



Statement of

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regarding

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Introduction

Mr. Chairman and members of the Commission, on behalf of the Office of the United Nations High Commissioner for Refugees (UNHCR) I would like to express our sincere appreciation for the opportunity to appear before you today again. My colleague Mr Amin Awad, the former UNHCR Representative in Sri Lanka, spoke to you in April of this year to address UNHCR's continuing concerns about the humanitarian situation in Sri Lanka and the needs of Sri Lankan internally displaced persons (IDPs). I will not repeat the long history of our organisation in Sri Lanka since 1987 and the assistance that we have provided in the past with your support but will rather address developments since that time in April, when fighting was still ongoing in the North of the country. While the framework of the operations remains the same, the context and the focus of the operation have changed since then.

We continue to work in a large humanitarian operation with 169 staff (of whom 39 are internationals) in six locations in the country. Our main responsibilities within the overall UN division of labor are for protection, shelter and the provision of non-food relief items for close to 600,000 IDPs and returnees in different parts of the country who have become displaced over the past 26 years of conflict. We work closely with the Sri Lankan government, UN sister agencies, international and national NGOs, and displaced communities themselves to respond to the protection and assistance issues associated with displacement as well as to seek durable solutions to end displacement in a timely, efficient and collaborative manner.

In addition to coping with the large number of internally displaced persons, Sri Lanka hosts both asylum seekers and refugees from other countries. Sri Lanka is not a party to the 1951 Refugee Convention or the 1967 Protocol. UNHCR continues to undertake refugee status determination (RSD) in the country and seeks third-country resettlement for recognized refugees.

My comments today will focus on the current situation facing the "new" internally displaced persons and returnees in Sri Lanka since April 2008.

As a member of the international humanitarian community and as the lead agency for IDPs in Sri Lanka, UNHCR would like to acknowledge and welcome the efforts of the Government of Sri Lanka and the international community to address the issues raised in our testimony of April 2009. Nevertheless, a number of significant protection concerns remain, including the continuing lack of freedom of movement in the camps and in the return areas; inadequate guarantees of de-mining in return areas; and a lack of information provided to IDPs in advance of return. We continue to raise these and other concerns with the Government of Sri Lanka on a systematic basis and we encourage the international community to do so as well.

1. Current Humanitarian Situation

Military advances and fighting in Northern Sri Lanka resulted in mass displacement out of the conflict zone to the districts of Jaffna, Mannar, Vavuniya and Trincomalee during the first half of this year. At the end of the conflict in May, some 280,000 internally displaced persons were accommodated in emergency sites in the North & East. Extensive advocacy by UNHCR, humanitarian partners and the international community with regards to ensuring the civilian nature of IDP sites, the release of persons with specific needs, ensuring family unity and freedom of movement of IDPs has resulted in a marked improvement in the conditions in the camps.

Telecommunication facilities have been set up in most camps and visitor centres have been functioning to facilitate visits of IDPs. Civil authorities are involved in the day-to-day administration of the camps, women police officers have been deployed and women and children's police desks have been set up in some sites effectively taking part in referral systems. These are very welcome. We acknowledge though that more has to be done.

Since August 5, 2009, the Government of Sri Lanka has begun to organise the return of these IDPs to their areas of origin, predominantly to the East and to Jaffna. An accelerated return process was started during October 2009 with returns to the Vanni (Mannar North, Vavuniya North, Kilinochchi & Mullaitivu Districts). Returns to Jaffna (some 70,000) and the East (some 10,000) can be considered complete. As of December 11, over 130,000 persons have returned to their districts of origin and approximately 29,000 persons belonging to special categories (e.g. elderly, pregnant women, orphans etc) identified by the government have been released to host families or special care institutions. A significant number of IDP sites have closed with only 18 sites remaining.

Some 125,000 IDPs remain in the camps, however, with a form of "qualified freedom of movement." Since December 1, the Government of Sri Lanka has allowed IDPs to move outside of the camps through a pass system. There has been an improvement in camp conditions due to the rapid departure of a large number of IDPs. Some blocks in some camps zones are being slated for closure, and damaged tents and shelters are being decommissioned.

