



FOCUS ON PROTECTION

A publication of UNHCR Sri Lanka

UNHCR Helps Protect Refugees and Internally Displaced Persons (IDPs)

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Volume 1

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UNHCR, the United Nations refugee organisation, is mandated by the United Nations to lead and coordinate international action for world-wide protection and assistance to refugees and displaced persons.



UNHCR / E.Barrett / 2003

Dear Reader,

Sri Lanka's conflict has displaced hundreds of thousands of Sri Lankans throughout the island, and abroad as refugees. It is UNHCR's mandate to protect and assist these vulnerable individuals. Doing so is a complex task, which requires UNHCR staff to work with national authorities and other actors to produce sustainable solutions.

Comprehensive information on protection activities implemented by UNHCR and its partners is crucial to anyone who wishes to understand and participate in the complexity of

the protection situation in Sri Lanka. Consequently, UNHCR has decided to produce this new bulletin.

Focus on Protection is intended to make information on protection issues publicly available. In this first edition, we will give you a brief overview of the wide range of protection activities undertaken by UNHCR. In subsequent editions, we hope to focus in a more in-depth manner on various topical issues within our protection mandate. We hope you will enjoy this first edition, and others that will follow.

Neill Wright
Representative, UNHCR Sri Lanka

Background

The United Nations High Commissioner for Refugees (UNHCR) has been working in Sri Lanka since 1987, following a peace agreement signed between India and Sri Lanka. At that time, the Government of Sri Lanka (GoSL) invited UNHCR to assist in the repatriation of Sri Lankan refugees residing in the Tamil Nadu state of Southern India. But, the 1987 peace agreement did not lead to a cessation of hostilities, and as a result, hundreds of thousands of Sri Lankans continued to be displaced throughout the island. The GoSL welcomed UNHCR's assistance in dealing with this dire humanitarian situation. Consequently, with the agreement of the GoSL, the UN Secretary General extended UNHCR's mandate to include protection and assistance to internally displaced persons (IDPs) within Sri Lanka's borders.

Internal Displacement

The specific mandate to focus on the issue of internal displacement is a relatively new phenomenon in complex crises throughout the world. As a consequence of this, the experience of working to protect IDPs in Sri Lanka is likely to serve as a model for responses to acute IDP problems elsewhere. This is particularly important, given the post-Cold War rise in intrastate warfare and the resultant trend towards internal displacement. UNHCR's protection strategy on this issue is governed by the *Guiding Principles on Internal Displacement*.

An IDP survey conducted in 2002 was supported by Geographical Information System (GIS), linking collected information with geographical locations and giving comprehensive analysis of IDP populations. In the process of this survey, the majority of IDPs expressed a desire to return to their areas of origin. However, many obstacles stand in the way of a safe and dignified return. Some of the most salient factors include:

- The level of destruction
- Access to land, housing and property
- The continuing presence of landmines and unexploded ordinance (UXOs)
- The lack of adequate basic services, such as health and education
- Ongoing human rights violations and other human security concerns
- Fear of renewed violence

Until these obstacles are ameliorated, UNHCR will not promote or implement a large-scale, organised return. In the meantime, UNHCR must work with its implementing partners to provide protection and assistance to these IDPs.

UNHCR continues to maintain that conditions in the North and East of Sri Lanka are not yet conducive to any organised, large-scale return.

UNHCR's Main Objectives in 2003

- To promote and protect the rights of IDPs, returnees and refugees, in accordance with the *Guiding Principles on Internal Displacement* and international human rights and humanitarian law principles.
- To implement programmes and advocate for the creation and development of conditions conducive to durable solutions for remaining Sri Lankan IDPs and refugees.
- To strengthen the national capacity of government and NGOs through training and direct engagement, in order to develop their capacity to respond effectively to changing needs.

Mines and unexploded ordinance prevent the safe return of IDPs.



Spontaneous Return

According to the international legal norm of **non-refoulement**, the decision of refugees to repatriate or IDPs to return must be entirely voluntary, without push or pull factors on the part of governments or relief agencies.

