

**Submission from the Internal Displacement Monitoring Centre (IDMC)  
of the Norwegian Refugee Council (NRC)**

**To the Human Rights Committee (HRCttee)**

For consideration at its 112<sup>th</sup> session (7-31 October 2014)

**Sri Lanka**

12 September 2014

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*N.B.: The State Party's responses to the List of Issues dated 3 September 2014 are not comprehensive enough to allay the concerns described below, and will thus not be specifically addressed.*

#### I. Internal displacement in Sri Lanka: current situation

1. Sri Lanka's 26-year internal armed conflict ended in May 2009 with the military victory of government forces over the insurgent Liberation Tigers of Tamil Eelam (LTTE). As of September 2014, the following groups of people who originate from the northern and eastern provinces and have experienced internal displacement as a result of the conflict remain of concern:
  - a. As of May 2014 **up to 90,000** people were still living in internal displacement as a result of the conflict, tens of thousands among them with host communities and more than 7,000 IDPs in camps.<sup>1</sup>
  - b. While the majority of the 760,000 people who registered as returned were able to return sustainably, **tens of thousands** among them 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.
  - c. Since the end of the conflict, the government moved **several thousand** people to permanent relocation sites. They are no longer officially counted as internally displaced people (IDPs), even though relocation has reportedly not always been the result of a voluntary or fully informed settlement choice.
  - d. An unknown number of long-term IDPs, including **tens of thousands of northern Muslims**, were deregistered as IDPs but have likely not achieved a durable solution, be it through sustainable return, local integration, or settlement elsewhere in Sri Lanka.<sup>2</sup>
2. Independent and comprehensive figures on internal displacement in Sri Lanka are increasingly hard to come by. Official numbers have fallen since the end of conflict as the government has deregistered IDPs, but no comprehensive assessment has been carried out to determine whether or not they have achieved a durable solution. At the end of 2013 and the beginning of 2014 there were large discrepancies in the numbers of IDPs reported by the government and other entities. The Sri Lankan Ministry of Resettlement reported 23,568 IDPs<sup>3</sup> and the Ministry of External Affairs referred to 22,000 IDPs<sup>4</sup>, whereas according to UNHCR statistics obtained through Government Agents<sup>5</sup> at the district level there were just over 93,000 IDPs at the end of 2012 and 42,191 at the end of 2013.<sup>6</sup> However, no figures have been made available since

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<sup>1</sup> IDMC, [Sri Lanka IDP figures analysis](#), May 2014. The overwhelming majority of current and former IDPs belong to the Tamil ethnic group, while several tens of thousands of Muslims and a small number of Sinhalese have also experienced internal displacement.

<sup>2</sup> More than 73,000 northern Muslim IDPs had registered as returned as of 2011. Because conditions were not in place for sustainable return, only one-third among them were living permanently in return areas as of 2012, while the remainder were commuting between Puttalam district (their place of displacement) and their areas of origin in the Northern province. Not all who have wished to integrate locally in Puttalam have been able to register as residents and voters there. NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.7.

<sup>3</sup> Ministry of Resettlement, [Resettlement Figures](#), last checked 3 September 2014.

<sup>4</sup> UNGA, Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, A/HRC/26/33/Add.4, 5 June 2014, p.6.

<sup>5</sup> A Government Agent (GA) is the head of the public administration in a district.

<sup>6</sup> UNHCR, [Statistical Yearbook 2012](#), p.72; UNHCR, [UNHCR Global Trends 2013: War's human cost](#), p.43.

