



Sri Lanka's Conflict-Affected Women: Dealing with the Legacy of War

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Executive Summary

Eight years after the end of Sri Lanka's armed conflict, Tamil speaking women in the island's north and east are still seeking justice and truth for wartime violations. Bold promises by the government to the United Nations Human Rights Council in 2015 – including a truth commission, a special court and offices to investigate missing persons and provide reparations – have failed to materialise even as the urgent economic and psychosocial needs of all conflict-affected groups remain unmet. Anger and a sense of betrayal have generated a new wave of women-led protests and threaten to become sources of renewed grievance that damage already slim hopes of reconciliation among communities, and between the state and its Tamil citizens. If Sri Lanka is to address the past in a way that reconciles its communities and builds lasting peace, the government must prioritise the needs and rights of conflict-affected women – beginning by promptly establishing the offices on missing persons and reparations.

As the armed conflict raged, Tamil speaking women in the war-torn north and east braved a powerful military and an authoritarian government to press for truth and accountability, particularly regarding the enforced disappearance of family members. After the war, their campaigning helped bring transitional justice issues onto the domestic and international agenda. At the heart of promised transitional justice processes are these women's experiences of rape and sexual violence, the deaths of family members, forced recruitment and killings by the Liberation Tigers of Tamil Eelam (LTTE) and destruction of homes and communities. The legacy of war continues to impose hardships, particularly on conflict-affected women: lack of information on missing relatives, displacement from their land, economic deprivation, psychological trauma, vulnerability to sexual violence and exploitation, plus a militarised environment that reinforces much of the above.

Despite their agenda-setting activism, women have been given little role in shaping transitional justice policies. The government largely has ignored the report of its Consultations Task Force (CTF) on national reconciliation processes, which conferred widely with women and which many hoped would re-energise government's commitments. Occasional gestures – the release of small amounts of land or meetings by the president with families of the disappeared – are drowned out by the government's political caution and pro-military tilt. A new constitution, which could address the causes of war and help prevent its recurrence, continues to hang in the balance.

Extensive interviews with women in the north and east make clear they want justice for crimes committed by the state and – albeit with less unanimity – for those perpetrated by the LTTE. Their most urgent demand is to know the fate of missing relatives. These women also insist that the truth and justice they seek must be part of a broader approach to meet their economic, social, psychological and security needs.

Tamil speaking women in the north and east have arguably been more affected by the conflict and its aftermath than any other group in Sri Lanka. Tens of thousands of war widows and wives of the missing have been forced to become heads of household and primary income earners, leaving behind traditional domestic roles and entering the public realm to engage politically, economically and socially. They do this in a highly patriarchal context regulated by rigid cultural and social practices,

and made insecure by the continued presence of the Sinhalese military. They suffered gender-based violence and abuse throughout the conflict and continue to do so amid a breakdown in social and family structures. Most have urgent unmet socio-economic needs and many suffer crippling trauma. Muslim and Sinhala women in the north and east and other parts of the country face their own challenges arising from the war and must be better included in transitional justice processes.

Meaningful transitional justice must also reduce women's severe economic and physical vulnerability. A well-designed and empowered reparations office is required to support expanded and better coordinated programs for livelihoods, pensions, debt relief and psycho-social support. The office will need strong political backing from the president and prime minister to overcome political and bureaucratic resistance. Likewise, funding and political support to community- and district-level women's groups is essential.

The Office of Missing Persons (OMP) should be made operational immediately and given sufficient resources to set up branches in the north and east. It should be staffed with credible, independent voices, including conflict-affected women themselves. An accountability process, with international involvement, may not come soon, but it will be critical to assure that Sri Lanka can put its many ghosts to rest and mitigate the chances of future conflict.

Transitional justice in Sri Lanka has grown moribund largely because the government never tried to build public support for the process or show how it could benefit all communities. A major public outreach campaign to explain how the reparations and missing persons offices will address the legacies of war could help neutralise resistance from political rivals and the military.

Addressing the specific needs of conflict-affected women and involving them more fully in the design and implementation of transitional justice programs are essential steps, both for reducing the rising tension in the north and east and for restoring hope that the political transition promised in 2015 can still be realised.

Recommendations

To begin fulfilling commitments made at the UN Human Rights Council to a comprehensive transitional justice process:

To the government of Sri Lanka:

1. Launch a major public outreach campaign to explain the benefits to all communities from the offices for reparations and missing persons and to help reduce resistance from political rivals and the military.
2. Immediately make the Office of Missing Persons operational, with independent staff, offices in the north and east and a role for victims' families.
3. Establish the Office of Reparations, beginning by inviting public input on the draft reparations law. To design a mandate and office with Sinhala, Muslim and Tamil support, policymakers should consider public opinion along with relevant findings in the Consultation Task Force report.
4. Design and empower the reparations office to coordinate programs that benefit war victims and their family members from all communities.
5. In cooperation with the UN, donors and provincial councils, formally assess the economic needs of conflict-affected women, especially female heads of household, and devise programs that include an equitable and easy-to-understand pension scheme for victims' families, medical support for war-disabled women, funding for the education of conflict-affected children, affordable housing and reforms that will enable widows to establish ownership or tenancy of land.
6. Improve psychosocial support for all in conflict-affected areas, including for those who engage with the missing persons office and any other mechanisms established, and provide comprehensive medical treatment for the victims of gender-based violence, in particular sexual violence.
7. Publish a list with the names of all who surrendered to military in 2009 and conduct credible and independent police investigations into disappearances, abductions and other emblematic wartime and post-war political crimes as a step toward ending impunity and building political support for a special accountability court.
8. Acknowledge and facilitate the right of all Sri Lankans – including family of former LTTE members – to commemorate their dead.

To establish conditions for conflict-affected women's effective engagement with transitional justice mechanisms:

To the government of Sri Lanka:

9. Ensure the continued engagement of women, survivors and members of the zonal task forces in planning and implementing the missing persons and reparations offices.
10. Prevent and punish sexual exploitation and violence against women in the north and east by measures that include: access to sexual and reproductive health information and services, enforcing codes of conduct for military and government

personnel, deploying more female and Tamil-speaking police officers trained to respond to gender-based violence, strengthening women's and children's desks in police and government offices and establishing a special high court division to hear cases involving sexual and gender-based violence.

11. Reduce the impact of the military on civilian life in the north and east by ending the military's surveillance of women's homes, including ad-hoc visits, expediting the return of occupied private land and beginning to close or transfer to civilian control military-run farms, shops and hotels.

To the UN and international donors:

12. Develop protocols and collective monitoring processes to improve the effectiveness of economic support and reduce high debt levels in the north and east.
13. Strengthen political and financial support to community- and district-level women's groups, including women members of the zonal task forces.
14. Review the UN Peacebuilding Priority Plan to respond better to the changing and increasingly difficult political context and any new initiatives the government may launch.

Colombo/Brussels, 28 July 2017

Sri Lanka's Conflict-Affected Women: Dealing with the Legacy of War

I. Introduction

Sri Lanka's long armed conflict was declared over on 19 May 2009, with the killing of senior leaders of the Liberation Tigers of Tamil Eelam (LTTE), who had been fighting to establish a separate state in the country's north and east. The victory came amid allegations of large-scale civilian killings and violations of international human rights and humanitarian law, including war crimes.¹ The UN estimates of civilian deaths in the final months of fighting range between 40,000 and 70,000, with an estimated 150,000 killed over almost 30 years of war marked by brutal atrocities by both sides.²

The government of then President Mahinda Rajapaksa denied its forces had killed civilians, portraying its victory as a triumph over terrorism and rejecting international pressure to investigate the final days of the war as an infringement of Sri Lanka's sovereignty. Channelling ethno-nationalist narratives of Sinhala Buddhist supremacy that dismissed the legitimacy of Tamil political grievances, it presented centrally controlled economic development of Tamil-majority war-affected areas as sufficient for "reconciliation".

In January 2015, Rajapaksa, whose government had taken a markedly authoritarian turn that alienated even large portions of Sinhala civil society, was dealt a surprising defeat in presidential elections by his one-time ally Maithripala Sirisena.³ Breaking from Rajapaksa's Sri Lanka Freedom Party (SLFP), Sirisena ran on a platform of "good governance" and the rule of law. He was backed by the SLFP's long-time rival the United National Party (UNP) and the main Tamil and Muslim parties. Early parliamentary elections in August 2015 gave a narrow victory to the UNP, which

¹ Crisis Group has covered these issues extensively in previous reports: on the war and its legacy in the north, see Asia Reports N°s 191, *War Crimes in Sri Lanka*, 17 May 2010; 209, *Reconciliation in Sri Lanka: Harder than Ever*, 21 July 2011; 217, *Women's Insecurity in the North and East*, 10 December 2011; 219, *Sri Lanka's North I: The Denial of Minority Rights*, 16 March 2012; 220, *Sri Lanka's North II: Rebuilding Under the Military*, 16 March 2012.

² The allegations of war crimes were first investigated by a Panel of Experts appointed by the UN Secretary-General Ban Ki-moon in 2010. Its 2011 report estimated that up to 40,000 civilians were killed during the final five months of war; the secretary-general's Internal Review of Actions in Sri Lanka (2012) said as many as 70,000 may have been killed in that period. Allegations of war crimes and possible crimes against humanity were found "credible" by the Office of the High Commissioner for Human Rights Investigation on Sri Lanka (OISL), which reported to the UN Human Rights Council (UNHRC) in September 2015. "Report of the OHCHR Investigation on Sri Lanka (OISL)", UNHRC (A/HRC/30/CRP.2), 16 September 2015. See Crisis Group "Statement on the UN Sri Lanka Investigation Report", 18 September, 2015.

³ On Rajapaksa-era nationalism and repression, see Crisis Group Asia Reports, N°s 253, *Sri Lanka's Potemkin Peace: Democracy under Fire*, 13 November 2013; and 243, *Sri Lanka's Authoritarian Turn: The Need for International Action*, 20 February 2013.

formed a national unity government with the SLFP under UNP leader Ranil Wickremesinghe as prime minister.⁴

Sirisena had promised voters to promote post-war reconciliation by establishing a domestic accountability process for alleged war crimes. After years of Sri Lankan opposition to UNHRC resolutions calling for investigations into rights abuses, the new government agreed in September 2015 to co-sponsor an ambitious resolution, which committed his government to creating a Truth and Reconciliation Commission (TRC), offices for missing persons and reparations and, surprisingly, a special court to prosecute violations of international law, with the involvement of foreign judges and experts.⁵

Throughout the decades of violence, women in the war-ravaged north and east have had pivotal roles, as fighters with the LTTE, activists for peace and justice, victims and survivors of atrocities and now as household heads who are trying to hold both their families and their damaged communities together. Conflict-affected women have spearheaded the demand for justice during and after the war and remain at forefront of protests in Tamil areas. The government says it is committed to addressing their demands, but its failure to do so has already stoked women's anger and could encourage the growth of less accommodating and more conservative forms of Tamil nationalism.

