nations, U.S., EU and Other Bilateral Donors:**

1. Meet to review all development assistance to Sri Lanka and agree on principles for equitable and sustainable development in the east and north, to form the basis of a formal memorandum of understanding with the government, to be supported by an adequately funded monitoring process. The government should be requested to:
  - a) empower the Eastern – and once elected, the Northern – Provincial Council to play a key role in development decisions through maximising the devolutionary potential of the Thirteenth Amendment and allowing the councils to pass enabling provincial-level legislation without obstruction from the president, governors or parliament;
  - b) consult actively with independent community and political leaders from the three ethnic communities, including opposition parties, on all significant development initiatives in the north and the east;
  - c) offer assurances to Tamils and Muslims that there are no government plans for Sinhalisation of the east or the north and that demographic issues will be dealt with only through negotiation with independent representatives of all three communities as part of a settlement of the larger conflict;
  - d) provide basic security guarantees to the citizens of the north and east and adequate security for development work, beginning with a crackdown on the criminal activities of pro-government armed groups, including the TMVP and the Karuna faction, and an end to disappearances and killings associated with the government’s counter-insurgency campaign;
  - e) guarantee free and fair provincial elections in the north, with the full range of political parties allowed to campaign safely and no party allowed to campaign while armed, with international observers in place, and to be held only after the majority of displaced have returned home from government camps;
  - f) provide a timetable for the prompt return home of all those displaced from the north, and allow freedom of movement for the displaced prior to return and full access for humanitarian organisations to any displaced while they remain in camps;

- g) respect the right of donors to work with local and international NGOs of their choosing who will be free from harassment and visa restrictions; and
  - h) reestablish the rule of law throughout the country, beginning with the president's activation of the Constitutional Council and the subsequent appointment of independent police, human rights and judicial services commissions.
2. Recognise that the Sri Lankan context is not a typical post-conflict situation and pay special attention to conflict dynamics that may arise through development work by:
    - a) establishing a joint donor task force to review the past two years of donor projects in the Eastern Province and study the political forces currently affecting conditions for development work in the east and, when security permits and civilians have begun to be resettled, in the north.
    - b) devoting increased resources for the ongoing and collective monitoring of the effects of development projects on conflict dynamics, either through a joint donor task force or through providing additional staff to the existing Donor Peace Support Group;
    - c) hiring additional conflict advisers, increasing the number of project reviews, and establishing regular provincial-level monitoring meetings on land-related policies, especially with regard to fears of Sinhalisation;
    - d) engaging in high-level and coordinated lobbying in defence of the work of local and international NGOs, insisting as a condition of aid that they be allowed to play an active role in monitoring and responding to conflicts over land and development in the north and the east; and
    - e) undertaking a collective study to determine the nature and extent of extortion, theft and "taxation" by armed groups and government security forces in the north and east, increasing monitoring of the issue, and sending strong messages to the central government, the TMVP and provincial politicians that every effort must be made to end such practices and hold those involved accountable.
  3. Support the empowerment and effectiveness of the Eastern – and eventually the Northern – Provincial Council by:
    - a) requesting the government grant them the necessary authority to negotiate projects directly with donors, at least in those areas listed as provin-
- cial and concurrent powers under the Thirteenth Amendment; and
  - b) working to achieve maximum political consensus for development projects by obtaining agreement from both the ruling coalition on the council and the political opposition, and by encouraging the provincial councils to give a meaningful role to opposition parties and community leaders in development and land-related decisions.
4. Work together to monitor current land use patterns and policies in the east and north by:
    - a) underwriting a study of the effects that planned development projects in the east and north might have on land use and ethnic relations and how to prevent land-related projects from exacerbating conflict dynamics;
    - b) linking further funding for housing, irrigation or related development projects to the government's drafting new and equitable land titling, distribution and dispute resolution policies through a transparent and inclusive process of consultation;
    - c) working closely with the government and implementing agencies who build donor-funded houses to ensure that the proper land titles or permits are issued; and
    - d) monitoring for any encroachment or arrival of settlers in and around emerging commercial hubs and newly built or expanded roads.
  5. Support conflict-sensitive business development by:
    - a) giving preference to local residents in both the contracting and sub-contracting work done with donor money and encouraging government and private investors to do the same; and
    - b) actively seeking out Tamil and Muslim businesses that might be interested in expanding into the east, to offset the existing advantages of Colombo and Sinhala businesses.
  6. Insist on a collective basis that international standards are respected at all stages of displacement by establishing as a condition for development assistance the following minimum principles, to be communicated to the government and to donors' implementing partners, with mechanisms for monitoring compliance:
    - a) unrestricted access to the displaced for all relevant humanitarian agencies and representatives of donor countries;
    - b) guarantees of protection for internally displaced persons (IDPs) and humanitarian workers, including the presence of the International Committee

of the Red Cross at all sites where the military and police conduct security screenings;

- c) freedom of movement for IDPs once they have completed security screenings, with the displaced allowed to stay with relatives or host families;
- d) civilian authorities in charge of security at camps and hospitals that house the displaced;
- e) immediate preparation for a safe and timely return of IDPs to original homes or wherever they wish to go, preceded by a rapid and independent study of the number and location of mines in the north; and
- f) no support given to camps with a semi-permanent or permanent character.

#### **To UNHCR, UNICEF and the Protection Units of Humanitarian Organisations:**

- 7. In the absence of a full-scale field presence for the UN Office of the High Commissioner for Human Rights, develop a plan for an extensive and coordinated network of protection offices in the north and east which can report on compliance with international standards for the protection of the displaced and those resettled in their home villages.

#### **To UNICEF:**

- 8. Strengthen monitoring mechanisms and report on any evidence of underage recruitment by all armed groups, including pro-government groups other than the Pillayan and Karuna factions, and insist that under any future “action plan”, UNICEF has the power of unlimited, independent inspection of all camps and offices of both Pillayan and Karuna factions and has adequate staff to monitor compliance with all terms of the agreement.

#### **To the Government of Sri Lanka:**

- 9. Negotiate an agreement with international development partners to provide the conditions necessary for sustainable and equitable development in the Eastern and Northern Provinces, as outlined in recommendations above.
- 10. Grant provincial councils a strong degree of control over land, in line with, or beyond, the terms

of the Thirteenth Amendment, including all necessary authority to negotiate projects with donors, at a minimum in those areas listed as provincial and concurrent powers under the Thirteenth Amendment, and the authority to prevent emergency powers, high security zones (HSZs) or special economic zones (SEZs) from being used to seize land without local consultation, accountability or compensation.

- 11. Give Tamils and Muslims in the east and north concrete assurances that land policies will be devised through inclusive and transparent means and will not be used as a tool to politically weaken their communities.
- 12. Include the views of independent Tamil and Muslim political representatives and community leaders in development decisions in the east and north and make genuine efforts to ensure that all three communities in the east benefit fairly from government economic development, including the Kappalthurai Industrial Development Zone, and the Oluvil and Valachchenai fisheries ports.
- 13. Cease using HSZs and/or SEZs to displace residents without being granted monetary compensation or the right to effective legal challenge.
- 14. Grant compensation to businesses in the east and north that have suffered damage from war and ethnic violence and to those in the Eastern Province whose properties were looted during and after the fighting in 2006 and 2007.
- 15. Enact preferential hiring and contracting policies for local residents for all development projects in the east and north.
- 16. Ensure that security restrictions which limit livelihood options – eg, on fishing, cattle-grazing or wood-collecting – are kept to a minimum and that when enforced they are applied in clear, consistent and non-arbitrary ways.

#### **To the Eastern Provincial Council:**

- 17. Extend the deadline for registering land claims until the regulations have been rewritten to remove any serious causes for concern expressed by representatives of any of the three ethnic communities.

**Colombo/Brussels, 16 April 2009**

## DEVELOPMENT ASSISTANCE AND CONFLICT IN SRI LANKA: LESSONS FROM THE EASTERN PROVINCE

### I. INTRODUCTION

Sri Lanka has been in violent conflict for more than three decades. An estimated 85,000 people have died, most in fighting between the government and the Liberation Tigers of Tamil Eelam (LTTE). The LTTE was largely defeated in the east of the country in 2007 and is now trapped in a small area in the north, shielding itself behind more than 100,000 civilians. There is an urgent need to ensure that these civilians are allowed by the LTTE and the Sri Lankan government to leave this area through an extended humanitarian pause. But even as attention is focusing on that crisis, violence continues in the east, despite efforts at political and economic development.

These efforts have been supported by the international community, which has also pledged assistance to the north of the country after the LTTE is defeated. But if this assistance is handled in the wrong way, it risks exacerbating a complex conflict that is by no means over. This report examines the way redevelopment has been managed in the east and suggests lessons for the north, an area particularly devastated by war.

This report is based on interviews across the east of the country throughout 2008 and the first three months of 2009. These included meetings with Sinhalese,<sup>1</sup> Tamil and Muslim community leaders, local government officials, local NGOs and activists. Crisis Group also met with a range of officials, diplomats and aid officials in Colombo. The east remains a sensitive issue in Sri Lanka and given the environment of intimidation and violence and the almost complete impunity for political killings, few people were willing to talk on the record.

<sup>1</sup>In everyday usage, Sinhala and Sinhalese are often interchangeable. In this paper, Sinhala will be used in all cases except when referring to the ethnic group as a collective noun, as in “the Sinhalese”.

### II. EASTERN REAWAKENING

Within days of the capture of the LTTE’s last eastern military camp in July 2007, the president and senior officials announced government plans for a “massive” development program for the east.<sup>2</sup> Known as *Nagenahira Navodaya*, or “Eastern Reawakening”,<sup>3</sup> the program calls for industrial development and infrastructure projects, ranging from power plants, roads, bridges, and water and sanitation improvements, to tourist development and other private business initiatives. There are also projects to provide economic opportunities, build housing, and resettle and rehabilitate those displaced by fighting in areas formerly held by the LTTE.

The government is already claiming success in the east. Maintaining that “the key to peace is prosperity”,<sup>4</sup> it points to new roads and bridges throughout the province, the ongoing construction of an industrial park and a coal power plant near Trincomalee harbour, fisheries ports in Valachchenai and Oluvil, and expanded mineral extraction along the north coast of Trincomalee district. New irrigation projects are planned, and the government has announced a bumper rice crop due to an additional 130,000 acres of land now under cultivation.<sup>5</sup> All but a small number of people displaced by fighting in 2006-2007 have now been resettled, housing is being built, and electricity, drinking

<sup>2</sup>For an analysis of the role of land and development in ethnic conflict dynamics in the east, see Crisis Group Asia Report N°159, *Sri Lanka’s Eastern Province: Land, Development, Conflict*, 15 October 2008. See also Crisis Group Asia Report N°134, *Sri Lanka’s Muslims: Caught in the Crossfire*, 29 May 2007.

<sup>3</sup>*Nagenahira Navodaya* can also be translated as “Eastern Revival” or “Eastern Rejuvenation”. The government’s website detailing their development plans for the east is [www.neweast.lk](http://www.neweast.lk).

<sup>4</sup>“Development work moves ahead in the East”, Secretariat for Coordinating the Peace Process (SCOPP), 28 November, 2008, at [www.peaceinsrilanka.org](http://www.peaceinsrilanka.org).

<sup>5</sup>“Bumper paddy harvest in the east”, Secretariat for Coordinating the Peace Process (SCOPP), 5 March 2009.

water and social services are being provided to many areas formerly under the control of the LTTE.<sup>6</sup>

## A. DONOR ACTIVITIES

The government has estimated the cost of its eastern development plans at \$1.8 billion over four years. With little money of its own to spend, the government has been courting international investors and canvassing support from multilateral and bilateral donors.<sup>7</sup> Donors and development agencies were initially cautious, content to continue with programming already underway in the east.<sup>8</sup> By mid-2008, however, especially in the wake of the Eastern Provincial Council elections in May, donors have approved significant new levels of aid. It is difficult to calculate the exact amounts of foreign humanitarian and development assistance to the east, but more than \$500 million has been committed in loans and grants from 2007 onwards, not including large amounts of post-tsunami assistance.<sup>9</sup>

In June 2008 the World Bank announced its new \$900 million Country Assistance Strategy for Sri Lanka for 2009-2012. An estimated \$300 million of this is scheduled to be spent on projects in the north and east.<sup>10</sup>

Development work in the east will range from housing and livelihood support to village-level infrastructure, road building and support for irrigation and agriculture. The Asian Development Bank (ADB) is also active in the east, implementing new programs worth some \$50 million, as well as ongoing projects. Under its Country Partnership Strategy launched in October 2008, the ADB is funding the rehabilitation of roads, the strengthening of the power system, improvements to water and sanitation networks and a range of smaller-scale community infrastructure projects.<sup>11</sup> A variety of UN agencies have projects in the east; the UN is now shifting from the humanitarian relief it offered in 2006-2007 to “early recovery”, largely in line with the focus of other donors.<sup>12</sup>

The Japanese government, traditionally Sri Lanka’s largest bilateral donor, has committed roughly \$100 million in grants and loans for ongoing projects in the east, including rural road development, rebuilding irrigation systems, micro-finance, livelihood support to farmers and community-level businesses, demining and other humanitarian support.<sup>13</sup> Other bilateral donors, including France and the European Union (EU), are offering significant support, including the final portion of money

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<sup>6</sup>“Development work moves ahead in the East”, Secretariat for Coordinating the Peace Process (SCOPP), 28 November 2008, at [www.peaceinsrilanka.org](http://www.peaceinsrilanka.org). The large majority of the projects listed by the Peace Secretariat as success stories are foreign funded and implemented.

<sup>7</sup>The government’s 2009 budget contains no allocation for projects associated with *Nagenahira Navodaya*, and the government’s finances are now under extreme pressure. It is negotiating with the International Monetary Fund for a \$1.9 billion emergency loan. Crisis Group interviews, diplomats and aid officials, Colombo, April 2009.

<sup>8</sup>Significant amounts of money remained for rebuilding housing, schools, hospitals and infrastructure destroyed in the December 2004 tsunami, and internationally funded reconstruction work continued during 2006 and 2007. Most but not all post-tsunami funds have now been spent in the east.

<sup>9</sup>The exact total of international aid dedicated for humanitarian and development work in the east is impossible to calculate, since figures made public by donors cover different periods of time and often do not specify amounts being spent in specific districts or provinces. It is generally unclear what percentage of funds in a multiyear project remains to be spent. Information on funding for projects beyond 2009 is not available from all donors. Nonetheless, based on figures provided by the major multilateral and bilateral donors, between \$500 million and \$1 billion has been made available for work in the east from 2007-2011.

<sup>10</sup>“Country Assistance Strategy for the Democratic Socialist Republic of Sri Lanka for the Period FY2009-FY2012”, The World Bank, at [www.worldbank.lk](http://www.worldbank.lk). See also “World Bank

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says North-East projects progressing well”, *Sunday Times*, 16 November 2008.

<sup>11</sup>In addition, “In the north and east, ADB will implement ongoing projects and small livelihood projects (providing rural finance, upgrading fishery harbors, providing chilling facilities for milk, repairing minor irrigation tanks, supporting the dairy industry, etc.), and will rehabilitate small-scale infrastructure (hospitals, schools, markets). ADB will also continue to support training and skills development in the north and east”, p. 27. The ADB has some remaining funds for rebuilding houses damaged by the war and the tsunami. Crisis Group interview, ADB officials, March 2009.

<sup>12</sup>Crisis Group interview, UN officials, Colombo, November 2008. The UN Office for Project Services (UNOPS) and UN Habitat are completing post-tsunami housing and infrastructure projects; UN Development Programme (UNDP) has a transition and recovery project that focuses on housing, roads, livelihoods and community-level peacebuilding; and the Office of the High Commissioner for Refugees (UNHCR) continues the humanitarian relief and protection work begun with renewed war and displacement in 2006; the work of the Office for the Coordination of Humanitarian Affairs (OCHA) is being phased out in the east.

<sup>13</sup>This total does not include the cost of projects completed in 2007 and 2008, nor for projects planned for 2009 and onwards that are not yet underway. So the actual figure for projects in the east from 2007 to 2011 is likely to be two or three times higher than this. Crisis Group interview, Japanese embassy official, Colombo, March 2009. The bulk of Japanese support goes directly to the Sri Lankan government, though small grants are also made to NGOs.



for post-tsunami reconstruction.<sup>14</sup> Support from the EU has focused on road repair, housing, and income generation and livelihoods support.<sup>15</sup> The U.S. Agency for International Development (USAID) has been particularly active in the east with a wide range of smaller but symbolically important initiatives, working entirely through non-governmental and private-sector organisations rather than the government. Their “Economic and Social Transition” (EAST) strategy aims to support “the positive transformation in the Eastern Province” by “developing the regional economy, strengthening local governance, and increasing citizen participation”.<sup>16</sup>

For some development agencies, the east has seemed to offer real opportunities for peacebuilding. In the words of one senior aid official in May 2008, “There’s now a unique opportunity to stabilise the east. If we help them do it right in the east, it becomes a model for dealing with the north.... We’re treating the east like a post-conflict situation, doing what we’d be doing in a peace process.... While we might not have agreed 100 per cent with the way the election was run or with not disarming paramilitaries, we’re acting now to make the most of the situation. The opportunity is now. You can’t afford to wait for the whole conflict to be settled”.<sup>17</sup>

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<sup>14</sup>The French government has allocated \$56 million for road building in the east. Most European donors, including the British, Germans, Swedes and Dutch, have significantly reduced their bilateral aid, in part because Sri Lanka is now considered a “middle-income” country and in part because of concerns about security and impunity for human rights violations. The German government has allocated over 65 million euros for reconstruction and development of the north and east. Crisis Group interviews, diplomats and aid officials, March 2009.

<sup>15</sup>The European Commission spent roughly 80 million euros in the east on post-tsunami projects and has some 70 million euros in funds still to disburse. This makes it one of the largest bilateral donors, after China and Japan. Its aid is implemented by the ADB, World Bank, UN agencies and international and local NGOs. Crisis Group interview, EC officials, Colombo, April 2009.

