

## Refugee Review Tribunal

### AUSTRALIA

#### RRT RESEARCH RESPONSE

**Research Response Number:** LKA17724  
**Country:** Sri Lanka  
**Date:** 20 December 2005

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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#### Questions

1. Where is the LTTE camp, Puthukudiyiruppa, Killinocchil?
2. What and where is Vanni?
3. What are the procedures before someone can leave Sri Lanka, e.g. obtaining a passport and visa, going through customs, etc? Are the passports of LTTE members/sympathisers impounded by the government?
- 4 - 6 Questions deleted
7. Is there meaningful protection by the Sri Lankan government for young Tamils from the LTTE (see Human rights 'Living in Fear: Child Soldiers and the Tamil Tigers in Sri Lanka – but also provide other information if available.)
8. Question deleted
9. Please provide information about the LTTE, particularly in Puthukudiyiruppa, Killinocchil and Vanni.
10. Is there a ceasefire at present, and if so how is it holding up?
11. Does the LTTE press-gang people to work as labourers for them?
12. Does the Sri Lankan government respect Human Rights? Does it operate according to the Rule of law?
13. Is it a democratic country?
14. What percentage of the population in Colombo is of Tamil ethnicity?
15. Is Colombo LTTE controlled?

#### RESPONSE

##### 1. Where is the LTTE camp, Puthukudiyiruppa, Killinocchil?

No references were found to a particular LTTE camp in Puthukkudiyiruppu. Sources indicate that the town of Puthukkudiyiruppu is in the north of Sri Lanka, in an area controlled by the LTTE. The LTTE appear to run a variety of camps in the areas they control.

The attached map from the 2003 *Lonely Planet* guide to Sri Lanka shows the two towns of Kilinochchi and Puthukkudiyiruppu in the north of Sri Lanka highlighted (Plunkett, Richard & Ellemor, Brigitte 2003, *Sri Lanka*, August, Lonely Planet Publications, Melbourne, frontpiece – Attachment 1).

A 2002 report from *Janes Intelligence Review* indicates that Puthukkudiyiruppu is within the area controlled by the LTTE. It is the location of the largest station for the Tamil Eelam Police, the police force which was set up by the LTTE to maintain order in the areas under its control (Farrell, Tom 2002, 'Tamil police force expanded ahead of Sri Lanka peace talks', *Jane's Intelligence Review*, 9 September – Attachment 2).

A 2004 news report refers to Puthukkudiyiruppu as the headquarters of one of the LTTE chiefs, Velupillai Prabhakaran, during the late 1990s (Jeyaraj, D.B.S. 2004, 'Tiger vs tiger in eastern Sri Lanka', *The Hindu*, 15 March – Attachment 3).

An April 2004 UNHCR background paper on refugees and asylum seekers from Sri Lanka mentions that the LTTE does detain people at some of their camps:

47. Some persons who are fleeing the LTTE are likely to carry a LTTE letter (with signature, emblem and official stamp) summoning them to report to a specific camp at a set time and date. Persons carrying these letters who have not adhered to any of the summons are at risk of prolonged detention and in some instances, their lives. In these cases national protection has proven to be inadequate and in some cases these persons have sought international protection either through fleeing the country or through foreign embassies in Colombo (UNHCR 2004, *Background Paper on Asylum Seekers from Sri Lanka*, April – Attachment 4).

## **2. What and where is Vanni?**

The Vanni is an area in the north of Sri Lanka. Most of it is controlled by the LTTE.

DFAT stated in November 2001:

Almost all of the Vanni – the area between Vavuniya and almost halfway up the isthmus linking the northern peninsula to the mainland – is controlled by the LTTE, with the exception of the Welioya area in Vavuniya, and parts of Mannar district, including Mannar Island, which remain in government control...In the LTTE-controlled areas, the civilian government administrative structure is present as in the rest of the nation. However, LTTE control, staff shortages, strict control of supplies and inadequate infrastructure severely limit the functioning of government services (Country Information Service 2001, *Country Information Report No 293/01: Travel documents and checking procedures*, (sourced from DFAT advice of 15 November 2001), 20 November – Attachment 5).

An April 2004 UNHCR background paper on refugees and asylum seekers from Sri Lanka also mentions the Vanni region:

42. The Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers), founded in 1974 and led by Velupillai Prabhakaran, emerged in 1987 as the leading Tamil militant group, effectively controlling the northern Jaffna peninsula (Vanni region) and the eastern province (UNHCR 2004, *Background Paper on Asylum Seekers from Sri Lanka*, April – Attachment 4).

The attached map from the 2003 *Lonely Planet* guide to Sri Lanka shows the Vanni area highlighted (Plunkett, Richard & Ellemor, Brigitte 2003, *Sri Lanka*, August, Lonely Planet

Publications, Melbourne, frontpiece – Attachment 1).

### **3. What are the procedures before someone can leave Sri Lanka, e.g. obtaining a passport and visa, going through customs, etc? Are the passports of LTTE members/sympathisers impounded by the government?**

Recent reports indicate that Sri Lanka has introduced more stringent procedures for leaving the country through Colombo airport. It has also introduced stricter penalties for forging travel documents and illegal emigration. However, there are still ways to circumvent the system, such as corrupt Justices of the Peace who will certify false documents. No recent reports have been found of passports of LTTE supporters being impounded, but a 2000 report indicates that this has been done in the past by the Sri Lankan government.