This report examines the role of conflict-affected women in Sri Lanka's fledgling but increasingly endangered transitional justice process. It explains the impact of the conflict on Tamil-speaking women in the north and east, their place in the post-war context, the pressures they face and their understanding of "transitional justice". It explores how their conceptions of justice and accountability might be reconciled with the views of both the government and of national and international activists. Finally, it proposes how these women should be supported by Sri Lankan civil society and international donors.

For the purposes of this report, "conflict-affected women" refers principally to Tamil women living in the north and the east, although, as the report shows, Muslim women in these areas (and others throughout the country) also suffered badly.⁶ Tens of thousands of Sinhalese women, in the villages bordering the north and east and throughout the south, lost husbands, brothers and sons to the long war and the left wing political uprisings of the late 1980s. They now head households, care for the

⁴ Tenuously bringing together rival parties that remain deeply competitive, the "unity" government promised to strengthen the economy, restore the rule of law, end corruption, and introduce a new constitution. While Sirisena formally heads the SLFP, his leadership is contested by a powerful faction led by Rajapaksa, which forms the de facto parliamentary opposition and has exploited divisions within the ruling coalition to slow the reform agenda. See Crisis Group Asia Reports N°s 286, *Sri Lanka's Transition to Nowhere*, 16 May 2017; 278, *Jumpstarting the Reform Process*, 18 May 2016; and 272, *Sri Lanka Between Elections*, 12 August 2015.

⁵ For details on Sri Lanka's UNHRC commitments, see Crisis Group Asia Reports *Sri Lanka's Transition to Nowhere* and *Jumpstarting the Reform Process*, op. cit. See also Crisis Group Asia Commentary, "Impunity and Justice: Why the Human Rights Council Must Stay Engaged in Sri Lanka", 17 June 2016.

⁶ For details on the close but complicated relationship between Tamil and Muslim women in the north and east, and their divergent views on dealing with the legacy of war, see section VI.

disabled and face many of the same problems as Tamil women. Their needs should be integrated in programs for conflict-affected women.

Research for this report was conducted over the past year, beginning with in-depth interviews and focus group discussions with more than 60 conflict-affected women from seven districts in the north and east of Sri Lanka. In June and July 2016, interviews were conducted in Puttalam, Mannar, Jaffna, Kilinochchi, Mullaitivu, Trincomalee and Batticaloa, as national consultations on reconciliation issues got underway.⁷ Interviewees included community based women's rights activists, including members of the task forces conducting the consultations. These were followed by interviews with government officials involved in transitional justice initiatives, international donors and Colombo based civil society activists and lawyers. Follow up interviews were conducted with both groups in February and June 2017 to track changes in opinions, amid the slowdown on transitional justice and rising protests in the north and east.

⁷ The Northern Province has five districts: Jaffna, Vavuniya, Kilinochchi, Mannar and Mullaitivu. The last four compose the region known as "the Vanni", where the fighting was most intense during the war's final years. Trincomalee and Batticaloa are two most war-affected districts of the Eastern Province. Puttalam is in the North Western Province, where many northern Muslims relocated after being expelled by the LTTE in 1990.

II. The Process so Far

The government's commitments in the 2015 UNHRC resolution marked a sharp departure from established policy: transitional justice had not been part of any earlier peace process in Sri Lanka, and previous governments had made few efforts to address Sri Lanka's bitter legacy of war-related abuses.⁸ The wide-ranging and contentious nature of the UNHRC agenda meant the government was certain to face significant political resistance.

Within months of taking office in 2015, President Sirisena established the Office of National Unity and Reconciliation (ONUR) to develop and implement reconciliation policies and initial "confidence-building measures" for the north and east, such as land returns, psychosocial support and livelihood programmes. In December 2015, Prime Minister Ranil Wickremesinghe established the Secretariat for Coordinating Reconciliation Mechanisms (SCRM), tasked with designing the four transitional justice mechanisms accepted at the human rights council and with coordinating other reconciliation-related policies.⁹

In January 2016 the prime minister appointed a Consultation Task Force (CTF), which included leading civil society activists and academics with diverse backgrounds to conduct island-wide consultations on the government's transitional justice policy and its mechanisms.¹⁰ Between June and September, this body and zonal task forces, comprising district-level community activists, conducted wide-ranging public consultations with input from more than 7,000 people. Since then, however, conflict-affected women have had few ways to contribute to the discussion on transitional justice, with debate restricted to the government, opposition and military, and to national and international activists.

The task force report, presented to government on 3 January 2017, provided a comprehensive overview of opinion from Sri Lankans of all backgrounds on how best to respond to its legacy of war and ethnic division. It recommended robust versions of the four proposed mechanisms and other policies to address Sri Lanka's painful past. Instead of embracing the report as a source of useful ideas, however,

⁸ For the previous government's response to allegations and calls for international investigations see Crisis Group Reports, *War Crimes in Sri Lanka*, op. cit.; *Sri Lanka's Authoritarian Turn: The Need for International Action*, op. cit.; and *Sri Lanka's Potemkin Peace: Democracy under Fire*, op. cit.

⁹ ONUR is headed by former president Chandrika Kumaratunga and the SCRM by a leading corporate sector figure, Mano Tittawella. The offices, set up in 2015, had few resources until mid-2016. See "Sri Lanka's Secretariat for Coordinating Reconciliation Mechanisms gets cabinet nod for its operations", Colombo Page (www.colombopage.com), 26 August 2016. The UN Peacebuilding Fund supports both ONUR and SCRM, including two international experts who advise SCRM and the prime minister's working group drafting laws to establish the mechanisms.

¹⁰ The CTF was headed by a prominent woman lawyer, Manouri Muttetuwegama, and half of its members were women. Six of the eleven members were from ethnic and religious minority groups and three from the conflict-affected areas in the north and east. See the Secretariat for Coordinating Reconciliation website (www.scrm.gov.lk/consultations) for more information and the full text of task force report.

government leaders either ignored it or criticised its recommendation that foreign judges be part of the special court.¹¹

Eager to report progress at the June 2016 session of the UNHRC, the government had hurriedly introduced legislation to implement the first of the four promised mechanisms, the Office of Missing Persons (OMP), even before the task force began its work.¹² Despite parliamentary approval of the missing persons office in August 2016, it remains in limbo. The government is unwilling or unable to overcome the political and administrative obstacles that stymie progress on the reparations office, truth and reconciliation commission and special court.¹³ The institutional architecture built in 2015 and 2016 is overly complex, with policy-making dispersed across the SCRM, the ONUR, the foreign ministry, prime minister's office and president. Coordination among these government offices is poor.¹⁴

Political considerations explain the lack of clear authority or direction from the top. Faced with widely held Sinhala nationalist beliefs, which were strengthened by the military victory over the LTTE, the government has side-lined the UNHRC agenda, treating it principally as a way to win international approval and buy time for the economic reforms it deems more important.

Riven by competing political agendas, the UNP-SLFP coalition government has developed no coherent response to charges by the "joint opposition", led by Former President Rajapaksa, that transitional justice measures are part of a pro-separatist, anti-national conspiracy. This political opposition has encouraged resistance from the military and security-related bureaucracy, which remains unwilling to assume responsibility for wartime abuses. These officials are particularly afraid that some of them could be tried before a special court, potentially with foreign judges. Rather than respond by defending transitional justice, President Sirisena has praised the

¹¹ "Final Report of the Consultation Task Force on Reconciliation Mechanisms", 17 November 2016. "I have no confidence in the CTF: Wijeyadasa", *Daily Mirror*, 7 January 2017. Foreign ministry officials praised the report in meetings at the UNHRC and promise that it will be consulted.

¹² The government was criticised by rights activists for presenting the missing persons bill to parliament before public consultations. According to the head of the SCRM, Mano Tittawalla, the bill was drafted based on informal government consultations with conflict-affected groups and campaigners working on the issue. Crisis Group interview, Colombo, August 2016. The government also consulted with the Tamil National Alliance (TNA), the main Tamil political party with the largest number of MPs from the conflict-affected areas, and reportedly incorporated its key recommendations in the final legislation. Crisis Group interview, M.A. Sumanthiran, Colombo, September 2016. For details, see Kishali Pinto Jayawardene, "A shameful rejection of a collective 'mea culpa'", *The Sunday Times (Sri Lanka)*, 14 August 2016.

¹³ For analysis of the complex political terrain on which the government's overlapping promises of reform are being contested, see Crisis Group Report, *Sri Lanka's Transition to Nowhere*, op. cit., especially pp. 3-5 and 14-16.

¹⁴ Civil society activists and diplomats alike complain of confusion about the roles of the various entities and offices involved in setting policy. While SCRM ostensibly "coordinates" all reconciliation policy, reports to the prime minister and works closely with the foreign ministry, ONUR falls under the president, in his capacity as minister of reconciliation. Since early 2017, government officials have privately promised a new organisational structure with greater political authority. Crisis Group interviews, Colombo, March 2017.

military in increasingly strong terms, promising to protect its members from prosecution.¹⁵

Given the coalition government's waning political capital, pro-reform elements argue that it should focus on winning parliamentary approval for a new constitution. They argue that by devolving greater powers to provinces, a new constitution would respond to Tamil grievances and help prevent a return to violence.¹⁶ Reformers insist they will still move ahead with the offices of missing persons and reparations, which are less controversial than a truth and reconciliation commission and accountability court. While recent senior government appointments are encouraging, this approach will only work with a major public relations push to build popular support and regain political momentum.¹⁷

¹⁵ "Sri Lankan President says will not make war heroes suspects in war crime cases", Express News Service, 29 March 2017.

¹⁶ Crisis Group interview, Member of Parliamentary Steering Committee, Colombo, March 2017. Over three decades, successive Sri Lankan governments have unsuccessfully attempted constitutional reforms to devolve power to Tamil areas and to limit the executive authority of the president. Currently, despite some government references to constitutional reforms as designed to achieve the transitional justice value of "non-recurrence" of conflict, constitutional reform and transitional justice are generally treated as separate processes.

¹⁷ The newly appointed secretary to the president, Austin Fernando, is known as a proponent of reconciliation and reparations. The May 2017 cabinet reshuffle saw the pro-reform foreign minister, Mangala Samarweera, become finance and media minister, where he will be well-placed to coordinate a pro-reform public outreach campaign. The newly appointed army commander, Lieutenant General Mahesh Senanayake, is thought to be more open to security sector reform than his predecessors. "Sri Lanka appoints civil-war officer Mahesh Senanayake as its new army commander", Press Trust of India, 4 July 2017; Crisis Group interviews, lawyers, diplomats, Colombo, July 2017.