<sup>16</sup>USAID, at [http://srilanka.usaid.gov/country\\_strategy.php](http://srilanka.usaid.gov/country_strategy.php). USAID development assistance to the east since 2007 totals nearly \$45 million. The two main components of USAID’s programming are Supporting Regional Governance (SuRG) and Connecting Regional Economies (CORE). These will include training and financial support for business development and small-scale economic development and livelihoods projects, human rights and Tamil language training for police, participatory governance training for newly elected local government officials, and support for demobilised child soldiers. A range of post-tsunami reconstruction projects were completed during 2008. Crisis Group interviews, USAID officials, Colombo, March 2009.

<sup>17</sup>Crisis Group interview, senior development agency official, Colombo, May 2008.

While this was a minority opinion prior to the May provincial council elections, it became the dominant position among donors by mid-2008.<sup>18</sup>

## B. DETERIORATING SECURITY, INCREASING UNCERTAINTY

The Eastern Province and its people need help rebuilding their lives and economic infrastructure, but development agencies need to be careful about how they engage in the area. The peace and development “dividend” expected by many donors after the May 2008 provincial council elections has so far not materialised. Instead, the risks facing such work have increased, especially in the final months of 2008 and early 2009.

### 1. Increasing violence and impunity

There has been a marked deterioration in the security situation since mid-2008, particularly in Batticaloa district. Political killings, enforced disappearances, attacks on police and army outposts, robberies, extortion and other criminal violence have become daily occurrences. In a single 24-hour period in November 2008 eighteen people were murdered in Batticaloa district by different groups.<sup>19</sup> Fear among civilians, business people and those involved in development work is extremely high.<sup>20</sup>

While it is difficult to determine responsibility for individual attacks, a general picture of the sources of violence can be drawn. Much of the violence is a product of increasingly bitter conflict between members of the Tamil Makkal Viduthalai Puligal (TMVP), now led by Eastern Province Chief Minister S. Chandrantham, better known as Pillayan, and supporters of TMVP founder and now government minister V. Muralitharan, alias Karuna.<sup>21</sup> The 18 October 2008 mur-

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<sup>18</sup>Provincial council elections saw the victory of a coalition of the TMVP, led by Pillayan, and various pro-government Muslim parties. After political wrangling between the president and Muslim politicians, who received the largest number of seats on the council, Pillayan was named chief minister. See Crisis Group Report, *Sri Lanka’s Eastern Province*, op. cit., pp. 9-11.

<sup>19</sup>“Sri Lanka: Human Rights Situation Deteriorating in the East”, Human Rights Watch, 24 November 2008.

<sup>20</sup>Crisis Group interviews, businessmen, NGO workers and community activists, Batticaloa, March 2009.

<sup>21</sup>The government’s peace secretariat has admitted that “killings and abductions within [the TMVP] and between them and the LTTE take place.... It is an unhappy situation, but one that has not been engineered by anybody other than the participants themselves”. “The Human Rights Watch Syndrome”, Secretariat for Coordinating the Peace Process (SCOPP), 26 November 2008. For more on the activities of the Pillayan

der of Pillayan's most important adviser, Kumaraswamy Nandagopan, was a major blow; while the government blamed the attack on the LTTE, Pillayan himself hinted at other sources.<sup>22</sup> Karuna's decision in March 2009 to leave the TMVP and join President Mahinda Rajapaksa's Sri Lanka Freedom Party (SLFP) has transformed but not ended the conflict.<sup>23</sup> TMVP cadres from both the Pillayan and Karuna factions are also widely accused of criminal activities, including extortion, abductions and killings.<sup>24</sup> The second half of 2008 and early 2009 have also seen a growing number of LTTE attacks in the east, both against the TMVP, including some apparently successful attempts to infiltrate TMVP offices, and against the police, army and civil defence personnel.<sup>25</sup> Finally, there is credible evidence to suggest that many of those killed are targeted by the TMVP and government security forces as LTTE members or supporters, either as part of the government's general counter-insurgency strategy or in response to specific LTTE attacks on, or infiltration of, the TMVP.<sup>26</sup>

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and Karuna factions in the Eastern Province, see Crisis Group Report, *Sri Lanka's Eastern Province*, op. cit., pp. 14-17, 19-20.

<sup>22</sup> Chris Kamalendran, "Pillayan says LTTE not involved", *Sunday Times*, 16 November 2008.

<sup>23</sup> After months of being the clear favourite of the central government, Karuna formally left the TMVP and joined the ruling Sri Lanka Freedom Party (SLFP) in a public ceremony in Colombo with the president on 9 March, where Karuna was named minister for national integration and reconciliation. "Ex-rebel made Sri Lankan minister", BBC News, 9 March 2009. The Ampara area TMVP leader and the president's district coordinator, Inyabarathy, also joined the SLFP. So, too, did 1,500 other people, many of them bussed to Colombo on orders of Karuna without being told they would be joining the SLFP. TMVP offices under the control of Karuna's faction are now being converted to SLFP offices. His cadres remain armed. Crisis Group interviews, community leaders, Batticaloa, March 2009.

<sup>24</sup> The March 2009 abduction and murder of a six-year-old girl in Trincomalee was attributed to TMVP members loyal to Pillayan. Karuna's faction has been using the public outrage over the murder to weaken public support for Pillayan. Jamila Najmuddin, "TMVP denies involvement in Varsha's murder", *Daily Mirror*, 18 March 2009.

<sup>25</sup> Karuna himself has admitted that the LTTE poses a serious threat in interior sections of the east. See Jamila Najmuddin, "Life in the East, a far cry from normal", *Daily Mirror*, 10 December 2008. Others argue that fighting within the TMVP was due in part to disgruntled members of the TMVP carrying out assassinations for the LTTE as a pre-condition to re-joining the rebels. "Ticking time-bomb in the east", *The Island*, 16 November 2008.

<sup>26</sup> One particularly disturbing case that received some publicity was the discovery of the mutilated bodies of two Tamil men who had a few days earlier been seen in police custody in Batticaloa. The police claim the men had been released

Coming from multiple and often uncertain sources, the current violence is terrifying. "Previously, when the LTTE was stronger, we knew what the survival strategies were", says one businessman in Batticaloa. "The LTTE was predictable and disciplined. With the army, you were okay if you were not directly involved with the LTTE. But now, it's hard to predict. I'm having trouble knowing what to do to survive".<sup>27</sup>

While the large majority of the civilian victims have been Tamils, Sinhalese and Muslims have also been targeted. On 21 February 2009, the Sinhala village of Karametiya was attacked by an armed group presumed to be LTTE; sixteen were killed and another ten injured.<sup>28</sup> Three Sinhala construction workers were shot to death in Kokadicholai, in Batticaloa, on 20 October 2008.<sup>29</sup> Attacks on Sinhala farmers in the Seruvila area in Trincomalee district attributed to the LTTE have led to reprisal killings of Tamils in neighbouring villages.<sup>30</sup> There have also been a number of violent attacks on Muslims and altercations between Muslims and police and security forces.<sup>31</sup>

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in good condition prior to their murder by unknown parties. "Sri Lanka: Human Rights Situation Deteriorating in the East", Human Rights Watch, op. cit. Arguments in civil suit against the police are due to be heard before the Supreme Court in June 2009.

<sup>27</sup> Crisis Group interview, businessman, Batticaloa, November 2008. "Current power dynamics in the east are very fluid. People barely know who is in charge today; they could get killed tomorrow for what is OK to do today". Crisis Group interview, donor official, Colombo, December 2008.

<sup>28</sup> Jeevani Pereira, "Hunger and fear reign in Karametiya", *Daily Mirror*, 25 February 2009. Karametiya is located on the outskirts of the Gal Oya National Park, in Ampara district. With the 3 April killing of thirteen suspected Tigers in Ampara, the government claims to have successfully tracked down and eliminated the small band of LTTE fighters blamed for this and other attacks in the east. Norman Pali-hawadena, "STF ambush kills 13 Tiger killers on the prowl", *Island*, 4 April 2009.

<sup>29</sup> Senaka de Silva, "Three killed in Kokkadicholai", *Daily Mirror*, 22 October 2008. The 21 August 2008 murder of one of a small number of Sinhala students at Batticaloa's Eastern University led to the transfer of all Sinhala and Muslim students from the eastern campus. The 16 November 2008 killing of a Sinhala doctor working at the Navatkuda hospital in Batticaloa district forced the temporary withdrawal of all Sinhala government doctors from the east. Jamila Najmuddin, "Life in the East, a far cry from normal", *Daily Mirror*, 10 December 2008.

<sup>30</sup> Senaka de Silva, "Farmers killed by suspected Tigers", *Daily Mirror*, 26 March 2009.

<sup>31</sup> In one incident in August 2008, 28 Muslims collecting firewood in the forests near Potuvil, in Ampara district, were arrested on charges of supplying provisions to LTTE fighters. One of the firewood collectors died in custody, allegedly due

The near-complete impunity for killings and disappearances adds to the widespread fear. Many survivors choose not to report cases of disappearances, robbery, extortion, sexual violence and other criminal attacks given the unwillingness of the police to seriously investigate; in many cases, police even refuse to accept complaints. "Everyone is too scared to complain about anything", explains a human rights lawyer. "No one wants to file legal actions or police complaints about any issue at all because the person they are angry with may be linked to an armed group and seek retribution".<sup>32</sup> There is still no evidence of any serious investigations into political killings and disappearances over the past few years.

## 2. Devolution still on hold

Despite the government's public commitment to implementing the Thirteenth Amendment, which established provincial councils with limited devolved powers, there has yet to be any real devolution to the Eastern Provincial Council.<sup>33</sup> Nor have any powers over land or taxation been transferred to the council. Indeed, the governor of the province, a retired general appointed by and working closely with the president, has prevented implementation of the provincial council's first legal statute, which would formally establish its powers of limited taxation.<sup>34</sup> Otherwise the council remains entirely dependent on the central government for its funding; in early 2009 the council was reportedly bankrupt.<sup>35</sup>

Policy decisions about development work and important political matters in the Eastern Province continue

to be made by the central government, operating through the governor and the nation building ministry, which is effectively controlled by presidential adviser Basil Rajapaksa.<sup>36</sup> Both the Eastern Provincial Council and development agencies complain of political interference with their work.<sup>37</sup>

A bright spot is that the lack of central government support for the Eastern Provincial Council has produced a certain degree of common ground between the council's ruling TMVP-Muslim coalition and the opposition coalition of the United National Party (UNP) and the Sri Lanka Muslim Congress (SLMC). All parties would like to see the provincial council assume the full range of powers granted, in principle, by the Thirteenth Amendment.

## 3. Muslim and Tamil alienation

Many Muslims continue to feel vulnerable to attacks and extortion from the TMVP and, to a lesser extent, from government security forces. Tensions between Tamils and Muslims, aggravated by the actions of the Pillayan and Karuna factions, remain high.<sup>38</sup> Many remain bitter over the nomination of Pillayan, rather than the Muslim candidate Hisbullah, as provincial chief minister and complain that Tamils continue to control the provincial administration and council.<sup>39</sup>

Few Tamils, on the other hand, express satisfaction with the limited benefits they receive from having a provincial council controlled by the TMVP. Most continue to see the TMVP as a dangerous and parasitic force on the community. Many also believe Muslims continue to have more political influence and better access to resources. And virtually all Tamils complain of repressive government security policies and fear expanded government-sponsored Sinhalaisation. The continued displacement of more than 5,000 Tamils from their homes in the government's Sampur High Security Zone in Trincomalee is a major source of alienation<sup>40</sup> and has fed fears that more such high-security

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to police abuse. 26 of the suspects were convicted and sentenced to a year in prison in February 2009. "26 Pottuvil Muslims sentenced to imprisonment", Peace Secretariat for Muslims, 10 February 2009, at [www.peacemuslims.org](http://www.peacemuslims.org).

<sup>32</sup> Crisis Group interview, human rights lawyer, Batticaloa, November 2008.

<sup>33</sup> The government announced in November 2008 that a "high level three-member committee" would be formed to devolve power to the east in terms of the Thirteenth Amendment to the constitution. There has been no further news about its activities. P. Krishnaswamy, "Three-member committee to devolve power to the East", *Sunday Observer*, 30 November 2008.

<sup>34</sup> M.M. Abdul Kalam, "Governor is obstructing devolution of power to Eastern Provincial Council", *Federal Idea*, 6 January 2009, available at [http://federalidea.com/fi/2009/01/post\\_90.html](http://federalidea.com/fi/2009/01/post_90.html).

<sup>35</sup> Crisis Group interviews, donors and diplomats, Colombo, March 2009. See "EPC languishing without funds", *Daily Mirror*, 17 January 2009. According to the article, the council is "facing a severe financial crisis as only Rs.200 million out of a total allocation of Rs.836 million had been received by the council which even had no funds to pay staff salaries".

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<sup>36</sup> The nation building ministry is represented in the east by Minister Susantha PUNCHINILAME, who has established an office in Trincomalee and is said to be closely monitoring, and interfering with, the work of the provincial council. Crisis Group interviews, government officials, Trincomalee, November 2008.

<sup>37</sup> Crisis Group interviews, diplomats and development officials, Colombo, November 2008 and February 2009.

<sup>38</sup> Crisis Group interviews, NGO workers and community leaders, Batticaloa, March 2009.

<sup>39</sup> Crisis Group interviews, politicians and community leaders, Kattankudy, November 2008.

<sup>40</sup> This is a government figure, as reported by UNHCR. Crisis Group interview, Colombo, March 2009. A longer discussion

zones linked to economic development could be in the pipeline.<sup>41</sup> There is some evidence that the LTTE is able to operate more effectively in the east due in part to the growing alienation of Tamils from the government and their designated government-sanctioned representatives, the TMVP.<sup>42</sup>

#### 4. Policy shift needed

Despite the large number of internationally-financed projects underway in the east, the government's promises of "demilitarisation, democratisation, development and devolution"<sup>43</sup> have yet to be realised. Projects have been undertaken with little transparency or public consultation and in an insecure and militarised context. This undermines much of their positive potential. The east today has all the ingredients for continued insurgency and counter-insurgency: a virtually powerless provincial council, a divided TMVP, insecure Muslims, alienated and restless Tamils, growing divisions within ethnic communities and political parties, and continued violent repression of dissent.

Opportunities for political stability and sustainable development in the Eastern Province have little chance of being realised without a major change in how the east is governed. This should begin with the government enforcing the law and providing basic security guarantees to its citizens. This will require cracking down on the TMVP and Karuna's faction and curbing the excesses of the government's counter-insurgency campaign. The government must assure Tamils and Muslims that there are no plans for the Sinhalisation of the east. The Eastern Provincial Council must be empowered to play a key role in development decisions. The government should begin to share power in other ways and include the views of independent Tamil and Muslim political representatives and community leaders in its development decisions in the east. So long as it refuses to do so, the "development" of the east – and soon of the north – will continue to feel threatening to many Tamils and Muslims and its positive potential for fostering trust and ultimately reconciliation between communities will be lost. It will be merely "victor's development", possibly paving the way for future violent conflict.

### C. RISKS TO AND FROM DEVELOPMENT WORK

Without such a significant shift in policy, development work in the east will continue to face, and to pose, serious risks.

Increased violence has already taken the lives of development workers and threatens the successful completion of projects. Complaints about extortion from various factions of the TMVP and unidentified criminal groups are also common, in Batticaloa especially. Extortion scares away potential entrepreneurs and provides support to violent and unaccountable armed groups.

There are also longer-term political and social risks from the pursuit of development in a violent and militarised context, where political decisions are made without meaningful public consultation. In the absence of fair and inclusive decision-making processes, disputes over the distribution of land, economic opportunities, and government benefits and resources are more likely to take on an ethnic colour and turn violent. The political stability of the east has long suffered from precisely these sorts of conflicts. Violent disputes between Tamils and Muslims have been kept to a minimum since the provincial council elections, but deep tensions remain.<sup>44</sup> The central government has done little to foster dialogue and reconciliation between the two communities.

The most widely discussed risk from development projects is state-sponsored Sinhalisation. As donors and development agencies recognise, fears of Sinhalisation are widespread among Tamils and Muslims in the east and undermine the trust necessary for sustainable development. Understood as a process whereby economic development either directly or indirectly brings in enough new Sinhalese to alter the demographic balance of particular districts or of the province as a whole, no major Sinhalisation has yet taken place. Nonetheless, the powerful influence of the almost entirely Sinhala military over civilian affairs in the province, the lack of transparency with which development decisions are made, the role of the government ally and Sinhala chauvinist Jathika Hela Urumaya in supporting the

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of displacement in the east and north can be found below in Section V.H.

<sup>41</sup> Crisis Group interviews, government officials and community leaders, Trincomalee, November 2008; Colombo, March 2009.

<sup>42</sup> Crisis Group interviews, government officials and community leaders, Batticaloa and Colombo, March 2009.

<sup>43</sup> N. Ram, "We are firmly committed to a political solution: President Rajapaksa", *The Hindu*, 27 October 2008.

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<sup>44</sup> Violent clashes in May and June 2008 between Tamils thought to be members of the TMVP and Muslims in Kattankudy and Batticaloa left more than a dozen dead. See D.B.S Jeyaraj, "The killing of T.M.V.P. leader Shantan in Kaathankudi", *Tamilweek*, 31 May 2008. An explosion opposite the Husainiya mosque in Kattankudy left five wounded on 25 October 2008. "Hand grenade explosion at a mosque in Kattankudy, five injured", *Muslim Guardian*, 26 October 2008, available at [www.muslimguardian.com](http://www.muslimguardian.com).

redevelopment of Buddhist sites in the east – these and other factors lend some credence to fears of Sinhalaisation.<sup>45</sup> To date, the government has made no serious attempt to reassure Tamils and Muslims in the east that their fears are unfounded.

Less noticed by donors is the risk that “development” will involve the economic takeover or de facto colonisation of the east by Sinhala business interests from Colombo and other parts of the country, in some cases working in partnership with foreign investors. This is a realistic danger given the disproportionate degree of political control that Sinhala politicians and administrators have over the east.

In addition, continuing large-scale military presence and security restrictions almost guarantee that economic opportunities will be distributed unequally, with Sinhalese granted more freedom than Tamils and Muslims. This can already be seen in existing fishing restrictions and in the many stories of restrictions placed on rock-cutting, cattle grazing, firewood gathering and other livelihood opportunities traditionally available to Tamils and Muslims in the east. Members of any ethnic majority which largely controls the state are almost certain to benefit disproportionately from economic development unless there are countervailing forces at work: a strong political force representing minorities, a strong system of legal protections, or outside monitoring and protection. None of these exist today.