The 2005 UK Home Office report on Sri Lanka states:

6.77 As noted in the Dutch Ministry of Foreign Affairs Report of July 1997, “A passport is required in order to travel abroad. Passports are issued centrally by the Department of Immigration/Emigration in Colombo, to which they have to apply for [sic]. Application forms can be obtained from district offices (kachcheri) and forwarded, via those offices or otherwise, to Colombo.” [14a] (p13) According to the Danish Immigration Service Fact-Finding Mission Report 1998, “The following documents still need to be submitted: national identity card, birth certificate and certified photos (by a justice of the peace).” [32] (p72) The UK Home Office Fact-Finding Mission Report 2001 confirms that “A same day service is available, but the normal service produces passports in 10 working days. Exit permits are not required.” [35a] (p41)

6.78 As stated in the website of the Sri Lanka Department of Immigration and Emigration (accessed on 22 July 2005), in Sri Lanka there are five types of travel documents: Diplomatic Passports; Official Passports and Ordinary Passports valid for all countries; Emergency Certificates valid for India and Nepal; Identity Certificates valid for All Countries issued to a person living in Sri Lanka, whose nationality is not established; Non Machine Readable Passports issued by Sri Lanka Missions abroad under special circumstances. “If Travel Document is lost a complaint should be made at the nearest Police Station and with a certified copy of the entry the matter has to be informed to the issuing authority. This document is required when applying for a new Travel Document in place of a lost one.” [71b]

6.79 Regarding security checks on leaving Sri Lanka, the U.K. Home Office Fact-Finding Mission Report of 2001 confirms that:

“On entry to the terminal building all passengers have to show tickets and baggage was screened by X-ray machine. Since 22 March 2000 only passengers are allowed into the check-in area, which was screened off from the rest of the terminal. We had been told that this was as a result of pressure from European embassies whose Airline Liaison Officers (ALOs) had been worried that agents had previously been able to signal to officials to allow people to embark. This measure had gone some way to improving the situation and has halted the previous practice whereby agents could accompany passengers right up to the departure gate.” [35a] (p39)

6.80 On their 2002 visit to Sri Lanka, Home Office officials were informed that “It would be almost impossible to pass through airport controls without having documents checked, as security is very tight.” [35b]

6.81 As noted in a *Daily News* report of 25 June 2004, according to a former Assistant Controller of the Immigration and Emigration Department, the Immigration and Emigration Section at the [Colombo] Bandaranaike International Airport had sophisticated equipment and ultraviolet scanning to detect forged passports. He added

that a birth certificate was a very vital document to issue a passport; that the application form to obtain a passport should be filled in using the applicant's own handwriting. He also said that all particulars in a passport were fed into the computer system and the person who was in charge of the computer used to place his signature on the documents of the passport. Furthermore, the embarkation and disembarkation forms should be filled in by the passport holder and that those forms are retained by the Immigration and Emigration authorities at the airport. [16bi]...

**...Immigrants and Emigrants Act**

6.83 As outlined in extracts from the Official Report of the Sri Lankan Parliament dated 24 June 1998, the Immigrants and Emigrants Act was first introduced in 1949. Section 45 lists various categories of people who are guilty of offences under the Act, which include anyone who forges, alters or tampers with any passport, or has in their possession any forged passport, or who uses such a document. Section 45 sets out the punishment, which consists of a fine, or a period of imprisonment, or both. Section 45A provides punishments for those found guilty of facilitating illegal entry into Sri Lanka. [20]

6.84 The Immigrants and Emigrants (Amendment) Act was passed in July 1998. During the passage of the Bill the Sri Lankan Immigration Minister told Parliament that the amendment was designed to combat "the crime of illicit trafficking of persons from Sri Lanka, as recorded in extracts from the Official Report of the Sri Lankan Parliament dated 24 June 1998." The Minister stated that the diplomatic missions of various western countries had made representations to the Sri Lankan authorities about organised groups engaged in the business of securing illicit entry of Sri Lankans to their countries. [20]

6.85 As mentioned in extracts from the Official Report of the Sri Lankan Parliament dated 24 June 1998, the Amendment Act increased the fines and the term of imprisonment which may be imposed on those found guilty under the Act, and made the term of imprisonment mandatory. The Act disallows the imposition of a suspended sentence, and certain offences under the Act are non-bailable. [20]

6.86 In the July 1999 Report 'Tamils in Sri Lanka' published by the Dutch Ministry of Foreign Affairs, it is noted that "Prosecution on the grounds of illegal emigration is as a rule only pursued at the time of emigration. In the case of immigration, the CID in practice will only proceed to investigate the illegal emigration if the returning person is still in possession of the forged travel document or if there are other indications that the interested party has emigrated illegally (e.g. if the interested party declares this him or herself)... Contrary to what is stated in the Organisation Suisse d'aide aux Réfugiés report of 31 May 1999, the Immigrants and Emigrants Act has no retroactive effect."...(UK Home Office 2005, *Sri Lanka Assessment*, October – Attachment 6).

A 2001 DFAT report states:

Applicants must fill out a form at the Department of Immigration and Emigration and get it certified by a justice of the Peace. The form is then given to the department together with an original birth certificate, a national identity card and a recent colour photograph. Passports are issued in a day for a special fee, but the usual issuing period is three weeks.

According to an official at the department, no special checks are carried out as a justice of the peace has evidently certified the documents. But it is well known that many justices of the peace frequent the areas surrounding the ministry and certify documents for a fee, often without knowing the person (Country Information Service 2001, *Country Information Report No 293/01: Travel documents and checking procedures*, (sourced from DFAT advice of 15 November 2001), 20 November – Attachment 4).

A 2001 UNHCR/ACCORD report commented in the context of discussing forged documents that passports are easy to acquire in Sri Lanka:

People going to the West for asylum purposes usually leave Sri Lanka on a valid passport and forged documents are rare, given that it is very easy to be issued a passport in Sri Lanka. An applicant would normally have to produce a birth certificate and an ID card, but in some cases people have also obtained a passport without an ID card. One can receive the new document even within 24 hours. Under normal circumstances it is therefore not necessary to forge passports (UNHCR/ACCORD 2001, 'Sri Lanka', 7<sup>th</sup> *European Country of Origin Information Seminar, Berlin: Final report*, 11-12 June, p.185 – Attachment 7).