December 2012 for those who have reached a durable solution by returning, integrating locally or settling elsewhere in the country.<sup>7</sup>

3. The discrepancies in numbers can be explained by a lack of a clear understanding of the IDP definition and of existing policy guidance on durable solutions for IDPs, which may have led to the deregistration of IDPs at the district level without assessing whether they have reached a durable solution or whether they continue to have displacement-specific needs. **Without a comprehensive assessment, in particular of those IDPs who are living with host communities, it is very difficult to ascertain the number of IDPs remaining in the country.**<sup>8</sup>
4. The government, together with UNHCR, is currently in the process of finalising an assessment (based on a desk review) of the number of remaining IDPs in the country, but no profiling<sup>9</sup> or head count is planned.<sup>10</sup>
5. The current and former IDPs mentioned under (1) continue to face significant challenges in enjoying their human rights, which prevents them from reaching a durable solution. This is due to a number of factors, including the military occupation and state acquisition of land, other land issues, the militarisation of civilian life, and gaps in the areas of housing, water and sanitation, livelihoods and food. Tamil and Muslim IDPs have also suffered from discrimination on ethnic grounds.<sup>11</sup>

II. Main issues of concern as per the List of Issues dated 23 April 2014 in relation to the fifth periodic report of Sri Lanka (CCPR/C/LKA/Q/5)

***Liberty of movement and freedom to choose one's residence (ICCPR Art. 12, restated in Guiding Principles on Internal Displacement (GP) 16), and right to privacy (ICCPR Art. 17)***

*List of issues: "22. [...] [P]lease indicate what further measures have been taken to ensure durable solutions on a comprehensive basis for all internally displaced persons and for those who have returned to their areas of origin, including the return of their land and property."*

*A. Reduction of IDP numbers in the absence of durable solutions*

6. Since 2010 the Government of Sri Lanka has focused on **reducing the official number of IDPs in order to be able to declare an end to conflict-induced internal displacement in the country**. It has done so by:
  - a. Deregistering 760,000 people as IDPs and registering them as having returned to their areas of origin;<sup>12</sup>

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<sup>7</sup> DSPG, April 2014, p.4, on file with IDMC.

<sup>8</sup> IDMC interview, September 2014.

<sup>9</sup> "IDP profiling is the collaborative process of identifying internally displaced groups or individuals through data collection, including counting, and analysis, in order to take action to advocate on their behalf, to protect and assist them and, eventually, to help bring about a solution to their displacement." NRC-IDMC and OCHA, [Guidance on profiling Internally Displaced Persons](#), April 2008, p.5.

<sup>10</sup> IDMC interview, September 2014.

<sup>11</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.6.

<sup>12</sup> UNGA, Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, A/HRC/26/33/Add.4, 5 June 2014, p.7.

- b. Moving several thousand people whose land remains closed for return because it is occupied by the military (see Section B below) to permanent relocation sites,<sup>13</sup> and deducting them from the total number of IDPs in the country;
  - c. Reducing official numbers of IDPs on paper, rather than based on facts on the ground. Since the end of 2011 the government has no longer included those IDPs whose areas of origin were authorised for return in its official IDP figures.<sup>14</sup> At the end of 2012 UNHCR stopped its monthly compilation of government statistics because of the increasing difficulties it faced in gathering data on IDPs from local authorities.<sup>15</sup>
7. According to ICCPR Art. 12.1, “[e]veryone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.” Based on this article, GP 28.1 states that the government has the obligation to facilitate IDPs’ voluntary, safe and dignified settlement choice. However, in contradiction with ICCPR Art. 12.1 and GP 28.1 **large numbers of IDPs have not been able to freely move and choose their place of residence, as they have not been given a voluntary, safe and dignified settlement choice.**
  8. The key issue immediately after the end of the armed conflict in May 2009 was **IDPs’ detention in closed military-run camps and the resulting lack of freedom of movement.** While the majority of IDPs have preferred return over other settlement options, return at that time would have been premature given the level of destruction and contamination with anti-personnel mines and unexploded ordnance in areas of origin.<sup>16</sup> Since large-scale returns began in late 2009, those who registered as returned were also required to do so in order to be eligible for humanitarian assistance, although many are still to receive any.<sup>17</sup>
  9. **Government restrictions on the activities of humanitarian organisations** have made the process of putting conditions for durable solutions in place in return and other settlement areas – including through mine clearance and reconstruction/repair of housing, but also “soft” support such as psychosocial or legal assistance – much slower than it would have needed to be, and remains incomplete to date.<sup>18</sup> In addition, IDPs who the government deregistered as IDPs and who were moved to permanent relocation sites were reportedly not always fully informed about the settlement options available to them, and not all moved voluntarily.<sup>19</sup>
  10. **To date the government has not conducted or supported any survey on IDPs’ settlement preferences,**<sup>20</sup> although this would be a necessary precondition for taking IDPs’ freedom of

