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Written statement* submitted by the Norwegian Refugee Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in
accordance with Economic and Social Council resolution 1996/31.

[20 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting
non-governmental organization(s).

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Internal displacement in Sri Lanka

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I. Executive summary

Four-and-a-half years after the military victory of Sri Lankan government forces over the rebel Liberation Tigers of Tamil Eelam (LTTE), there were up to 90,000 people still living in internal displacement. The situation of tens of thousands of more than 480,000 returned IDPs and thousands in permanent relocation sites also remains a cause for concern.

Current, returned and relocated IDPs are still discriminated against as a result of their displacement. Challenges include the military occupation and state acquisition of land, the militarisation of civilian life, and gaps in the areas of housing, water and sanitation, livelihoods and food.

Sri Lanka has no legislation or policy on internal displacement. The current draft policy¹ needs to be revised in order to bring it in line with international standards. Previous and more comprehensive Sri Lankan documents including the 2008 draft bill on IDPs' protection and the 2008 national consultation on their status are still relevant and should be built upon.

II. Internal displacement in Sri Lanka

Current IDPs

It is estimated that there are up to 90,000 IDPs in Sri Lanka, tens of thousands among them with host communities² and more than 7,000 IDPs in camps.³

Return

Tens of thousands among the more than 480,000 returnees went back without adequate shelter, water, sanitation and other infrastructure being in place. They have not been able to rebuild their homes, access basic services and restore their livelihoods or secure new ones.⁴

Relocation

The government moved several thousand people to permanent relocation sites.⁵ They are no longer officially counted as IDPs, even though relocation has reportedly not always been the result of a voluntary or fully informed settlement choice.⁶

Northern Muslim IDPs

In 1990 the LTTE expelled the entire Muslim population of Northern province, or around 75,000 people, from Northern province.⁷ Around 60,000 found shelter in Puttalam district in North Western province.⁸ Over more than 20 years in displacement, second and third generations have been born, and in 2009 their number stood at 86,000.⁹

¹ <http://www.resettlementmin.gov.lk/download/resettlement-policy-updated-on-30-11-2013-1.pdf>

² NRC-IDMC interview, November 2013

³ DSPG, September 2013, p.2, 4 (on file with NRC-IDMC); NRC-IDMC interview, December 2013

⁴ NRC-IDMC interview, November 2013

⁵ For a list of relocation sites see NRC-IDMC, Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution, 4 February 2014, pp.2, 7.

⁶ NRC-IDMC, Sri Lanka: A Hidden Displacement Crisis, 31 October 2012, pp.9-12; NRC-IDMC interviews, November 2013 and January 2014

While conditions for sustainable return were not in place, community leaders and politicians reportedly put pressure on northern Muslim IDPs to register as returned.¹⁰ However, by mid-2012 only 21,500 (or 25 per cent) were living permanently in the return areas. At least 51,600 (or 60 per cent) were registered as returned but were commuting between Puttalam and their home areas.¹¹ Only some among those who have wished to integrate locally in Puttalam district have been able to register as residents and voters there.¹²

III. Main issues of concern

The government equates return with an end to displacement. However, the mere physical movement of IDPs back to their homes does not mean that return is sustainable.¹³ In Sri Lanka the infrastructure, assistance and administrative conditions needed to achieve durable solutions have not always been in place.¹⁴

Land issues

Circular 2013/1¹⁵ reinforces the country's Prescription Ordinance by giving secondary occupants priority over original owners.¹⁶ This contradicts the right to restitution as expressed in the Guiding Principles on Internal Displacement (GP 30) and the Pinheiro Principles (PP 17.2).¹⁷ The government's Lessons Learnt and Reconciliation Commission thus recommended that the ordinance be suspended for the duration of the armed conflict in the areas it affected.¹⁸ The recommendation has not been implemented.