Despite the present interruption to the peace talks, the spontaneous repatriation of refugees and the return of IDPs on their own continues. Official reports from the Government show that a total of 307,239 individuals (80,123 families) have moved back to their places of origin between January 2002 and the end of May 2003. Data on IDP movements and concomitant maps have become a useful tool for humanitarian actors in Sri Lanka, including UN agencies, donors and government offices.

Local Integration

While most IDPs express a desire to return to their areas of origin, some of the displaced will invariably decide to remain permanently in their location of displacement. In some cases, these IDPs have lived in so-called "temporary" locations for a decade or more, having formed roots and social networks within the local community. A small

number of IDPs have asked for relocation to another area. Some of them have been provided state land by the local government.

It is UNHCR's policy to provide support and protection to these individuals wishing to pursue either local integration or relocation in an entirely new area. UNHCR does this by working to create **durable solutions**, which in UNHCR terminology refers to lasting and sustainable solutions to problems faced by IDPs and refugees. Examples include return in safety and dignity, resettlement and local integration.



UNHCR / M. DeSisti / 2002

What is Protection ?

Protection is about securing basic human rights for refugees and displaced persons. These include civil, political, economic, social and cultural rights. International treaties govern refugee protection. This implies that the responsibility to protect refugees lies primarily with States and their Governments, and not first and foremost with international organisations. Nonetheless, the United Nations has granted UNHCR a mandate to lead and coordinate international action for the world-wide protection of refugees and displaced persons.

Protection is at the core of this mandate, and guides all UNHCR responses at both the policy and the implementation level. In formal terms, UNHCR's protection mandate is rooted in:

- Statute of the Office of the UNHCR (1949)
- Convention relating to the Status of Refugees (1951) and its 1967 Protocol
- Convention relating to the Status of Stateless Persons (1954)
- Convention on the Reduction of Statelessness (1961)
- Guiding Principles on Internal Displacement (1998)

Together, the Statute, the Convention and the Protocol create a legally-binding, normative framework for the protection of refugees. Though the *Guiding Principles* are not legally binding, they nonetheless constitute the first authoritative statement on the protection of IDPs.

Because the needs of refugees and displaced persons are so complex, programmatic responses must be wide-ranging and comprehensive. UNHCR undertakes programmes aimed at meeting physical, material, legal and psychological needs. In addition, UNHCR works in collaboration with different UN agencies, and international and local NGOs to support and strengthen the capacity of the national authorities. Protection activities may include, but are not limited to:

- Assistance with refugee status determination and the processing of asylum claims
- Interventions with appropriate authorities to protect basic legal rights
- Protection of refugees and displaced children
- Advocacy to demobilise child soldiers and end forced recruitment
- Programmes addressing sexual and gender based violence (SGBV)
- Protection of stateless persons
- Provision of non-food items
- Humanitarian relief projects
- Peaceful coexistence training and programmes
- Income-generation projects
- Reintegration programmes for returnees
- Protection of land, housing, and property rights

"Protection encompasses all activities aimed at ensuring the enjoyment, on equal terms, of the rights of women, men, girls and boys of concern to UNHCR in accordance to the letter and spirit of the relevant bodies of law."

UNHCR Department of International Protection, July 2002

Snapshot of Protection

An overview of UNHCR activities in Sri Lanka

Protection of Fundamental Legal Rights

UNHCR's core mandate is its duty to protect the fundamental legal rights of refugees and displaced persons. Some of the rights enumerated in the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights* include: the right to life, liberty and security of person; the right not to be arbitrarily detained or tortured; the right to be free from sexual and gender based violence (SGBV); and the right to equal treatment before the law.

In Sri Lanka, UNHCR is working with the Legal Aid Foundation of the Bar Association of Sri Lanka (LAF), to address violations of the basic rights of IDPs and returnees. The LAF, with the support of UNHCR, has opened offices in the North and East of the country, as well as Puttalam District. These offices are staffed by lawyers who work on a *pro bono* basis to address complaints by IDPs and returnees. Some of these include allegations of SGBV, detention, torture, and forced recruitment into the armed services.

In addition to its partnership with the LAF, UNHCR also works with the National Human Rights Commission (HRC) to address the concerns of IDPs in the North and East. By helping to build the capacity of the HRC, UNHCR hopes to promote a culture of respect for human rights in Sri Lanka.