<sup>13</sup> A map with a list of known relocation sites in the northern and eastern provinces since 2008 is available in NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.2.

<sup>14</sup> NRC-IDMC, [Sri Lanka: A hidden displacement crisis](#), 31 October 2012, p.5; ICG, [Sri Lanka’s north II: Rebuilding under the military](#), 16 March 2012, p.5.

<sup>15</sup> CPA, [Protracted Displacement, Urgent Solutions: Prospects for Durable Solutions for Protracted IDPs in Sri Lanka](#), 17 September 2013, pp.27-28.

<sup>16</sup> NRC-IDMC, [IDPs and returnees remain in need of protection and assistance](#), 14 January 2011, p.23.

<sup>17</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.7.

<sup>18</sup> NRC-IDMC, [IDPs and returnees remain in need of protection and assistance](#), 14 January 2011, pp.37, 40; NRC-IDMC, [Sri Lanka: A hidden displacement crisis](#), 31 October 2012, p.14; IDMC interview, August 2014.

<sup>19</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.7; UNGA, Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, A/HRC/26/33/Add.4, 5 June 2014, p.7.

<sup>20</sup> UNGA, Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, A/HRC/26/33/Add.4, 5 June 2014, p.11.

choice of residence into account. It would also help develop plans and programmes to facilitate durable solutions for IDPs, and go some way towards ensuring the full participation of IDPs in the planning and management of their settlement choice, as stipulated by GP 28.2.

11. Such a survey would further help ensure that conditions are met for IDPs to find durable solutions in their main areas of settlement. In its absence, however, tens of thousands of IDPs have returned without adequate shelter, water, sanitation and other infrastructure in place.<sup>21</sup> In addition, the infrastructure at relocation sites has been insufficient to support durable solutions, in particular due to the absence of health services and opportunities for income generation.<sup>22</sup>  
**The government has therefore not fulfilled the provision in GP 28.1 to ensure that conditions in return areas and other places of settlement facilitate durable solutions for returning or locally integrating IDPs or those settling elsewhere in the country.**
12. What is more, **the government has neither carried out nor supported any profiling or comprehensive durable solutions assessment** which would have provided information on both the number and situation of persons who are still displaced and the degree of achievement of durable solutions for those who have returned, been relocated, or aimed to locally integrate. Such an assessment would also help to better understand secondary movements of those who have decided to go back to their place of first refuge or move elsewhere after failing to integrate or reintegrate.
13. In December 2012 a survey of pre-2008 IDPs by UNHCR, UNOPS and the government was abandoned because the Presidential Task Force for Resettlement, Development and Security in the Northern Province (PTF) was obstructing it.<sup>23</sup> A Joint Needs Assessment (JNA) by the government in partnership with humanitarian and development organisations, which covers 7,000 households in 9 districts, is in the process of being completed. However, it does not include IDPs' preferred settlement choices; their personal security, including gender-based violence; and their ability to exercise their fundamental human rights – in spite of the fact that information on these issues would be crucial in assessing IDPs' access to durable solutions.<sup>24</sup>
14. ICCPR Art. 12.1 can be subject to restrictions “which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant” (ICCPR Art. 12.3). However, **it is difficult to see how such restrictions would be justified in the current Sri Lankan context, more than five years after the end of the armed conflict.**

#### *B. Land issues*

15. According to the information that is currently available, some 6,900 internally displaced families (corresponding to about 23,000 IDPs)<sup>25</sup> in the Northern and Eastern provinces **cannot access**

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<sup>21</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.7.