In addition, a mechanism to deal with conflicting claims on land is needed if tensions such as those between returning Tamils and Muslims over rival claims to the same land in Mannar district are to be addressed.¹⁹

IDPs in some relocation sites have been provided with housing but not with documentation nor compensation for their original land and property.²⁰ Many staying with host communities had been tenants and became homeless as a result of their displacement, but have not been compensated.²¹ Loss of land and homes is also an issue for internally displaced property owners. Second and third generation IDPs, including northern Muslim IDPs, are particularly vulnerable to being left without land.²²

⁷ Citizens' Commission on the Expulsion of Muslims from the Northern Province by the LTTE in October 1990 (Citizens' Commission), *The Quest for Redemption: The Story of the Northern Muslims*, November 2011, p.1

⁸ UNHCR, 2004, on file with NRC-IDMC

⁹ Human Rights Commission of Sri Lanka (HRCSL), *National Protection and Durable Solutions for Internally Displaced Persons Project*, no date, Phase Out Report 2002-2011, Puttalam

¹⁰ NRC-IDMC interviews, 2012

¹¹ NRC-IDMC interview, October 2012

¹² NRC-IDMC interviews, February and December 2012

¹³ Inter-Agency Standing Committee (IASC), *Framework on Durable Solutions for Internally Displaced Persons*, April 2010, p.5

¹⁴ NRC-IDMC interview, November 2013

¹⁵ Land Commissioner General's Department, *Circular Number 2013/01: Accelerated Programme on Solving Post Conflict State Lands Issues in the Northern and Eastern Provinces*, January 2013.

¹⁶ The Prescription Ordinance recognises the right to ownership of someone who has occupied another's private land for more than 10 years. Cited in: Sundaram Sriskandarajah, Ramalingam Chakravarthy Karunakaran, Mathiaparanan Abraham Sumanthiran, *Legal Analysis of Property Issues affecting Internally Displaced Persons and Refugees in Sri Lanka*, January 2003, p.9. In the context of a 26-year-long conflict and the protracted displacement it caused, this is problematic.

¹⁷ DSPG, September 2013, p.6

¹⁸ Commission of Inquiry on Lessons Learnt and Reconciliation (LLRC), *Report of the Commission of Inquiry on Lessons Learnt and Reconciliation*, 16 December 2011, p.241

¹⁹ Centre for Policy Alternatives (CPA), *Brief Commentary: Accelerated Programme on Solving Post Conflict State Lands Issues in the Northern and Eastern Provinces*. Land Circular: 2013/01, March 2013.

²⁰ DSPG, 4 June 2013, p.2, on file with NRC-IDMC

²¹ NRC-IDMC interview, November 2013

²² NRC-IDMC, *Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution*, 4 February 2014, pp.8-9.

Militarisation

The Sri Lankan military continues to maintain a significant presence in the north,²³ including through occupying private land, which prevents the return of over 26,000 IDPs.²⁴ In 2013 the government began acquiring some of this land under the Land Acquisition Act.²⁵ Acquisition notices state as “public purposes” the establishment of military bases and the creation of a military-run holiday resort, and more than 2,000 IDPs have challenged the government in court. No rulings have yet been made.²⁶

The military presence in the north and its monitoring of civilians has contributed to feelings of insecurity.²⁷ With numbers of female-headed households being high,²⁸ there are reports that women and girls are increasingly vulnerable to gender-based violence, by members both of the security forces and their own communities²⁹. Current and former IDPs have also experienced restrictions on their freedom of peaceful assembly, freedom of movement and other civil rights.³⁰ The military’s involvement in agriculture and tourism has hampered returnees’ livelihood efforts because they find it difficult to compete.³¹

Other obstacles

The lack of housing, sanitation facilities and access to drinking water are also serious concerns in conflict-affected areas, while some relocation sites have no health care or education facilities or access to public transport.³²

Both current and former IDPs have struggled recovering livelihoods.³³ Household debt is significant³⁴, and some IDP women have reportedly resorted to sex work in order to continue to stay with host families.³⁵ Food insecurity has gone up, and some displaced and host families have reportedly been living on two meals a day.³⁶

National response

The Ministry of Resettlement leads on matters related to internal displacement within the Sri Lankan government. In addition, President Rajapaksa set up the Presidential Task Force for Resettlement, Development and Security in the

²³ UNHCR, June 2013, p.13, on file with NRC-IDMC

²⁴ NRC-IDMC interview, November 2013

²⁵ Centre for Policy Alternatives (CPA), Policy Brief: Politics, Policies and Practices with Land Acquisitions and Related Issues in the North and East of Sri Lanka, 19 November 2013, p.11