Protection of Refugees and Asylum - Seekers

As part of its core mandate, UNHCR seeks to protect individuals seeking refugee status or asylum in Sri Lanka. Since Sri Lanka is not party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol, there is no existing domestic legislation or policy on asylum. As a result, **Refugee Status Determination (RSD)** has been undertaken in Sri Lanka for many years exclusively by UNHCR. In the absence of a national policy on refugees and asylum seekers, UNHCR must often process cases for resettlement abroad.

As of March 2003, UNHCR has handled an **urban refugee caseload** of 37 individuals. This includes individuals primarily from South Asia, the Middle East and Africa. UNHCR also monitors the return of rejected Sri Lankan asylum seekers, to ensure that foreign governments have followed all international legal principles regarding rejection.

Sri Lanka has not signed the 1951 Convention relating to the Status of Refugees, nor its 1967 Protocol. UNHCR continues to lobby the Government to accede to these international legal instruments.

What is the Difference Between an IDP and a Refugee?

Refugee - To be a refugee, a person must cross an internationally recognised State border. The 1951 Convention relating to the Status of Refugees defines a refugee as "a person outside of his or her country of nationality who is unable or unwilling to return because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion."

IDP - The 1998 Guiding Principles on Internal Displacement defines internally displaced persons as "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border."

This has occurred primarily in relation to returnees from Switzerland under a UNHCR/Swiss/Sri Lankan agreement. This type of monitoring is also carried out for other countries, who return individuals on the basis of bilateral agreements with the GoSL.

In addition, UNHCR is working to strengthen international protection mechanisms

by actively advocating the

GoSL to sign on to

both the 1951

Convention

relating to the

Status of

Refuges and its

1967 Protocol.

At a regional

level, UNHCR

supports an

Eminent

Persons

Group, which

advocates

that the

Governments

of Bangladesh,

India, Nepal,

Pakistan and

Sri Lanka sign

on to the

relevant

international

legal

regimes.



Project in Focus :

UNHCR Protects the Property Rights of Returnees

Lack of clear property, land, and housing rights represents a major obstacle to return. Some of the factors include:

- Complete or partial damage to homes
- Location of property within High Security Zones
- Occupation by the Armed Forces or unauthorised persons
- Proximity to landmines or unexploded ordinance (UXOs)
- Lack of clear title or ownership
- Lack of proper documentation
- Destruction of business and industrial facilities
- Loss of livelihood due to destruction or presence of mines and UXOs on agricultural fields

These problems are particularly prevalent in the North and East of the country.

Land, Housing and Property Rights Study

In response to this problem, UNHCR and the National Human Rights Commission (HRC) jointly commissioned a comprehensive study suggesting that land, housing and property issues be addressed directly in any Final Peace Agreement. The study also recommends that the Negotiating Parties establish a Sri Lankan Commission on Land, Housing and Property Rights. This commission would serve as a problem-solving institution to resolve legal and other disputes concerning land, housing or property. Disputes that the Commission is unable to resolve would be referred to a decision-making tribunal. Finally, the study proposes a set of legislative and policy reforms.

The study is currently under consideration by the national authorities and the international community.

Protection of Refugees During Voluntary Repatriation

Voluntary repatriation of Sri Lankan refugees from India became a focus of UNHCR in Sri Lanka immediately upon the introduction of the 2002 ceasefire. UNHCR established links with the GoSL and the LTTE on the issue, advocating for the rights of those who had to flee their country because of fear of persecution and who expressed a wish to return once conditions permitted.

Subsequently, UNHCR organised a *Workshop on Preparation of Voluntary Repatriation of Sri Lankan Refugees from India* on 14 January 2003. Workshop participants issued a Joint Communiqué emphasizing the commitment of all parties to work on improving conditions of physical, legal and material safety for returnees from India, as a precondition to any large-scale, organised voluntary repatriation operation. Notwithstanding, UNHCR continues to assist those who voluntarily wish to repatriate.

UNHCR meets returning refugees at the airport.



Protection of Spontaneous Returnees

UNHCR maintains that conditions in the North and East of the country are not currently conducive to the safe and dignified return of IDPs. Nonetheless, UNHCR provides protection and assistance to IDPs who decide to voluntarily return to their homes or areas of origin. In UNHCR terminology, these individuals are called spontaneous returnees.