<sup>22</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.7; UNGA, Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, A/HRC/26/33/Add.4, 5 June 2014, p.7.

<sup>23</sup> NRC-IDMC, [Global Overview 2012: People internally displaced by conflict and violence](#), 29 April 2013, p.72.

<sup>24</sup> OCHA, [Sri Lanka: Humanitarian Bulletin Issue no. 3](#), 29 August 2014, p.5.

<sup>25</sup> The number of individual IDPs was calculated based on an average family size of 3.3 individuals, as in UNHCR's most recent monthly compilation of government statistics (UNHCR, 31 December 2012, on file with IDMC).

**their lands because it remains under occupation by the Sri Lankan army, navy or police and/or constitutes so-called High Security Zones, Special Economic Zones or No Entry Zones.**<sup>26</sup> This number includes mostly IDPs staying with host families near their area of origin, but also several thousand in camps in Jaffna and Trincomalee, as well as several thousand in relocation sites.<sup>27</sup>

16. In April 2013 the government began acquiring more than 6,000 acres of private land that is part of High Security Zones in Jaffna and as such are occupied by the military. The vast majority of the land in question belongs to IDPs displaced by the conflict.<sup>28</sup> Land in Trincomalee, Mullaitivu and Kilinochchi districts is also being acquired to set up military infrastructure.<sup>29</sup> **No public information campaign has been conducted for the concerned landowners to make them aware of their rights to appeal the land acquisition process.**<sup>30</sup>
17. While the Land Acquisition Act allows government acquisition of private land for “public purpose”, **acquisition notices in the Jaffna case refer to the establishment of military bases and the creation of a military-run holiday resort.** Court cases by over 2,000 IDPs questioning the legality of the acquisition are still pending.<sup>31</sup> Other IDPs owning land in the areas being acquired have not come forward for fear of repressive measures, indicating a violation of the right to liberty and security of person (ICCPR Art. 9.1).
18. In addition, in contradiction with ICCPR Art. 2.3, the **principle of due process has not been upheld.** Acquisition notices have been posted on properties in areas inaccessible to the owners, which has meant that owners have only learned about the acquisition notice once the period to lodge objections had passed. In some cases, the notices have stated that the owner was unknown, although records at the land registry would have clearly indicated otherwise.<sup>32</sup>
19. Sri Lanka’s **Prescription Ordinance**<sup>33</sup>, which recognises the right to ownership of someone who has occupied another’s private land for more than 10 years, **gives secondary occupants priority over original owners, and thereby contradicts the right to restitution** as expressed in the Guiding Principles on Internal Displacement (GP 30) and the Pinheiro Principles (PP 17.2).<sup>34</sup> The government’s Lessons Learnt and Reconciliation Commission (LLRC) therefore recommended

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<sup>26</sup> IDMC interview, September 2014.

<sup>27</sup> IDMC interview, November 2013.

<sup>28</sup> 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. The Ministry of Lands and Land Development refers to 4,737 hectares being acquired in the Northern and Eastern provinces as of July 2014. Ministry of Lands and Land Development, [Progress report on the implementation of LLRC recommendations](#), July 2014, p.6.

<sup>29</sup> Human Rights Council, Oral update of the High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka, A/HRC/24/CRP.3/Rev.1, 25 September 2013, p.3.

<sup>30</sup> IDMC interview, September 2014.

<sup>31</sup> 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, [Acquisition Notices: Militarization Through Grabbing Of Tamil Lands](#), 25 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.

<sup>32</sup> IDMC interview, September 2014.

<sup>33</sup> Sriskandarajah, Karunakaran and Sumanthiran, [Legal Analysis of Property Issues affecting Internally Displaced Persons and Refugees in Sri Lanka](#), January 2003, p.9.