No recent reports were found that mentioned the impounding of the passports of LTTE supporters, although there were some reports that indicated that passports of ordinary criminals were sometimes impounded.

The attached report from 2000 indicates that the passports of Tamils suspected of supporting the LTTE may have been impounded in the past. Although it does not mention Tamils specifically, it does state that the recently introduced Emergency Regulations “empower the Secretary to the Ministry of Defence to issue restriction orders, restricting a person from being in a specified area; requiring that a person reports his movements; house arrest on specified conditions; **impounding of passports as specified**; restricting the use or possession of specified articles; and order specified restrictions in employment or business” (Jayawadena, K.P. 2000, ‘Focus on rights: Is this all a really necessary exercise?’, *The Sunday Times*, 21 May – Attachment 8).

## Questions 4-6 deleted

### **7. Is there meaningful protection by the Sri Lankan government for young Tamils from the LTTE (see Human rights ‘Living in Fear: Child Soldiers and the Tamil Tigers in Sri Lanka – but also provide other information if available.)**

Sources indicate that programs against child recruitment have been put in place by the Sri Lankan government and by international agencies, and that the recent cease-fire provisions included agreements to stop the practice. However, credible reports indicate that the LTTE have continued to recruit under-age soldiers in the areas under their control.

A 2004 report by UNHCR on refugees and asylum seekers from Sri Lanka states:

#### **2. Child Soldiers**

264. The fight against the use of child soldiers has a long history in Sri Lanka as the LTTE has a long record of using child soldiers, some as young as nine. Even before the MOU (which explicitly forbids the recruitment of children) promises to stop child recruitment were made by the LTTE as early as 1998 when the Special Representative of the Commission on Human Rights on children affected by armed conflict, Mr. Olara Otunnu, visited Sri Lanka. 218 During the visit the Government reiterated its commitment to the policy of not recruiting children under the age of eighteen and the LTTE agreed not to use children below 18 years of age in combat and not to recruit children less than 17 years old.219

265. However, child recruitment continued and as a means to combat this practice, as well as prevent other forms of child abuse, an Action Plan for Children Affected by

War was produced in April 2003. This was an outcome from a workshop held in Kilinochchi which brought together participants from the LTTE, the Government of Sri Lanka, UN agencies, other international organisations, the Tamil Rehabilitation Organization and other national and international NGOs. The Action Plan contains project summaries with budgets in the following areas: child rights training, awareness campaign on child rights, release and reintegration of underage recruits, micro-credit facilities and income generation, vocational training, education, health and nutrition, provisions of psychosocial care, provision of social work and alternative care for children unable to return to their families.

266. As of 31 October 2003, total underage recruitment cases known to UNICEF amounted to 1,847, out of which 1,238 were still outstanding. The first transit center for underage recruits working with the LTTE was officially opened in Kilinochchi on 3 October 2003. By the end of 2003, the LTTE had released 55 children to the center. While children are at the center, an assessment of their needs is carried out before they are returned to their family. Save the Children in Sri Lanka is now established in the north and is carrying out the follow-up work to ensure successful reintegration of underage recruits. While ILO and UNDP are respectively responsible for vocational training and income generation, UNHCR will provide assistance to families of released children based on a case by case vulnerability assessment. As part of the Child Rights Training sub-project of the Action Plan, core Child Rights training material have been produced by Save the Children and field tested as a collaborative effort of a significant number of international agencies and NGOs.

267. As a result of the inter-LTTE fighting in the East of the country at least two child soldiers, both girls, died in the fighting<sup>220</sup>; and unconfirmed reports indicate many more child combatants were killed during the battle or after having surrendered.<sup>221</sup>

268. Though officially receiving no release papers, the children and their parents immediately registered with UNICEF and other agencies to avoid forcibly being re-recruited. As only 20% of these children existed on UNICEF's earlier created and updated database of child recruits, it seems that the number reported previously has been grossly underestimated. UNICEF, as well as other agencies, sought assurances from the LTTE that the LTTE must commit itself to not re-recruiting any of the children that have left the organisation in the wake of last weeks fighting, and that they continue the process of releasing the children in their ranks.<sup>222</sup>

269. Human Rights Watch also called on the Sri Lankan government to take immediate action toward protecting these released children and working towards their rehabilitation and re-integration into society. The government should also declare amnesty for all child soldiers who have returned home, in order to ensure the children feel they can seek help from state protection agencies.<sup>223</sup>

270. Whilst these developments are very encouraging, the ongoing recruitment of children and by the LTTE and their call for released children to re-register in Ampara and Batticalao district in April 2004, undermine the commitments made in the Action Plan by the LTTE. The international community continues to advocate strongly for a cessation of recruitment and for immediate release of children. (UNHCR 2004, *Background Paper on Asylum Seekers from Sri Lanka*, April – Attachment 4).

The 2005 Amnesty International report covering events of 2004 states:

#### **Child soldiers**

The UN Children's Fund (UNICEF) reported the recruitment of 448 children as soldiers in the first half of 2004, while acknowledging that the actual figure was probably far higher.

It was reported that a large number of child soldiers were deployed in the fighting

between the LTTE and the Karuna faction in April and that there were some child casualties. Following the fighting, over 1,600 child soldiers from the east, who had fought alongside Colonel Karuna, were disbanded and spontaneously returned to their homes. In May and June it was reported that the LTTE were re-recruiting many of these demobilized children, using tactics of intimidation, abduction and violence. Parents in the east, angry that their children had been used in internecine fighting, attempted to mobilize in an effort to resist re-recruitment. There was also an increase in child recruitment in the north in mid-2004 as the LTTE tried to make up for the large number of cadres it had lost during the split.