Once they have returned, the GoSL has a policy to provide each eligible returning or resettling family with financial support (called '**Livelihood Assistance**') under its **Unified Assistance Scheme (UAS)**. Under the current GoSL guidelines, which came into operation in February 2003, eligible families are those that have returned to or resettled on land that they legally own (or have been granted by the Government) since the signing of the Ceasefire Agreement. In addition, to be eligible for assistance, a family's income must be lower than Rs. 2,500 per month. Under the Livelihood Assistance Scheme eligible families receive a total of Rs. 25,000.

As of July 2003, 18,706 families, the majority of which are in Jaffna, Mullaitivu, Killinochchi and Vavuniya Districts, have received funds. At the request of donors and the GoSL, UNHCR has agreed to assist in a general monitoring of the UAS, and periodically issue observation reports on the scheme's implementation and effectiveness.

UNHCR also helps meet material needs by providing non-food items to returnees and IDPs upon arrival in a new location.

UNHCR provides non-food items to IDPs.

A typical "UNHCR Family Pack" consists of:

- 2 plastic mats
- 4 plastic plates
- 4 plastic cups
- 1 plastic basin
- 2 towels
- 4 bars of laundry soap
- 4 bars of bath soap
- 1 menstrual clothing
- 1 aluminum saucepan set
- 1 knife (manna / chopper)
- 1 mosquito net
- 1 GI bucket
- 1 aluminum water pot
- 1 saree
- 1 sarong
- 1 T-shirt



In addition to addressing the immediate physical and material needs of returnees, UNHCR works in collaboration with national authorities and development agencies to address reintegration issues. For instance, UNHCR works with local NGOs on income generation programmes for returnees. These projects take place at the community level, and arise in response to expressed community needs. Other projects address the psycho-social needs of returnees, particularly those of children.

Protection of IDPs

UNHCR's work to protect IDPs is derived from the **Guiding Principles on Internal Displacement**. The majority of IDPs live either in host communities or government-run Welfare Centres. UNHCR implements a variety of programmes designed to protect and assist both groups of vulnerable individuals.

UNHCR also protects IDPs residing in Welfare Centres by working with the GoSL to prevent further deterioration of conditions. According to government figures (as of 31 May 2003) 63,624 IDPs reside in 217 of these temporary housing facilities. In many instances, limited resources have led to poor conditions, overcrowding, and associated problems, including a high-prevalence of sexual and gender based violence (SGBV).

In Jaffna, for instance, UNHCR has conducted an assessment of conditions in 90 Welfare Centres within its Area of Responsibility. Out of those cases, UNHCR has identified the ten most vulnerable centres, and has plans to work with the government to ensure adequate delivery of water, health, sanitation and shelter facilities.

Assistance with Income-Generation

Initial assistance in income-generation is a crucial component in creating durable solutions during the transition from relief to development. Without a stable source of income, return or local integration is unlikely to be sustainable. In addition, social conflict is more likely in a climate of scarce resources. UNHCR therefore considers income-generation a vital part of its protection mandate.

UNHCR supports a variety of projects designed to help IDPs and returnees re-start their lives. Projects are based on needs elaborated by the communities themselves. Furthermore, projects are designed to be sustainable, giving IDPs the knowledge and skills necessary to sustain themselves once UNHCR departs from the community.

UNHCR income-generation projects are typically implemented in conjunction with local or international NGOs. In Trincomalee, for instance, UNHCR is working with Sarvodaya and ZOA on projects aimed at assisting 1,100 families between April to December 2003.

IDPs living in welfare centres face harsh conditions.



Peaceful Coexistence Initiative (PCI)

Peaceful coexistence is a necessary foundation for any pluralistic society. It is more than simply living side by side; it requires communication, interaction and cooperation. Based on two successful pilot projects completed during 2002 in Bosnia-Herzegovina and Rwanda, UNHCR has launched an initiative to promote peaceful coexistence in Sri Lankan communities that have been deeply divided by ethnic tension, internal conflict and violence.