### III. “CONFLICT SENSITIVITY” AND THE POLITICS OF AID

#### A. THE LIMITS OF “CONFLICT SENSITIVITY”

The deteriorating security situation and lack of political reform in the east has begun to worry many donors and development agencies. There is no talk yet of suspending work or withdrawing, but there is growing concern that political instability in the Eastern Province is putting the government’s development plans at risk and posing challenges to donor-funded projects. In the words of one donor active in the east, “We are fairly unhappy with how things have turned out in the east and the commitments not honoured by the government”.<sup>46</sup> Nonetheless, even as development agencies have grown more willing to acknowledge the risks from and to their work, many argue their “conflict sensitivity” policies ensure they can be managed to a tolerable degree.<sup>47</sup>

“Conflict-sensitive development”, as understood by most development agencies working in Sri Lanka now, involves five basic components:

- targeting assistance to conflict-affected populations and their conflict-related needs. In this vision, economic development can reduce sources of conflict in the east by improving people’s lives and reducing the gap between the prosperous Sinhala-majority Western Province and the Tamil- and Muslim-majority east;<sup>48</sup>
- ensuring that benefits and resources are “spread fairly across districts and across different ethnic groups” so that aid to one community does not fuel a sense of grievance among another;<sup>49</sup>

<sup>45</sup> For an analysis of fears of Sinhalaisation in the east, see Crisis Group Report, *Sri Lanka’s Eastern Province*, op. cit., pp. 21-27. For further claims of Sinhalaisation, see “The Human Rights and Humanitarian Fallout from the Sri Lankan Government’s Eastern Agenda and the LTTE’s Obduracy”, University Teachers for Human Rights (Jaffna), briefing no. 6, 22 January 2007, at [www.uthr.org](http://www.uthr.org).

<sup>46</sup> Crisis Group interview, Colombo, February 2009.

<sup>47</sup> The strongest doubts are expressed by bilateral donors. Multilateral donors, especially the ADB and World Bank, remain more confident in their ability to manage the risks.

<sup>48</sup> The vision of “conflict sensitivity” endorsed by the Japan Bank for International Cooperation (JBIC) emphasises the importance of addressing regional disparities in economic development. See Keiju Mitsuhashi, “The Conflict-Sensitive Approach of JBIC’s Development Assistance in Sri Lanka”, JBICI working paper no. 31, August 2008, pp. 22-7. The ADB makes a similar argument. See “Country Partnership Strategy, Sri Lanka 2009-2011”, Asian Development Bank, p. 30.

<sup>49</sup> Crisis Group interview, senior development official, Colombo, May 2008. What constitutes “fair” distribution of support and opportunities can be difficult to determine, particularly in the east. If “fair” distribution means proportional distribution, is proportionality determined by district, province or

- ❑ ensuring that programs do not alter the demographic balance in the east, with a specific focus on a possible increase in the number of Sinhalese. In the words of one donor, “if there is massive Sinhalese, it will undermine development, affect security and our ability to work”;<sup>50</sup>
- ❑ consulting with those who live in the areas where development activities are due to take place;<sup>51</sup> and
- ❑ monitoring the actual course of development projects and their effects on conflict dynamics, through sharing information among agencies.

To date, however, these policies have proven unable to respond to the full range of risks involved in development work in the east.

Most consultations by donors are unable to give the public a meaningful role in shaping who controls and benefits from development projects. They are most often focused on gathering people’s general preferences or discussing particular donor initiatives. The key question, however, is not what is done but *how* and *by and for whom*. Few would dispute the value of most development programs under way: houses, roads, power, water, schools, businesses, industry, tourism. What matters is political control. With fear running so high in the east, few are willing to express in public an opinion that runs counter to those in power.<sup>52</sup> As a result of fear, government secrecy and the politics of divide and rule, there also remains little knowledge, even among educated and politically connected people, about what “developing” the east will mean to local communities and the overall political and social effects.

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national population figures? This has been one of the central political questions for development work in the Eastern Province for more than 50 years.

<sup>50</sup> Crisis Group interview, senior development official, Colombo, May 2008.

<sup>51</sup> The ADB, for instance, conducts extensive public consultations with all important stakeholders as part of the Project Preparation Technical Assessment it does before approving any loan to the government. Crisis Group interview, ADB officials, Colombo, March 2009.

<sup>52</sup> Whatever meaningful consultation is currently possible, then, must be done quietly and through established networks of trust. Should security conditions improve, however, and the government express its willingness, donor-sponsored consultations could play a useful role in larger regional peace processes for the north and east involving the government, the TMVP, opposition parties and other Tamil parties, including the Tamil National Alliance, if appropriate security guarantees were in place.

Nor are adequate procedures or personnel in place for monitoring the political situation and the effects of development work. Many areas where donor-supported projects are under way are difficult to access and/or heavily militarised. Information currently gathered by donors and their international and domestic NGO partners is not widely or evenly enough disseminated, and there exist neither established procedures nor the political will to act on troubling information in a coordinated and effective manner. Donors have rejected proposals to conduct a joint field assessment of the political and social dynamics in the east.<sup>53</sup> Rather than expanding the number of staff available for monitoring projects and overall conflict dynamics, a significant number of embassies and donors have withdrawn or not replaced conflict advisers brought in during the 2002-6 peace process.<sup>54</sup> It is thus far from clear that development agencies are equipped to spot problems before they get out of hand or to react effectively to them.<sup>55</sup>

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<sup>53</sup> Crisis Group interview, development official, Colombo, November 2008. “No one is paying attention to these issues because they are seen as the business of the government, and you’ll get into trouble with the government if you try to address them....Anything defined by the government as political becomes a particular challenge for the UN, given that it has a development not a political mandate in Sri Lanka”. Crisis Group interview, UN official, Colombo, May 2008. The UN was the target of sustained government harassment and critical propaganda in 2007 and 2008 and has grown particularly cautious as a result.

<sup>54</sup> Visa restrictions as part of the government clampdown on INGOs and the UN have further shrunk the pool of staff with experience and detailed knowledge of Sri Lanka’s political landscape. The ADB hired a conflict adviser in late 2008, after a number of years without one. The World Bank is currently in the process of hiring one.

<sup>55</sup> The “conflict filter” announced by the World Bank in its latest Country Assistance Strategy has the potential to assist in achieving the bank’s overall goal of ensuring that “benefits from projects are transparently distributed and potential tensions are mitigated through broad consultations and redressal mechanisms”. As “the basis for assessing a project’s conflict-sensitivity during the concept, design and implementation/supervision stages”, the “conflict filter” aims to ensure that “conflict-generated needs are adequately identified and addressed in projects, and opportunities to strengthen reconciliation and inter-ethnic awareness have been adequately identified”. “Sri Lanka: Country Assistance Strategy 2009 – 2012”, World Bank, 24 July 2008, p. 69. The effectiveness of the conflict filter will largely depend on the amount and quality of the resources that the bank devotes to it. Bank officials offer assurances that the conflict filter is being incorporated into all its projects and that principles of conflict sensitivity are being mainstreamed throughout all the bank’s activities in Sri Lanka. They insist that staff will not be penalised for failing to meet project completion deadlines in order

More important, no matter how good the monitoring, many of the most important effects of development projects are indirect and will be visible only after a significant delay. Roads, power plants and other infrastructure projects might seem good in themselves but they pave the way for other development activities with unknown and possibly negative political and social effects.

For similar reasons, while a given package of international aid might itself be fully “conflict sensitive”, the assistance frees up resources which the government can use in other, perhaps less careful or equitable ways. In the words of one Western diplomat, “What does it mean to be conflict sensitive at the micro level when you are supporting non-conflict sensitive government policies by freeing up new government money?”<sup>56</sup> To date, the government’s vision of the future east remains vague, especially with regard to the political effects of economic development. While donors repeat their determination not to fund programs that alter the ethnic balance, the government itself has made no such public promises.<sup>57</sup> Ensuring that the ultimate effects of aid are non-discriminatory and do not aggravate the conflict is particularly difficult when the government’s intentions for the province are not made unclear.

As a result, donor definitions of “conflict sensitivity” do not address the biggest risk: lending support to government policies – political as well as economic – that are neither transparent nor based on meaningful public consultations or political negotiations. Despite

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to respect principles of conflict sensitivity, that the bank is prepared to slow down implementation of projects and halt disbursement of funds in order to prevent political interference or negative effects on conflict dynamics. Crisis Group interviews, World Bank officials, Colombo, March 2009. The ADB’s conflict-sensitivity policies emphasise “transparency”, “the involvement of all stakeholders and beneficiaries” and frequent conflict assessments, but the bank has not introduced any new conflict-sensitivity instruments for Sri Lanka. “Country Partnership Strategy, Sri Lanka 2009-2011”, Asian Development Bank, pp. 28-30.

<sup>56</sup> Crisis Group interview, Colombo, April 2009. A number of northern European donors have scaled back or ended their development assistance to Sri Lanka in part because of concerns about the “fungibility” of aid to a government committed to a military victory at the expense of human rights and humanitarian norms. Sri Lanka’s status as a “middle-income” country was also a factor in the reduction of aid by the UK, Sweden, the Netherlands and other countries.

<sup>57</sup> When asked if the Sri Lankan government had an official policy on the effects of development on the demographic balance in the east, or a more general policy for conflict-sensitive development, government officials refused to answer. Crisis Group correspondence, senior Sri Lankan government officials, July 2008.

its rhetoric of democracy and pluralism, the central government has chosen to impose its policies on the east. It has neither made clear its ultimate goal nor negotiated with independent political representatives able to bargain effectively on behalf of the different constituencies in the east. Supporting development work in such a context risks endorsing policies that will likely have profound effects on the possibility of a just and sustainable settlement of the overall conflict before it has become clear what those policies are. Unless development agencies insist on clear and principled guidelines for managing the cumulative political and social effects of the entire development process, their support will help enforce a new political and economic balance of power on a population that has not been adequately consulted, much less given its clear consent.

## B. DONOR HESITATIONS

Afraid of angering the government with an approach seen as too political, external development agencies and bilateral donors have remained relatively quiet, even as the conditions for their work have deteriorated.<sup>58</sup> The government’s concerted efforts to limit the activities of international humanitarian organisations, restrict visas for international workers, and label numerous humanitarian organisations as pro-terrorist have contributed to donors’ caution.<sup>59</sup> Few donors have acknowledged publicly the extent to which government attacks

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<sup>58</sup> Even as their professed commitment to conflict sensitivity implicitly recognises the political nature of their role, World Bank and ADB officials argue that as development organisations they must make decisions based on economic and development criteria, not political ones. Crisis Group interviews, Colombo, May and November 2008. The World Bank’s statement condemning violent attacks on the media, which asserts that “free and independent media is fundamental to the sustainable economic development of Sri Lanka”, is a shift from this position. See World Bank, “Freedom of Information Necessary for Sri Lanka’s Development”, 8 January 2009.

<sup>59</sup> Crisis Group interviews, diplomats and development officials, Colombo, March 2009. Government visa regulations announced in mid-2008 limit any international aid workers to a total of no more than three years in Sri Lanka. This has led to an exodus of the most experienced expatriate staff. Restrictions placed on UN hiring policies were found by the UN general counsel to violate the UN’s diplomatic privileges. See Namini Wijedasa, “UN takes umbrage over Sri Lanka’s treatment of staff”, *Lakbima News*, 7 December 2008. In March 2009, the ministry of defence denounced as a terrorist a Tamil staff member of CARE International killed in fighting in the northern province; CARE itself was accused of supporting the LTTE. See Jamila Najmuddin, “CARE says aid worker was not a terrorist”, *Daily Mirror*, 26 March 2009.

on independent civil society organisations and impunity for human rights violations, together with LTTE and TMVP violence and intimidation, have made it much more difficult for their programs to have sustainable and equitable benefits.<sup>60</sup>

Rather than pursuing a collective agreement with the government, followed up by close monitoring and active protection of the rights of those affected, donors have engaged with the government individually and without serious policy coordination among themselves. Many insist that public attempts to condition aid on improved governance or human rights protection will only limit room for manoeuvre in “an absolutely challenging and difficult environment. The more public we are, the less space we have”, says one senior development official. “Formal conditionalities aren’t effective in this country, so we need to find other ways of being effective”.<sup>61</sup>

The work of development agencies and their NGO partners has been further handicapped by the belief among many that the east constitutes a “post-conflict” situation.<sup>62</sup> This has led some donors to downplay the significance of worsening violence in the east, ranging from new conflicts – the internal battles within the TMVP – to old forms of violence – LTTE attacks on government forces and Tamil rivals – to frozen but

volatile conflicts – alienation and mistrust felt by Tamils and Muslims.

### C. PRINCIPLES OF ENGAGEMENT

The east is far from being a typical development environment. For engagement in the east – and ultimately in the north – to be responsible and avoid aggravating existing conflicts or producing new ones, donors and development agencies must adopt careful, coordinated and politically aware policies.

Conflict-sensitive development work begins with serious efforts to understand the local, regional and national-level conflict dynamics and political contexts in which projects are to be implemented. A joint donor task force to study the political forces currently shaping economic and social development in the east and to review the past two years of donor projects is urgently needed. When security permits and civilians have begun to be resettled, a task force to investigate conditions in the north will also be needed.

Agencies should devote increased resources for monitoring the effects of projects and emerging government land policies. Ideally this would be a joint effort between all major donors, either growing out a joint donor task force or through providing additional staff to the existing Donor Peace Support Group to form a proper secretariat.<sup>63</sup> This needs to be matched by a commitment to revise, delay or shut down projects if they are aggravating conflicts or undermining equitable development. Individual development agencies need to hire additional staff, increase the number of project reviews, and establish regular local monitoring meetings on land-related policies and the effects of development, especially with regard to fears of Sinhalisation. Monitoring must be rigorous enough either to disprove rumours and reassure Tamils and Muslims of the government’s good intentions, or to alert the international community that local fears are well-founded and to defend those whose rights are violated by development work. If local missions do not at present have adequate resources to conduct such monitoring, they need to press their capitals to provide them.

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<sup>60</sup> So far an effective response has been handicapped by lack of shared vision and serious policy level coordination. With some notable exceptions, there is widespread resignation among donors in Colombo about the possibility of making a positive impact in the east and elsewhere, which has contributed to a loss of interest in Sri Lanka in most major capitals. This is despite, or perhaps because of, the shared understanding that undemocratic governance is seriously endangering the prospects for equitable, sustainable and conflict-sensitive development in the east and throughout the country.

<sup>61</sup> Crisis Group interview, Colombo, March 2009. Formal conditionalities have not, however, been tried. Some donors, including the U.S. and the World Bank, did draft an informal set of principles for their work in the east which was reportedly discussed with the government. The four principles were the rapid return to civilian rule, protection of human rights, demobilisation of paramilitaries, and no support for demographic changes. These “conditions” were not made public, however, nor was there any procedure for monitoring or enforcing compliance. While there has been no large-scale Sinhalisation to date, there has been little success achieving the other principles. Despite formal civilian governance, the military retains the final say over most policies in the east. Crisis Group interviews, diplomats and development agency officials, March 2009.

<sup>62</sup> Crisis Group interviews, development agency officials, Colombo, May-June 2008. See, for example, Sonali Samarasinghe, “When the WB lunched with an armed child recruiter”, *Sunday Leader*, 19 October 2008.

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<sup>63</sup> For more coordinated analysis and information sharing to be possible and effective, the Bilateral Donors Group and the Development Partners Forum should meet more regularly and be allocated more resources. These groupings also offer useful and appropriate platforms for donors to speak up and act more effectively in defence of their beleaguered local and international NGOs.



Donors should engage the government in a coordinated way to encourage the establishment of policies that support conditions for inclusive, equitable and sustainable development. Before all else, donor agencies should insist they are given a relatively clear picture of the government's overall development plans; only then can they make reasonable judgments about the likely social and political effects of their particular projects.

Donors failed to engage the government in a coordinated and principled way when the east was first opened for development work. The government's forthcoming appeals for international assistance to reconstruct the north will offer another chance for a negotiated agreement that could apply to both the north and the east. Sri Lanka's traditional development partners – Japan, the ADB, the World Bank and the UN, together with the U.S., EU and other bilaterals – should meet to review all development assistance to Sri Lanka and to devise shared principles for equitable and sustainable development.<sup>64</sup> These should form the basis for a formal memorandum of understanding with the government, to be supported by an adequately funded monitoring process.<sup>65</sup> The central terms of this agreement should be:

- empowerment of the Eastern – and once elected, the Northern – Provincial Council to play a key role in development decisions through maximising the devolutionary potential of the Thirteenth Amendment;

- active inclusion of and consultation with independent community and political leaders from all three ethnic communities, including opposition parties;
- real assurances to Tamils and Muslims that there are no government plans for Sinhalisation of the east and that demographic issues will be dealt with only through negotiation with independent representatives of all three communities as part of a settlement of the larger conflict;
- the provision of basic security guarantees to the citizens of the east, beginning with a crackdown on the criminal activities of various pro-government armed groups, including the TMVP and the Karuna faction, and an end to disappearances and killings associated with the government's counter-insurgency campaign;
- the right of donors to work with local and international NGOs of their choosing who will be free from harassment and visa restrictions; and
- in the north, free and fair provincial elections with enough security to allow active campaigning for the full range of political parties, with the presence of international observers. No elections should take place while large numbers of people remain in government camps, and donors should explicitly link their development assistance to the prompt return of all those displaced from the north and to full access for humanitarian organisations to any displaced who remain in camps.

Colombo-based diplomats will need to press their colleagues in capital cities – especially Washington, London, Tokyo, Berlin, Brussels and Delhi – to persuade the World Bank, the Asian Development Bank, and the UN to commit to a joint effort to negotiate a common understanding with the government on inclusive and conflict-sensitive development in the east and to devote the resources necessary for effective and coordinated monitoring.