<sup>34</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.8.

amending the ordinance to protect the rights of land owners in conflict-affected areas.<sup>35</sup> In August 2014, the **Prescription (Special Provisions) Bill** to implement the LLRC recommendation was at its second reading before Parliament. It provides that the Prescription Ordinance is not to be applied for landowners who lost their land during the period between 1 May 1983 and 31 December 2012.<sup>36</sup>

20. In addition, a **land circular for the regulation of land-related issues**, which was promulgated in January 2013, gives priority to secondary occupants, and as such is in contradiction with the right to restitution and the provisions of the Prescription (Special Provisions) Bill.
21. The loss of their land and homes is a problem for IDPs who were property owners before they were displaced, especially as many have so far not received any compensation for their losses.<sup>37</sup> IDPs in some relocation sites have been provided with housing but have not been given property titles or tenure documents, **nor have they received compensation** for their original land and property. Moreover, many IDPs staying with host communities had been tenants and became homeless as a result of their displacement, but neither have they been compensated.<sup>38</sup> In 2012 a group of women petitioners filed a case at the Supreme Court to have military-occupied land in Ampara district restituted to them or get compensation, only to suffer intimidation on the part of members of the military.<sup>39</sup>
22. Loss of land without appropriate compensation has had a particularly negative impact on IDPs' livelihoods and living conditions, as illustrated by the case of IDPs originating from land in Sampur in Trincomalee district which is part of a Special Economic Zone overlapping with a High Security Zone. IDPs relocated from there cannot pursue fishing the way they used to prior to displacement because they have limited or no access to the ocean or lack fishing equipment, while those who traditionally were farmers do not have access to land.<sup>40</sup>
23. Under the current Land Circular, the resolution of complex land disputes is left to the discretion of the administrators in charge of its implementation. However, a **comprehensive mechanism to deal with conflicting claims on land is needed** to address tensions such as those between returning Tamils and Muslims over rival claims to the same land in Mannar district.<sup>41</sup> The Prescription (Special Provisions) Bill that is currently before Parliament (see Paragraph 19

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<sup>35</sup> Lessons Learnt and Reconciliation Commission (LLRC), [Report of the Commission of Inquiry on Lessons Learnt and Reconciliation](#), 16 December 2011, p.241.

<sup>36</sup> Library of Congress, [Sri Lanka: Proposed Law Seeks to Restore Property to Displaced Landowners](#), 18 June 2012; Government of Sri Lanka, [Parliament Debates Bill to Restore Rights of Land Owners in North and East](#), 11 August 2014.

<sup>37</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.8.

<sup>38</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.8.

<sup>39</sup> Minority Rights Group International, [Living with insecurity: Marginalization and sexual violence against women in north and east Sri Lanka](#), 16 October 2013, p.15.

<sup>40</sup> CPA, [Protracted Displacement, Urgent Solutions: Prospects for Durable Solutions for Protracted IDPs in Sri Lanka](#), 17 September 2013, pp.49-50.

<sup>41</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.8; CPA, [Tamil-Muslim Tensions and Coexistence in Mannar: Land Disputes in Sannar and Uppukulam](#), 28 March 2013.

above) provides for the creation of such a mechanism.<sup>42</sup>

### C. Militarisation

24. A key impediment to current and former IDPs reaching durable solutions is the **continuing high military presence** in return areas five years after the end of the conflict. This is particularly true for the Northern province, where a recent estimation puts the ratio between members of the security forces and civilians at up to 1:5<sup>43</sup> - much higher than the 1:20 to 1:25 ratio that, according to the Pentagon's Institute of Defense Analyses, is common in active counterinsurgency operations worldwide.<sup>44</sup> The high military presence has contributed to feelings of insecurity among IDPs – thereby **violating the right to liberty and security of person as provided for in ICCPR Art. 9.1** – and has negatively impacted on their freedom of movement.<sup>45</sup>
25. In addition, the **military has been carrying out activities that should belong in the civilian realm** in a post-conflict society, including economic activities and local administration.<sup>46</sup> Its involvement, often subsidised, in agriculture, small retail business and tourism has hampered returnees' livelihood efforts because the latter find it difficult to compete.<sup>47</sup> As mentioned in section B above, **the military has also been occupying land from which IDPs originate**. It has used some of that land to cultivate crops, while IDPs have been told they cannot return there, thereby **depriving them of their own means of subsistence** in contradiction with ICCPR Art. 1.2.
26. **Members of the military and the Criminal Investigation Department have registered current and former IDPs and have been visiting and interviewing them, thereby arbitrarily interfering with their privacy and home** (ICCPR Art. 17). Because of the potential for harassment and intimidation, this has been particularly problematic given the high number of female-headed households in conflict-affected areas, which is estimated at 40,000 in the Northern province (see also Paragraphs 32-34 below).<sup>48</sup>