III. The Continuing Effects of the War

Nearly 500,000 people living in the Northern Province (about half of its population) were directly caught up in final months of fighting; more than 300,000 survived repeated displacement until the conflict ended on 18 May 2009.¹⁸ The Eastern Province witnessed mass displacement in 2006-2007, when the army launched its final offensive against the LTTE. There are credible reports of sexual violence against many women held in internment camps in 2009 and 2010. An estimated 3,000 captured or surrendered female LTTE fighters – many of them forcibly recruited – were sent to military-run rehabilitation centres, where, again, there are credible allegations of rape and sexual abuse.¹⁹

Some 40,000 Tamils remain displaced, some in camps, most living with host families.²⁰ Those who returned to their land have generally lost all or most of their physical and financial assets. While exact figures are unavailable, there are an estimated 40,000 “war widows” in the Northern Province and 50,000 in the east. These figures do not appear to include wives of those missing and disappeared. According to one estimate, 58,000 households in the north, accounting for a quarter of the population, are headed by women.²¹

A. *Psychological Toll*

All the women interviewed for this report were suffering from trauma. Those who witnessed the carnage in the last stages of the conflict are particularly affected; they say their memories are “unbearable” and “painful”. Discussing what they witnessed has been fraught with danger, since their experiences run directly counter to the Sri Lankan state’s triumphalist narrative about the end of the war as a “humanitarian” achievement.²² Fearing that evidence of military crimes could be collected through

¹⁸ In the final weeks of war in April and May 2009, hundreds of thousands of people trapped in the fighting crossed over to military-controlled areas. They were put in buses to the northern town of Omathai where they were strip-searched and their possessions confiscated, before they were sent to camps. During this “screening process”, people were told to surrender if they had worked for the LTTE for even one day. Hundreds of men and women did so and later disappeared. Many incidents of sexual violence and abuse were reported during this screening process. For details on the screening process, see OISL report, *op cit.*, pp. 77-78.

¹⁹ See Crisis Group Report, *Women’s Insecurity*, *op. cit.*, and OISL report, *op. cit.*

²⁰ Government figures from August 2016 show 43,607 people are displaced. “Replies of Sri Lanka to List of Issues and Questions in Relation to the Eighth Periodic Report of Sri Lanka to CEDAW”, UN Committee on the Elimination of Discrimination against Women, 8 February 2017. These figures do not include the more than 100,000 Tamils living as refugees in India, or northern Muslims evicted from the north by the LTTE in 1990, tens of thousands of whom remain displaced.

²¹ “Mapping of Socio-Economic Support Services to Female Headed Households in the Northern Province of Sri Lanka”, United Nations, Sri Lanka, 2015. The census department estimates 23 per cent of all Sri Lankan households are female-headed. “Household income and expenditure survey, 2012-13”, Department of Census and Statistics, June 2015.

²² Crisis Group interviews, women survivors of the last stages of the armed conflict, Mannar, Jaffna, Kilinochchi and Mullaitivu, June-July 2016. Nearly every woman interviewed broke down during the course of the interview. They noted how painful it was to remember how their loved ones had disappeared or been killed in the last stages of the conflict. Family members of disappeared said

psychosocial work, the Rajapaksa government withdrew such services, threatening professionals engaged in it, and barred projects involving it, thus denying assistance to most survivors.²³ When they spoke in detail during Crisis Group interviews, women's emotional pain was obvious and intense.²⁴

The repercussions of war are clearly visible in Tamil society in the north and the east: rates of alcoholism, drug use, suicide, domestic and societal violence have increased significantly over the past eight years.²⁵ The trauma faced by women, particularly widows, is compounded by the added pressures of increased economic responsibilities, social stigma, patriarchal attitudes, the collapse of traditional support structures and a damaged social fabric.²⁶

B. *Economic Insecurity*

The economic situation for conflict-affected women in the north, and many in the east, is extremely difficult. Women displaced in 2008-2009 who returned to their houses in Mullaitivu, Mannar and Kilinochchi found them destroyed or looted and their livestock missing. The government's post-war infrastructure push generated few jobs or other means to earn a livelihood.²⁷ Even in households with men, women are often

they were living in limbo, some keeping clothes and belongings of their child or spouse in the same place as at the time they left.

²³ For more on the obstacles to psychosocial assistance during the Rajapaksa era, see Crisis Group Report "Sri Lanka's North II", op cit., pp. 11-12. Assistance has since improved but is still limited. A new psychosocial training program for district-level civil servants in the north and east is due to begin later in 2017. Crisis Group interviews, psychologists, Colombo, July 2017.

²⁴ Researchers have found high-levels of mental health problems among those living in internally displaced communities in the Vanni. According to one study, 13 per cent suffer from post-traumatic stress disorder (PTSD), 49 per cent from anxiety and 42 per cent from depression. Daya Somasundaram and Sambasivamoorthy Sivayokan, "Rebuilding community resilience in a post-war context: developing insights and recommendations, a qualitative study in northern Sri Lanka", *International Journal of Mental Health Systems*, vol. 7, no. 3 (2013). Daya Somasundaram, professor of psychiatry at the University of Jaffna, argues that men express trauma through addictive behaviour and women are more affected by depression. Crisis Group interview, Jaffna, September 2016.

²⁵ Crisis Group interview, Jaffna, September 2016. For details on physical threats women face, see "Women's Access to Justice in the North and East of Sri Lanka", Women's Action Network, August 2016.

²⁶ See Somasundaram and Sivayokan, "Rebuilding community resilience", op. cit., who describe this as collective trauma: "the negative consequences of mass disasters at the collective level, that is on the social processes, networks, relationships, institutions, functions, dynamics, practices, capital and resources; to the wounding and injury to the social fabric." In the north and east of Sri Lanka, the village is a primary form of identity and one that many have lost due to displacement. This affects status and social support networks. Both former combatants and widows interviewed said that other women called them names and spoke to them in a derogatory manner. They said they had no one at home, in their families or in their neighbourhoods to speak with about these problems or any other way to get help. Crisis Group interviews, northern district, August 2016.

²⁷ Kilinochchi, Mannar and Mullaitivu have the highest rates of female unemployment in the country. Amantha Perera, "Ex-Tamil Tigers go jobless in Sri Lanka", IRIN (www.irinnews.org), 18 January 2016. Mannar and Mullaitivu districts have the second and third highest rates of poverty in the country, at 29 and 20 per cent of the population, respectively, with Batticaloa in the east close at 19 per cent. With the exception of Vavuniya, the other northern and eastern districts have the lowest median monthly per capita household incomes in the country, with Mullaitivu the lowest, at 4,683

the principal providers, as job opportunities for men are limited, particularly for those suffering from psychological problems and/or alcoholism.²⁸

Women heading households face severe obstacles: lack of jobs, the social stigma associated with women who work outside the home, difficulty finding childcare, often incapacitating trauma, vulnerability to sexual abuse, and discrimination by employers for reasons of caste, gender, or past association with the LTTE.²⁹ Men and women suspected of having been LTTE cadres have the hardest time finding jobs; potential employers fear increased police and military scrutiny if they hire them:

My husband is educated but because he was in the LTTE, he can't get a job. I was also injured so we are both dependent on others with two children. It is very difficult. We lost everything. We have no choice, we are here, we have to live now. Today, educated or not, we are like beggars.³⁰

Thousands of women lack access to family lands and the income it could bring, either because it is occupied by the military, or because they cannot prove ownership, having lost documents when they fled their villages. Many of those who have returned to their land or resettled elsewhere struggle to find the funds to rebuild their houses. Post-war housing programs that require owners to contribute up to a third of the cost have helped push many women into debt.³¹ Other families have fallen into debt simply to meet basic needs after returning home following the war with no savings and little government assistance.³²

Sri Lankan Rupees, or \$30 per month. "Household income and expenditure survey, 2012-13", Department of Census and Statistics, June 2015.

²⁸ Many women work as labourers gutting fish or toiling at onion and rice farms with daily wages between 500-1000 rupees or \$3.25-\$6.50, but such work is scarce and rarely continuous. Some women kept livestock or ran small shops and businesses, but they struggled to earn enough to support their families. A few worked as cleaners and domestic workers. The best paying jobs for northern women are in the military's Civil Security Division (CSD), as teachers in its preschools and on its farms, but employees of the CSD are reportedly pressured to act as informants and subject to sexual harassment. Crisis Group interviews, northern women, 2016-2017. See also, "Mapping of socio-economic services", op. cit.

²⁹ Crisis Group interviews, psychosocial workers at Shanthiham, Jaffna, September 2016.

³⁰ Crisis Group interview, former combatant, Batticaloa, July 2016. Discrimination and ill treatment of former combatants is very high in all north-eastern districts, and many are physically disabled. Those who were interviewed found it difficult to accept how differently they were being treated than when they were in the LTTE. On the difficulties facing female ex-combatants, see Ambika Satkunanathan, "Collaboration, suspicion and traitors: an exploratory study of intra-community relations in post-war Northern Sri Lanka", *Contemporary South Asia*, vol. 24, no. 4 (2016).

³¹ For a valuable study of debt and housing programs in the north and east, see "Life and Debt' Assessing Indebtedness and Socio-economic Conditions of Conflict Affected Housing Beneficiaries in Jaffna, Kilinochchi and Mullaitivu Districts", Centre for Poverty Analysis, June 2014.

³² "I can count on my fingertips the women who are not in debt. Most go to micro-finance companies, taking loans to repay loans". Crisis Group interview, member of the Mahashakthi women's organisation, Kilinochchi, June 2017. Commercial and micro finance companies promoted by the government flooded the north and east after the war. Largely unregulated, the loans have trapped many in debt. Crisis Group interviews, women borrowers, Jaffna, Mullaitivu and Trincomalee, June-August 2016. Researchers with Jaffna-based Shanthiham have established a link between debt and high suicide rates in northern Sri Lanka. Crisis Group interviews, Jaffna, March 2017. See also Meera Srinivasan, "Getting sucked into a quicksand of debt", *The Hindu*, 15 July 2017. The

Economic programs from government and non-governmental groups for conflict-affected women – generally in the form of home-based income-generation schemes – have been under-resourced and lack competent needs and skills-assessments or market analysis. Women complain of not being consulted about the assistance they need, of favouritism in the selection of beneficiaries, and the lack of training and follow up. They also say that state services – when they find out about them – can be difficult to access and that they often face harassment and exploitation when seeking assistance.³³ One activist priest argues that keeping women in poverty is “one of the strategies used by the government to distract people from demanding justice. When I am hungry I am not going to ask about justice”.³⁴

C. *Sexual Exploitation and Physical Insecurity*

Women's physical insecurity in conflict-affected areas has grown significantly. While domestic abuse and sexual violence or exploitation are problems across Sri Lanka, its higher prevalence in the north and east is a consequence of armed conflict and continued militarisation, exacerbated by the culture of sexual exploitation and harassment, intimidation and fear that now exists there.³⁵

Many women interviewed described routine exploitation by men in a range of positions: state officials, non-governmental organisation (NGO) staff, workers and military personnel. In return for providing help to find their loved ones or improve their economic status, men often demand sexual favours.³⁶ Women also report an increase in demand for sex work from men drawn to the provinces by post-war business opportunities. In other cases, facing physical and economic insecurity, some women heading households enter into short-term or informal sexual relation-

Central Bank is currently undertaking a study of high debt levels in Northern Province. “Sri Lanka to study debt levels among N-E Tamils”, *The Hindu*, 19 May 2017.