Humanitarian access to the IDPs sites has improved compared to few months back when access was inconsistent, affecting the ability of UNHCR and partners to conduct protection monitoring or NFI distribution. With regard to the returns to areas in the Vanni, despite some initial difficulties due to UN security regulations and the short notice provided by government, UN agencies have access to the return areas and have accompanied the return process although the short notice complicated joint agency pre-return assessments and preparations.

The UN, including UNHCR, has now travelled on the A9 (main North-South transport artery which was closed in 2006) from Vavuniya to Jaffna, which will lead to the opening up of operational areas in the Vanni and dramatically improve the transport of NFIs and other relief items to Jaffna. Several prominent checkpoints have disappeared from Jaffna town and in a significant development for residents of Jaffna district as of November 18, security clearance is no longer required to travel out of the district.

The Ministry of Resettlement has started to issue its newsletter targeting primarily IDPs but also reaching out to returnees. This provides information to IDPs on available services in the IDP sites and on progress in return areas.

In general, returnees are relieved to have left the IDP camps. While some were happy to be back in their districts of origin where more basic services, such as health clinics and schools, are reopening, others continue to raise concerns about the level of infrastructure damage, government services, education for their children and freedom of movement.

UNHCR welcomes the Government's efforts to date to address the issues raised during and after the conflict. Nevertheless, some key concerns remain.

2. Main protection concerns

The main protection issues noted on the ground at present which UNHCR is raising on a systematic basis with the government include:

Lack of information prior to returns: Information on the overall return plan, process, registration, assistance provided upon return should be provided to IDPs in addition to the opportunity to take part in “Go and See” visits so that IDPs are able to make a free, fully informed and voluntary decision on their returns. Many IDPs returned with little information on the situations in their villages of origin and areas of their return, including the status of mine clearance, with a special focus on children’s needs. Wide scale mine risk education needs to be conducted prior to returning with specific information on the extent of the risk of mine and unexploded ordnance incidents in a given area.

Demining in return areas: The accelerated pace at which return is taking place does not always coincide with adequate guarantees of the completion of humanitarian demining and release of land. This has resulted in IDPs returning to their homes in areas which have not received land release certificates. In order to ensure the IDPs safe return, and as stated in the Aide Mémoire on Resettlement issued to the Government in August 2009, it is necessary to issue land release/low mine risk certification *prior* to return. In addition, returnees need to receive Mine Risk Education prior to their return.

Freedom of movement in return areas: Returnees need to enjoy full freedom of movement. We have received reports that some are being told not to leave their return villages, particularly in the East, without prior permission.

Freedom of movement in the camps: The Government must ensure full freedom of movement in fully “open” IDP sites for those who will need to remain in the camps pending return or relocation; UNHCR is ready to assist in these camps including replacement of tents and provision of non-food items if certain prerequisites are met. These prerequisites have been agreed upon with other UN agencies and include:

1. IDPs’ stay in the sites is voluntary;
2. IDPs are allowed to move in and out of the sites at will without security procedures;
3. IDP are able to access community services such as education and health care outside the sites; and
4. Family members and humanitarian agencies have full access to IDPs and are able to monitor and report on conditions in the sites.

The situation should be reviewed before the end of the year to determine the level of freedom of movement.

- **Separation process & family separation:** While the Government has endeavoured to screen and separate those IDPs suspected of having links to the Liberation Tigers of Tamil Eelam (LTTE) from the civilian population in camps, the process of separation and detention has to a large extent not complied with local or international legal standards. In addition, due to the return of IDPs, a situation has arisen where family members are being returned while other members remain in the rehabilitation sites. It is important to ensure that family members have

proper detention documentation, are aware where their relatives are being held and are able to visit them. Since July 2009, ICRC no longer has access to those persons detained/separated in rehabilitation sites which raises serious concerns. Clarification on legal framework of the IDPs held in rehabilitation centres would need to be received.