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<sup>64</sup>These would need to go significantly beyond the existing "Guiding Principles for Humanitarian and Development Assistance in Sri Lanka", at [www.dellka.ec.europa.eu/en/whatsnew/2007/pdf/guiding\\_principles\\_sri\\_lanka.pdf](http://www.dellka.ec.europa.eu/en/whatsnew/2007/pdf/guiding_principles_sri_lanka.pdf).

Agreed on in mid-2007 by Sri Lanka's major bilateral donors and the UN – but not by the Sri Lankan government – these consist of general principles such as "transparency and accountability" and "sustainability and preparedness" that have yet to be operationalised and have been repeatedly ignored by the government and some donors. What is needed is an agreement that responds in concrete ways to the challenges in the east and the north, particularly with respect to human security, freedom of movement, humanitarian access, land conflicts and local consultation and participation.

<sup>65</sup>Increased financial support and investment from China and Iran – each of which is currently funding over a billion dollars' worth of projects – have led some to question the continued political leverage of Sri Lanka's traditional donors – Japan, the World Bank, the ADB, and Western bilateral donors. Feisal Samath, "Turning to China, Iran for funds", Inter Press Service, 22 April 2008. There can be little question, however, that the latter set of donors would have considerable political influence were they to work together to insist that the necessary conditions for inclusive, equitable and sustainable development were put in place.

## IV. MANAGING THE RISKS BETTER

There are a variety of risks to and from development work that are generated by the current political environment in the east. Managing these risks requires specific forms of project implementation as well as a willingness to raise concerns with the government at the highest level and in a coordinated way. In private some donors and diplomats admit they do not know enough about the specific political and security dynamics in the east and lack adequate mechanisms for responding effectively. This needs to change.

### A. ENGAGING THE PROVINCIAL COUNCIL

Despite the establishment of the Eastern Provincial Council and the government's expressed commitment to implement the Thirteenth Amendment fully, it is widely acknowledged that all significant development decisions in the east are still taken by the central government.<sup>66</sup> The president's brother and adviser "Basil [Rajapaksa] is deciding everything. He decides on every single road", said one development official who works extensively in the east. "The relation between the centre and the PC is not good. It's deteriorating".<sup>67</sup> Attempts by the chief minister and the provincial council to claim their powers under the Thirteenth Amendment have been blocked by the governor. "The governor is still trying to assert autocratic power, even now that there's an elected provincial council", complains one person close to the council. "Unfortunately, the president is fully aware of this and seems

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<sup>66</sup>To date the provincial council has not been allocated its promised budget allocation and has only been provided the most basic operating expenses. The only significant concession was the appointment of N. Shankar, one of the few senior Tamil members of the police, as Deputy Inspector General (DIG). He will report directly to the chief minister and supervise the work of the three district-based DIGs in the province. The appointment reportedly was recommended by the Indian government. Crisis Group interviews, development officials and diplomats, Colombo, January 2008. One point of contention between Karuna and Pillayan has been the latter's demand for police powers and the former's agreement with the Rajapaksa government that now is not the time to grant them. See also N. Sathyamoorthy, "Police powers for the provinces", *Daily Mirror*, 10 November 2008.

<sup>67</sup>Crisis Group interview, Colombo, December 2008. "With the existing set up, the chief minister is simply a puppet", complains a Muslim politician from the east. "Basil can handle the money as he wants, even using the governor. It's quite obvious that it's Basil who runs the council". Crisis Group interview, Batticaloa, November 2008.

to want it to continue".<sup>68</sup> "The government is still holding on to all the concurrent powers under the Thirteenth Amendment and even some of the provincial powers, including land and police. Having a provincial council without its powers – what kind of devolution is that?" asks one Tamil community leader.<sup>69</sup>

Chief Minister Chandrakanthan, aka Pillayan, has begun to complain publicly about the council's lack of powers and political interference from the centre: "On one hand, the government doesn't want to give powers to the provincial council. On the other, it is trying to keep the TMVP under its thumb by influencing Karuna. The central government is trying to create problems in the region".<sup>70</sup>

With a number of talented and democratically inclined senior staff working with the chief minister there is an opportunity, however slim, to strengthen the institutional and legal capacity of the provincial council. The Indian government has quietly endorsed this approach, and some donors have already been actively negotiating projects with the chief minister and the provincial administration.<sup>71</sup> Donors and development agencies should insist as a condition of their aid that the central government allow them to implement

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<sup>68</sup>Appointed by the president, the governor has broad powers to interfere in the work of the provincial council. In addition to the governor and Basil Rajapaksa, who officially serves as the president's special adviser, the central government makes its will felt through the Trincomalee-based Nation Building Minister Susantha PUNCHINILAME, and the Trincomalee district secretary, or government agent (GA). Local community leaders and international development workers in Trincomalee in particular complain that "after the election the lines of authority have gotten very confused". Reported one community leader, "We're not sure who is in charge – the PC, the governor, the ministries, the military, the GA, the TMVP?" Crisis Group interviews, Trincomalee, November 2008.

<sup>69</sup>Crisis Group interview, senior NGO official, Trincomalee, November 2008.

<sup>70</sup>"Transcript: Sri Lanka's Pillayan", *Wall Street Journal*, 2 February 2009. Pillayan continues: "I am of the view that law and order and development of the region should be brought under the purview of the provincial council...We should have the power to collect taxes from our people and expend that money for their betterment. Even though seven months have elapsed since the Eastern Provincial Council began to operate, the laws to enable the implementation of these things have not been introduced as yet".

<sup>71</sup>Crisis Group interviews, diplomats and development agency officials, Colombo, November 2008 and February 2009. "We'd like our programs to support devolution, but there are a very limited number of people in the central government who are interested in devolution. It's a continuous battle getting the centre to agree to have us work through the Eastern Provincial Council". Crisis Group interview, senior development agency official, Colombo, November 2008.

development projects directly through the provincial council. They should collectively press for the provincial council to be given all necessary legal powers to negotiate projects with donors, at least in those areas listed as provincial and concurrent powers under the Thirteenth Amendment.

Nonetheless, the choice to engage actively with Pillayan – and by implication with his wing of the TMVP – carries risks. Donor and diplomatic contact and support have already granted legitimacy to Pillayan and the TMVP without requiring them to curb their illegal actions at the local level. Engagement can be defended as a calculated risk, but the approach imposes a responsibility on donors to hold Pillayan and the TMVP accountable in office and on the streets. Pillayan and the TMVP leadership should regularly be reminded, privately and publicly, that continued donor support rests on their progressive democratisation and on their willingness to respect basic democratic and liberal principles not only on paper but in practice. Theatrical shows of disarmament are not enough – there must be tangible improvements in the security situation and in how the TMVP cadre relates to the local population.<sup>72</sup>

Given the highly polarised nature of provincial politics and doubts about the legitimacy of the chief minister and the TMVP, donors should work to achieve maximum political consensus for any development projects they fund. They should obtain agreement not only from the ruling coalition on the council but also from the political opposition, which has a stake in seeing the provincial council strengthened and would likely be open to such negotiations. Projects will be significantly more secure and sustainable if they have been agreed upon by all major democratic political forces.<sup>73</sup> This will be equally true in the Northern Province once security conditions permit development work to begin.

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<sup>72</sup>The TMVP announced on 7 March 2009 that it had completely disarmed, handing over 150 weapons to the military at ceremony in Batticaloa. Arthur Wamanan, “TMVP officially disarms military wing”, *Sunday Leader*, 8 March 2009. There was no independent supervision of the disarmament, however, and TMVP members are still seen in the east with guns. Crisis Group interviews, community leaders and aid workers, Batticaloa, March 2009.

<sup>73</sup>As a district-level Muslim leader explained, “If money is controlled by the centre, Basil, and the governor, it’s easy for the opposition to agitate against it and alienate people on the ground. TNA, SLMC, UNP, LTTE, even civil society organisations will all oppose development that is seen as being only Basil’s or the centre’s plan”. Crisis Group interview, Batticaloa, November 2008.

## B. RESPONDING TO INSECURITY AND IMPUNITY

By the end of 2008, insecurity and lawlessness in the east, especially Batticaloa, reached disturbing levels, even for a population used to violence and uncertainty.<sup>74</sup> November saw at least 60 people killed – in LTTE attacks on security forces and the TMVP, in intra-TMVP struggles for power, and in apparent government attempts to root out LTTE supporters. On 25 November alone, eighteen people were killed by various groups.<sup>75</sup> After government curfews and high-publicity crackdowns, the levels of violence were reduced.<sup>76</sup> But with more than 30 killed each month since November, violence and impunity continue to undermine political stability.<sup>77</sup>

According to some development agency officials, violence has disrupted infrastructure work. On 18 October, a Tamil engineer was shot dead in Batticaloa town, reportedly for refusing to allow the TMVP to “borrow” her vehicles.<sup>78</sup> On 20 October 2008, three Sinhala contractors were killed by unknown gunmen in Kokadicholai.<sup>79</sup> Engineers working on donor-funded housing projects in the Trincomalee area have received threats and have left.<sup>80</sup> “The number of contractors willing to work in the east has been reduced because of security problems”, says one development agency official.<sup>81</sup>

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<sup>74</sup>“Sri Lanka: Human Rights Situation Deteriorating in the East”, Human Rights Watch, op. cit.

<sup>75</sup>“The New Democracy in the East”, Coalition of Muslims and Tamils for Peace and Coexistence, November 2008.

<sup>76</sup>On 29 November, the police and security forces carried out a massive “cordon and search” operation in Batticaloa district, in which some 12,000 people were detained temporarily, and more than 100 arrested. See Chris Kamalendran, “Curfew in Batti as troops hunt for killers”, *Sunday Times*, 30 November 2008.

<sup>77</sup>According to one Sri Lankan conflict resolution organisation with offices in the east, 33 persons were killed in December, 35 in January and February and 34 in March 2009. See “Overview of the Human Security Situation in the North and East”, Foundation for Co-Existence, December 2008, and January, February, March 2009. When one includes cases reported in the media, the total rises to more than 50 killed in both February and March.

<sup>78</sup>“Woman engineer killed in Batticaloa”, *Daily Mirror*, 18 September 2008. Crisis Group interview, community activists, Batticaloa, November 2008.

<sup>79</sup>Senaka de Silva, “Three Killed in Kokkadicholai”, *Daily Mirror*, 22 October 2008. Some in Batticaloa believe the victims were killed by the TMVP; others suspect the LTTE. Crisis Group interviews, Batticaloa, November 2008.

<sup>80</sup>Crisis Group interview, donor official, Colombo, January 2009.

<sup>81</sup>Crisis Group interview, Colombo, December 2008.

“Without security how can you deploy teachers or health personnel? Ministries are having trouble getting staff”.<sup>82</sup>

The insecurity and restrictions on access which result from LTTE infiltration and from government counter-insurgency efforts also undermine livelihood support projects, which are a major focus of development work in the east. “Returns [of displaced people] in Trinco aren’t sustainable economically because of security restrictions, including the High Security Zone....In former LTTE areas...there are major restrictions and a heavy security presence: buffer zones around army camps and the ring road, and many paddy lands and lagoons are not accessible. This makes it very hard to get livelihoods going....People need to register, check in with those at checkpoints, say where they are going, why, when they will return”.<sup>83</sup> In January 2009, UNHCR expressed its concern “over the deteriorating situation in Sri Lanka’s east following a significant increase in the number of killings, abductions and injuries in areas of return during the last few months”.<sup>84</sup>

For livelihood support projects to be successful, especially in former LTTE areas, they must be accompanied by adequate protection initiatives, undertaken by local and international relief agencies. Villagers and farmers need to feel secure while cultivating their fields, tending their cattle or travelling to market. “Livelihood interventions without security being improved won’t address in any way the drivers of the conflict”, argues one donor.<sup>85</sup> Donors should work closely with government and military officials to ensure that security restrictions which limit livelihood options – for example, limits on fishing, cattle-grazing, or wood-collecting – are kept to an absolute minimum. When enforced, they should be applied in clear, consistent and non-arbitrary ways, so those trying to rebuild their lives can be sure what the rules are. Donors must encourage the NGOs they fund to raise these issues with the government and military and should defend

their right to do so.<sup>86</sup> Security restrictions are likely to be even tighter in the Northern Province, where the LTTE’s control over the population was deeper and longer-standing and where their ability to continue armed resistance could be greater than in the east.

Insecurity and impunity are also undermining meaningful project monitoring and public consultation. Fears are such that it is difficult for development agencies and the local organisations they support to gain a clear picture of local political dynamics and events even from their own staff. “People can’t speak freely. If you speak up, you might be disappeared, or shot. Here life is worth just a few rupees”, explains one Tamil development agency official in Trincomalee.<sup>87</sup> This undermines the possibility of doing conflict-sensitive development at all.

Partly as a response to the security and governance challenges facing their work in the east, some donors have chosen to support initiatives that aim to strengthen democratic governance, foster inter-communal peace-building networks, increase civilian protection and support local civil society organisations. The dramatic shrinking of space for independent political initiatives at the local level over the past few years has made civil society and governance projects even more important, but also more difficult. They require extreme care – all possible efforts must be made to protect the security of those donors work with – and must be undertaken with very modest expectations. Simply sustaining the existing fragile networks of committed individuals would be success.

Finally, such efforts can be effective even to this limited extent only if donors are also committed to defending at the national level what remains of the space for independent information gathering and exchange. All donors – including the UN, World Bank and ADB – should engage in high-level and coordinated lobbying in defence of the work of both local and international NGOs and the importance of ending impunity and lawlessness.

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<sup>82</sup> Crisis Group interview, country director, humanitarian NGO, Colombo, November 2008.

<sup>83</sup> Crisis Group interview, humanitarian NGO official, Trincomalee, November 2008. “Many families in Muttur East and Eechilampattu depended on fishing. But the ban on night-time fishing hurts them badly. If there are security problems, the security forces need to find a way to deal with it without denying people their livelihoods”. Crisis Group interview, senior development NGO official, Trincomalee, November 2008.

<sup>84</sup> “Sri Lanka: UNHCR concerned over deteriorating situation in the east”, UNHCR, 9 January 2009.

<sup>85</sup> Crisis Group interview, development agency official, Colombo, February 2008.

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<sup>86</sup> In the case of one livelihood program in Trincomalee district in 2007, resettled residents were given boats and equipment to fish in a lagoon. With a navy camp located across the lagoon, the navy banned fishing. Partly out of fear of incurring the wrath of the navy and possibly losing their visas, the INGO staff implementing the project made little attempt to negotiate access. This would have been easier with strong support from the donor. Crisis Group interview, humanitarian agency official, Colombo, November 2008.

<sup>87</sup> Crisis Group interview, Trincomalee, November 2008.

### C. EXTORTION, THEFT AND FRAUD

Reports of extortion and theft are widespread in the Eastern Province, particularly in Batticaloa, the traditional stronghold of Karuna and the TMVP.<sup>88</sup> According to one human rights lawyer, “All but the smallest businesses are forced to give a percentage to the TMVP, both factions”.<sup>89</sup> “Construction, contractors, liquor, textiles – all are charged a 5 per cent tax”, says a Batticaloa businessman.<sup>90</sup> Many report that contractors are particularly targeted: “The TMVP is extorting contractors. They also try to put in their own contractors by forcing others out of the bidding process”.<sup>91</sup> Explains another: “Development projects are not directly threatened by armed groups, but there are demands for a percentage of the contract, or to have the contract go to a pro-Pillayan or pro-Karuna subcontractor. Bribery to win a contract, creation of fraudulent accounts, big commissions on purchases or rent – all this is generally there”.<sup>92</sup> In addition, “there is lots of extortion at the source. If as a contractor you haul sand or gravel, you usually pay the TMVP or

other group. Apparently the TMVP takes Rs. 750 (\$7) per truck of sand. Most of it just happens as part of usual business, and the cost is covered in the accepted higher costs in the east”.<sup>93</sup>

NGOs and their employees are also frequently targeted, being reliable sources of income.<sup>94</sup> “Sometimes NGOs are targeted, because they have money for development projects. As a result, a Rs. 400,000 house ends up costing Rs. 500,000”.<sup>95</sup> Local TMVP commanders are also reported to take a percentage of fish or prawn catch, either in kind or in cash, on a regular basis.<sup>96</sup> Armed robbery also remains a major problem, especially in Batticaloa, and TMVP cadres are blamed. “The theft of vehicles and even houses is often very brazen”, explains one employee of a community organisation. “TMVP cadres will sit with guns in the front yard of a house they’ve just claimed for themselves”.<sup>97</sup>

All agree that current extortion is less organised than the parallel “taxation” imposed by the LTTE from 2002-2004. “Under the LTTE it was more systematic. Everything was taxed. Compared to those days, things are easier”, says one Muslim politician.<sup>98</sup> “It’s more ad hoc than under the LTTE. Some people pay, some don’t or can escape from paying. Muslims are not taxed. Under the LTTE everyone was taxed. But no one knows for sure who it is when the guys with guns come to your door”.<sup>99</sup> “It’s more about young cadres

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<sup>88</sup> Some reported that in Trincomalee extortion and abductions for ransom, which had been very high in May and June 2008, were now less frequent. “Extortion seems to have reduced. Not currently a regular practice. But we see this as a lull period. It could happen again at any time”. Crisis Group interview, business leader, Trincomalee, November 2008. The March 2009 abduction for ransom and subsequent murder of the six-year-old girl Varsha Jude Regi has revealed the continued involvement of members of the TMVP in abductions and extortions. See “East has become Bihar-like”, Asian Human Rights Commission, 23 March 2009.

<sup>89</sup> Crisis Group interview, human rights lawyer, Batticaloa, November 2008. There are also reports that as the LTTE has increased its presence in Batticaloa, they have re-entered the extortion business. According to one Muslim activist, “I met a Muslim contractor who had gotten a call from the LTTE a few months earlier. They said he’d helped them before and it was time to pay up again”. Crisis Group interview, Batticaloa, November 2008.

<sup>90</sup> Crisis Group interview, business owner, Batticaloa, November 2008. Liquor prices are widely reported to be higher in Batticaloa due to extortion by all three groups.

<sup>91</sup> Crisis Group interview, development bank official, Colombo, December 2008.