³³ “They gave my neighbour 30 chickens, all died the next week, but if you go to the government agent, he will say we gave her chickens. They don't think beyond that”, Crisis Group interview, zonal task force member, Kilinochchi, June 2017. The National Centre for Empowerment of Women Headed Households established in Kilinochchi in 2015 is widely seen as ineffective. Crisis Group interviews, women beneficiaries, Kilinochchi and Mannar, June 2017. These and other crippling problems with government and NGO support to women-headed households are detailed in a confidential, unpublished report prepared for ONUR and the Women's Ministry: “Gap analysis of immediate needs and existing services for female heads of households”, October 2016. See also “Mapping of socio-economic services”, op. cit.; and “Shadow report to the United Nations Committee on the Elimination of Discrimination Against Women”, Fokus Women, April 2016.

³⁴ Crisis Group interview, Mullaitivu, June 2017.

³⁵ See “Sexual Exploitation of Female Heads of Households in the North of Sri Lanka”, (unpublished report), Fokus Women, Colombo, January 2016; “Women's Access to Justice”, op. cit.; Crisis Group Report, *Women's Insecurity*, op. cit.

³⁶ Crisis Group interviews, conflict-affected women in the north and east, June -August, 2016. In every district, close to half of the interviewees with disappeared family members had received calls and messages offering them information on the whereabouts of their loved ones in return for money. In some cases, women took on debt or sold their belongings to get such information. A few women said they were asked to come to military or government offices, where officials sometimes made suggestions of a sexual nature, in return for help obtaining resources such as home-building materials or the certification required for certain types of aid. See also “Sexual Exploitation”, op. cit.

ships in return for economic benefits or protection.³⁷ Women interviewed spoke of military personnel frequently trying to befriend women, visiting their homes and approaching them on the streets, which left them feeling vulnerable.

Gender based and sexual violence is reportedly very high in both provinces, though there is little detailed documentation.³⁸ Community-based activists in all seven districts where this research was conducted said they had received complaints of sexual violence, including rape. The victims were reluctant to pursue legal cases, however, fearing reprisals and stigma.³⁹ Activists believe the cases reported to them are only the tip of the iceberg. Women's groups are also working on incidents of domestic sexual abuse and violence, among them a significant number of incest cases.⁴⁰

Justice for sexual and gender crimes is rare: few cases are prosecuted, especially if the alleged perpetrator is in the security services, and even fewer end with convictions.⁴¹ Court procedures are long and not gender sensitive; delays, the adversarial approach of lawyers and social stigma all combine to re-traumatise many victims and discourage others from seeking justice.

This contrasts starkly with the level of security women felt when they lived under the rule of the LTTE, which had strictly enforced prohibitions against sexual abuse. Nearly every woman interviewed for this research spoke with regret of no longer being free to walk safely at night, expressing contempt for social behaviours, such as the casual harassment of women, which they found degrading and disrespectful.⁴²

³⁷ Crisis Group interviews, northern women, June 2017. In two cases reported to Crisis Group by the victims, women who remarried after their husbands' disappearances had their assets and savings stolen by their new husbands. Attempts at getting justice in court were unsatisfactory. Crisis Group interviews, Jaffna and Trincomalee, June- July 2016.

³⁸ The terms "gender-based violence", "violence against women" and "sexual violence" are often used interchangeably. This report uses "gender-based violence" in the broad sense to mean violence directed against a person on the basis of gender, limited here to women. This includes acts that cause (or threaten to cause) physical, mental or sexual harm or suffering. It may include (non-sexual) physical assaults and economic deprivations. This report uses "sexual violence" more narrowly to mean "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting". For the two preceding quotes and a general discussion of definitions, see "Analytical and conceptual framing of conflict-related sexual violence", UN Action against Sexual Violence in Conflict, 12 July 2011. See also "Transitional justice and justice for sexual violence", Consultation Task Force submission, Women's Coalition for Disaster Management, Batticaloa, August 2016; and "Women's Access to Justice", op. cit.

³⁹ Crisis Group interviews, Mullaitivu and Mannar, July 2016.

⁴⁰ A number of women interviewed faced severe domestic violence but, seeing no alternative, remained with their husbands. Crisis Group interviews with victims of domestic violence, Jaffna, Mullaitivu and Trincomalee, June-July 2016.

⁴¹ In October 2015, in a landmark judgement, the Jaffna High Court found four soldiers guilty of raping two Tamil women in 2010 in Vishvamadu, Kilinochchi, sentenced them to five years rigorous imprisonment and directed them to pay compensation to the victims. This is the only case of post-war sexual violence by military personnel to go to the courts. "Military Rape Cases: No Judgement on 2001 Mannar Gang Rape: WAN", *Colombo Telegraph*, 9 October 2015.

⁴² Crisis Group interviews, Northern and Eastern Provinces, June-August 2016. For a useful discussion of this and its political ramifications, see Nimmi Gowrinathan and Kate Cronin-Furman, "The Forever Victims? Tamil women in post-war Sri Lanka", City College of New York, 28 August 2015.

IV. Women's Roles in Seeking Justice

A. *Conflict-Affected Women as Catalysts for Transitional Justice*

Women in the north and east began mobilising in formal and informal ways during the early years of the war to challenge human rights abuses and ethnic and gender discrimination in both LTTE and government-controlled areas.⁴³ Many of these initiatives led to the formation of community-based women's organisations that played a central role in supporting women during and after the conflict and also following the 2004 South Asian Tsunami.⁴⁴ This experience with grassroots organising has strengthened civil society in the north and the east, making it an important resource for the region's recovery.

Since 2009, Tamil women in the north and east have led the national quest for truth and justice, particularly for enforced disappearances. It began informally, when mothers and wives went to military camps and stood by the roadside with pictures and placards searching for loved ones who had been detained or gone missing. In time, these women began to organise themselves at the village and district levels to visit detention centres and military camps and meet visiting political leaders about their loved ones.⁴⁵

Conflict-affected women were also critical to the emergence of the current transitional justice process. At a time when authorities disallowed independent research, they provided testimony to national and international NGOs, despite surveillance and intimidation by the military and police. Their evidence informed key UN reports and advocacy at the UNHRC, showing that human rights violations continued despite the end of the war and helping to build the case for an international investigation. Grassroots female activists also filed court cases and organised protests demanding

⁴³ For a comprehensive account women's activism in the north and east of Sri Lanka see Shreen Abdul Saroor, *Our Struggles, our Stories*, (Colombo, 2014) and Crisis Group Report, *Women's Insecurity*, op. cit.

⁴⁴ For example, the Mother's Front, was started in 1984 to challenge the arbitrary arrest of young boys across the country, though it was particularly active in Jaffna. One of the founders of the University Teachers for Human Rights Jaffna, Rajani Thirananagama, killed by the LTTE in 1989 for her human rights work, also started a community-based women's organisation, Pooreni Women's Centre. The Mahashakthi and Yugashakthi groups operated in LTTE controlled Kilinochchi and Mullaitivu to support women's socio-economic needs during the war and continue this work today. Mannar Women's Development Federation, formed in 1998, is notable for bringing displaced Muslims and Tamils together. In the east of Sri Lanka, Suriya Women's Development Centre started in 1992 to help young women and girls affected by the war and is now a nationally recognised women's organisation. The Women's Coalition for Disaster Management, a network to support female activists, was started in 2005 after the South Asian Tsunami. The Mullaitivu Women's Rehabilitation and Development Federation, also known as Sangami, and the Muslim Women's Development Trust in Puttalam are newer community organisations led by Muslim women working on post-conflict reconciliation. In May 2009 leading community activists and feminists joined together to form the Muslim Tamil Women's Network, now known as the Women's Action Network (WAN); its work has been critical to women's networking on transitional justice and post-conflict reconciliation.

⁴⁵ See *Our Struggles, our Stories*, op. cit., for more on this history.

action by authorities on disappearances, military land seizures and sexual violence. This forced the government, which was then keen on denials and cover-ups, to respond.⁴⁶

Under pressure from the UN and western governments to investigate alleged war crimes, the Rajapaksa government set up a Lessons Learnt and Reconciliation Commission (LLRC) in May 2010 and established the Presidential Commission of Inquiry Into Complaints of Abductions and Disappearances (also known as the Paranagama Commission) in August 2013. Many women gave evidence to both commissions, even as national and international groups advocated boycotts, criticising their lack of independence.⁴⁷ Though both issued reports that minimised military abuses and rejected charges of war crimes, the LLRC report made unexpectedly strong recommendations on enforced disappearances, offering a rare acknowledgment of the need to address women's socio-economic needs.⁴⁸

B. *Women's Role in Current Transitional Justice Processes*

Despite the current government's formal commitment to a victim-centred process of transitional justice, conflict-affected women generally feel undermined and sidelined. Decisions related to transitional justice are taken and announced in Colombo, with Colombo-based groups – which are not always in close contact with conflict-affected women – acting as the government's main civil society interlocutors.⁴⁹ The exception was the government-mandated national consultations process, where women make up at least half of each zonal task force.⁵⁰ Female activists said they felt strengthened

⁴⁶ The 2015 conviction in the Vishvamadu case was the culmination of five years of collaboration by the victims and community activists in the north, despite violent intimidation by the military. In 2011 six women filed habeas corpus cases in the Mullaitivu court demanding information on the disappearance of their family members. Up to twenty such cases have been filed in local courts in the north and east. In 2014 with support of the WAN, Katheeja Umma filed a case in the Supreme Court for the return of land in her village of Ashraff Nagar in Ampara district, which she said had been illegally seized by the military. The Supreme Court decision is pending. Crisis Group interviews, lawyers, Colombo, July 2017. See "Mullaitivu courts directs 58 division to submit list of LTTE surrenderees", *The Sunday Times*, 18 February 2016 and the statement by the WAN welcoming the verdict on the Vishvamadu military rape, 8 October 2015.

⁴⁷ Many national and international groups, including Crisis Group, declined invitations to testify to the LLRC, believing it lacked independence. Despite these concerns, hundreds of conflict-affected women gave evidence to the commission. See Neloufer de Mel, "The promise of the LLRC: Women's testimony and justice in post-war Sri Lanka", International Centre for Ethnic Studies, February 2013; "Sri Lanka war affected women call for genuine accountability initiatives", statement by 153 organisations, February 2015.

⁴⁸ Report of the Commission of Inquiry on Lessons Learnt and Reconciliation, November 2011, pp. 347-8 and p. 251. Also "The Paranagama Commission has done great damage, now that damage must be repaired", Sri Lanka Campaign for Peace and Justice, 16 July 2016 and Neloufer de Mel, "The Promise of the LLRC", op. cit.

⁴⁹ Crisis Group interviews in the north and east of Sri Lanka with activists familiar with the process, July-August 2016. Only a few had been invited to participate in government consultations on the OMP, for example. The government identified one or two people from the north and the east, and the others were nominated by Colombo-based activists. Major developments were communicated to northern and eastern activists through those based in Colombo, who were invited to exclusive meetings at the SCRM.