As a result of the screening process that took place in IDP camps, some 12,000 IDPs, both men and women, have already been separated from others and are currently accommodated in twelve public buildings where they are deprived of liberty. Among them are ex-combatants and civilians, and the applicable legal framework to the situation of separated IDPs has not yet been made clear. These twelve sites are places where IDPs are held while a decision is made about their status. All concerned separated IDPs would have to be individually informed of the legal basis under which they will continue to be deprived of liberty or they should be allowed to leave the camps and join their families. Access to these sites needs to be granted to the ICRC (in accordance with its mandate) in order to register the separated IDPs, carry out activities to re-establish family links, and monitor their treatment conditions.

According to UNHCR's return monitoring, some 12 % of the returnee population appear to be women-headed households with their spouses either confirmed dead, missing, or separated.

Access of NGOs to the Vanni: Since the evacuation of all humanitarian agencies from the Vanni area in 2008, both international and national NGOs have not had access to the former-LTTE controlled areas. Recently, a number of national and local NGOs received approval from the Government to work in the return areas. To date, the United Nations agencies remain the only international presence in the Vanni aside from humanitarian demining agencies. In order to ensure that protection and return monitoring can continue in light of the still limited service infrastructure in the areas it is important to continue advocacy for international NGOs to resume activities in the Vanni. Distribution of assistance has also slowed down with the lack of implementing partners present in these main return areas.

Documentation, housing, land and property issues: Civil documentation has been identified as a major concern for most of the families who returned from the Vanni as this leads to reduced mobility and exposure to possible questioning. Birth certificates and replacement of National Identity Cards for persons born or registered in the Vanni are particularly difficult to obtain, in addition to death certificates for missing persons. To minimize potential for land and property disputes, the Government must provide property restitution, compensation, or other forms of reparation for damaged, occupied, or lost property.

3. Response of the Sri Lankan Government

The government of Sri Lanka has taken a number of steps to address the humanitarian crisis, enable returns and improve the situation of the IDPs. These include but are by far not limited to:

- Undertaking mine clearance and allowing partners to do the same, including in areas where access was very much restricted to until recently (the Vanni).
- Beginning the process of return of the IDPs to their homes and districts of origin as well as continuing to release persons with specific needs to host families or care institutions;
- The announcement and implementation of increased freedom of movement for IDPs outside the camps since 1 December;

- Lifting of some travel restrictions to the North of Sri Lanka including lifting restrictions on transportation of goods along the main A9 highway to Jaffna.

4. UNHCR's Response

UNHCR provides important leadership to the entire humanitarian and donor community in the protection sector. This role includes:

- Advocacy with the Government of Sri Lanka on international standards (e.g. UNHCR shared an Aide Mémoire with the Government in September 2008 outlining the conditions under which it would be involved in camp management for the new IDPs coming out of the Vanni);
- Guidance to the UN and NGOs on carrying out assistance programs in a challenging protection environment (e.g. UNHCR led a consultative process which resulted in a Guidance Note which humanitarian agencies and the main donors used as a basis for their policy decisions on the provision of assistance. In addition, UNHCR provided extensive inputs to the Aide Mémoire on Resettlement that was issued by the UN in August 2009),
- Coordination of protection activities in the field (e.g. standardized protection monitoring format and reporting, shared databases on persons with specific needs, collaborative efforts on awareness raising and community mobilization); and
- Coordination of advocacy at the Colombo level through meetings, preparation of briefing documents and common advocacy points to be used collectively and by agencies individually.

In addition, UNHCR is supporting the Government through capacity building, training, and Age, Gender and Diversity Mainstreaming (AGDM) participatory assessments (discussions are underway for closer cooperation with the Ministry of Disaster Management and Human Rights and the Ministry of Public Administration & Home Affairs,) in response to the Government's request to assist in enhancing the return by way of capacity building of Government of Sri Lanka offices.

UNHCR makes every attempt possible to mainstream protection into all clusters by providing feedback to cluster leads on protection sensitive camp layouts, advocating for community participation in all assistance programs, ensuring equal access to services, and raising sectoral issues arising out of protection monitoring in the field etc.