<sup>92</sup> Crisis Group interview, human rights lawyer, Batticaloa, November. “Contractors have to pay five per cent to TMVP, for example for road construction. Also true for brick-makers and sand companies. In addition, contractors have to give money to some powerful TMVP leaders – eg, the local provincial councillor. In inland areas, there are also taxes on cows and livestock”. Crisis Group interview, Muslim politician, Batticaloa, November 2008. Batticaloa business people were also forced to contribute funds to cover the TMVP’s election costs. Crisis Group interviews, Batticaloa businessmen, March and November 2008.

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<sup>93</sup> Crisis Group interview, senior development agency official, Colombo, March 2009.

<sup>94</sup> “NGO workers are targeted, but because of salaries – sometimes they are asked for as much as Rs.50,000-Rs.100,000 (\$450-\$900). Crisis Group interview, international humanitarian worker, Trincomalee, November 2008. Some report that *samurdhi* (welfare) payments are also taxed by both the LTTE and the TMVP. Crisis Group interview, NGO worker, Batticaloa, November 2008.

<sup>95</sup> “In this context, in Trinco, can NGOs say ‘sorry we won’t pay, we quit?’ No. So many people and families depend on NGOs for work and livelihood, NGOs can’t simply close down and walk away”. Crisis Group interview, human rights activist, Trincomalee, November 2008.

<sup>96</sup> Crisis Group interviews, development bank official, Colombo, December 2008; NGO workers, Batticaloa, November 2008. Local commanders of the Special Task Force (STF) and army are also widely accused of doing the same.

<sup>97</sup> Crisis Group interview, community activist, Batticaloa, November 2008. Some report that armed robbery and theft are now less frequent in Batticaloa. Crisis Group interview, community leaders and NGO workers, Batticaloa, March 2009.

<sup>98</sup> Crisis Group interview, Kattankudy, November 2008.

<sup>99</sup> Crisis Group interview, business owner, Batticaloa, November 2008. Under the previous regime, “people could go to the LTTE and complain about double taxation. Not now. This can end up being 20 per cent in many cases”. Crisis

with weapons learning they can get what they want and taking it”.<sup>100</sup> But this has its downside: “The new generation of TMVP cadres are less trained, less disciplined and more thuggish than the LTTE. With the LTTE you knew where you stood. You had no real power, but you knew what you were dealing with. The TMVP remains an unknown quantity. And much less predictable”.<sup>101</sup>

With levels of fear so high, it is impossible to determine the extent of TMVP extortion and theft, but it is clearly causing eastern Tamils significant hardship and hurting economic and business development. “Today there are a lot of robberies and looting going on”, says one businessman, “but people are told to keep quiet or they’ll be killed. In this context, people don’t want to start businesses”.<sup>102</sup> Says another, “Fear of threat, abduction, ransom demands over the phone, all this means that businesses shut early. We can’t succeed. We can’t get loans. We can’t complain because there is no law and order”.<sup>103</sup>

The TMVP was widely believed to have been behind a wave of large-scale thefts from NGO warehouses in 2007 and 2008.<sup>104</sup> There was also massive looting of the properties of people displaced when the army regained areas controlled by LTTE in 2006 and 2007. Eyewitnesses report having seen stolen personal belongings carried away in army trucks and stored on bases.<sup>105</sup> Donors and NGOs made no public protests although they did raise the issue with the government privately.<sup>106</sup>

Particularly to the extent that TMVP extortion targets donor-funded NGOs and contractors working on funded development projects, bilateral donors and development agencies have a responsibility to respond. Inaction amounts to sanctioning de facto international funding for armed groups known to be involved in criminal

activities. This would also violate the anti-corruption policies of development banks and donor agencies.<sup>107</sup>

Multilateral and bilateral donors should jointly undertake a study to determine the nature and extent of alleged extortion, theft and “taxation” by armed groups and government security forces in the east.<sup>108</sup> They should also commit to continued monitoring of the problem and should encourage their implementing agencies and local partners to report extortion (with appropriate guarantees of confidentiality). Strong messages should also be sent to the central government, the TMVP and provincial politicians that donors are aware of the problem and that every effort must be made to end such practices and to hold those involved accountable.

Opportunities for extortion and manipulation by political interests – whether the TMVP or local or national politicians – appear to be fewer in small-scale, village-level work than in larger infrastructure projects. Both UNOPS and the World Bank’s “Community development in conflict affected areas” program, for instance, rely on community labour and decision-making in road building and other small-scale infrastructure projects. They argue that this has limited extortion and political interference. The World Bank’s program, currently operating in 600 villages, mostly in former LTTE-controlled areas, channels the money directly to revolving loan funds and to village committees which decide

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Group interview, development agency official, Colombo, December 2008.

<sup>100</sup> Crisis Group interview, international humanitarian worker, Batticaloa, November 2008.

<sup>101</sup> Crisis Group interview, community activist, Batticaloa, November 2008.

<sup>102</sup> Crisis Group interview, business owner, Batticaloa, November 2008.

<sup>103</sup> Crisis Group interview, business owner, Batticaloa, November 2008.

<sup>104</sup> Crisis Group interviews, diplomats and development officials, Colombo, September and November 2008.

<sup>105</sup> Crisis Group interviews, diplomats and humanitarian workers, Colombo, May 2008.

<sup>106</sup> There have been no reports by INGOs of major theft by armed groups in 2009.

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<sup>107</sup> World Bank procurement guidelines state that the bank “will cancel a portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur”. It also states that the bank has the right to “reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question”. “Guidelines for procurement under IBRD loans and IDA credits”, International Bank for Reconstruction and Development/World Bank, May 2004, pp. 10-11. The ADB has pledged to adopt “anti-corruption provisions effectively identical to those adopted by the World Bank for the rejection of proposals, loan cancellation, declaration of ineligibility and inspection rights”. “Anti-Corruption and Integrity”, Asian Development Bank, December 2007, p. 42.

<sup>108</sup> One confidential ad hoc study done by a donor found that “Similar to the LTTE under the Ceasefire Agreement, the TMVP taxes businesses and contractors, runs businesses, ‘resolves’ disputes within the community, forces people to do voluntary work, and interferes with the work of (I)NGOs (eg, in beneficiary selection), hospitals and co-op shops”. “Field visit report on human security in Batticaloa”, January 2009.

on the roads, wells and community buildings they want to build and then build them themselves, with outside technical advice.<sup>109</sup> Community involvement can delay completion of the projects, but it is a model that other donors should consider adopting when possible.

Nonetheless, complaints continue to be heard that even local-level participatory infrastructure projects lack transparency and are subject to fraud and political manipulation.<sup>110</sup> This risk increases as Karuna and the TMVP tighten their grip on local government bodies and community organisations.<sup>111</sup> Donor and development agencies need to increase their monitoring, establish and publicise procedures for submitting anonymous complaints, and provide more information on their projects to those living in the east. This should be complemented by a joint donor study of the efficacy of community participatory approaches.

#### **D. DISARMAMENT, DEMOBILISATION AND REINTEGRATION**

In an apparent attempt to address some of the Eastern Province's security problems, the government has developed ambitious plans for the demobilisation and reintegration of ex-TMVP fighters.<sup>112</sup> With funding

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<sup>109</sup> Crisis Group interviews, World Bank official, Colombo, November 2008.

<sup>110</sup> Crisis Group interviews, businessmen and development workers, Batticaloa, November 2008. The World Bank's community development projects are audited by a number of different government bodies, involving both the provincial council and the central government. They are also subject to periodic reviews by independent agencies and by the villagers themselves. It remains questionable how well such projects are able to insulate themselves from the coercive power of the TMVP and Karuna. Both groups are said to have sufficient control over villages in western Batticaloa to have effective access to most organisations' and individuals' bank accounts, though not yet to the degree attained by the LTTE in 2002-2004. Crisis Group interviews, aid workers and community leaders, Batticaloa, March 2009.

<sup>111</sup> Crisis Group interviews, aid workers and community leaders, Batticaloa, March 2009.

<sup>112</sup> The program will begin in the east, focusing on Trincomalee and Batticaloa districts, but is meant ultimately to be implemented in the Northern Province as well. In the east it will target demobilised TMVP fighters but will also include an estimated 750-1000 ex-LTTE fighters who never joined the TMVP. In the north, the program will focus on surrendered and former LTTE fighters. The program will be jointly administered by the peace secretariat, the ministry of disaster management and human rights and the commissioner general for rehabilitation. Efforts are also underway to arrange financial support from private companies, who are being encouraged to sponsor a cadre for a year. Crisis Group interview,

promised from USAID<sup>113</sup> and implementing support from the International Labour Organization (ILO) and the International Organization for Migration (IOM), the program will provide ex-TMVP and ex-LTTE cadres with vocational training, jobs – including foreign employment – and other livelihood opportunities.<sup>114</sup> Some ex-cadres may join government security forces.<sup>115</sup> To date, officials involved in planning the demobilisation and reintegration program have been reluctant to call it a “disarmament, demobilisation and reintegration” (DDR) program. According to them, disarmament will commence only after the rehabilitation phase has been fully planned and set in motion, and, more important, only after the defence ministry has given its approval.<sup>116</sup>

A full-scale DDR program would go a long way to reduce the sources of insecurity in the east and should be a basic element of any long-term strategy for the region's development. However, it can be effective only if there is a commitment by the government not

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Dayani Panagoda, director of policy, Secretariat for Coordinating the Peace Process (SCOPP), Colombo, January 2009.

<sup>113</sup> Crisis Group interview, USAID official, Colombo, February 2009.

<sup>114</sup> The government's rehabilitation plans have been undermined by the global economic downturn, which has meant that some 3,000 Sri Lankans have already lost jobs arranged by the Korean government. Among them were 500 ex-TMVP cadres. “Foreign jobs for TMVP cadres are now off the table”, says one donor. “Korean jobs have dried up and Middle East jobs are unlikely now with their economic problems. How happy will cadres be with jobs in the east? They will be reluctant to give up their guns. And the government won't want them coming to Colombo”. Crisis Group interview, development agency official, Colombo, February 2009.

<sup>115</sup> Karuna has at times endorsed government plans for some of his cadre to be absorbed into the police or army. Crisis Group telephone interview, Vinayagamoorthy Muralitharan (Karuna), Colombo, January 2009. See also “Breakaway Tamil Tigers ‘disarm’”, BBC Sinhala Service, 4 November 2008. To date, no former TMVP members have joined the government security forces, though a small number are currently under training. Crisis Group interview, government official, Colombo, March 2009. At a minimum, any police, army or civil defence units comprising former TMVP cadres must be placed under clear and accountable command structures. Given the absence of accountability for alleged abuses by the security force personnel, however, even this safeguard will be of limited value.

<sup>116</sup> While the defence secretary has reportedly expressed his support for the initiative, formal approval has yet to be given. The government plans to announce its draft “national framework” for disarmament, demobilisation and reintegration at a meeting of high-level stakeholders at the end of March 2009, prior to wider public consultations. Crisis Group interviews, Dayani Panagoda, director of policy, SCOPP, Colombo, January and March 2009.

only to demobilise particular cadres but to help shift the TMVP from an armed group routinely using violence and operating outside the law to a non-violent democratic party accountable under the law. To date, this has not happened.

On 7 March 2009, Pillayan and other TMVP leaders formally handed over weapons to the Sri Lankan military in a public ceremony in Batticaloa.<sup>117</sup> While the TMVP now says it has disarmed, there are no procedures for independent verification, only a relatively small number of weapons were handed over<sup>118</sup> and eyewitnesses in the east continue to report seeing armed TMVP cadres in public.<sup>119</sup> Moreover, the Karuna faction, whose cadres have now joined the ruling SLFP, remains armed and has given no assurances of future disarmament.<sup>120</sup> With tensions between Pillayan and Karuna high, and LTTE attacks on both factions continuing, Pillayan's forces are unlikely to relinquish their full arsenal anytime soon.<sup>121</sup> At least some members of both the Karuna and Pillayan factions are still being used as paramilitary allies in the government's counter-insurgency efforts against LTTE infiltration in the east. This is likely to continue and could well expand into the post-war north.<sup>122</sup>

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<sup>117</sup>“Break-away group disarms, seeks IOM assistance”, IRIN, 9 March 2009. According to a government official, this “disarmament” was a unilateral move by Pillayan as part of his political struggles with Karuna and is not part of a larger government plan for disarmament, demobilisation and reintegration. Crisis Group interview, Colombo, March 2009.

<sup>118</sup>The TMVP is reported to have handed over 56 T-56 guns, one T-81 gun, 40 RPG shells and 6,700 rounds of ammunition. “Former LTTE rebels surrender arms”, *Press Trust of India*, 8 March 2009. With almost 60 TMVP offices and camps in the east, this was clearly a symbolic gesture.

<sup>119</sup>There are also credible reports that TMVP factions continue to recruit fighters, including some children and some who were originally recruited as children but are now adults. Crisis Group interviews, diplomats and aid workers, Colombo and Batticaloa, February-March 2009.

<sup>120</sup>Chris Kamalendran, “Karuna faction says won't disarm”, *The Sunday Times*, 8 March 2009. Karuna has given a series of conflicting statements on disarmament, at times promising it will happen, at others times saying his faction will remain armed until all threats are eliminated, and at other times denying his men are armed. See also Jamila Najmuddin, “More armed groups left in East- TMVP”, *Daily Mirror*, 10 March 2009.

<sup>121</sup>On 13 March, four members of the Karuna faction were shot dead by unknown gunmen in Sammanthurai, Ampara district. “Four ‘TMVP cadres’ shot dead”, BBC Sinhala, 13 March 2009.

<sup>122</sup>In the words of one sceptical donor, “Putative talk about DDR is nonsense. Karuna and Pillayan won't give up their armed cadres, especially so long as they are at odds with

Prior to full disarmament, even the best-intentioned and well-planned reintegration and rehabilitation scheme is likely to be only of minor benefit. At worse, it could be counterproductive. Until the TMVP and Karuna's fighters have been persuaded to put down their arms, or at least verifiably cease recruiting new members, any employment, training or rehabilitation schemes designed specifically to reintegrate ex-TMVP cadres into civilian life will actually function as incentives for additional unemployed youth to join the TMVP.<sup>123</sup> Employment, training and livelihood programs thus need to be aimed at the larger community, not targeted exclusively for TMVP cadre.

## E. CHILD SOLDIERS

A 1 December 2008 child soldiers “action plan” signed by then-TMVP leader Karuna, the Sri Lankan government and UNICEF was cause for some hope that child recruitment by the TMVP might be ending. The plan expired three months later, with little progress having been made.<sup>124</sup> Under the agreement, the TMVP committed to facilitate the release and reintegration of all underage fighters and to ensure that no one under eighteen is recruited in the future. The agreement obliged the TMVP to “ensure the release of all children associated with the TMVP” within one month. On 22 January 2009, the TMVP released fifteen underage recruits to a special child welfare centre at the Batticaloa district secretariat. According to UNICEF's figures, the TMVP continues to have at least 40 recruits

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each other”. Crisis Group interview, development agency official, Colombo, February 2009.

<sup>123</sup>“Demobilisation of the TMVP doesn't make sense so long as the conflict is ongoing and recruitment continues. It will only channel money to the TMVP. Demobilisation makes no sense without a government commitment to change its relation to the TMVP”. Crisis Group interview, humanitarian agency official, Colombo, February 2009. The TMVP, like the LTTE before it, is known to have recruited fighters, including children, trained them, and then released them for publicity purposes while maintaining them as a pool of trained reserves who can later be called up when needed.

<sup>124</sup>The Sri Lankan government is eager for the TMVP's child recruitment to be seen to have ended. This would avoid any possible punitive action by the UN Security Council in response. The Secretary-General recommended that the Council consider “targeted measures” against the TMVP should they continue to violate Security Council Resolution 1612. “Report of the Secretary-General on children and armed conflict in Sri Lanka”, UNSC S/2007/758, 21 December 2007, para 166. TMVP child recruitment also triggered congressional prohibitions on certain forms of U.S. military assistance to Sri Lanka.



under the age of eighteen, as of 28 February.<sup>125</sup> These figures are likely to be a significant underestimation.<sup>126</sup>

There were reasons for scepticism from the start. The action plan had no provisions for holding Karuna or TMVP leaders accountable for what the agreement clearly states are crimes under both Sri Lankan and international law. The agreement thus amounted to a de facto government amnesty for Karuna, Pillayan and other TMVP leaders. In addition, it makes no mention about those TMVP cadres recruited – often forcibly – as children who have since turned eighteen and remain with the TMVP.

The effectiveness of any action plan in ending future recruitment and providing relief for those children still in the TMVP depends on the ability of UNICEF to monitor independently, and without prior notice, any and all TMVP offices and camps. This is the only reasonably secure guarantee against further recruitment, without which any releases from the TMVP remain of questionable value.<sup>127</sup> The text of the agreement was ambiguous on this point. The TMVP agreed to “provide free access to UNICEF and Commissioner General for Rehabilitation officials to TMVP bases and offices”

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<sup>125</sup> “Underage Recruitment Database”, UNICEF, Colombo, 28 February 2009. The database reports one new case of underage recruitment and one case of re-recruitment.

<sup>126</sup> Crisis Group interview, UNICEF official, Colombo, March 2009. UNICEF accepts that as a general rule they receive reports of only about one third of total child recruits. This suggests the actual number of recruits still under eighteen and with the TMVP could be over 100. There also remain at least 80 underage recruits who have since turned eighteen, about whom the action plan is silent. The TMVP has also failed to meet other deadlines agreed under the plan, including its promise to develop a registry of all underage recruits and to formulate a system for checking the age of all future recruits. Reports from Batticaloa district confirm that some child recruitment is continuing, as well as the re-recruitment of former child soldiers, though families are generally too scared to report it to the police or UNICEF. Crisis Group interviews, community activists and aid workers, Batticaloa, March 2009. There are also credible reports that pro-government armed groups in the northern town of Vavuniya are currently recruiting children. See “A Profile of Human Rights and Humanitarian Issues in the Vanni and Vavuniya”, Centre for Policy Alternatives, March 2009, p. 26, at [www.cpalanka.org](http://www.cpalanka.org).