⁵⁰ This appears to be the first time any government mandated body had more than 50 per cent women.

by their participation in these task forces and by the recognition given their community work.⁵¹ However, the government's subsequent neglect of the report by the national CTF and the lack of any continued role for zonal task force members has left many feeling bitter.⁵² With the conclusion of the CTF's work, there are no obvious avenues for conflict-affected women to influence transitional justice policies, other than by returning to activist campaigns and advocacy.

The SCRM and ONUR have female staff and consultants, but they are for the most part Colombo-based and English- or Sinhalese-speaking. In the north and east, they are perceived as disconnected. Conflict-affected women say government officials and other staff working on transitional justice are insensitive and do not understand the complex realities of their post-conflict life.⁵³

Draft legal frameworks for a truth commission and a reparations office are now with the prime minister, but doubts remain about whether they will adequately reflect the concerns and recommendations in the CTF's report.⁵⁴ Parliament will have to approve any legislation on transitional justice mechanisms, but only thirteen of its 225 members are women, including only one from a conflict-affected area. Women's issues are not a priority for political parties in Sri Lanka. Even the Tamil National Alliance (TNA), which says it supports truth and accountability, has generally given little attention to these issues, despite having the most MPs from conflict-affected areas.⁵⁵ The Sri Lanka Muslim Congress (SLMC), the largest Muslim political party in parliament, has no official position on the transitional justice agenda. Some leaders are aware of the conflict's impact on Muslim women in the north and east, but the party does not engage with women's issues.⁵⁶

Women's ability to affect public policies has also been hampered by a lack of information from the government about its transitional justice commitments and the process underway.⁵⁷ International donors, more than the government, have acknowledged the need for better communication with communities in the north

⁵¹ Crisis Group interviews with women members of the zonal task forces in all seven districts, and interviews with national level women's rights activists, August 2016.

⁵² Crisis Group interviews, former members of the zonal task forces, February and June 2017.

⁵³ Under pressure from activists and diplomats, the SCRM conferred with female human rights advocates in Colombo as it hurriedly finalised legislation for the OMP in May 2016, but many of those consulted felt dissatisfied. They say they were hurried along, interrupted and sometimes escorted away. Crisis Group interviews, Mannar, Jaffna, Kilinochchi, Mullaitivu, Trincomalee and Batticaloa, June-August 2016.

⁵⁴ Crisis Group interviews, government advisors, Colombo, and women's rights activists, Northern Province and Colombo, July 2017.

⁵⁵ This has begun to change: in response to popular support for northern women's 2017 protests, TNA leader R. Sampanthan visited the Kilinochchi women's protest site and pledged the party's support for their demands. "Sampanthan meets relatives of missing persons in Kilinochchi", *Daily News*, 13 July 2017. TNA parliamentarian M.A. Sumanthiran, himself aware of many issues affecting women, acknowledges the gender dimension is not regularly discussed within the party, which has very few female members. Crisis Group interview, M.A. Sumanthiran, Colombo, September 2016.

⁵⁶ Crisis Group interviews, senior leaders of the SLMC, Colombo, September 2016.

⁵⁷ This remains the case even after the conclusion of the national consultations. Women seem to know more than men, though, thanks to their involvement in campaigns for the missing or community-based organisations that have received basic training on aspects of transitional justice. Crisis Group interviews, Northern Province, June 2017.

and the east and have typically tasked Colombo-based NGOs to do this outreach.⁵⁸ However, many of the participants in such meetings have found the discussions overly technical and abstract. More experienced grassroots activists say the trainings are often perfunctory, as the NGOs do not allow enough time for proper discussion and on occasion conduct the meetings in English.⁵⁹

Interviews with female activists make clear that the promise of a formal transitional justice process has significantly changed the landscape of activism, including where discussions take place and how they are framed. Whereas during the war and the Rajapaksa years, these women worked largely independently, today new actors – the government, donors, international NGOs, Colombo-based NGOs and northern-based Tamil groups – are taking up and reframing their issues. This has raised tensions, as different groups stake out competing positions. Some civil society groups accuse each other of forcing conflict-affected women to support certain positions.⁶⁰

Many are tired of fighting for justice, campaigning and repeatedly narrating their stories. Government plans, developed without their input, seem disconnected from their concerns. Their contributions – which kept the discussion alive and helped create the conditions for the wide-ranging process now underway – seem lost amid the seemingly abstract ambitions of transitional justice.

C. *Ongoing Protests and a Chance for Course Correction*

The lack of tangible process on many of their central concerns has disillusioned and angered victims, families and activists. “How can we not be angry”, asks one northern mother whose child is missing. “Eight years and 100 days, what have they done?”⁶¹ Another adds:

Eight years we have been giving evidence to UN, police, human rights groups to get an answer for our struggle. Now after all of it didn't work, we have decided to resort to this protest.⁶²

Making use of the increased space to protest – one of the government's few tangible, if fragile, achievements – northern women have begun organising and demonstrating again. Since late January 2017 women have undertaken continuous public protests, fasting and sitting by the side of the road or next to military camps, demanding the government reveal the whereabouts and fate of their missing or detained relatives,

⁵⁸ A variety of western governments are funding this work, with international transitional experts sometimes acting as resource persons for community level trainings. Crisis Group interviews, Colombo, September 2016.

⁵⁹ Crisis Group interviews, activists in Jaffna and Mannar, June 2016.

⁶⁰ Northern NGOs and Community-based Organisations (CBOs) often criticise Colombo-based NGOs for being too close to the government and uncritically endorsing its agenda. On the other hand, some Jaffna-based groups that want a purely international investigative and judicial mechanism with no local involvement reportedly pressed women to take this position during the zonal task force consultations. The popularity of this position among many, though not all, women interviewed at the time and the uniformity of the language used to express it, suggest an effective campaign. Crisis Group interviews, activists in Jaffna and Colombo, September 2016.

⁶¹ Crisis Group interview, Kilinochchi, June 2017.

⁶² Crisis Group interview, mother of a disappeared child, Kilinochchi, June 2017.

and pressing for the return of military-occupied land. In the week leading up to 18 May 2017, the eighth anniversary of the war's end, there were numerous public commemorations of those who died in the fighting.

The government has responded to the protests with a combination of disdain, reluctant and partial engagement, and intimidating surveillance. Small portions of land have been released since the start of the protests, but the bulk of it remains in military hands.⁶³ Meetings promised by officials to discuss the disappeared and long-term detainees have been delayed; when finally held, they have produced no results. Police and military intelligence regularly photograph or video activists and their supporters, warning them to stop protesting.⁶⁴

Protests over disappearances, led almost entirely by women, are the longest running and best known. Their agenda is simple: the women want to know where their disappeared relatives are and what happened to them. They have little patience with the bureaucracy around the stalled missing person's office.⁶⁵ President Sirisena finally met protest leaders in Jaffna on 12 June 2017. He read the families' two-page letter in their presence and agreed to some demands: to release a list of all those who surrendered to or were detained by the military in the final weeks of the war, plus a list of all detainees and the location of any secret detention camps.⁶⁶ Similar promises have not been kept in the past, however. There is little sign the president will overcome the military's resistance to releasing such information.⁶⁷

Although they have succeeded in getting the attention of the media and government, the protestors, many of them elderly, have paid a high cost. They regularly fall ill; many sell household items or garden produce to earn the bus fare they need to attend demonstrations. The strain is fraying tempers in the group.⁶⁸ These women's willingness to risk their already precarious physical, economic and psychological well-being, however, demonstrates their determination to know the fate of their loved ones and to force the government to acknowledge its responsibility.

⁶³ The government claims 4,190 acres of private land in the north and east have been returned to owners since President Sirisena's election in January 2015, and 24,336 acres since the end of the war, with 6,050 acres still occupied by the military. "National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21", UNHRC, 15 June 2017.

⁶⁴ Crisis Group interviews, Northern Province, June 2017.

⁶⁵ "We gave our children to you, why do we need to come and give you information?" one mother protesting in Kilinochchi said of the government. "You give us information. After you give us the names, let them open the office and operate it". Crisis Group interview, June 2017.

⁶⁶ Denying there were any secret detention sites, the president promised to instruct the National Security Council to release the lists. "President meets family members of missing persons", President's Media Division News (www.pmdnews.lk), 13 June 2017.

⁶⁷ In an ongoing habeas corpus case in Mullaitivu, a magistrate has ordered the army to submit a list of those who surrendered or were captured at the end of the war. Army officials now deny such a list exists, after first testifying it did. "Army goes back on its word in Court on LTTE surrendees list", *Ceylon News*, 29 September 2016.

⁶⁸ Crisis Group interviews, family members of disappeared, Kilinochchi, June 2017.

V. Women's Opinions on the Formal Transitional Justice Agenda

Truth and justice have been the dominant themes of the campaigns launched by women in the north and east. Yet Crisis Group's extensive consultations point to an unsurprising, though often neglected, gap between conceptions of transitional justice among conflict-affected women and in the national and international discourse, which defines it as building formal mechanisms derived from comparative experience and used primarily by lawyers and human rights advocates.⁶⁹

Nearly all women interviewed said that they wanted a holistic response, combining justice with redress for the problems they face that stem from how the conflict was fought. Transitional justice processes that are meaningful for the women affected must be accompanied, or even preceded, by policies to address social and economic injustice. This is particularly important as prospects dim for the quick establishment of formal mechanisms. While most conflict-affected women do not use the technical terminology or conceptual framework of transitional justice, they nevertheless have preferred outcomes with regard to truth seeking, prosecutions and reparations and can respond to the proposed mechanisms and core transitional justice concerns.⁷⁰

A. *Truth*

Few women in the north know of government plans to set up a Truth and Reconciliation Commission (TRC) or what a TRC is. Many do know about the planned OMP, however, and insist that knowing "the truth" is an essential aspect of justice, particularly in the case of enforced disappearance. Conflict-affected women, particularly those whose loved ones were abducted or disappeared, demand to know what happened, whether their family members are still alive, and where and under what circumstances they were detained.⁷¹ Nearly all want to know why family members were taken away.⁷²

Why did you kill my husband? Who gave orders? I am not a widow – I was made a widow. It was done to me, it didn't happen.⁷³

I want to know what happened to my son, who took him? Who has the right to take him? He is my son, not a cow, a goat or chicken! What did my boy do?⁷⁴

⁶⁹ Crisis Group interviews, Northern and Eastern provinces, June-September, 2016.

⁷⁰ During the initial research, conducted as national consultations were under way, Crisis Group provided a basic explanation of transitional justice and of what the government had agreed to in the UN Human Rights Council resolution. In each district, research was conducted with a civil society activist who was either on a zonal task force or had been instructed in the government's proposals.

⁷¹ See "Living with uncertainty: Needs of families of missing persons in Sri Lanka", International Committee of the Red Cross, Colombo, July 2016, which reports over 30 per cent of those surveyed believe their missing relative is alive. A similar number were unsure if they were dead.

⁷² Families claim many of the disappeared were not associated with the LTTE. In cases where the victim had been with the LTTE or surrendered at the end of the war, their families want to know why they had not been taken into custody or a rehabilitation program. Crisis Group interviews, families of the disappeared, June 2017.