In May and June, families in Vaharai, Batticaloa district, who tried to prevent the LTTE from forcibly recruiting their children were beaten with wooden sticks. One woman was knocked unconscious and another was cut on the face.

In May, four boys from Trincomalee were forcibly re-recruited from their homes in the middle of the night. The mother of one of the boys was beaten and injured during the incident (Amnesty International 2005, *2005 Annual report: Sri Lanka* – Attachment 13).

### Question 8 deleted

### 9. Please provide information about the LTTE, particularly in Puthukudiyiruppa, Killinocchil and Vanni.

An April 2004 UNHCR background paper on refugees and asylum seekers from Sri Lanka states of the LTTE:

42. The **Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers)**, founded in 1974 and led by Velupillai Prabhakaran, emerged in 1987 as the leading Tamil militant group, effectively controlling **the northern Jaffna peninsula (Vanni region) and the eastern province**. Its forces range from four to fourteen thousands fighters, and is considered one of the deadliest guerrilla terrorist groups in the world. Though the Sri Lankan Government lifted its proscription on the LTTE on 4 September 2002 in order to move forward with peace talks, the organisation is still considered a terrorist organisation and banned in the UK and USA.

43. The LTTE runs a parallel administration to that of the elected government. The political wing of the LTTE, founded in 1989, is the People's Front of the Liberation Tigers (PFLT). Through the ongoing peace process the LTTE has obtained some credibility as a "partner", but it continues to abuse and misuse the power it has over the people it controls.

44. In 2002 and 2003 the LTTE reportedly committed several unlawful killings, and was responsible for disappearances, torture, arbitrary arrest, detentions, and extortion. According to human rights groups such as Amnesty International and Human Rights Watch, the tradition of killing of political opponents (both Tamil and Singala) continues.

45. Evidence suggests that since the signing of the MOU, ex-LTTE members as well as members of other political Tamil organisations are increasingly at risk of being detained by the LTTE.

46. The Eelam People's Democratic Party (EPDP) and Eelam People's Revolutionary Liberation Front (Varathar) EPRLF(V), at present the LTTE's two main political opponents, have together lost thirty-two members or supporters killed or missing since the signing of the MOU. This includes persons who had ceased active political involvement with the parties. The People's Liberation Organization of Tamil Eelam (PLOTE) has had at least fifteen members or former members killed or injured in the

same time period. On May 13 2003 a single grenade attack on a volleyball game in front of the PLOTE office in Batticaloa killed five and injured six. TELO (Varathan), a breakaway unit of the Tamil Eelam Liberation Organization that worked with the elite police Special Task Force in eastern Sri Lanka, has reportedly had at least four members killed or missing.<sup>32</sup>

47. Some persons who are fleeing the LTTE are likely to carry a LTTE letter (with signature, emblem and official stamp) summoning them to report to a specific camp at a set time and date. Persons carrying these letters who have not adhered to any of the summons are at risk of prolonged detention and in some instances, their lives. In these cases national protection has proven to be inadequate and in some cases these persons have sought international protection either through fleeing the country or through foreign embassies in Colombo.

48. In addition, the LTTE denies those under its control the right to change their government, does not provide for fair trials, infringes on privacy rights, and uses child soldiers, and discriminates against ethnic and religious minorities.<sup>33</sup> The LTTE also administrates a parallel system of justice, including police, judiciary, detention centers and even a law faculty. Interestingly no laws can be approved without the blessing of the ‘National Leader’. (See more under National Legal Context).

49. On 3 March 2003, a long-standing rift between the LTTE in the East and the LTTE in the North gained public attention when the second in command of the LTTE, V. Muralitharan, better known as Col. Karuna, broke away from the LTTE. In an open letter accused the LTTE leadership based in northern Sri Lanka of ignoring the interests of Tamils in the east, who put up much of the fighting force in the Tigers’ three-decade campaign for a separate Tamil homeland. The rift was also said to originate from the fact that most of the senior leaders within the LTTE originate from the North and that many more LTTE cadres from the East have fought (and been killed) in the North than vice-versa. The stand-off between the two factions gained international attention and, amongst others, the BBC World Service reported that Karuna’s faction had gathered more than 5,000 cadres from the East.

50. On 9th of April, the “main” LTTE fraction launched an attack from the north-eastern port district of Trincomalee and quickly regained control over the town of Vakaraai and several key coastal bases of the Col. Karuna. Karuna’s breakaway faction withdrew to a point where security forces had unwittingly been placed right between the two warring factions.<sup>35</sup> Karuna’s faction said nine of its fighters were killed and 10 wounded while another 300 surrendered or were captured by the main Tiger group. Military sources, however, placed the number of fatalities on both sides at about 20. At least two civilians -- an ambulance driver and a paramedic -- were also killed in the crossfire. <sup>36</sup>

51. During the conflict, which only lasted for three days, over 11,000 persons were displaced from their homes in as they took “preventive” measures to move their families into safety. However, only a small number of those displaced took refuge in schools and public building. International organizations and the Sri Lankan army, who did not get involved in the conflict within the LTTE, assisted these persons.

52. One of the main results of the conflict was that over 2,000 recruits, of which over 50 % were children, who had been under the control of the LTTE’s Eastern fraction were released or ran home. These recruits later approached international organizations seeking protection from forced re-recruitment (see chapter on recruitment).

53. The Tamil Rehabilitation Organization (TRO) is the “humanitarian” part of the organization and frequently claims to represent all Tamils. In the LTTE controlled areas the TRO acts as an umbrella organization and NGO’s trying to set up offices in these regions complain that their programs are controlled and that they are unable to visit beneficiaries without the presence of TRO staff (UNHCR 2004, *Background Paper on Asylum Seekers from Sri Lanka*, April – Attachment 4).