<sup>127</sup> There was also no clause giving UNICEF or any other independent monitor the right to search for and release specified individuals. UNICEF does not choose whom to demobilise, but simply accepts those that an armed group chooses to release. There is thus nothing to prevent the TMVP from following the example of the LTTE and recruiting new children, who have yet to undergo training, in order to have children to release publicly.

in order to monitor compliance with the agreement. Elsewhere the document mentions “joint visits and inspections of their bases and offices” as one of the “modalities to monitor commitments made by the TMVP”. If UNICEF is “free” only to make joint visits with government officials, however, any action plan will be of little value, given the longstanding relationship between government and both Karuna and Pillayan factions. An earlier action plan between UNICEF and the LTTE foundered in part on this same lack of unrestricted access.

Before the UN Security Council, the U.S. and other donors declare Sri Lanka free of child soldiers, more pressure must be put on Karuna, Pillayan, and the Sri Lanka government. Under any future “action plan”, UNICEF must have the power of unlimited, independent inspection of all camps and offices of both Pillayan and Karuna factions and be provided with adequate staff to monitor compliance with all terms of the agreement.

## **F. ECONOMIC AND BUSINESS DEVELOPMENT**

Some donor-supported projects are premised on the idea that development of the long-neglected east will by itself help reduce conflict. Such projects can address one of the root causes of war by helping overcome the region’s relative under-development and economic marginalisation. Unfortunately, this theory is too simple. No business or economic development initiatives can have lasting and conflict-sensitive effects without negotiating the crucial question of which communities and constituencies benefit. The multi-ethnic nature of the east, the lack of provincial sources of capital, and the continued power of the central government to shape provincial policies all make it far from certain that development in the east will benefit all three ethnic communities equally, or in ways that most see as fair.

The potential for economic development to have ethnically unbalanced effects is a major worry for Tamil and to a lesser extent Muslim businesses. Tamil and Muslim business people in Batticaloa and Trincomalee say they are not opposed to Sinhalese businesses coming to the east. But they are worried about them receiving advantages or state patronage that others do not have access to.<sup>128</sup> Many worry that with most sources of capital being in the Sinhala-majority Western Province and Sinhala business interests having stronger ties with government politicians, business development in

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<sup>128</sup> Crisis Group interviews, business leaders and government officials, Trincomalee and Batticaloa, November 2008 and March 2009.

the east could amount to its economic colonisation.<sup>129</sup> The development of the tourist industry, especially along the coast, is a specific cause of concern given the history of beach front land throughout Sri Lanka being made available to politically connected businesses.<sup>130</sup>

The vulnerability of Tamil businesses – including those from outside the east – to extortion and abduction for ransom is already reducing the willingness of Tamil entrepreneurs to work in the east. Tamil business people in Trincomalee point to the long history of ethnic violence in which their businesses have been targeted and destroyed, while Sinhalese businesses have grown stronger with government and military backing.<sup>131</sup> “Twenty-five years of war has been terrible for local businesses. We’ve never been compensated for losses from war and ethnic riots. And there’s been no sign from the government of any plans to help conflict affected businesses”, says one Tamil business leader in Trincomalee.<sup>132</sup> Whatever business opportunities do emerge are unlikely to be equally available to all communities unless the current political and security situation changes.

The most significant current donor initiative for business development is USAID’s “Connecting Regional Economies” (CORE), which seeks to address the underlying causes of conflict by reducing “the disparity in economic development between Eastern Sri Lanka and the more prosperous Western Province”.<sup>133</sup> CORE consists of market-oriented programs to increase job and livelihood opportunities and foster economic growth in the east, primarily through job training and targeted support to improve supply chains and market linkages between agricultural producers in the east, and proc-

essors and end markets elsewhere.<sup>134</sup> A companion USAID program, Partnerships for Eastern Economic Revitalization (PEER) directly funds public-private partnerships designed to support these same “value-chains”, with the U.S. government effectively offering venture capital for businesses willing to invest in the east.<sup>135</sup>

While the market-based approach of CORE – and even more so, that of PEER – has its advantages, it also poses risks.<sup>136</sup> Business development programs should include active outreach to Tamil and Muslim businesses that might be interested in expanding into the east, to offset the various advantages that Colombo and Sinhala businesses will have.<sup>137</sup> As much as possible, the various forms of market-based assistance on offer should aim to support the development of eastern businesses, entrepreneurial talent and ultimately wealth, rather than simply opening up new market opportunities or sources of supplies for companies based

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<sup>129</sup> Of the 72 government officials who attended two high-level meetings in 2006 to plan the economic redevelopment of Trincomalee, all were Sinhalese, except for two Tamils. “Development Plan for Trincomalee Metro Urban Development Area”, Urban Development Authority, vol. 1, part II, 2007.

<sup>130</sup> In the aftermath of the tsunami, exceptions to the government’s coastal buffer zone were made to the benefit of hotel owners. See “Sri Lanka: Human Rights Issues in the Post-Tsunami Conflict”, Asian Forum for Human Rights and Development, 31 May 2005, at [www.forumasia.org](http://www.forumasia.org).

<sup>131</sup> The most recent violence took place in April 2006. See Crisis Group Report, *Sri Lanka’s Eastern Province*, op. cit., p. 24. Tamil businesses are still awaiting their promised government compensation.

<sup>132</sup> Crisis Group interview, Trincomalee, November 2008.

<sup>133</sup> “Connecting Regional Economies Program (CORE) 2008-2011”, USAID, at [http://srilanka.usaid.gov/programme\\_core\\_description.php?prog\\_id=10](http://srilanka.usaid.gov/programme_core_description.php?prog_id=10).

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<sup>134</sup> CORE also works in the North Central and Uva Provinces. The program’s five official goals are to: “support livelihood development for vulnerable populations”, “promote the competitiveness of agriculturally-based value chain”, “ensure that groups in conflict-affected areas benefit from participation in selected value chains”, “implement a workforce development strategy” and “promote a business enabling environment”. Ibid.

<sup>135</sup> Crisis Group interview, USAID official, Colombo, December 2008.

<sup>136</sup> CORE was publicly criticised by the TNA’s parliamentarian for Batticaloa, P. Ariyanethiran, who called it an attempt “to help Colombo to make majoritarian inroads into the East, to integrate it economically and socially with the Colombo system, and then to integrate the entire island with the international system”. By choosing to cooperate with the Sri Lankan government in developing the east after it has been demerged from the north and before “a substantial political solution to the Tamil national question”, USAID is “ignoring or sabotaging the geographical, developmental and socio-economic integration of the Tamils of North and East”. “US development aims integrating East with Sinhala provinces”, *Tamilnet*, 28 November 2008. For the US ambassador’s public reply to the TNA critique, see “A response to Tamilnet by Ambassador Blake”, 15 December 2008, at <http://usembassycolombo.blogspot.com/2008/12/response-to-tamilnet-by-ambassador.html>.

<sup>137</sup> According to one USAID official, “We can’t ignore the fact that the Western Province has the capital necessary to produce jobs in the east. We’ll work with these companies. We don’t care who owns them, Sinhala, Tamil or Muslim. If Tamils or Muslims are worried about this, they’ll have to move from talking to putting their money where their mouths have been. Those who’ve put their capital in will produce the jobs and gain the power. It takes money to create jobs. We have no ethnic agenda”. Crisis Group interview, Colombo, December 2008.

in the west.<sup>138</sup> This is particularly true of attempts to “strengthen marketing and development links between the Eastern and Western Province”. These need to be carefully tailored to expand existing eastern businesses and entrepreneurial talent, rather than treating the east as a source of wealth production for the west.

Two more projects in the east also raise concerns. The Kappalthurai Industrial Development Zone, located on the outskirts of the town of Trincomalee, was initiated by the United National Party government in 2004 but has only now begun to be built. Tamils in Trincomalee worry that only Sinhala companies will get access and that a potentially neutral plan will be communalised.<sup>139</sup> In addition, the Oluvil port now being constructed with Danish government support is generating serious tensions among Muslims, who fear the harbour will be militarised and used to establish Sinhala settlements.<sup>140</sup> Similar fears have been expressed about the ADB-funded Valachchenai fisheries port inaugurated in February 2009.<sup>141</sup>

Donors promoting economic and business development in the east should closely monitor – and urge the government to be transparent about – who is benefiting. Given the powerful role played by ethnic business networks linked to politicians, careful attention should be paid to which businesses and which ethnicities are getting government contracts and support. Development agencies should also publicly announce their commitment to preferential hiring for local residents in both the contracting and sub-contracting work done with donor money. The government and private investors should be encouraged to follow suit and to

be as transparent as possible in economic development decisions.

## G. THE QUESTION OF LAND

The most important and politically explosive issue in the east remains the control and use of land. A wide range of donor-funded development projects have direct bearing on who lives where and how land is managed and used. These include road-building, housing and irrigation projects, as well as support for those displaced and in need of resettlement.

Of particular concern for Tamils and Muslims throughout the Eastern Province is what many see as the continued threat of new Sinhala settlements and Sinhala-majority administrative divisions. While there is still little in the way of concrete evidence of ongoing Sinhala colonisation in the east, the fears are powerful. Sinhala colonisation and land disputes in the east between Tamils and Muslims have been a central factor in the last 25 years of violent conflict and contribute directly to current ethnic tensions in the east and throughout the country.<sup>142</sup> There is also the real possibility of these disputes reaching into the north once the government has sufficient control to resettle civilians. “In the north it’s mostly state land”, explains one development agency official, “but a lot of land has also been given by the LTTE to people, for example, to the families of their ‘war heroes’. There is a lot of potential for conflicts over land in the north”.<sup>143</sup>

### 1. Land regulations and policies

Despite this, there is almost no conscious or collective attempt by donors or development agencies to understand or influence land policies. “There’s no will in the government to deal positively with land issues”, adds the same donor official. “And no donors have funded any serious attempt to tackle land issues in a comprehensive way. Yet state land is a very powerful tool to control demographics and political developments”.<sup>144</sup> Indeed, the sustainability and equity of virtually all development projects depends on how land is controlled and distributed. There is little point in donors attempting to ensure their development assistance is conflict sensitive without addressing land policies.

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<sup>138</sup> USAID’s economic growth program will “facilitate access to finance, strengthen financial service providers, provide business and agricultural services, promote access to capital equipment and small infrastructure, and enhance utilization of information and communications technology”. Ambassador Robert Blake, “U.S. perspectives on Sri Lanka”, speech delivered at the University of Madras, 24 October 2008.

<sup>139</sup> Crisis Group interviews, Tamil civil servant, Colombo, March 2009.

<sup>140</sup> Crisis Group interviews, community leaders, Ampara district, March 2009.

<sup>141</sup> Tamils and Muslims along the coast complain about increased fishing by Sinhalese fishermen from the southern and western coasts, and, more important, about the fishermen beginning to settle along the beach. Even in the entirely Muslim town of Kattankudy, a small Sinhala fishing community has begun to settle, with military sentries stationed nearby. According to one Muslim resident, “People don’t have trouble with Sinhalese development or government workers or traders – only when they try to encroach land or set up colonies in an effort to change the demography or voting lists”. Crisis Group interview, Kattankudy, November 2008.

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<sup>142</sup> See Crisis Group Report, *Sri Lanka’s Eastern Province*, op. cit., p. 24.

<sup>143</sup> Crisis Group interview, senior staff member of bilateral donor agency, Colombo, February 2009.

<sup>144</sup> Ibid.

Foreign development agencies should be working together to monitor current land use patterns and policies in the east. They should begin by underwriting an independent study of the effects that development projects in the east – whether donor-supported, government or military-led or commercial – might have on land use and ethnic relations and how to prevent land-related projects from exacerbating conflict dynamics.

Donors should actively encourage the government to reach a lasting political consensus on land policies, aiming at a compromise among independent representatives of all three communities. Central to this agreement should be granting provincial councils a strong degree of control over land, in line with, or beyond, the terms of the Thirteenth Amendment. Muslims and Tamils should be given concrete assurances that land policies will be devised through inclusive and transparent means and will not be used as a tool to politically weaken their communities. Donors should link any further funding for housing, irrigation or related development projects to the government agreeing to devise new and sustainable land titling and land distribution policies through transparent and inclusive procedures.

The January 2009 cabinet decision to appoint the long-delayed National Land Commission is potentially a positive step.<sup>145</sup> It offers a possible point of contact between the government and donors. But there must first be a genuine commitment from the central government and from donors to address land issues in a comprehensive and inclusive spirit. Of particular concern for donors should be new land regulations announced by the Eastern Province land commissioner in October 2008.<sup>146</sup> The regulations allow landless families to register to receive state land, but critics have pointed to a range of ambiguities and gaps in the regulations that could be used to exclude large numbers of people from eligibility.<sup>147</sup> Bilateral donors, development agencies and NGOs working in the east should encourage the central and provincial governments to extend the deadline for registering land claims until the regula-

tions have been rewritten to remove any serious cause for concern for representatives of any of the three ethnic communities.

## 2. Road building

There has been significant donor support for provincial and national roads throughout the Eastern Province, much of it to rebuild roads damaged by the tsunami.<sup>148</sup> Two major roads, neither apparently funded by foreign donors, have been of concern to Muslims and Tamils. The “ring road” that runs around the length of the Trincomalee harbour has sparked particular fears among Tamils and Muslims in the Trincomalee district.<sup>149</sup> Large amounts of land have been taken from private owners and from those living on the land with government permits, but no compensation has been provided.<sup>150</sup> There are also worries that the large buffer zone on each side of the road will provide land for Sinhala encroachers with government support. The road linking Polonnaruwa in the North Central Province and Seruwila in Trincomalee has generated similar stories – believed by many Tamils and Muslims – that Sinhala settlers have already been brought in along the roadsides.<sup>151</sup> Without open access for journalists or the public, these fears and rumours are likely to continue. Given its location, connecting Sinhala areas of Uva Province to Muslim and Tamil areas on the coast, the Siyambalanduwa-Kalmunai road being rebuilt with EU funding is also worthy of close monitoring.

Donors who support road building in the east – and in the future in the north – should commit to closely monitoring for any encroachment or arrival of settlers along newly built or expanded roads and should be willing to raise the issue at high levels of government if necessary. Donors should also insist that compensation is paid for any land taken, especially but not only, for roads they fund.

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<sup>145</sup>“Summary of Cabinet Decisions, January 22, 2009”, at [www.news.lk](http://www.news.lk). The creation of a National Land Commission was mandated by the Thirteenth Amendment but has never been established.

<sup>146</sup>On 21 March 2008, the cabinet of ministers approved a set of new policies for the control and encroachment of state land. A subsequent circular was issued by the land commissioner in October, setting out eligibility criteria and selection procedures for applicants for land. Circular No. 4/2008, 20 August 2008.

<sup>147</sup>“Comments on the procedures devised by the Land Commissioner General to implement the government policy on control of encroachment and alienation of State Land”, Peace Secretariat for Muslims, October 2008.

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<sup>148</sup>Japan, the EU, World Bank and ADB have contributed hundreds of millions of dollars since 2005 to these efforts. In addition, many rural roads are being rebuilt through community participation. There appears to be no international funding to build any new roads.

<sup>149</sup>Crisis Group interviews, community activists, Trincomalee, November 2008. The road is built by the road development authority in conjunction with the ministry of nation building and the army.

<sup>150</sup>Crisis Group interviews, community activists and NGO staff, Trincomalee, November 2008.

<sup>151</sup>Crisis Group interviews, community activists and NGO staff, Trincomalee, November 2008. It has not been possible to either confirm or disprove these rumours due to lack of access to the roads.

### 3. Housing

Tens of thousands of houses have been built in the east since the 2002 ceasefire and after the December 2004 tsunami. Many more are currently under construction by various donors. Houses are important as a potential means of controlling or changing the demographic patterns in the east. As a result, the provision of housing has long been a politically complex process. With “political interference ha[ving] increased” since the provincial council was established, “we have to be very careful about the effects of our projects”, says one development agency official.<sup>152</sup>

Ongoing World Bank housing projects in Trincomalee, for instance, have been subject to particularly strong political pressure. The Trincomalee district secretary is widely known to have pressed the World Bank to ignore its poverty and conflict-affected eligibility criteria in order for Sinhalese to receive houses in southern Trincomalee district. The World Bank, with strong EU backing, was able to resist these efforts and insist that the original criteria for eligibility be respected.<sup>153</sup> Such vigilance will remain important, especially as new housing in the north comes onto the political agenda.

Housing projects face other challenges as well. Residents displaced by fighting in the former LTTE area of Vakaraia area in Batticaloa, for instance, have yet to receive deeds or other evidence of ownership for houses being built for them, despite frequent requests made to the government by the NGO building the houses.<sup>154</sup> Without proper legal documentation, occupants of the newly built houses are vulnerable to political pressure and possible eviction. Donors need to work closely with the government and the implementing agencies who build their houses to ensure that the proper land titles or permits are issued.

Donor-funded housing should not be considered in isolation from government-funded projects in the east and, in the future, in the north. For instance, the government’s “Api Wenuwen Api” program intends to build 50,000 houses for soldiers and their families throughout the country.<sup>155</sup> The only two sites under construction to date are in the Anuradhapura district, but there is widespread discussion among Tamils and Muslims that some of these houses will be built in the east.

Donors who fund housing should request the government make public the locations of the remaining sites.

### 4. Irrigation

Irrigation projects have been a source of ethnic conflict since before independence and were an earlier means of making demographic and political changes in the east.<sup>156</sup> Donors should be very careful in what and how they fund such projects in the east and in the north. The government has requested funds from the Japanese government to complete the Moragahakanda irrigation project, which would provide drinking and agricultural water in the Kantalai area of Trincomalee district and the Padaviya area on the border of Anuradhapura and Trincomalee districts. The government is also seeking Saudi and Kuwaiti support for the Kaluganga project to supply water to both the eastern and north central provinces.<sup>157</sup> Donors should request that the government provide a long-term development plan for the newly irrigated areas, including the full disclosure of any plans for new settlements. Ongoing support from the World Bank and others for the renovation of existing irrigation systems in the southern Trincomalee districts, where ethnic tensions remain high, must also be done with care and a close eye on the local political and security dynamics.<sup>158</sup>

### 5. High security zones and special economic zones

The eviction of more than 5,000 people by the Sampur high security zone (HSZ)<sup>159</sup> – in part to make way for a coal power plant to be built with the assistance of the Indian government – is a continuing source of

<sup>152</sup> Crisis Group interview, Colombo, November 2008.