⁷³ Crisis Group interview, woman whose husband was killed by the military, Mullaitivu, June 2016.

Conflict-affected women struggle with the blanket rejection of their suffering by the military and government.⁷⁵ Truth-seeking endeavours could play an important role in legitimising their claims about abuses and atrocities, and creating awareness in Sri Lankan society about the toll of the conflict over decades and what those affected by the conflict see as the state's calculated brutality. "In any truth-seeking mechanism, [the government] has to accept that this was strategically planned and executed against the Tamil people", a Kilinochchi woman said.⁷⁶

B. *Punishment for Military and Government Personnel*

A significant majority of women interviewed for this report blamed the military and government for the abuses they had suffered and wanted them to be held accountable. Although most women did not know that the government had committed to establishing a special court, they made clear that international involvement was needed for any judicial process to be fair and effective.

Most women did not specify the type of punishment they wanted the military to face. They were not familiar with the different forms justice could take, but had no confidence they could get it in any form and feared reprisals if they asked for it.⁷⁷ Some believed the people responsible for abuses should be given life sentences, so they would suffer as their victims had.⁷⁸ Others argued that perpetrators should be punished to ensure that others would not become the victims of such crimes in the future.⁷⁹

A few women, mostly Christians, did not want those who committed abuses to be punished and were willing to grant an amnesty in exchange for public acknowledgment of their actions. They said they did not want to perpetuate the cycle of pain and suffering. In the words of one woman in Kilinochchi, "They also have families and I don't want them to suffer like ours did".⁸⁰

⁷⁴ Crisis Group interview, woman whose son was forcibly recruited by the LTTE and has been missing since the end of the war, Mullaitivu, June 2016.

⁷⁵ They would often refer to having witnessed the crime: "I saw it with my own eyes" or "They took him in front of my eyes". Crisis Group interviews with widows and family members of disappeared, in all districts in the north, June-August, 2016.

⁷⁶ Crisis Group interview, woman in Kilinochchi, June 2016.

⁷⁷ "If I ask for them to be punished, I won't be alive. Whatever justice I can get, I want". Crisis Group interview, woman from Mannar whose husband was abducted in a white van, June 2016. According to a mother whose son was in the LTTE, surrendered to the military in 2009 and has not been seen since: "If we seek a punishment for these people they will track us down, or other children will suffer", Crisis Group interview, Mannar, June 2016.

⁷⁸ Crisis Group interviews, woman survivor and wife of missing person, Kilinochchi, June 2016, Muttur, July 2016.

⁷⁹ One woman said, "Only if there is a punishment will others learn not to do it again. If a child steals and the mother ignores it, the child will continue to steal. What will the message be to people if those that do this get away [with it]?" Crisis Group interviews, women survivors, Mullaitivu and Killinochi, June 2016.

⁸⁰ Crisis Group interview, woman survivor, Kilinochchi, July 2016.

C. *Punishment for the LTTE*

Tamil women in the north and east also identified the LTTE and pro-government Tamil paramilitary groups as guilty of abuses but were conflicted about seeking harsh punishment for the Tigers.⁸¹ At least half of a dozen women ex-combatants interviewed by Crisis Group said they had been forcibly recruited or coerced into joining the LTTE. Yet few were critical of the militants. Many said they benefited from being part of the group, even when fighting had left them with permanent physical impairments.⁸²

Among women who had not been combatants, a majority was critical of the LTTE for forced recruitment, particularly during the conflict's last stages. Some argued further that they held the civilian population hostage.

The LTTE also did wrong. At the end, they took off their uniforms, threw away their cyanide capsules and pretended to be married to civilians. Our people felt sorry for them and helped. If they had not mixed with the people, fewer [civilians] may have died. They lied to people till the end, saying 'Geneva is coming to help'. They should have given people the choice [to flee to army-held territory]. We believed they would give us Tamil Eelam [homeland]. I am angry with them. What did we get, by believing them?⁸³

The bitterness and anger was strongest amongst women whose children had been forcibly recruited by the rebels and then disappeared after the war. A few women in Jaffna and Mullaitivu also referred to the LTTE's 1990 expulsion of Muslims from the Northern Province as a grave crime deserving punishment.⁸⁴

The Tamil nationalist cause, however, commands such loyalty, and the state has been seen as so hostile to ordinary Tamils, that despite acknowledging the LTTE's abuses, most women did not want former Tigers to be punished as harshly as the government and military.⁸⁵ For women with relatives who were in the LTTE, the prospect of prosecuting its members was especially painful.⁸⁶ Many said the LTTE

⁸¹ On the role of Tamil paramilitaries in the government's counter-insurgency campaign against the LTTE, see Crisis Group Asia Report N°135, *Sri Lanka's Human Rights Crisis*, 14 June 2007.

⁸² Crisis Group interviews, former combatants, Mullaitivu, June 2016.

⁸³ Crisis Group interview, woman survivor, Mullaitivu, June 2016. "Geneva coming to help" is a reference to hoped-for intervention by the UN to impose a ceasefire in early 2009.

⁸⁴ On the 1990 expulsion, in which all 70,000 northern Muslims were given 24 hours to leave the province, see Crisis Group Asia Report N°134, *Sri Lanka's Muslims: Caught in the Crossfire*, 29 May 2007; "The quest for redemption: the story of northern Muslims", Law and Society Trust, November 2011.

⁸⁵ The exceptions were ex-LTTE commanders Karuna and Pillaiyan, whom they saw as having betrayed and helped defeat the Tamil liberation movement. V. Muralitharan, known as Karuna, was the LTTE's eastern commander until early 2004; S. Chandrakanthan, or Pillaiyan, was his deputy. Their break from the LTTE and subsequent cooperation with the government contributed to the Tigers' military defeat. Karuna went on to become a minister under President Rajapaksa, and Pillayan became chief minister of the Eastern Province in alliance with Rajapaksa's party. See Crisis Group Asia Briefing N°99, *Sri Lanka: A Bitter Peace*, 11 January 2010.

⁸⁶ "Where did LTTE come from? They came from our wombs. Ten years later they can come from our wombs again. They were very good but at the end they shot their own people", Crisis Group interview, woman survivor, Kilinochchi, July 2016. "I think what my father did was also not good, I

had no choice but to do what it did in the final months of fighting. In Kilinochchi, the LTTE's former de facto capital, most women Crisis Group interviewed still identified with the movement and said its members had done nothing to deserve punishment.⁸⁷

The government fights for money. Our people were fighting for rights. You can't compare them. All LTTE boys were killed. They have paid the price, they were arrested, tortured for years. What price has the government paid? Nothing.⁸⁸

D. *Justice for Sexual Violence*

Both the 2011 UN Secretary-General's Panel of Experts and the 2015 the Office of the United Nations High Commissioner for Human Rights (OHCHR) investigation report documented cases of sexual violence against Tamil women that, if proven, would constitute war crimes.⁸⁹ A number of women interviewed discussed these allegations; a few had witnessed abuses or had spoken to people who experienced them.

When we went to the military side, we were all lined up. We could hear young girls shouting 'mother, mother, brother, brother, help me, don't abandon me'. [After that] we saw soldiers coming out of those makeshift houses, cheering and saying, 'Good! Good!' Then another batch of soldiers would go in and come out.⁹⁰

For this woman, echoing the sentiments of others, the highest order of punishment was needed:

Commanders ordered shells to be dropped, but rape is not like that. Even if the commander gives the order, [it is a soldier who] commits it. They need severe punishment for rape. They should be taken on to the street, shamed and then killed. That is what the LTTE would have done.⁹¹

Conflict-affected women feel strongly that the prevalence of sexual violence be acknowledged. As a violation of international law and a war crime, at least some cases of sexual violence will need to be addressed by the proposed special accountability court. An effective truth commission would also have to address it.

Dealing effectively with gender-based and sexual violence through either mechanism will require significant preparatory work to engage victims and activists. Women interviewed were clear that confidentiality was paramount and that they would be

remember once when I was a child, he took me on his motorbike, threw a bomb into an army camp and drove off. I was very small and didn't know what was going on. He was a loving, kind father and I got along better with him than with my mother. He was very committed, he had faith in the movement", Crisis Group interview, activist, Jaffna, July 2016.

⁸⁷ "Who is LTTE? We are LTTE. At the last stages, we were angry with the military, we were scared then, we didn't like them, but we had to live so we surrendered to the military", Crisis Group interview, woman survivor, Kilinochchi, July 2016.

⁸⁸ Crisis Group interview with woman survivor, Kilinochchi, July 2016.

⁸⁹ OISL report, op. cit., pp. 117-128; "Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka", United Nations, 31 March 2011, p. 44.

⁹⁰ Crisis Group interview, survivor, Kilinochchi, June 2016.

⁹¹ Crisis Group interview, survivor, Kilinochchi, June 2016.

most comfortable dealing with Tamil-speaking women who would not be adversarial.⁹² There are significant social challenges, however. Victims will have to overcome the stigma attached to survivors of sexual abuse and their fears of reprisal. Clear language is not often used while discussing sexual violence, even by women's rights activists, which makes it difficult to determine responsibility.

E. *"Compensation" and "Reparations"*

Economic restitution and support is extremely important to conflict-affected women. Yet past government-appointed commissions, including most recently the Paranagama disappearances commission, have recommended one-off monetary compensation for families of the disappeared on terms they found unacceptable.⁹³ Relatives of the disappeared do not, for instance, want payment to be contingent on accepting a death certificate, saying they have not been given proof of death.⁹⁴

In the absence of information about their missing family members, many conflict-affected families view compensation as an attempt to buy their silence.⁹⁵

I don't want compensation. I just want the pain taken away. I want my children and mother to be okay. I don't need compensation or gifts from the government. If I can get a job, I can earn.⁹⁶

Many conflict-affected women and the activists working with them underplay the need for socio-economic assistance, fearing that compensation or reparations will be used as a substitute for truth and justice. Instead of lump-sum compensation, women often prefer to ask for specific forms of financial assistance, such as housing and education grants, or start-up funds for a home business or other employment, or to replace stolen or destroyed machinery. To date, however, government and NGO programs in these areas have been haphazard and of limited reach.⁹⁷ Due to lack of knowledge among district-level administrators and mistrust and uncertainty among families of the missing, few "certificates of absence" have been issued, despite being designed to allow relatives of the missing to receive social welfare benefits and manage family property normally dependent on a death certificate.⁹⁸

⁹² Witness protection and counselling support would also need to be available, and testimonies of witnesses and activists who have worked with victims should be admissible as evidence. If financial compensation were awarded, this would have to be calculated and paid to victims without publicly identifying them or going through a continuous collection process. Crisis Group interviews, activists, Northern Province and Colombo, August 2016.

⁹³ See "Interim Report of the Presidential Commission to Investigate Into Complaints Regarding Abductions and Disappearances", August 2015, pp. 19-20. The typical compensation amount for a death is 50,000 rupees or \$325.