The October 2005 UK Home Office report states:

**Liberation Tigers of Tamil Eelam (LTTE)** <http://www.eelam.com>

<http://www.eelamweb.com/ltte/>

LTTE front organisations include:

World Tamil Association (WTA)

World Tamil Movement (WTM)

Federation of Associations of Canadian Tamils (FACT)

The Ellalan Force

According to the research institute ICT:

“Founded in 1976, the LTTE is the most powerful Tamil group in Sri Lanka and uses overt and illegal methods to raise funds, acquire weapons, and publicize its cause of establishing an independent Tamil state. The LTTE began its armed conflict with the Sri Lankan Government in 1983 and relies on a guerrilla strategy that includes the use of terrorist tactics. The group’s elite Black Tiger squad conducts suicide bombings against important targets, and all rank-and-file members carry a cyanide capsule to kill themselves rather than allow themselves to be caught. The LTTE is very insular and highly organized with its own intelligence service, naval element (the Sea Tigers), and women’s political and military wings. The Tigers control most of the northern and eastern coastal areas of Sri Lanka but have conducted operations throughout the island. Headquartered in the Wanni region, LTTE leader Velupillai Prabhakaran has established an extensive network of checkpoints and informants to keep track of any outsiders who enter the group’s area of control.... Approximately 10,000 armed combatants in Sri Lanka; about 3,000 to 6,000 form a trained cadre of fighters. The LTTE also has a significant overseas support structure for fundraising, weapons procurement, and propaganda activities.” [61]

As highlighted in the South Asia Terrorism Portal (SATP):

“Under the Prevention of Terrorism Act, 2002 (POTA) in India, the LTTE is a proscribed organisation. On October 4, 2003, the United States re-designated the LTTE as a Foreign Terrorist Organisation (FTO) pursuant to Section 219 of the US Immigration and Nationality Act. The LTTE has been proscribed, designated or banned as a terrorist group by a number of governments – India, Malaysia, USA, Canada, UK, Australia – countries where the LTTE has significant terrorist infrastructure for disseminating propaganda, raising funds, procuring and shipping supplies to support their terrorist campaign in Sri Lanka.... The LTTE leadership is organized along a two-tier structure: a military wing and a subordinate political wing. Overseeing both is a central governing committee, headed by the LTTE chief, Velupillai Prabhakaran.... This body has the responsibility for directing and controlling several specific subdivisions, including, an amphibious group (the Sea Tigers headed by Soosai), an airborne group, (known as the Air Tigers), an elite fighting wing (known as the Charles Anthony Regiment, named after Anthony, a close associate of Prabhakaran and is headed by Balraj), a suicide commando unit (the Black Tigers headed by Pottu Amman), a highly secretive intelligence group and a political office headed by Thamilselvam and Anton Balasingham, widely regarded to be the political advisor and ideologue of the LTTE. The central governing committee also has an International Secretariat, which is in charge of the outfit’s global network.... The LTTE has also set up a parallel civil administration within its territory by establishing structures such as a police force, law courts, postal services, banks, administrative offices, television and radio broadcasting station, etc.” [37] (UK Home Office 2005, *Sri Lanka Assessment*, October – Attachment 6).

## **10. Is there a ceasefire at present, and if so how is it holding up?**

Reports indicate that there has been a cease-fire in operation for about three years, but that negotiations between the Sri Lankan government and the LTTE over power-sharing have stalled. Since the election of a new president Mahinda Rajapakse in November there has been a hardening of position on both sides, and an increase in violent incidents. International monitors have indicated that the truce may break down altogether, although hostilities have not yet broken out.

Sections 4.75 to 4.152 of the October 2005 UK Home Office report on Sri Lanka deal with the peace process from 2000 until the present. They indicate that after various periods of temporary cease-fire, an agreement was signed between the LTTE and the Sri Lankan government in February 2002. The agreement was facilitated by a team from Nordic countries called the Sri Lanka Monitoring Mission (SLMM), who went on to monitor the cease-fire. Various rounds of peace talks during 2003 followed the signing of the agreement, with travel restrictions and checkpoints around the country eased to some extent. Concessions were made by both sides. The Sri Lankan government lifted its ban on the LTTE and allowed it to open new offices; while the LTTE apparently gave up its demand for a separate homeland in return for local autonomy. During 2004 there were further negotiations over the form of the interim self-governing authority in the areas controlled by the LTTE. The LTTE threatened on several occasions to abandon the peace talks and return to war. There have been some incidents of violence, and each side has accused the other on occasion of violating the cease-fire. In March 2005 the BBC reported that international monitors had warned that the cease-fire was under threat (UK Home Office 2005, *Sri Lanka Assessment*, October – Attachment 6).

Two recent *BBC* reports give an indication of the present state of the cease-fire.

A November 2005 analysis by Sanjoy Majumder states:

A week after Sri Lanka's new president assumed office, the two sides in the country's long-running ethnic conflict have drawn their lines in the sand. Mahinda Rajapakse, the country's new president who is backed by hardliners opposed to any concession to the Tamil Tiger rebels, stated his position to the stalled peace process in his first speech to parliament on Friday.

He rejected outright any demands for a separate Tamil homeland and also indicated that he would look to renegotiate a ceasefire that has been in place since February 2002.

He also said a previous tsunami aid-sharing deal with the Tigers – currently halted by a Supreme Court order – would be scrapped and a new administrative mechanism introduced.

Both sides have taken up positions so far from the middle ground that any serious chance of peace must surely be questioned

On Sunday, the reclusive leader of the Tigers, Velupillai Prabhakaran, used the occasion of a rebel war memorial day to give the government an ultimatum.

He said he would give the new president until next year to frame a political solution to the conflict, failing which the Tamil Tigers would "intensify" their struggle.

Although he said this was the rebels final appeal, many observers will be relieved that Prabhakaran stopped short of declaring a return to war.