<sup>153</sup> Crisis Group interviews, diplomats and development officials, Colombo, February 2009.

<sup>154</sup> Crisis Group interview, NGO and UN staff, Colombo, February 2009.

<sup>155</sup> See [www.apiwenuwenapi.com/](http://www.apiwenuwenapi.com/).

<sup>156</sup> See Crisis Group Report, *Sri Lanka’s Eastern Province*, op. cit., pp. 4-6.

<sup>157</sup> Franklin R. Satyapalan, “Lanka seeks Japanese, Saudi funding”, *The Island*, 22 January 2009. Japanese government officials say they are considering the request. Crisis Group interview, Colombo, February 2009.

<sup>158</sup> The 24 March murders of five Sinhala farmers in Dehiwatte near Serunuwara, in southern Trincomalee and the subsequent killing of six Tamils in nearby villages suggest the volatility of the region. Dasun Edirisinghe, “Tigers take revenge on farmers after failed bid on Air force”, *The Island*, 26 March 2009.

<sup>159</sup> The displaced were pressured to accept housing in new locations. While UNHCR did help organise a common stand not to assist in building and supplying sites where the displaced were to be relocated, they have since changed tack and are supporting UNDP relocation for those who volunteer. Advocates for the displaced question the ability of UNHCR and other agencies to guarantee the voluntary nature of such relocation. Crisis Group interviews, Colombo, March 2009.

grievance for Tamils.<sup>160</sup> The use of militarised HSZs, established under emergency regulations, to clear the way for economic development unfairly insulates contestable economic, environmental and development decisions from political or legal challenge.

Donors should strongly resist this overlap of security restrictions and development. In the north and east it is a potential source of continued conflict and grievance by minorities vis-à-vis the central government. The recent cabinet paper that reserves large areas of the northern Trincomalee coastline for mining heavy beach mineral sands is troubling in this regard, given the heavy security presence likely to remain in the area.<sup>161</sup> Governments whose private or state-owned companies are planning on excavating or buying minerals from these lands should insist there is local consultation, environmental impact assessments and adequate compensation for any residents displaced. The government should be urged to grant the provincial councils in the north and east unambiguous power to prevent emergency powers, HSZs, or special economic zones (SEZs) from being used to seize land without local consultation, accountability or compensation.

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<sup>160</sup> The role of the Indian government is a particular cause of anger for many Tamils, who had looked to India to defend Tamil land rights in the north and east. Those displaced have yet to be offered financial compensation; all but a few continue to refuse to move to alternate locations offered by the government. See Crisis Group Report, *Sri Lanka's Eastern Province*, 15 October 2008, pp. 25-26.

<sup>161</sup> "Summary of cabinet decisions – Development of Lanka Mineral Sands Limited", 24 December 2008 at [www.news.lk](http://www.news.lk). The state-owned Lanka Mineral Sands Corporation has for years had a mine at Pulmoddai that has extracted ilmenite, used in the production of titanium, and other minerals. The government now plans a joint venture with the Austro-Russian company Stork Handelsges. Japanese and Indian companies are reportedly major purchasers of ilmenite and other minerals. Some reports indicate the government plans to declare the area around the plant a high security zone. See "Coastal areas from Nayaaru to Nilaweli to be declared a Security-Economic Zone", *Transcurrents*, 26 December 2008, at [http://transcurrents.com/tc/2008/12/post\\_195.html](http://transcurrents.com/tc/2008/12/post_195.html). The Pulmoddai plant has long been the object of criticism by Tamil nationalists who believe the mineral resources belong to and should be controlled by and benefit Tamils of the north and east. The Janatha Vimukthi Peramuna (JVP) has filed suit to prevent the government's plan to partner with Stork Handelsges, which it rejects as unwise to grant control of national wealth to a foreign company. S.S. Selvanayagam, "Appeal Court takes up writ application on impugned mineral sands project", *Daily Mirror*, 13 March 2009.

## H. CONFLICT-RELATED DISPLACEMENT

Residents of the north and east of all ethnicities have suffered from large-scale displacement throughout Sri Lanka's three decades of war. The Eastern Province saw massive displacement – upwards of 200,000 people at its height – during fighting in 2006 and early 2007. Responding to the social consequences of such a large movement of people has been one of the central preoccupations of international agencies and their local partners in the east since then.

In addition to the possibly permanent displacement of thousands of families from the Sampur HSZ, the east has seen other problems with displacement and resettlement. Most notable were the numerous cases of forced resettlement and other violations of the rights of the displaced in February-March 2007.<sup>162</sup> The worst violations ended by May 2007, but there are still complaints about less than voluntary, informed or consultative resettlement and lack of service provision and access to livelihoods for those resettled in West Batticaloa and in areas formerly part of the Sampur HSZ.<sup>163</sup> Local advocates complain that UNHCR has not lobbied the government strongly enough for informed and fully voluntary return.<sup>164</sup>

There were more serious violations of international standards and Sri Lankan law in the treatment accorded the hundreds of displaced who fled fighting in the northern Vanni region over the course of 2008, prior to the major influx into Vavuniya in January 2009. The displaced were forced to stay in poorly maintained and tightly guarded "quasi detention centres" at Kalimoddai and Sirukandal, even when they had rela-

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<sup>162</sup> The government's resettlement minister acknowledged publicly that force was used to persuade the displaced to return to their villages. See "Policy brief on humanitarian issues", Centre for Policy Alternatives, December 2007. For a more extensive treatment of forced returns, see "Conflict-Related Internal Displacement in Sri Lanka", Inter-Agency Standing Committee (IASC), Colombo, July 2007. The government did its best to suppress information about the abuses, which was not released by the IASC until August 2007, after significant resistance from some within UN agencies.

<sup>163</sup> Crisis Group interviews, humanitarian NGO workers and community activist, Trincomalee district, November 2008; humanitarian workers, Colombo, February 2009.

<sup>164</sup> Crisis Group interviews, Colombo, March 2009. A UNHCR official explained that "we had a big fight with the government over forced returns. We threatened a big blow up and got some significant concessions. But the big picture remains the same, a lack of respect for people's rights, choices, and participation". Crisis Group interview, UNHCR official, April 2009.

tives or others with whom they could live.<sup>165</sup> Their movements were severely restricted and their access to educational or livelihood opportunities were limited as a result. Over a dozen people were reported missing from the camps in 2008.<sup>166</sup>

Local advocates for the rights of the displaced and some protection officers with refugee agencies express disappointment with the lack of public advocacy by UNHCR or strong statements from diplomatic missions, even after the failure of months of quiet advocacy with the government and military.<sup>167</sup> The government has also failed to follow through on decisions taken at meetings of the high-level Consultative Committee on Humanitarian Assistance (CCHA).<sup>168</sup> Despite the decision by UNHCR and most other humanitarian agencies to limit their involvement in the camps to the provision of emergency assistance, their public silence established a measure of tolerance for camps that violate minimum international standards on numerous counts.<sup>169</sup>

Many of the problems affecting the Mannar camps from March 2008 are now present in more severe forms and on a much larger scale in the military-controlled “transit camps” and “welfare villages” established in Vavu-

niya and Jaffna districts in early 2009.<sup>170</sup> Residents are not allowed to leave, even to visit or stay with nearby relatives, nor are relatives free to visit.<sup>171</sup> The transit camps located in schools and other public buildings are severely overcrowded, with reports of serious health and sanitation problems.<sup>172</sup> The International Committee of the Red Cross (ICRC), UNHCR and humanitarian NGOs have daily access to the camps in Vavuniya, but access to those in Jaffna is still denied to NGOs. Diplomats from countries that fund food and supplies and agencies working in the camp have at times been barred from visiting.<sup>173</sup>

Government plans sent to donors in mid-January 2009 envisaged ten of thousands of displaced remaining in large “welfare villages” for as long as two to three years.<sup>174</sup> After widespread criticism, the government has assured UN officials and donor governments that they intend to resettle at least 80 per cent of the dis-

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<sup>165</sup> “The situation of internally displaced persons in Kalimod-dai and Sirukandal camps in Mannar”, IDP Protection Working Group, December 2008. Living with host families is “the preferred option of the IDPs, has been the practice in the past [including in eastern Sri Lanka], and is in accordance with the *Guiding Principles on Internal Displacement*”. A government survey conducted in May 2008 found that 100 of the 115 families in Kalimod-dai wished to leave the camp and stay with host families, who had provided supporting letters confirming their willingness and financial capacity to take responsibility for the IDPs. Crisis Group interview, protection officer, humanitarian agency, Colombo, March 2009.

<sup>166</sup> Although some may have voluntarily escaped, the incidents raised fears some may have been abducted or subject to an enforced disappearance from the militarised camps. “The situation of internally displaced persons in Kalimod-dai and Sirukandal camps in Mannar”, IDP Protection Working Group, op. cit.

<sup>167</sup> Crisis Group interviews, Colombo, March 2009.

<sup>168</sup> The Consultative Committee on Humanitarian Assistance is chaired by the minister for human rights and disaster management and includes senior government officials as well as representatives of the U.S., EU, UN and NGOs.

<sup>169</sup> According to one UNHCR official, “A confrontational approach doesn’t work with this government. What will we do if they say no? Will we really pull out? Instead, we are pushing hard, but acknowledging progress and avoiding confrontation. Our strategy is to give the government a balance sheet on where they’ve made progress and where not, with a request for clear plans for the future”. Crisis Group interview, UNHCR official, April 2009.

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<sup>170</sup> See “A Profile of Human Rights and Humanitarian Issues in the Vanni and Vavuniya”, Centre for Policy Alternatives, op. cit., especially pp. 36-43, at [www.cpalanka.org](http://www.cpalanka.org); and “War on the Displaced: Sri Lankan Army and LTTE Abuses against Civilians in the Vanni”, Human Rights Watch, 20 February 2009.

<sup>171</sup> The government had not explained the legal basis on which persons displaced from the Vanni are held in camps against their will. Detention without charge violates not only internationally recognised standards but also the Sri Lankan constitution. The government has also not chosen to legitimate its restrictions on movement through the use of emergency regulations. Forcing people to remain in the camps also affects rights to health care, education and livelihoods. Those with specific needs inside the sites, including the elderly, the disabled, the sick and injured, as well as separated and unaccompanied children, are in particularly critical situations. The government decision that IDPs over 60 will be allowed out to live with host families has not been comprehensively implemented. There have been entirely preventable deaths of some who were not able to gain access to adequate care and assistance outside their camps. Crisis Group interview, protection officer, humanitarian agency, Colombo, March 2009.

<sup>172</sup> One observer described conditions in the transit camps as “horrendous”. Crisis Group interviews, diplomats and humanitarian aid workers, Colombo, March 2009. See “A Profile of Human Rights and Humanitarian Issues in the Vanni and Vavuniya”, Centre for Policy Alternatives, op. cit.

<sup>173</sup> Eyewitnesses report that immediately prior to high-profile visits from UN officials and diplomats from sympathetic countries the government has moved some of the displaced out of overcrowded camps and moved others into new locations to present a better picture of conditions. Crisis Group interviews, aid workers, Colombo, March 2009.

<sup>174</sup> Randeep Ramesh, “Sri Lanka Civil War Refugees to be Housed in Welfare Villages”, *Guardian*, 12 February 2009.

placed by the end of 2009.<sup>175</sup> Still, the government has offered no written assurance of the new timetable, has not informed the displaced of how long they will be in camps, and is continuing with the construction of large, semi-permanent “villages” designed to house more than 100,000 people in total.<sup>176</sup>

The camps are highly militarised, with guards inside and out. With no permanent presence of any international agencies inside the camps, and with credible reports that pro-government armed groups, as well as members of the LTTE, are present within them, there are legitimate concerns for the safety of those detained.<sup>177</sup> Abductions, forced recruitment, sexual assault, extortion and other crimes are known to have taken place in camps in the east in 2007.<sup>178</sup> There are also reasons for grave concern about the safety of the displaced when they first leave the remaining areas of LTTE control and come under government control. Neither the ICRC nor UNHCR is present at the first point of reception by government forces or the screening centre in Kilinochchi, and the government has offered only limited and unverified information about the fate of those they suspect of links to the LTTE.<sup>179</sup> Many women within government camps tell visitors of their serious worries for their male relatives last seen in Kilinochchi or Omanthai and about whom no information is available.<sup>180</sup>

UN agencies, humanitarian NGOs and their bilateral donors need to insist on a collective basis that international standards are respected at all stages of displacement: during initial security screenings, in camps and hospitals that they fund and help maintain, and during resettlement. The desire to preserve access should not prevent humanitarian actors and their donors from publicly highlighting current violations. The UN’s “Guiding Principles on Internal Displacement”, while formally accepted by the government, are being ignored, as are the donors’ own vague “Guiding Principles on Humanitarian and Development Assistance in Sri Lanka”.<sup>181</sup> UNHCR’s aide memoire of 4 September 2008 and its January 2009 guidance note are useful frameworks through which agencies working in all sectors of humanitarian assistance have agreed to proceed for an initial three-month emergency period beginning in February 2009.<sup>182</sup> It remains to be seen how progress towards the principles of freedom of movement, full access and the civilian nature of sites will be monitored and assessed.<sup>183</sup>

A potentially significant step towards ensuring international standards are respected are the “Donor Minimal Standards on Temporary Camps”, adopted by almost all major donors in late February 2009.<sup>184</sup> The document has five central principles: unrestricted access to the displaced for all relevant humanitarian agencies

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<sup>175</sup> “IDPs can go home by year end”, *The Nation*, 15 February, at [www.nation.lk/2009/02/15/inter21.htm](http://www.nation.lk/2009/02/15/inter21.htm).

<sup>176</sup> With the UN estimating there are more than 150,000 displaced in the Vanni, even these massive “villages” will not be big enough, unless the displaced are allowed to stay with relatives and host families.

<sup>177</sup> Namini Wijedasa, “A state’s dilemma: Catching terrorists or caging civilians behind barbed wires”, *Lakbima News*, 1 March 2009, at [www.lakbimanews.lk](http://www.lakbimanews.lk); “A Profile of Human Rights and Humanitarian Issues in the Vanni and Vavuniya”, Centre for Policy Alternatives, op. cit., p. 41.

<sup>178</sup> Crisis Group interview, diplomat, Colombo, March 2009. See “Policy Brief on Humanitarian Issues”, Centre for Policy Alternatives, December 2007, p. 8 The severe overcrowding in the transit camps in Vavuniya creates conditions where such incidents, as well as gender-based violence, are more likely.

<sup>179</sup> While UNHCR and ICRC have access to a screening point at Omanthai, they have limited contact with the IDPs, and are not allowed access to the entire area of the site. The government has stated that they know LTTE cadres are among those now in the “welfare camps” in Vavuniya, but has not explained the nature of the “screening” process that takes place in Kilinochchi. Kelum Bandara, “Ex-Tiger cadres to be rehabilitated”, *Daily Mirror*, 12 March 2009. The government has rehabilitation camps for adult LTTE members at Tellipalai, Senapura and Welikanda, while underage ex-combatants are sent to a camp at Ambepussa.

<sup>180</sup> Crisis Group interviews, diplomats and aid workers, Colombo, March 2009.

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<sup>181</sup> See [www.dellka.ec.europa.eu/en/whatsnew/2007/pdf/guiding\\_principles\\_sri\\_lanka.pdf](http://www.dellka.ec.europa.eu/en/whatsnew/2007/pdf/guiding_principles_sri_lanka.pdf). The Guiding Principles on Internal Displacement can be found at [www.unhcr.ch/html/menu2/7/b/principles.htm](http://www.unhcr.ch/html/menu2/7/b/principles.htm). Donors have not pressed hard for their implementation.

<sup>182</sup> Starting from 7 February 2009. “Guidance Note: Assistance to new IDP sites in Mannar, Vavuniya, and Jaffna”, UNHCR, January 2009; and “Aide Memoire”, UNHCR, 4 September 2008.

<sup>183</sup> At the conclusion of a visit to Sri Lanka, the UN Secretary-General’s Representative on the Human Rights of Internally Displaced People, Walter Kaelin, raised strong concerns about the lack of unhindered access for humanitarian agencies and organisations to IDP sites in Vavuniya and elsewhere, lack of freedom of movement for the displaced and absence of respect for the civilian character of IDP sites. He stressed that “extraordinary efforts will be required of the Government, the United Nations, non-governmental organisations and donors, acting in cooperation, to successfully meet the humanitarian needs of this population”. He welcomed the government’s “commitment to devise an action plan endorsing fundamental principles and indicating clear benchmarks, criteria and timetables for security screening of IDPs; registering them in order to enhance their freedom of movement; and facilitating return”. “UN expert appeals to LTTE and Government of Sri Lanka to save lives of internally displaced persons trapped by conflict”, UN News Service, 7 April 2009.

<sup>184</sup> The Indian government is noticeably absent from the list of signatories.



and representatives of donor countries (to monitor use of donor-funded commodities and programs); guaranteed safety and security and protection of internally displaced persons (IDPs) and humanitarian workers; freedom of movement for IDPs once they have completed security screenings; immediate preparation for a safe and timely return of IDPs to original homes or wherever they wish to go; and an agreement to provide only emergency assistance, with no support given to camps with a semi-permanent or permanent character.

Much more needs to be done for the standards to have any effect. Donors have yet to communicate the content of the standard to the government or to their implementing partners. Nor are there any provisions for monitoring compliance. This is especially worrying as existing transit camps and welfare villages already violate most of the donors' five standards.<sup>185</sup> Donors working together have considerable leverage: the government does not have adequate staff with the training and experience necessary to run the camps. UN agencies, humanitarian organisations and their donors need to move beyond reacting to government policies on an emergency basis and instead formulate advance contingency plans based on consensus among themselves.<sup>186</sup> Donors must be willing to set real conditions, establish effective monitoring mechanisms, and withdraw non-emergency forms of support – including development assistance to other areas of Sri Lanka – if the standards are ignored or monitoring blocked.<sup>187</sup>

Donors have been too willing to accept the virtually complete depopulation of the Vanni and the risk of the long-term housing of hundreds of thousands in militarised detention camps. The commitment not to fund semi-permanent or permanent camps needs to be clearly communicated to the government and strictly adhered to. Donors should be pressing the government to allow the displaced to stay with host families, a practice permitted in the Eastern Province in 2007. Rather than assuming, in line with government policies, that the Vanni is largely uninhabitable until after extensive de-mining has taken place, donors should insist

that an independent study of the number and location of mines and unexploded ordnance in the north is undertaken as soon as possible. Large areas of Mannar, Jaffna South and Vavuniya North could be assessed immediately without any serious security concerns. For those displaced from these areas, return should be a realistic option in the near future.