⁹⁴ Some wives of the disappeared who have sought assistance at district level offices of the central government report being pressured to accept a death certificate for their husbands and a one-time payment of 50,000 rupees. Crisis Group interviews, Northern Province, June-July 2016.

⁹⁵ See *Living with Uncertainty*, op cit., and "Report of the Consultation Task Force", op. cit., p. 42.

⁹⁶ Crisis Group interview, Mullaitivu, June 2016.

⁹⁷ See section III.B.

⁹⁸ Since they were approved by parliament in August 2016, the government has done little to train local-level officials about the rules around certificates of absence, and their expiration after two-years limits their usefulness and causes confusion. Crisis Group interviews, lawyers and activists, Colombo,

An effective scheme of financial restitution should begin with an acknowledgement of the financial burden women have borne because of the conflict, as detailed in section III above. A mapping exercise to determine what survivors lost in the war and their current needs is a critical first step for a coherent reparations policy and targeted assistance. Building on existing gap analyses by ONUR and others, the research should pay close attention to post-war indebtedness and the needs of those living with injuries.⁹⁹ Government reparations policy will also need to include returning money and gold saved in LTTE-run banks seized by the government when the war ended, and the jewellery and money civilians handed over when leaving LTTE areas and entering government internment camps in 2009.¹⁰⁰

The precarious economic condition of women prevents them from effectively claiming other rights. Conflict-affected women need much greater social and economic support both as a right and to enable them to advocate for themselves in sustainable ways.

F. *Memorials and Commemoration*

Many women remain devastated that they have been unable to perform funeral rites for loved ones killed in the fighting. Since the government has denied that many civilians were killed and signs of support for the LTTE are illegal, survivors have been prevented from publicly mourning their dead.¹⁰¹ Women want to commemorate the memory of their loved ones, however, and some called for an annual day to remember all those who were killed in the fighting.

We must be able to commemorate our dead. We need to have some memorial. We didn't bury our dead, we just left them on the roads. We had to leave the bodies back and even dogs ate them. Very few people even have photos. We couldn't carry all those things when we left our houses.¹⁰²

After the war, the military destroyed all LTTE war memorials, including gravesites of cadres, and replaced them with large victory monuments. Most Sinhalese, and many Muslims, see the LTTE as a brutal terrorist group and supported demolition of the

July 2017. For useful recommendations on improving certificates of absence, see "A Gendered Approach to Transitional Justice in Sri Lanka Women's Perspectives and International Best Practice", South Asian Centre for Legal Studies, January 2017.

⁹⁹ Two or more war-disabled women were interviewed in each district. Some received an allowance from the government, others were unaware of this entitlement. Such survivors typically have high medical costs and few ways to earn money, and said their disabilities and ongoing health problems should be addressed in any new reparations policy, including through new government housing. Crisis Group interviews, July-August 2016.

¹⁰⁰ Crisis Group interviews with women in Kilinochchi and Mullaitivu, June 2016. The defence ministry is reportedly developing plans to return more than \$6.5 million worth of gold and jewellery seized from LTTE banks and abandoned houses at the end of the war. "Rs. 1 billion worth jewellery and gold to be returned to owners soon", *The Sunday Times (Sri Lanka)*, 16 April 2017.

¹⁰¹ This extended to the private display of photos of killed LTTE fighters. As one widow in Kilinochchi explained: "The only picture I have of my husband is in an LTTE uniform. I am not allowed to keep it on display. Why can't I show a picture of my husband? There is nothing for my children to even see what their father looked like". Crisis Group interview, June 2016.

¹⁰² Crisis Group interview, war widow, Mannar, June 2017.

memorials; domestic tourists now flock to the war monuments. In the Vanni, however, nearly every family had someone in the LTTE. For them, the destruction of the burial sites is an insult to those they consider war heroes, and worse, leaves them with no public place to grieve.

There is nothing to mark the dead. We don't have a day or a place to go to. If there is a place we can go and visit, we can cry there. My son doesn't even have a picture of his father to see what he looked like.¹⁰³

Since the arrival of a new government in 2015, restrictions on commemorating the war dead have been relaxed in the north and east, with small public gatherings generally, but not always, allowed under close government surveillance.¹⁰⁴

¹⁰³ Crisis Group interview, war widow, Mannar, June 2017.

¹⁰⁴ Police blocked an 18 May 2017 commemoration event that was going to display some 200 small stones engraved with the names of those killed in the final weeks of fighting on the nearby Mullaitivu beach. Objecting that the names might include members of the LTTE, police secured a court injunction to block the event and have subsequently investigated the organisers, including a well-known Jesuit priest, for possible terrorist offences. Crisis Group interviews, organisers, Mullaitivu, June 2017. The National Human Rights Commission wrote to the president urging him to respect the right to mourn and memorialise loss. "Ensure the right to and safety for memorialisation of war dead – HRCSL urges Sirisena", *Sri Lanka Brief* (srilankabrief.org), 9 June 2017.

VI. Muslim Women in the North and East

The experience of Muslim women in the north and east has been very different from that of Tamil women. Although not generally been targeted for their gender, Muslim women continue to suffer disproportionately from conflict-related crimes.¹⁰⁵ Chief among these was the LTTE's forcible eviction of some 70,000 Muslims from the north of Sri Lanka in October 1990 – the country's worst case of ethnic cleansing and one of the war's most significant crimes. In the east, Muslim women suffered a range of rights violations, including sexual violence, abduction, the disappearance of family members and the loss of land.¹⁰⁶

During the war, Muslims suffered primarily from abuses by the LTTE and pro-government Tamil paramilitaries; only rarely did the military or other state actors target them directly. The state has done little to facilitate the return and resettlement of Muslims to the north, however. Both those who have returned to their original land and the tens of thousands of who remain displaced face serious political and socio-economic problems.¹⁰⁷ As a result, Muslim distrust of both the state and the Tamils runs high.¹⁰⁸

A. *Obstacles to Muslim Women's Participation and Representation*

Because Muslim women rarely get the opportunity to discuss political issues in public, their knowledge of and capacity to address questions of transitional justice is extremely limited.¹⁰⁹ Once informed about potential transitional justice processes, Muslim women are eager to engage but they are sceptical about ever receiving justice for the worst violations, which occurred decades ago. Those interviewed were unaware of how to take part or where to start:

¹⁰⁵ Crisis Group interviews, Muslim women activists, Puttalam, June 2016, Mullaitivu, July 2016.

¹⁰⁶ Crisis Group interviews, Muslim activists, Trincomalee, July 2016. For an overview of the experience of Muslims during the war, including their eviction from the north, see Crisis Group Report, *Sri Lanka's Muslims*, op. cit.

¹⁰⁷ See Crisis Group Report, *Sri Lanka's Muslims*, op. cit.; and "The quest for redemption", op. cit.

¹⁰⁸ Crisis Group interviews, Puttalam, Mannar and Trincomalee, June-July 2016. As the country's second largest minority, making up just under 10 per cent of the population, Muslims are in a precarious political situation, viewed as traitors by many Tamils for not backing the separatist cause and mistrusted by many Sinhalese. Despite the appointment in recent years of important Muslim ministers, many Muslims, particularly from the north, believe both the government and the international community have consistently neglected their concerns. During the armed conflict, Sri Lankan Muslims experienced religious, cultural and social changes, in part because they felt the need to assert their unique identity in the face of Tamil and Sinhala nationalism. Muslims are principally Tamil speaking; what sets them apart is their religion. In recent years, their religious identity has become increasingly important and women, especially, have started to adopt dress codes that are stricter than those practiced by Sri Lankan Muslims in the past. See Crisis Group Report *Sri Lanka's Muslims*, op. cit., and Mirak Raheem and Dennis McGilvray, *Muslim Perspectives on the Sri Lankan Conflict*, (Washington, 2007).

¹⁰⁹ It was difficult to interview Muslim women and focus group discussions were with mixed gender groups. With the exception of some Muslim women activists in the zonal task forces, very few seem to have participated in previous conflict or rights related discussions.

We think Muslim issues will be neglected and only Tamil issues will come up. Muslims' problems will be swept away. If you look at the past Muslims have always been side lined.¹¹⁰

B. *Muslim Women's Views on Truth, Accountability and Reparations*

For Muslim women, truth seeking means above all acknowledgement of their suffering. They want perpetrators to admit what they did, the violations to be publicised, and the government – and international actors – to recognise publicly their failure either to protect them or facilitate their return home. Muslims want their experience of conflict-related abuses and injustices to be part of the overall narrative of the Sri Lankan armed conflict.¹¹¹

Our story needs to come out. Our history is not known. A 25-year-old boy, how does he know what our hometown Mannar is like? Similarly, when we go back to our homes, Tamil children know nothing about Muslims. Tamil children need to know what happened and that the north is our home too.¹¹²

Many northern Muslims support prosecuting any remaining LTTE leaders for their 1990 eviction, though some are willing to consider amnesty if the perpetrators acknowledge their crimes. Muslims in the east want justice both for targeted killings and abductions and for the 1990 LTTE mosque massacres in Kattankuddy and Eravur.¹¹³ Many support a separate criminal justice mechanism for crimes against Muslims.¹¹⁴ In contrast to most Tamils, many Muslims oppose international involvement in transitional justice. While they lack confidence in the Sri Lankan state, they feel even more strongly that the international community is biased against them.¹¹⁵

Northern Muslims call for public memorialisation of their eviction, including a specific day of remembrance. They also want to place monuments and build a museum to record the circumstances of their expulsion and provide details about their former way of life, including social, cultural and religious practices that have since been lost. Both northern and eastern Muslims strongly support economic reparations. Those in the north want compensation for their loss of land and livelihoods and resettlement assistance, including support both for those who return and those who choose to remain where they are. Tensions are high between Tamils and returning Muslims, who complain that district-level Tamil bureaucrats discriminate against them as they compete for scarce land, resources and jobs.¹¹⁶

¹¹⁰ Crisis Group interview, Muslim focus group participant, Puttalam, June 2016.

¹¹¹ While the Sri Lankan Muslim Congress supported a truth commission during the Rajapaksa government, it has taken no official position on the current government's transitional justice plans. Crisis Group interview, senior SLMC official, July 2017.

¹¹² Crisis Group interview, displaced Muslim woman, Puttalam, June 2016.

¹¹³ See Crisis Group Report *Sri Lanka's Muslims*, op. cit., p. 7.

¹¹⁴ In all the Crisis Group focus group discussions Muslims, including those in the east, were very clear about this.

¹¹⁵ "All these years when Muslims suffered, the international community just watched, so how can we expect justice from them?" Crisis Group focus group discussion participant, Kinniya, July 2016.