But despite the fact that there is no immediate threat of hostilities, both sides have taken up positions so far from the middle ground that any serious chance of peace must surely be questioned (Majumder, Sanjoy 2005, 'Sri Lanka foes rattle sabres', *BBC News*, 28 November, [http://news.bbc.co.uk/1/hi/world/south\\_asia/4477746.stm](http://news.bbc.co.uk/1/hi/world/south_asia/4477746.stm) – Accessed 19 December 2005 – Attachment 16).

A report from 17 December 2005 states that according to Norwegian-led international peace monitors, the Tamil Tigers had been responsible for a “gross violation” of the ceasefire when they shot at a Sri Lankan air force helicopter. However, the Tamil tigers had denied any knowledge of the incident. The report states that the truce was looking “increasingly fragile” and there had been “an upsurge in violence since Mr Rajapakse’s election” with 35 people having been killed in the last month (‘Tamil Tigers “violated ceasefire”’ 2005, *BBC News*, 17 December, [http://news.bbc.co.uk/2/hi/south\\_asia/4537312.stm](http://news.bbc.co.uk/2/hi/south_asia/4537312.stm) – Accessed 19 December 2005 – Attachment 17).

A recent assessment by the Economist Intelligence Unit also comments that the truce is at risk:

Sri Lanka is hostage to the ethnic conflict between the minority Tamils and the majority Sinhalese population. The political scene is dominated by two parties with differing views on the Tamil insurgency and economic policy. Following the elections of April 2004 no party holds a majority in parliament, and the risk of instability was heightened by the exit of the Marxist Janatha Vimukthi Peramuna (JVP) from the United People’s Freedom Alliance (UPFA) government in June. Before the JVP left the alliance its influence in the UPFA ensured that the government took a harder line against the Liberation Tigers of Tamil Eelam (LTTE) than the previous United National Party (UNP)-led government did. **As a result, tensions have risen since April last year, increasing the risk that the peace process will break down** (‘Sri Lanka: Risk overview’ 2005, *Economist Intelligence Unit*, 8 December – Attachment 18).

Two older documents provide background information on the details of negotiations and power-sharing agreements between the Sri Lankan government and the LTTE:

- Paragraphs 71 to 106 of an April 2004 report by UNHCR look at peace negotiations from 2001 up to the date of writing, and their implications for the current political climate (UNHCR 2004, *Background Paper on Asylum Seekers from Sri Lanka*, April, pp.17-23 – Attachment 4)
- A March 2003 document by the Canadian Research Directorate examines developments since the February 2002 ceasefire (Immigration and Refugee Board of Canada 2003, *Issue Paper: Sri Lanka: Developments since the February 2002 Ceasefire*, March – Attachment 19).

## **11. Does the LTTE press-gang people to work as labourers for them?**

The sources consulted indicate that apart from forced recruitment of soldiers, the LTTE also forces civilians to work for them.

A 2001 report by UNHCR/ACCORD states:

While not being taken in by the LTTE, civilians are also forced to get involved with them in that they have to provide food, build bunkers etc. The same thing happens to civilians with regard to the army: they are obliged to clear shrubs next to the roads and to cut bushes and trees for safety reasons. Yet, this obligation of working for the army or the LTTE is not implemented in the form of official recruitment, hence normally does not create any problems for the persons concerned with the other side

respectively (UNHCR/ACCORD 2001, 'Sri Lanka', 7<sup>th</sup> *European Country of Origin Information Seminar, Berlin: Final report*, 11-12 June – Attachment 7).

An April 2004 UNHCR paper states that the LTTE forcibly recruits adult soldiers as well as children. Sometimes those adults who wish to leave are forced to perform menial tasks. Of those adults whom the UNHCR spoke to, more than 70% “claimed to have been forcibly recruited (Par.170). Those who have served for more than ten years can sometimes be released, but may “have to serve a ‘sentence’ which may be anything from two months ‘service’ in minor jobs such as washing up to imprisonment for up to a year” (UNHCR 2004, *Background Paper on Asylum Seekers from Sri Lanka*, April, pp.17-23 – Attachment 4)

## **12. Does the Sri Lankan government respect Human Rights? Does it operate according to the Rule of law?**

The 2005 USDOS report says:

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were no reports of security forces committing politically motivated killings and no reports of disappearances; however, there were extensive reports of torture and 13 custodial deaths as a result of police torture. The Government continued investigations into past abuses by armed forces personnel and opened investigations into past abuses by police personnel. Prison conditions remained poor and there were reports of arbitrary arrests during the year. The Government continued to hold 38 Tamils under the Prevention of Terrorism Act (PTA) during the year; however, no new arrests under the PTA occurred. The PTA, like the repealed Emergency Regulations, permitted warrantless arrest and nonaccountable detention. Violence and discrimination against women, and child prostitution occurred. Violence against religious minorities increased, and institutionalized ethnic discrimination against Tamils remained a problem. Trafficking in women and children for the purpose of forced labor occurred, and there was some trafficking of women and children for the commercial sex industry. The Government acted against the child sex trade. Child labor, limitations of worker rights, especially in the Export Processing Zones (EPZs), and discrimination against persons with disabilities continued to be problems.

The LTTE continued to commit serious human rights abuses. The LTTE was responsible for politically motivated killings, arbitrary arrests, torture, harassment, abduction, disappearances, extortion, and detention. The LTTE continued to use and recruit child soldiers. Through a campaign of intimidation, the LTTE continued to undermine the work of elected local government bodies in Jaffna and the east. On occasion, the LTTE prevented political and governmental activities from occurring in the north and east. There were instances of intimidation of Muslims by the LTTE during the reporting period. The LTTE continued to control large sections of the north and east. The LTTE permitted journalists some access to the areas of the country it controlled. Some LTTE-imposed restrictions remained on freedom of movement of citizens. The LTTE denied those under its control the right to change their government, killed candidates standing for office, did not provide for fair trials, infringed on privacy rights, and discriminated against ethnic and religious minorities. (US Department of State 2005, *Country Reports on Human Rights Practices 2004 – Sri Lanka*, 28 February – Attachment 20).