Finally, UN agencies and bilateral donors need to move beyond mere statements about the need to protect the displaced and begin to develop strong and well-organised protection initiatives. In addition to the current concerns about the personal security of the displaced in camps, there will also be serious protection concerns for those displaced who are resettled in the Vanni. UNHCR and most humanitarian INGOs and their donors have been slow to speak out about continued insecurity and dangers for the resettled from ongoing insurgency and counter-insurgency violence in the east.

Threats to the resettled population in the north could possibly be more severe, given the likelihood of LTTE guerrilla resistance and a large presence of Sri Lankan army and police personnel, as well as pro-government Tamil armed groups. In the absence of a full-scale field presence for the UN Office of the High Commissioner for Human Rights, existing UNHCR, UNICEF and protection units of humanitarian organisations should, with donor support, begin developing a plan for an extensive and coordinated network of protection offices which can report on compliance with international standards. Donors should make this a condition for the provision of non-emergency assistance to the north.

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<sup>185</sup> This includes signs that some of the camps are taking on semi-permanent aspects, including piped water (supplied by UNICEF) and other semi-permanent shelters (supplied by UNHCR). Crisis Group interviews, diplomats and human rights advocates, Colombo, March 2009.

<sup>186</sup> The past 30 plus years of conflict-related displacement includes numerous "emergency" and "transit" camps that remain occupied today, housing tens of thousands.

<sup>187</sup> If donors are reluctant to withdraw support to camps or welfare villages due to humanitarian principles, or to a desire not to punish the displaced, they should consider withdrawing support to other, non-emergency projects in other parts of the country.

## V. CONCLUSION: LESSONS FOR THE NORTH

The twin humanitarian crises Sri Lanka is currently undergoing – more than 100,000 civilians trapped in fighting in Mullaithivu district and over 60,000 housed in militarised camps that deny their residents the most basic freedoms – require urgent and coordinated international action. When the fighting in Mullaithivu concludes, government calls for large-scale international humanitarian, reconstruction and development assistance in the north will soon grow louder.

The Northern Province, devastated by years of war and economic marginalisation, will need even more reconstruction assistance than has the east. Yet the provision of humanitarian aid and reconstruction by itself are not enough. This is the central lesson from the east. The problems the people of the north and the east have been enduring for decades are ultimately political in nature. They require a careful, democratic and inclusive political response.

Before committing any additional reconstruction and development assistance donors must insist that the basic conditions for sustainable development are guaranteed and that the government has taken tangible steps towards democratic political transformation in both the north and the east. Otherwise, there is too great a risk that international funds will ultimately be wasted or possibly even prolong a conflict whose solution could, with proper government policies, be closer than before.

First, this means the provision of security, law and order, and civilian protection. In order for democratisation and devolution of power to be meaningful and for any chance of a lasting political solution to emerge over time, Tamils and Muslims in the north and in the east need to feel secure enough to speak freely and articulate their concerns and interests. A minimum level of security is also essential for reconstruction and development work to be sustainable.

Given the many years of repressive rule and popular indoctrination by the LTTE in the north, there is likely to be more resistance to government control and the military's presence than in former LTTE areas in the east. Government and military leaders have given clear signals that they expect to wage a possibly long-lasting counter-insurgency campaign against remnants of the LTTE or new forms of militancy.<sup>188</sup> If the government's

approach in the east is the model, counter-insurgency will likely involve Tamil armed groups with little respect for, and no accountability to, the law.

Even as the government takes legitimate steps to counter terrorism, donors should insist that basic rights are protected and impunity for violations by pro-government armed groups and state security forces comes to an end. Pro-government paramilitaries must be reined in and violent competition between them for power prevented. Donors and development agencies must also insist that the government reestablish law and order throughout the country, beginning with establishing the Constitutional Council and its subsequent appointment of independent police, human rights and other commissions.<sup>189</sup>

Second, a sustainable end to terrorism and separatism requires democratisation and devolution of power. Provincial or parliamentary elections that take place while the north is under de facto military occupation, many voters are still in military-controlled camps for the displaced, and pro-government political parties are allowed to compete while retaining their armed cadres, can not be considered democratic.<sup>190</sup> Conditions for free

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terrorism". Kelum Bandara, "Gotabhaya vows to capture remaining territory soon", *Daily Mirror*, 13 March 2009. The Sri Lankan army commander has spoken of the necessity of combating what could be a decades-long insurgency even after the conventional defeat of the LTTE. "Tigers can no more fight a conventional war: Sri Lanka", *Indo Asian News Service*, 30 June 2008.

<sup>189</sup> Established under the Seventeenth Amendment to the constitution, the ten-member Constitutional Council was designed to help depoliticise the police, judiciary, and other government bodies through the appointment of a range of independent commissions. The council has not functioned since early 2005 due to minor legal ambiguities successfully made use of by President Rajapaksa, who has since appointed judges and commission members directly. Intervention by the Supreme Court has so far failed to force the president's hand. For more on the political impasse over the Constitutional Council, see Crisis Group Asia Reports N°135, *Sri Lanka's Human Rights Crisis*, 14 June 2007, p. 19; and N°146, *Sri Lanka's Return to War: Limiting the Damage*, 20 February 2008, p. 15.

<sup>190</sup> PLOTE, traditionally strong in Vavuniya, the EPDP, traditionally strong in Jaffna, and the TMVP – all of them with armed wings that are credibly accused of serious human rights violations – will almost certainly contest for seats in the north. Northern Tamils are even less likely than Tamils in the east to feel represented by pro-government armed groups, even if they have been elected. For an analysis of the activities of pro-government armed groups in Vavuniya, see "A Profile of Human Rights and Humanitarian Issues in the Vanni and Vavuniya", Centre for Policy Alternatives, op. cit., p. 25-27.

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<sup>188</sup> In the words of Defence Secretary Gotabhaya Rajapaksa, "The war is like a cancer. Even after curing a cancer, there is a period for radiation treatment. It is same with the war on

and fair elections must be guaranteed. Donors should insist that opposition parties, including the TNA, are allowed to compete without intimidation and that international election observers are in place for provincial and parliamentary elections in the north. No elections should occur while large numbers remain in government camps.<sup>191</sup>

Third, once elected, the Northern Provincial Council, like its eastern counterpart, must be granted the legal authority and power to implement policies that represent their constituents' interests. Development decisions must not be made by fiat from Colombo in conjunction with the government's hand-picked armed Tamil proxies. Instead, the central government should take the necessary legal and administrative steps, as promised in January 2007, to maximise devolution under the Thirteenth Amendment. Both provincial councils must be allowed to pass enabling provincial-level legislation, without obstruction from the president, governors or parliament. Donors should also encourage the provincial councils to give a meaningful role to opposition parties and community leaders in making decisions on development and land-related policies.<sup>192</sup>

Convincing the government to provide the political and security conditions necessary for sustainable, inclusive and equitable development will require bilateral and multilateral donors to work together. This should begin immediately with more coordinated policy discussions leading to a formal donor development forum, at which a written agreement of principles would be signed with the government. Donors and development agencies must then commit to collective efforts to monitor the ongoing situation in the north and east, the degree of compliance with the agreed principles, and the impact of their projects on conflict dynamics, and vice versa.

Land policies, the possibility of new high security and special economic zones, and the potential for disputes over land ownership in areas formerly controlled by the LTTE could all affect the sustainability of development in the north, as in the east, and must be watched very closely. Additional staff and resources should be devoted to these efforts. Finally, the work of local and international NGOs is crucial, not only to implement humanitarian and development projects, but also to ensure they are done in ways that are sensitive to local political and conflict dynamics. Donors need to consistently defend these organisations and insist as a condition of their aid that they be allowed to play an active role in addressing the inevitable future conflicts over land and development in the north and the east.

**Colombo/Brussels, 16 April 2009**

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<sup>191</sup> Donors should support efforts to assist the tens of thousands of Muslims forced out of Jaffna and other parts of the Northern Province in 1990 to return to their lands and homes. Such efforts must be designed carefully, however, so they do not further divide Muslims and Tamils.

<sup>192</sup> An inclusive process of negotiation for constitutional reforms that go beyond the Thirteenth Amendment continues to be urgently needed. The All Party Representative Committee (APRC) – established in July 2006 by President Rajapaksa to prepare proposals for constitutional reforms and devolution of power – must be allowed to conclude its deliberations without further interference from the central government. A new, more inclusive process of negotiation should then be initiated which includes both the UNP and the TNA. Government-aligned Tamil and parties of the left must also be allowed by the president to propose and support constitutional reforms that go beyond the positions endorsed by the SLFP and Sinhala nationalist parties aligned with the government.

APPENDIX A

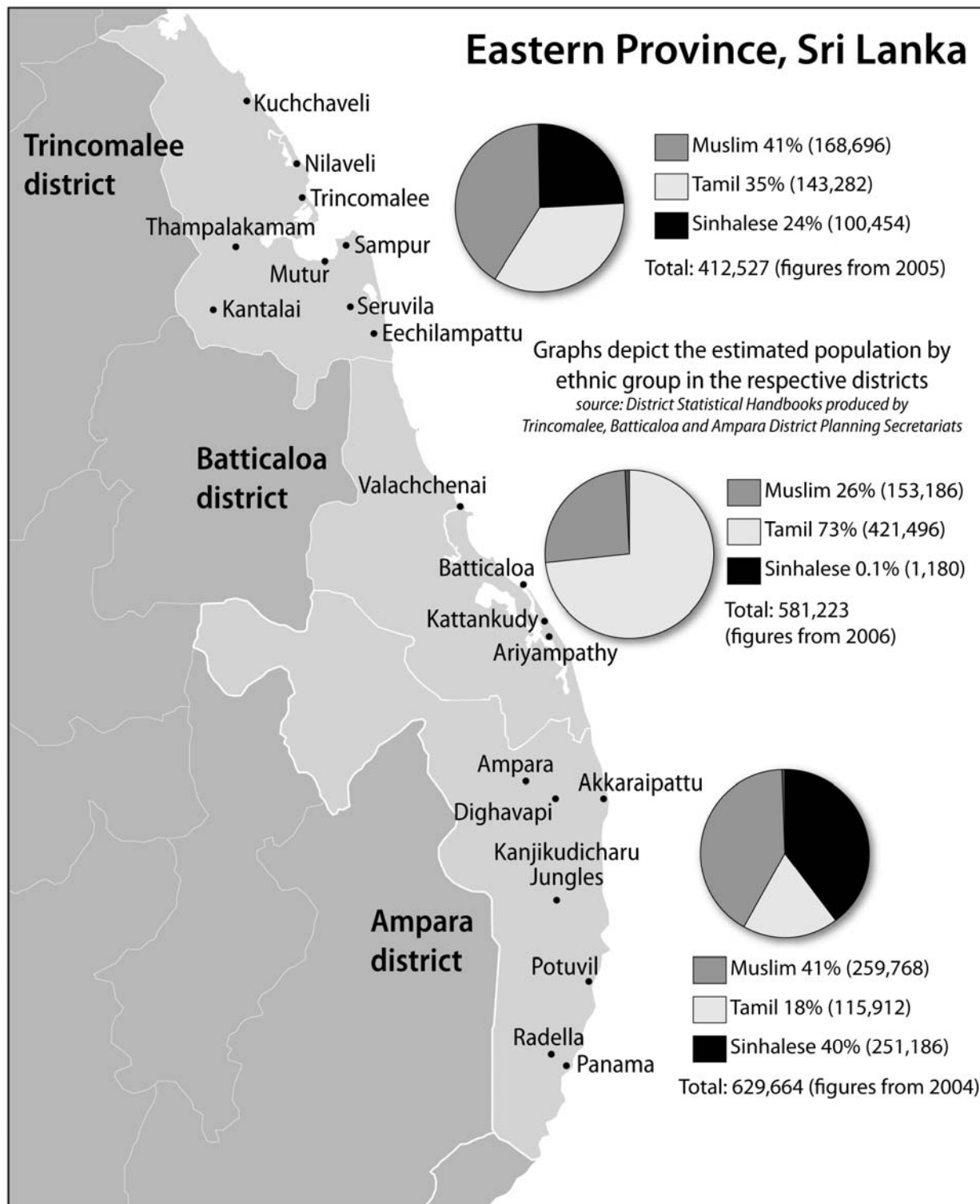
MAP OF OF SRI LANKA



This map has been adopted by the International Crisis Group from Map No. 4172 Rev 2. (January 2007) by the Cartographic Section of the United Nations Department for Peacekeeping Operations. Eastern Province highlighting and district names have been added.

APPENDIX B

MAP OF THE EASTERN PROVINCE



## APPENDIX C

### GLOSSARY OF ABBREVIATIONS

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APRC	All Party Representative Committee established in July 2006 by President Mahinda Rajapaksa to prepare proposals for constitutional reforms and devolution of power. The three major opposition parties – UNP, JVP and TNA – are not members.
CCHA	Consultative Committee on Humanitarian Assistance, a high-level committee chaired by the minister for human rights and disaster management, includes senior government officials and representatives of the U.S., EU, UN and NGOs.
DIG	Deputy Inspector General of Police, the second highest rank in the Sri Lanka Police. The rank “Senior DIG” denotes seniority among DIGs.
EPDP	Eelam People’s Democratic Party, founded in 1987 and led by its founder and former Tamil militant Douglas Devananda, currently the minister for social services and social welfare in the Rajapaksa government.
GA	Government Agent, highest-ranking central government official for each district. Formally known as the District Secretary, sometimes called the DS, but not to be confused with a Divisional Secretary, also called DS.
HSZ	High Security Zone, created around the country from the mid-1990s onwards and located around army camps and strategic locations. The largest of these are in the Northern and Eastern Provinces. They allow security forces primary use of the area, and in the case of the HSZs in the north and east, do not allow civilian access.
ILO	International Labour Organization, a UN agency, currently involved in livelihoods creation in the Eastern Province and a participant in a future government-driven reintegration program for ex-combatants.
IASC	Inter-Agency Standing Committee, established in June 1992, is the primary mechanism for inter-agency coordination of humanitarian assistance and consists of key UN and non-UN humanitarian partners. It was set up in response to UN General Assembly Resolution 46/182 on the strengthening of humanitarian assistance.
IOM	International Organization for Migration, a UN agency, currently involved in projects that include overseas migration for rehabilitated ex-combatants.
JHU	Jathika Hela Urumaya (National Sinhala Heritage) party. Known from 2000 to 2004 as Sihala Urumaya (Sinhala Heritage), it promotes a strong Sinhala nationalist ideology, promises corruption-free politics and has nine members of parliament, including eight Buddhist monks.
LTTE	Liberation Tigers of Tamil Eelam, the dominant Tamil nationalist militant group founded in 1967 and led by Velupillai Prabhakaran. It claims to fight for the rights of Tamils and seeks to establish a separate state in the north and east of the country.
OCHA	(United Nations) Office for the Coordination of Humanitarian Affairs
PLOTE	People’s Liberation Organisation of Tamil Eelam, is a former Tamil militant group that entered mainstream politics after the Indo-Lanka Accord (1987). Formed in 1980 by a one-time chairman of the LTTE, its current leader Dharmalingam Sidathan is an ex-member of parliament. PLOTE supported the regime of former President Chandrika Kumaratunga, including during the parliamentary debate on the federalist draft constitution in 2000.
SCOPP	Secretariat for Coordinating the Peace Process, currently headed by Prof. Rajiva Wijesinghe, was established by the Sri Lankan government during the 2002 peace process.
SLFP	Sri Lanka Freedom Party, centre-left party founded in 1951 by S.W.R.D Bandaranaike after breaking with the UNP. It instituted socialist economic policies in the 1970s. In power under Bandaranaike’s daughter, President Chandrika Kumaratunga, from 1994 to 2005 as the main constituent party of the People’s Alliance coalition, it is now led by President Mahinda Rajapaksa.
SLMC	Sri Lanka Muslim Congress, the largest party representing Muslim interests but now split into numerous factions. Its leader, Rauf Hakeem, resigned from National Parliament in order to contest in the Eastern Provincial Council elections with UNP. This alliance won fifteen seats of the 35 council seats.

STF	Special Task Force, established in 1983 as an elite special force unit of the Sri Lanka Police. Most of its units are currently stationed in the Eastern Province, where they have been accused of serious human rights abuses.
TMVP	Tamil Makkal Viduthalai Puligal, armed group formed when LTTE's eastern military commander, Vinayagamoorthy Muralitharan, alias "Colonel" Karuna, broke ranks in March 2004. Concentrated in the Eastern Province, and led by Karuna's former deputy S. Chandrakanthan, known as Pillayan. It contested the Eastern Provincial Council elections as a registered political party in alliance with the UPFA and secured the majority of seats on the council. Pillayan was sworn in as chief minister of the Eastern Province in May 2008. Karuna was made a member of parliament on 7 October 2008, filling a vacant seat held by the UPFA. On 9 March 2009 he formally joined the SLFP and was appointed as minister for national integration and reconciliation.
TNA	Tamil National Alliance, a coalition of smaller Tamil parties that support the LTTE, currently with 22 members in parliament, seven of whom represent the Eastern Province.
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNOPS	United Nations Office for Project Services
UNP	United National Party, centre-right political party formed in 1946 and currently the main opposition party. It was founded by D.S. Senanayake and is at present led by Ranil Wickremasinghe, prime minister from 2001 to 2004.



## APPENDIX D

### ABOUT THE INTERNATIONAL CRISIS GROUP

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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 co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

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 eighteen additional locations (Abuja, Baku, Bangkok, Beirut, Cairo, Colombo, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Ouagadougou, Port-au-Prince, Pretoria, Sarajevo, Seoul and Tehran). 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, Nigeria, Rwanda,

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