²⁶ Centre for Policy Alternatives (CPA), Policy Brief: Politics, Policies and Practices with Land Acquisitions and Related Issues in the North and East of Sri Lanka, 19 November 2013, p.45; Colombo Telegraph, 1474 Northern Tamils Petition Appeal Court To Help Prevent Grab Of Their Homes By Rajapaksa Regime, 15 May 2013; Colombo Telegraph, 702 More Jaffna Tamils Petition Appeal Court To Prevent Damage To Their Tesawalamai Rights By Land Grab Of Rajapaksa regime, 28 May 2013; Colombo Telegraph, Jaffna Tamils’ Land Grab FR Cases: Justice Sripavan Advises DSG How To Grab Lands Correctly, 12 June 2013.

²⁷ UNHCR, June 2013, pp.12-14

²⁸ According to one estimate there are 40,000 female-headed households in Northern province. Raksha Vasudevan, Everyday Resistance: Female Headed Households in Northern Sri Lanka, May 2013.

²⁹ Office of the United Nation’s High Commissioner for Human rights (OHCHR), Oral update of the High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka, 25 September 2013; OCHA, 14 May-2 June 2013; UNHCR, June 2013, p.10

³⁰ NRC-IDMC, Sri Lanka: A Hidden Displacement Crisis, 31 October 2012, p.7

³¹ NRC-IDMC, Sri Lanka: A Hidden Displacement Crisis, 31 October 2012, pp.7-8

³² Government of Sri Lanka, 10,250 houses completed in Sri Lanka under Indian housing project in 2013, 2 January 2014; IFRC, Sri Lanka: Support for internally displaced people Emergency appeal n° MDRLK002 Operations Update n° 14, 9 January 2014, p.3; DSPG, September 2013, p.13; 4 June 2013, p.2

³³ DSPG, September 2013, p.4

³⁴ UNHCR, June 2013, p.24

³⁵ NRC-IDMC interview, November 2013

³⁶ IRIN, Food insecurity, debt rise in Sri Lanka’s north, 23 September 2013; NRC-IDMC interview, November 2013

Northern Province (PTF) in May 2009, which has been the main decision-making body on all matters related to reconstruction and IDPs' return.³⁷

Sri Lanka's national human rights action plan for 2011 to 2016 includes the development of a policy and/or legislation on internal displacement.³⁸ In 2013 the Ministry of Resettlement published a "draft resettlement policy",³⁹ which contains a number of useful elements but has significant shortcomings too. It focuses only on internal displacement due to conflict and only on the phase immediately after displacement. It does not explain the specifics of implementing the policy in the Sri Lankan context, including reference to the institutions and organisations responsible for doing so. Further, key stakeholders including IDPs need to be consulted and participate in the policy development process.

International response

Administrative barriers and an opaque approval process make humanitarian and development programming and long-term planning difficult. Decision-makers are said to treat projects that include capacity building and psychosocial support with suspicion.⁴⁰

No comprehensive assessment of progress towards durable solutions has been undertaken in Sri Lanka, but it is hoped that the joint needs assessment the government plans to undertake with humanitarian and development organisations will at least partially fill this gap.⁴¹

Since late 2012, international organisations have shifted their focus from humanitarian to development assistance. Funding for both has dropped off significantly since the World Bank categorised Sri Lanka as a lower middle-income country.⁴² Longer-term funding and support for protection work, including from the development sector and bilateral donors, is much needed if Sri Lanka's current and former IDPs are to rebuild their lives in a sustainable way.

IV. Recommendations

The Sri Lankan government should take the following key steps to ensure that current, returned and relocated IDPs can find solutions to their displacement. They will also help address the grievances that lie at the root of the country's civil war:

1. Adopt an IDP policy which meets international standards. The current draft policy should be revised so that it addresses not only conflict-induced displacement, but also that caused by natural disasters and development projects, as well as all phases of displacement up to and including the achievement of durable solutions. It should be developed with the consultation and participation of stakeholders including IDPs, host communities, civil society organisations, and local authorities; and it should facilitate the implementation of the Guiding Principles and other relevant international standards in the Sri Lankan context. Both the stalled Sri Lankan draft bill of 2008⁴³ and the recommendations of the 2008 national consultation on the status of IDPs and durable solutions⁴⁴ are still relevant and should be built upon.