¹¹⁶ Muslims regularly complain that local-level Tamil civil servants refuse to provide Muslims with assistance to which they are entitled and that Muslims who work in public administration fail to get

Many of those who resettled in Puttalam had to abandon traditional forms of livelihood while confronting increased religious and cultural pressures.¹¹⁷ But those who return to their native villages in the north now face additional socio-economic problems, especially in Mannar, where both housing and opportunities to earn income are scarce.¹¹⁸ Families have been divided. Those returning to their original homes are mostly men who leave their wives behind in Puttalam. Some take second wives, neglecting or abandoning the other family. Activists working among Muslims report a significant increase in child abuse, including sexual abuse, though there is pressure not to publicise these cases. Muslim women facing family difficulties, including domestic and sexual violence, have little access to justice. The rulings of all-male Qazi courts (governed by Muslim personal law) are rarely favourable to women.¹¹⁹

promoted. Many returning Muslims have trouble receiving state services or claiming voting rights as they make the transition back to their original land. Crisis Group interviews, Mannar, Puttalam and Mullaitivu, June 2016.

¹¹⁷ In the north, their language was solely Tamil and their culture Tamil-influenced. The move to Puttalam, parts of which are Sinhala speaking, brought many social and cultural changes. Women said that they came under pressure to cover their heads and observe strict Islamic dress codes, which they had not experienced in the north. Fear for the security of girls in Internally Displaced Persons camps meant that many families gave their daughters in marriage in their early teens. Crisis Group interviews, Mannar, Puttalam and Mullaitivu, June 2016. See also "The quest for redemption", *op. cit.*

¹¹⁸ Northern Muslims families have grown much larger in the decades since they were displaced. They return to homes and landholdings that are now too small to shelter or support their families. These are problems that cannot be addressed in the absence of a return policy. Crisis Group interviews, displaced Muslims, Puttalam, June 2016.

¹¹⁹ Muslim women activists have campaigned strongly for changes to the Muslim Marriage and Divorce Act and to eliminate the constitutional provision that accords primacy to religious family law over guarantees of equal protection. See Hyshyama Hamin and Hasanah Cegu Isadeen, "Unequal Citizens: Muslim Women's Struggle for Justice and Equality in Sri Lanka", October 2016; and P. K. Balachandran, "Sri Lanka Muslim women pin hopes on new constitution to raise minimum age of marriage for girls", *New Indian Express*, 16 October 2016.

VII. Conclusion: From Action Plans to Action

The ambitious transitional justice process promised by the government in Geneva has stalled. The enormous challenge of setting up four complex institutions in a short time was made even more difficult by the early focus on its most controversial aspect – a special accountability court with foreign judges – and the lack of public support from the president, prime minister or either of their parties. Planned largely in secret, and negotiated in western capitals, “transitional justice” has appeared as a technical, abstract and alien discourse, further obscuring the practical ways it could address people’s needs and how much the government could already be doing.

The injustices women have experienced and the pressures they continue to face are at the intersection of Sri Lanka’s most important post-war challenges and require urgent attention. Addressing these issues skillfully could reinvigorate the larger justice agenda and reaffirm that positive change is still possible. Several steps are especially important:

First, although families of the disappeared currently evince little interest in the OMP, it would be the most systematic way to address the needs of relatives of the disappeared. It must be provided with sufficient resources and include branches in the north and east that are staffed with local personnel, as the families prefer. The office should not function, however, as a substitute for credible police investigations into cases of enforced disappearances where evidence exists.

Second, an office of reparations should be created to coordinate efforts to address the needs of conflict-affected women. In principle, this could be done through existing government programs. Myriad government action plans and scant effective action, however, suggest the need for a powerful body authorised to monitor the efforts of different ministries, guided by a clear purpose and enjoying both adequate resources and top-level political support.¹²⁰ An office of reparations could fill that role.

To that end, the government should invite public feedback on the draft reparations law already prepared for the prime minister. This should be shared widely, along with findings by the CTF on reparations. The government also should make a major effort to win support from Sinhalese and Muslims by explaining the benefits of the new office for all those affected by the war, not just Tamils in the north and east.¹²¹

¹²⁰ In exchanges with the UN, the government has acknowledged many of the severe problems faced by conflict-affected women and the inadequacy of its response to date. As part of various UN processes – especially the 2017 review by the Committee on the Elimination of Discrimination against Women – the government has prepared multiple, overlapping “action plans”: a “Policy Framework and National Plan of Action to Address Sexual and Gender-based Violence in Sri Lanka 2016-2020”, was prepared by the Ministry of Women and Child Affairs with assistance from the UN Development Programme and approved by cabinet on 7 June 2016; the National Action Plan on Women Headed Households 2017- 2019 is being finalised by the women’s ministry; the National Human Rights Action Plan, with a chapter on women’s rights, is being prepared for submission to the Universal Periodic Review at the UNHRC in November 2017.

¹²¹ Thousands of Muslim and Sinhala women living in the North Central and North Western Provinces, for instance, suffered from multiple displacement, loss of livelihoods, sexual violence, widowhood and other negative effects of the war, and would benefit from being included in government and donor programming for conflict-affected women. On the difficulties facing widows of soldiers, see “Living in Shadow: Status of Military Widows in Sri Lanka”, Fokus Women, March 2016.

The reparations office, supported by Sri Lanka's international partners, should then take the following steps to improve daily lives, reduce the appeal of renewed militancy and help repair the frayed social fabric in conflict-affected regions:

- ❑ Develop a more generous and coherent system of socio-economic support for conflict-affected women, especially heads of household, with interventions targeted according to their needs and skills and current market conditions. A single equitable pension system should be established for all dependents of men killed in the conflict, whether civilian, LTTE fighter or military personnel. Rules preventing widows gaining ownership or tenancy of land should be amended, as promised by the government.¹²² Reparations policies ought to be informed by a broad assessment of the economic needs and resources of those most directly conflict-affected.
- ❑ Enable quick, easy replacement of documentation for lost or destroyed birth certificates, national IDs and land records, so that affected citizens can access government services. The government should better inform district administrators and families about the advantages of obtaining certificates of absence, while addressing the sources of families' mistrust.
- ❑ Conduct a full mapping of all remaining military-held land in the north east and design a system to compensate owners fairly for past occupation of land.
- ❑ Provide improved psychosocial support, through increased training of government officials and strengthening the existing network of government and NGO practitioners.
- ❑ Acknowledge the right of all citizens – including family of former LTTE members – to commemorate their dead and encourage community-based memorialisation projects by women in all parts of the country.

To create a conducive environment for these efforts in the north and east, the military should further reduce its involvement in civilian life. This would entail ending intimidating surveillance and threats, especially of ex-combatants; expediting the return of military-occupied private land; and beginning the process of closing or transferring to civilian control military-run farms, shops and hotels.

International donors will have to examine their own programming critically. A thorough collective evaluation of livelihood assistance provided so far could help donors develop shared protocols and monitoring to avoid repeating the failures of past programming or contributing to high levels of indebtedness in the north and east. The UN and donors should review their Peacebuilding Priority Plan to respond better to the current, more difficult political context and to new government programs.

Equally essential are government initiatives to reduce sexual exploitation and violence against women in the north and east. For military and government offices, this means enforcing strict codes of conduct. For the police, it means training and deploying more Tamil-speaking and female police officers plus establishing dedicated

¹²² The government has reported to the UN its intention to amend the Land Development Ordinance to eliminate gender discrimination in relation to succession, inheritance and joint ownership. "Additional Written Information by Sri Lanka to the Questions Raised during the 8th Periodic Review of CEDAW", UN Committee on the Elimination of Discrimination against Women, 22 February 2017.

units in the north and east to investigate gender-based crimes, which should work closely with a sexual crimes unit in the attorney general's department.¹²³ The government should also consider creating a special division of the high court to handle sexual crimes against women, supported by an independent unit to protect victims and witnesses.¹²⁴

Finally, while planning and implementing these national reconciliation and reparations policies, the government must directly engage women and other survivors, rather than relying on intermediaries or ignoring grassroots opinions. Donors should consider providing financial support to community- and district-level women's groups, including female members of the zonal task forces, all of whom constitute a vital social resource.

Civil society in all its variants – northern, eastern and southern, grassroots and Tamil-speaking or Colombo-based – inevitably will play a part in the transitional justice and reconciliation processes. To be effective and coherent, these efforts should be guided by the concerns of conflict-affected women themselves. Colombo-based civil society groups must strengthen their connections with families in the north and east, while Tamil activists must reach out to conflict-affected Muslims and Sinhalese and work to see that their experience of the conflict is acknowledged and their needs and rights addressed, too.

The past two years have seen the government's promises of a comprehensive transitional justice process grow increasingly threadbare. Survivors and victims, who have waited painfully long for justice and relief, are increasingly desperate. To avoid losing this historic opportunity to right past wrongs and build lasting peace, the government must finally start to fulfil its promises, beginning with policies that address the needs of conflict-affected women.

Colombo/Brussels, 28 July 2017

¹²³ The draft National Human Rights Action Plan recommends establishing a special unit of attorney general's department to expedite the prosecution of cases of sexual violence.

¹²⁴ Special divisions or chambers of the high court already exist for other issues – for commercial cases and to expedite cases under anti-terrorism laws. Establishing a sexual and gender crimes division would take time and require extensive training of judges and staff.

Appendix B: About the International Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

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

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord Mark Malloch-Brown. Its Vice Chair is Ayo Obe, a Legal Practitioner, Columnist and TV Presenter in Nigeria.

Crisis Group's President & CEO, Jean-Marie Guéhenno, served as the UN Under-Secretary-General for Peacekeeping Operations from 2000-2008, and in 2012, as Deputy Joint Special Envoy of the United Nations and the League of Arab States on Syria. He left his post as Deputy Joint Special Envoy to chair the commission that prepared the white paper on French defence and national security in 2013.

Crisis Group's international headquarters is in Brussels, and the organisation has offices in ten other locations: Bishkek, Bogota, Dakar, Kabul, Islamabad, Istanbul, Nairobi, London, New York, and Washington, DC. It has presences in the following locations: Abuja, Algiers, Bangkok, Beirut, Caracas, Gaza City, Guatemala City, Hong Kong, Jerusalem, Johannesburg, Juba, Mexico City, New Delhi, Rabat, Sanaa, Tblisi, Toronto, Tripoli, Tunis, and Yangon.

Crisis Group receives financial support from a wide range of governments, foundations, and private sources. Currently Crisis Group holds relationships with the following governmental departments and agencies: Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Danish Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, European Union Instrument contributing to Stability and Peace (IcSP), Finnish Ministry for Foreign Affairs, French Development Agency, French Ministry of Defence, French Ministry of Foreign Affairs, German Federal Foreign Office, Global Affairs Canada, Irish Aid, Principality of Liechtenstein, Luxembourg Ministry of Foreign Affairs, New Zealand Ministry of Foreign Affairs and Trade, Norwegian Ministry of Foreign Affairs, Swedish Ministry of Foreign Affairs, Swiss Federal Department of Foreign Affairs.

Crisis Group also holds relationships with the following foundations: Carnegie Corporation of New York, Henry Luce Foundation, Humanity United, John D. and Catherine T. MacArthur Foundation, Oak Foundation, Open Society Foundations, Ploughshares Fund, Robert Bosch Stiftung, and Wellspring Philanthropic Fund.

July 2017

Appendix C: Reports and Briefings on Asia since 2014

Special Reports

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