### D. Absence of a national instrument on internal displacement

27. A comprehensive national policy or legislation on internal displacement is key in responding to internal displacement situations as it ensures predictability and equality before the law and provides a legal framework to be respected by national authorities and their partners. **In Sri**

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<sup>42</sup> Library of Congress, [Sri Lanka: Proposed Law Seeks to Restore Property to Displaced Landowners](#), 18 June 2012; Government of Sri Lanka, [Parliament Debates Bill to Restore Rights of Land Owners in North and East](#), 11 August 2014.

<sup>43</sup> ICG, [The Forever War?: Military Control in Sri Lanka's North](#), 25 March 2014.

<sup>44</sup> NRC-IDMC, [Sri Lanka: A hidden displacement crisis](#), 31 October 2012, p.7; Kneece, [Force Sizing for Stability Operations: Main Report](#), March 2010, pp.2, 5; EPW, [Notes on the Military Presence in Sri Lanka's Northern Province](#), 14 July 2012, p.35.

<sup>45</sup> UNGA, Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, A/HRC/26/33/Add.4, 5 June 2014, p.14.

<sup>46</sup> Human Rights Council, Oral update of the High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka, A/HRC/24/CRP.3/Rev.1, 25 September 2013, p.3; UNGA, Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, A/HRC/26/33/Add.4, 5 June 2014, p.14.

<sup>47</sup> NRC-IDMC, [Sri Lanka: A hidden displacement crisis](#), 31 October 2012, pp.7-8.

<sup>48</sup> Vasudevan, [Everyday Resistance: Female Headed Households in Northern Sri Lanka](#), May 2013.



**Lanka, the absence of such a framework reflects the inability of national authorities to ensure that current and former IDPs can enjoy their human rights without discrimination. This legal and policy gap has thus prevented current and former IDPs from achieving a durable solution.**

28. In November 2013 the Ministry of Resettlement published a Draft Resettlement Policy, but this policy has significant shortcomings. While the draft was posted on the Ministry's website with an invitation to provide comments, there has been no transparent process of consultation and participation of relevant stakeholders in the development of the draft policy. It is also not comprehensive in its scope, as it only applies to the phase immediately after internal displacement caused by conflict, and not to protracted displacement or to IDPs' prospects for durable solutions. Further, it does not distinguish clearly between the three settlement options set out in the Guiding Principles and the IASC Framework on Durable Solutions, namely return, local integration and settlement elsewhere in the country.<sup>49</sup>

***Freedom of expression, freedom of assembly and freedom of association (ICCPR Art. 19, 21, 22)***

*List of issues: "24. Please comment on restrictions imposed on the freedom of expression and freedom of peaceful assembly of communities in the North."*