³⁷ International Crisis Group (ICG), Sri Lanka's North II: Rebuilding under the Military, 16 March 2012, pp.12-13. The majority of PTF's 19 members are current or former members of the military. Ministry of Defense, Resettlement, development and security in the northern province : President appoints Task Force Mandated to report within one year, 30 December 2010; Weiss, 2012, p.172

³⁸ Government of Sri Lanka, Sri Lanka: National Action Plan for the Protection and Promotion of Human Rights 2011-2016, 2012, p.122

³⁹ Ministry of Resettlement, Draft Resettlement Policy, 30 November 2013

⁴⁰ NRC-IDMC, Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution, 4 February 2014, p.12

⁴¹ OCHA, Sri Lanka Humanitarian Bulletin, June 2013, p.1; NRC-IDMC interview, November 2013

⁴² OCHA, Sri Lanka Humanitarian Bulletin, p.1; IRIN, Analysis: Greater investment needed in Sri Lanka's north, 14 October 2013

⁴³ HRCSL, Protection of Internally Displaced Persons Bill, 8 August 2008

⁴⁴ MoDMHR, National Consultation on the Status of Internally Displaced Persons (due to conflict) Within the framework for Durable Solutions, Colombo, Sri Lanka (23-25 September 2008), November 2008, pp.15-20

2. Defuse tensions between different ethnic communities. Building on the recommendations of its Lessons Learnt and Reconciliation Commission, the government should initiate a meaningful reconciliation process between the country's Sinhala, Tamil, and Muslim communities to prevent further tensions between them, in particular those who have been displaced. This should include the setting up of a mechanism to resolve complex land issues. The government also needs to take a clear stand against recent attacks by extremist Buddhists against Muslim religious sites and business properties in different parts of the country.

3. Restore land to IDPs and reduce military presence. A true post-war transition will require a reduction in the military presence in the north and east and for military occupied land to be returned to IDPs. Where this is not possible, adequate compensation must be given. The local administration needs to be fully controlled by civilian officials instead of the military.

4. Reinvigorate employment. Instead of spending its resources on large infrastructure projects, the government must reinvigorate employment levels by fostering small businesses and support the creation of long-term employment for current, returned and relocated IDPs.

5. Assess the most pressing concerns of those in need. Together with its humanitarian and development partners the government must make sure that the planned Joint Needs Assessment includes all aspects relevant to the situation of current and former IDPs.

V. Attachment

The above is drawn from the following report:

NRC-IDMC, Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution, 4 February 2014

About the Norwegian Refugee Council's Internal Displacement Monitoring Centre

The Norwegian Refugee Council's Internal Displacement Monitoring Centre (NRC-IDMC) is a world leader in the monitoring and analysis of the causes, effects and responses to internal displacement. NRC-IDMC advocates for better responses to the needs of the millions of people worldwide who are displaced within their own countries as a consequence of conflict, generalised violence, human rights violations, and natural or man-made disasters. It is also at the forefront of efforts to promote greater respect for the basic rights of internally displaced people (IDPs). IDMC is part of the Norwegian Refugee Council (NRC).

What we do:

- Promote appropriate responses to internal displacement through targeted advocacy
- Provide timely, accessible and relevant information on internal displacement worldwide
- Develop research and analysis to help shape policies and practices that have positive outcomes for IDPs
- Provide training and support to country-based policy-makers and practitioners with a responsibility to protect IDPs

Who do we target?

IDMC is best placed to effect positive change for IDPs through advocacy to influence the decisions and practices of duty bearers and all those with a responsibility or capacity to promote or fulfil the rights of IDPs.

How do we operate?

As information on internal displacement is often controversial and politically sensitive, NRC-IDMC must continue to operate and be seen to operate as an independent and effective global monitor of this widespread phenomenon. NRC-IDMC has become an indispensable resource for anyone seeking impartial data and analysis on internal displacement, independent of political or operational considerations. www.internal-displacement.org.

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