On the Sri Lankan legal system, the same report states:

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The President appoints judges to the Supreme Court, the High Court, and the courts of appeal. A judicial service commission, composed of the Chief Justice and two Supreme Court judges, appoints and transfers lower court judges. Judges may be removed for misbehavior or incapacity but only after an investigation followed by joint action of the President and the Parliament.

In criminal cases, juries try defendants in public. Defendants are informed of the charges and evidence against them, and they have the right to counsel and the right to appeal. The Government provides counsel for indigent persons tried on criminal charges in the High Court and the courts of appeal, but it does not provide counsel in other cases. Private legal aid organizations assisted some defendants. In addition, the Legal Aid Commission offered legal aid to assist those who could not afford representation; however, some sources report that its representatives extorted money from beneficiaries. There are no jury trials in cases brought under the PTA.

Defendants are presumed innocent, and confessions obtained by various coercive means, including torture, are inadmissible in criminal proceedings but are allowed in PTA cases. Defendants bear the burden of proof to show that their confessions were obtained by coercion. Defendants in PTA cases have the right to appeal. Subject to judicial review in certain cases, defendants may spend up to 18 months in prison on administrative order waiting for their cases to be heard. Once their cases came to trial, decisions were made relatively quickly.

Most court proceedings in Colombo and the south were conducted in English or Sinhala, which, due to a shortage of court-appointed interpreters, restricted the ability of Tamil-speaking defendants to get a fair hearing. Trials and hearings in the north and east were in Tamil and English. While Tamil-speaking judges existed at the magistrate level, only four High Court judges, an Appeals Court judge, and a Supreme Court justice spoke fluent Tamil. Few legal textbooks existed in Tamil, and the Government has complied slowly with legislation requiring that all laws be published in English, Sinhala, and Tamil...

...During the year, the LTTE continued to expand the operations of its court system into areas previously under the Government's judicial system in the north and east. On July 28, the LTTE opened a court complex in Mannar. With the expansion, the LTTE demanded that all Tamil civilians stop using the Government's judicial system and rely only on the LTTE's legal system. Credible reports indicated that the LTTE implemented the change through the threat of force.

The LTTE has its own self-described legal system, composed of judges with little or no legal training. LTTE courts operate without codified or defined legal authority and essentially operate as agents of the LTTE rather than as an independent judiciary. In June, according to press reports, LTTE courts tried two men for sedition near Batticaloa and ordered their execution.

The LTTE reportedly held a number of political prisoners. The number was impossible to determine because of the secretive nature of the organization. The LTTE refused to allow the ICRC access to these prisoners (see Section 1.c.) (US Department of State 2005, *Country Reports on Human Rights Practices 2004 – Sri Lanka*, 28 February – Attachment 20).

A recent assessment by the Economist Intelligence Unit comments on the Sri Lankan legal system that its "legal framework is relatively advanced and based on the British system, but the judiciary suffers from political interference. The country suffers from a shortage of judges, and their competence is open to question" ('Sri Lanka: Risk overview' 2005, *Economist Intelligence Unit*, 8 December – Attachment 18).

Please see also Section III of the April 2004 UNHCR report on Sri Lanka which examines the country's legal context. Paragraphs 117 to 121 look at Sri Lanka's status with regards to international legal instruments; paragraphs 122 to 127 look at the constitution; paragraphs 128 to 133 examine the judiciary; and paragraphs 134 to 139 look at the Human Rights Commission of Sri Lanka (UNHCR 2004, *Background Paper on Asylum Seekers from Sri Lanka*, April, 25-30 – Attachment 4).

### **13. Is it a democratic country?**

The 2005 USDOS report says:

#### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

The Constitution provides citizens with the right to change their government peacefully. Citizens exercised this right in practice through multiparty, periodic, free, and fair elections held on the basis of universal suffrage; however, recent elections have been marred by violence and some irregularities. The President (elected in 1999 for a 6-year term) holds executive power, while the 225-member Parliament, elected in April, exercises legislative power.

In February, the President dissolved Parliament and called for a general election in April, in which the President's alliance, the UPFA, received 45 percent of the vote. The UPFA did not win enough seats to command a majority in Parliament, but it was able to form a government headed by Prime Minister Mahinda Rajapakse. The April parliamentary election was largely free and fair. The EUEOM described the election as having been conducted in a democratic matter, with the exception of irregularities in the north and east, where widespread voter impersonation and multiple voting occurred. Several sources cited the LTTE as responsible for the irregularities. The EUEOM reported that more than 2,000 incidents of election violence occurred, resulting in the deaths of 5 persons and the serious injuring of another 15. Voter turnout was 75 percent. Unlike in previous elections, the Government allowed persons living in LTTE controlled areas to vote in cluster polling booths in government-controlled areas.

In October, the Parliament passed a bill to require all citizens to present a national identity card when they vote. The Government provided for a 1-year grace period because many Tamils living in the north, east, and hill country did not have identity cards, and the Government allowed local poll supervisors to accept other forms of identification during this period.

There was corruption in the executive and legislative branches. Transparency International (TI) identified nepotism and cronyism in the appointment of officials to government and state-owned institutions. TI also noted that low frequency but high-value "big-ticket" corruption was a problem in tender processes and establishing business operations. Until 2003, the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) did not operate fully. Some sources described as difficult the procedure for prosecution on corruption charges. At year's end, CIABOC had received 1,543 complaints, 48 of which were in the court system. No major cases of bribery resulted in conviction.

There was no law providing for public access to government information.