While protection is UNHCR's core mandate, the Agency is also the major actor in the sectors of shelter and relief items which it is responsible to coordinate. While during the emergency UNHCR provided some 16,000 emergency shelter and tents out of 49,000 emergency shelter and tents, the focus of the operation is now on the returns. Further support to those who will have to remain in the 'open' IDP sites pending their return to their home districts will be given. This is provided that the camps are indeed 'open' camps where people can exercise their freedom of movement. For the returns, UNHCR supports each recently displaced IDP family returning to the north with a shelter grant equivalent to \$220. With this grant, returnee families can choose the material they want, undertake the repairs they need in the way they prefer and have ownership over their homes. UNHCR will also provide non-food items that shall enable families to restart their lives immediately after return. NFIs for tens of thousands of families are available and being distributed as we speak.

5. UNHCR Recommendations

UNHCR will continue to closely cooperate with the Sri Lankan authorities in order to:

- Address possible gaps in the Government's response and satisfy emergency needs in "open" IDP sites;
- Provide protection and assistance for returnees and enhance the sustainability of return, relocation, and local integration. To do so, it will be critical to ensure the voluntary, safe and dignified nature of return and to promote stabilization and confidence building in areas of displacement and return. IDPs staying temporarily with host families must also be supported, and all IDPs must be assisted in voluntarily returning to their places of origin as soon as conditions are conducive for doing so;
- Ensure that the rights of the displaced and returnees, including the right to family unity and to respect for private and family life, are upheld;
- Address the protection and assistance needs of the most vulnerable persons (including the separated children, elderly persons, pregnant women, survivors of trauma and violence, and persons with disabilities), both when still in displacement as well as when returned to their districts of origin or staying with host families. Ensure their equitable and unhindered access to humanitarian assistance and improve targeting of assistance to Persons with Specific Needs (PWSN) through an age, gender and diversity approach applied in the planning and delivery of assistance. Enhance physical security of IDPs and returnees, including prevention and response to Sexual and Gender Based Violence (SGBV)
- Promote access to justice, civilian rule of law, Human Rights, registration, and civil documentation to facilitate freedom of movement and the resolution of housing, land and property issues by supporting the Government in promoting and protecting the individual rights of IDPs;
- Strengthen community-based protection through community mobilization and psycho-social support, thus ensuring access to information and advocacy. To enable this it is crucial that NGOs have access to the population in the returnee areas.
- Provide reintegration and psychosocial support to children released from armed groups and vulnerable children (separated, orphan children, and children with special needs) by supporting statutory bodies and community based organizations.

With regard to the US government and the international community generally, UNHCR recommends that the Government's efforts to abide by its commitments be acknowledged. UNHCR recommends, however, that persons not be returned to areas that are not cleared from mines or properly surveyed and demarcated. UNHCR would also welcome the full and unconditional freedom of movement for all IDPs remaining in the camps and those who have returned to their places of origin.

UNHCR also recommends that pressure be maintained on the issue of access of non-governmental organizations, both national and international, into all return areas, both inside the Vanni and into other areas. We will need NGOs to be able to implement programs for us, monitored by UNHCR staff. Should NGOs not receive access to the main return areas, implementation of our programs will be a logistical and financial challenge as we would need to undertake costly direct implementation.

In addition, increased political support to the humanitarian agencies responding to the protection needs of the IDPs and returnees in Vavuniya, Kilinochchi, Mullaitivu, Jaffna and Mannar are needed. In particular, support to the government of Sri Lanka in addressing the important issues of screening, demobilization and rehabilitation of former combatants are needed.

Finally, political dialogue and communal reconciliation must start now in order for the grievances and concerns of the displaced populations in the north of Sri Lanka to be addressed and for the healing process to take root.

Conclusion

I have only briefly addressed the many protection and assistance needs of displaced Sri Lankans. We have available much more detail that I would be happy to share with you. I thank you again for the opportunity to speak at this important briefing and for your ongoing interest in the human rights and humanitarian situation facing Sri Lanka. I would be happy to answer any questions you might have.

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