29. **Current and former IDPs continue to face restrictions on the freedom of assembly and freedom of association.** For example, it has been difficult for them to meet with civil society organisations and others who are willing to provide them with support and monitor their situation without surveillance or questioning by security personnel. Recent prominent cases include efforts of the Special Rapporteur on the human rights of internally displaced persons and the High Commissioner for Human Rights to meet with current or former IDPs and human rights defenders, which were made difficult or inhibited by such surveillance. This endangered the security of current and former IDPs and other interlocutors (a violation of the right to liberty and security of person, ICCPR Art. 9.1).<sup>50</sup>
30. IDPs' freedom of expression has also been hampered by the fact that **human rights defenders, journalists and NGOs who report on the situation in areas where current and former IDPs live have experienced increasing restrictions on their activities as well as intimidation, detention and death threats.**<sup>51</sup>
31. Since early 2014 the government has **increased its already significant scrutiny and surveillance of UN agencies, international NGOs, and members of Sri Lankan civil society, and has prevented such organisations from carrying out activities aimed at facilitating durable solutions.** For example, field staff members of these organisations are routinely being followed or stopped by members of the Criminal Investigation Department (CID), Terrorism Investigation Department (TID) or military. Such measures have become even more pronounced against the backdrop of the ongoing investigation into war crimes by the OHCHR as mandated by the Human Rights Council in March 2014. In July 2014, NGOs received a letter from the NGO

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<sup>49</sup> NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, pp.11-12.

<sup>50</sup> OHCHR, [Opening remarks by UN High Commissioner for Human Rights Navi Pillay at a press conference during her mission to Sri Lanka Colombo](#), 31 August 2013; UNGA, Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, A/HRC/26/33/Add.4, 5 June 2014, pp.4, 15.

<sup>51</sup> Sri Lanka Brief, [Fact Sheet: Violations of the Right to Freedom of Expression in Sri Lanka; March – August 2014](#), 1 September 2014; NRC-IDMC, [Sri Lanka: Almost five years of peace but tens of thousands of war-displaced still without solution](#), 4 February 2014, p.5.

Secretariat (part of the Ministry of Defence), which asked them to refrain from holding “conferences, press conferences, workshops, training for journalists and dissemination of press releases”.<sup>52</sup>

### **Violence against women (ICCPR Art. 2, 3, 7, 26)**

*List of issues: “24. Please provide information about cases of rape and other acts of sexual violence that occurred during and after the conflict [...].”*

32. Generally high poverty levels and lack of livelihood opportunities in the Northern and Eastern provinces have led to increased protection risks, in particular for internally displaced women. Single women and women heading their households are particularly affected, including by resorting to negative coping strategies such as survival sex. Other common protection issues are domestic violence, human trafficking and child abuse.<sup>53</sup>
33. There have been reports that women and girls including current and former IDPs are increasingly vulnerable to gender-based violence, by members both of the security forces and their own communities.<sup>54</sup> 40 per cent of respondents in a UNHCR survey on durable solutions that was carried out in 2013 said that women did not feel safe at home.<sup>55</sup>
34. Such cases are heavily underreported due to a number of reasons, including the cultural stigma attached to women who are victims; the lack of sensitivity displayed by the police when receiving such reports; the lack of Tamil-speaking female police officers; the risks involved in reporting such incidents; and the lack of psychological counselling and other remedies and support mechanisms for victims. In addition, prosecution has been slow for those cases that do get reported.<sup>56</sup>

### **III. Recommendations**

35. The Government of Sri Lanka should undertake the following key steps to ensure current and former IDPs can enjoy their civil and political rights, and thereby reach a durable solution to their displacement:

***Liberty of movement and freedom to choose one’s residence (ICCPR Art. 12, restated in Guiding Principles on Internal Displacement (GP) 16), and right to privacy (ICCPR Art. 17)***

*The government should determine numbers and needs of current and former IDPs by:*

- Carrying out or supporting a comprehensive durable solutions assessment covering both

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<sup>52</sup> IDMC interview, August 2014; HRC, [Promoting reconciliation, accountability and human rights in Sri Lanka](#), A/HRC/25/L.1/Rev.10, 26 March 2014.

<sup>53</sup> IDMC interview, September 2014.

<sup>54</sup> Minority Rights Group International, [Living with insecurity: Marginalization and sexual violence against women in north and east Sri Lanka](#), 16 October 2013, p.4; Human Rights Council, Oral update of the High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka, A/HRC/24/CRP.3/Rev.1, 25 September 2013, p.3; OCHA, Preliminary Report of OCHA’s Visit to seven districts in Northern & Eastern Province, 14 May-2 June 2013, on file with IDMC.