There were 9 women in the 225-member Parliament. There was one woman in the Cabinet, and two sat on the Supreme Court. In December 1999, a woman, Chandrika Kumaratunga, was elected President for a second term. There were 28 Tamils and 26 Muslims in the 225-member Parliament. There was no provision for or allocation of a set number/percentage of political party positions for women or minorities.

The LTTE continued to refuse to allow elections in areas under its control, and

opposed campaigning by certain Tamil parties in the east during the April parliamentary elections. Credible sources reported that there were two killings of candidates in the east--a UNF candidate, S. Sunderampillai; and a TNA candidate, R. Sathiyamoorthi--as well as killings of three supporters of political parties (US Department of State 2005, *Country Reports on Human Rights Practices 2004 – Sri Lanka*, 28 February – Attachment 20).

#### **14. What percentage of the population in Colombo is of Tamil ethnicity?**

The October 2005 UK Home Office report on Sri Lanka states:

6.91 As stated in the Dutch Ministry of Foreign Affairs Report 1997, “Tamils from the north or east coming to Colombo usually seek accommodation there with acquaintances or relatives or in boarding houses (‘lodges’). **There are estimated to be 150,000 Tamils from the north-east (mainly Jaffna Tamils) living in Colombo, in addition to the 250,000 Tamils who have long been resident there (since before 1983).** [14a] (p13) Places where there are heavier concentrations of Tamils living include greater Colombo, the Puttalam district (near Negombo) and the central highlands, particularly around Nuwara Eliya and Matale. In the last case they are ‘estate Tamils’ (“Indian Tamils”), but the area is also home to Tamils from the north-east of Sri Lanka.” [14a] (p35)

6.92 **According to the Sri Lankan government Census of Population and Housing 2001 in Colombo district there were 249,915 Sri Lanka Tamils and 26,036 Indian Tamils out of a total population of 2,234,146.** The districts of Kandy, Nuwara Eliya, Ampara, and Puttalam also have a high concentration of Tamils. In Jaffna, Mullaitivu and Kilinochchi districts no enumeration was done and the districts of Mannar, Vavuniya, Trincomalee and Batticaloa were only partially enumerated. [58a] (UK Home Office 2005, *Sri Lanka Assessment*, October – Attachment 6).

#### **15. Is Colombo LTTE controlled?**

The sources consulted state that the LTTE controls most of the north and east of Sri Lanka. Since Colombo is in the south west of the island, this suggests that it is not LTTE controlled. However, the LTTE has carried out suicide bombings and other operations in Colombo.

The October 2005 UK Home Office report on Sri Lanka states that “the Tigers control most of the northern and eastern coastal areas of Sri Lanka but have conducted operations throughout the island” (UK Home Office 2005, *Sri Lanka Assessment*, October – Attachment 6).

An April 2004 UNHCR background paper on refugees and asylum seekers from Sri Lanka states that the LTTE effectively controls “the northern Jaffna peninsula (Vanni region) and the eastern province” (UNHCR 2004, *Background Paper on Asylum Seekers from Sri Lanka*, April, 25-30 – Attachment 4).

The attached map from the 2003 *Lonely Planet* guide to Sri Lanka shows Colombo in the south west of the island. It is highlighted (Plunkett, Richard & Ellemor, Brigitte 2003, *Sri Lanka*, August, Lonely Planet Publications, Melbourne, frontpiece – Attachment 1).

## List of Sources Consulted

### Internet Sources:

#### Search Engines

Google search engine <http://www.google.com.au/>

### Databases:

Public	<i>FACTIVA</i>	Reuters Business Briefing
DIMIA	<i>BACIS</i>	Country Information
	<i>REFINFO</i>	IRBDC Research Responses (Canada)
RRT	<i>ISYS</i>	RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State <i>Country Reports on Human Rights Practices</i> .
RRT Library	<i>FIRST</i>	RRT Library Catalogue

## List of Attachments

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2. Farrell, Tom 2002, 'Tamil police force expanded ahead of Sri Lanka peace talks', *Jane's Intelligence Review*, 9 September. (CISNET CX82887)
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4. UNHCR 2004, *Background Paper on Asylum Seekers from Sri Lanka*, April.
5. Country Information Service 2001, *Country Information Report No 293/01: Travel documents and checking procedures*, (sourced from DFAT advice of 15 November 2001), 20 November. (CISNET CX59591)
6. UK Home Office 2005, *Sri Lanka Assessment*, October.
7. UNHCR/ACCORD 2001, 'Sri Lanka', 7<sup>th</sup> *European Country of Origin Information Seminar, Berlin: Final report*, 11-12 June.
8. Jayawadena, K.P. 2000, 'Focus on rights: Is this all a really necessary exercise?', *The Sunday Times*, 21 May.
9. Attachment deleted
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11. Attachment deleted
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15. 'Pedro Point, Sri Lanka' 1999, *Microsoft Encarta*. (CD-ROM)
16. Majumder, Sanjoy 2005, 'Sri Lanka foes rattle sabres', *BBC News*, 28 November, [http://news.bbc.co.uk/1/hi/world/south\\_asia/4477746.stm](http://news.bbc.co.uk/1/hi/world/south_asia/4477746.stm) – Accessed 19 December 2005.
17. 'Tamil Tigers "violated ceasefire"' 2005, *BBC News*, 17 December, [http://news.bbc.co.uk/2/hi/south\\_asia/4537312.stm](http://news.bbc.co.uk/2/hi/south_asia/4537312.stm) – Accessed 19 December 2005.
18. 'Sri Lanka: Risk overview' 2005, *Economist Intelligence Unit*, 8 December.
19. Immigration and Refugee Board of Canada 2003, *Issue Paper: Sri Lanka: Developments since the February 2002 Ceasefire*, March.
20. US Department of State 2005, *Country Reports on Human Rights Practices 2004 – Sri Lanka*, 28 February.