<sup>55</sup> UNHCR, A Protection Assessment of Sri Lankan Internally Displaced Persons who have Returned, Relocated or are Locally Integrating (“Tool Three”), June 2013, p.10, on file with IDMC.

<sup>56</sup> IDMC interview, September 2014; Minority Rights Group International, [Living with insecurity: Marginalization and sexual violence against women in north and east Sri Lanka](#), 16 October 2013, p.15.

current and former IDPs, including a survey to determine their numbers;

- Ensuring that current and former IDPs' right to freedom of choice of residence is respected;
- Putting the necessary conditions in place in return and other settlement areas to facilitate their achievement of a durable solution.

*The government should facilitate IDPs' access to lost land by:*

- Putting on hold or reverse the current state acquisitions of land belonging to IDPs, and conducting a public information campaign to make IDPs aware of their rights to appeal the acquisition process.
- Ensuring that acquisitions are only carried out for truly "public purpose".
- Establishing a comprehensive mechanism to deal with conflicting claims on land.

*The government should end the militarisation of the north and east, as it is a major impediment to durable solutions, by:*

- Returning military occupied land to IDPs. In exceptional cases where this is not possible, provide adequate compensation.
- Putting the local administration under civilian, rather than military, control.

*The government should adopt an IDP policy which meets international standards by:*

Revising the current draft policy, building on the stalled Sri Lankan draft bill of 2008 and the recommendations of the 2008 national consultation on the status of IDPs and durable solutions. In particular, the draft policy should:

- Address not only conflict-induced displacement, but also displacement caused by natural disasters and development projects, as well as all phases of displacement up to and including the achievement of durable solutions;
- Be developed with the full consultation and participation of stakeholders including IDPs, host communities, civil society organisations, and local authorities;
- Facilitate the implementation of the Guiding Principles and other relevant international standards in the Sri Lankan context, including by spelling out the institutions and organisations responsible for the implementation of each of its elements.

***Freedom of expression, freedom of assembly and freedom of association (ICCPR Art. 19, 21, 22)***

*The government should:*

- Stop the surveillance and harassment of human rights defenders, journalists, and national and international organisations, and of current and former IDPs who meet with them;
- Grant human rights defenders, journalists, and national and international organisations unfettered access to current and former IDPs so that they can comprehensively assess and address their needs without negative consequences for the IDPs themselves;
- Ensure that human rights defenders, journalists, and national and international organisations are able to carry out their activities to facilitate durable solutions for IDPs without interference by state security agents or government entities.

***Violence against women (ICCPR Art. 2, 3, 7, 26)***

*The government should:*

- Increase the number of Tamil-speaking female police officers in the Northern and Eastern provinces, and set up remedies and support mechanisms for victims, including psychological counselling;
- Investigate reports of gender-based violence towards internally displaced women and girls, and bring the perpetrators to justice in a timely manner.

#### **IV. Annexes**

NRC-IDMC, [Internal displacement in Sri Lanka: Memorandum for members of the Human Rights Council \(25<sup>th</sup> session\)](#), 26 February 2014

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

### **About the Internal Displacement Monitoring Centre**

The Internal Displacement Monitoring Centre (IDMC) is the leading source of information and analysis on internal displacement. For the millions of people worldwide displaced within their own country, IDMC plays a unique role as a global monitor and evidence-based advocate to influence policy and action by governments, UN agencies, donors, international organisations and NGOs.

IDMC was established in 1998 at the request of the Interagency Standing Committee on humanitarian assistance. Since then, IDMC's unique global function has been recognised and reiterated in annual UN General Assembly resolutions.

IDMC is part of the Norwegian Refugee Council (NRC), an independent, non-governmental humanitarian organisation.

For more information, visit the Internal Displacement Monitoring Centre website and the database at [www.internal-displacement.org](http://www.internal-displacement.org)

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