The initiative is targeted particularly at communities hosting IDPs, and communities attempting to reintegrate spontaneous returnees. The process of reintegration often triggers renewed conflict.

Under the PCI framework, one of UNHCR's activities includes a series of workshops to spread community awareness and train NGO staff and local leaders to serve as peaceful coexistence facilitators. These workshops use formal peace education to provide participants with the tools to implement peacebuilding activities at the grassroots levels.

Workshop participants ... drafting a Peace Plan



UNHCR / L. McGrew / 2002

... playing an interactive game



UNHCR / L. McGrew / 2002

Project in Focus :

UNHCR teams up with local NGO to deliver Peaceful Coexistence

In October 1990, the LTTE issued a 48-hour notice of expulsion to the entire Muslim population in the areas under their control in the North of the island. Most of the Muslims fled by sea to the Puttalam/Kalpitiya area.

Although the host community initially welcomed the IDPs, tensions have begun to appear as the IDP presence has continued. Disputes have centred around competition for employment, education and health care facilities. Since most of the services are controlled by either the host population or by Government officials, amongst whom there is little IDP representation, IDPs have often suffered unduly.

UNHCR has teamed up with Peace and Community Action (PCA), a local NGO, to address these tensions through a project called "**Home Away From Home.**" Using participatory methods that reflect the values of inclusion and consensus decision-making, PCA facilitators are working with community based organisations to broaden their sensitivity to conflict issues. PCA is also working with school groups to develop the capacity of students to be productive members of a multiethnic society.

In addition, PCA is working with the host community, IDPs, and local governments to help Puttalam develop a "**Peace Plan.**" Participants in this process are asked to envision what a peaceful Puttalam would look like, and how they would make this vision a reality. From these responses, facilitators help address the constraints, desires and needs of the various communities engaged in peacebuilding. UNHCR is encouraging similar projects throughout the country.



UNHCR / L. McGrew / 2002

... and disseminating information at the community level

Protection of Displaced Women

A majority of IDPs in Sri Lanka are female. Due to combat and related fatalities of men, women often serve as the head of households. Because of the lack of social and economic opportunities for women, as well as sexual and gender-based violence (SGBV), women face a unique set of challenges in the context of displacement and return. The problem of SGBV is particularly acute in the Welfare Centres, which temporarily house IDPs. The problem is exacerbated by regular drug and alcohol abuse. To address these issues, UNHCR is working to develop a set of gender-specific protection activities in tandem with its implementing partners.

In Vavuniya District, for instance, UNHCR continues to monitor and document reported cases of SGBV within the district's four Welfare Centres. In addition, UNHCR has implemented a pilot project in collaboration with the Women's Development Centre, a newly formed NGO. Under this project, community workers are raising awareness of SGBV at the village level.

In Trincomalee, UNHCR is working with the Gandhi Sewa Association to create female discussion groups in three different Welfare Centres. Each group meets twice a week and consists of 25 women and a facilitator specially trained in SGBV therapy. In addition to undergoing group therapy processes, these women also disseminate information about women's rights throughout the larger community.

In Jaffna, UNHCR is working with the Jaffna Social Action Centre to address both child protection and SGBV. This is accomplished through women's empowerment projects in Chavakachcheri, Jaffna and Kopay. The main focus of these projects is to help these women to become financially independent, which will in turn help reduce their vulnerability. In addition to vocational training, the Jaffna Social Action Centre provides seminars on financial management, human rights and awareness of SGBV in Jaffna district.

As in the above locations, UNHCR has also developed programmes in Puttalam to address the problem of SGBV. These programmes are being implemented in partnership with local NGOs.

UNHCR conducts SGBV awareness workshops



UNHCR / L. McGraw / 2002



UNHCR / P. Chaisaran / 2002

Don't Forget! 20 June has been designated World Refugee Day

On the 20th of June each year, millions of people worldwide come together to celebrate World Refugee Day. This year's theme was "Displaced Youth: Facing the Future." UNHCR offices throughout Sri Lanka participated by conducting various activities including displays of artwork produced by IDPs, games and cultural shows.

As former United Nation High Commissioner for Refugees Sadako Ogata said, "We should celebrate their courage, resilience and determination . . . Make them hope and feel that they own a future."

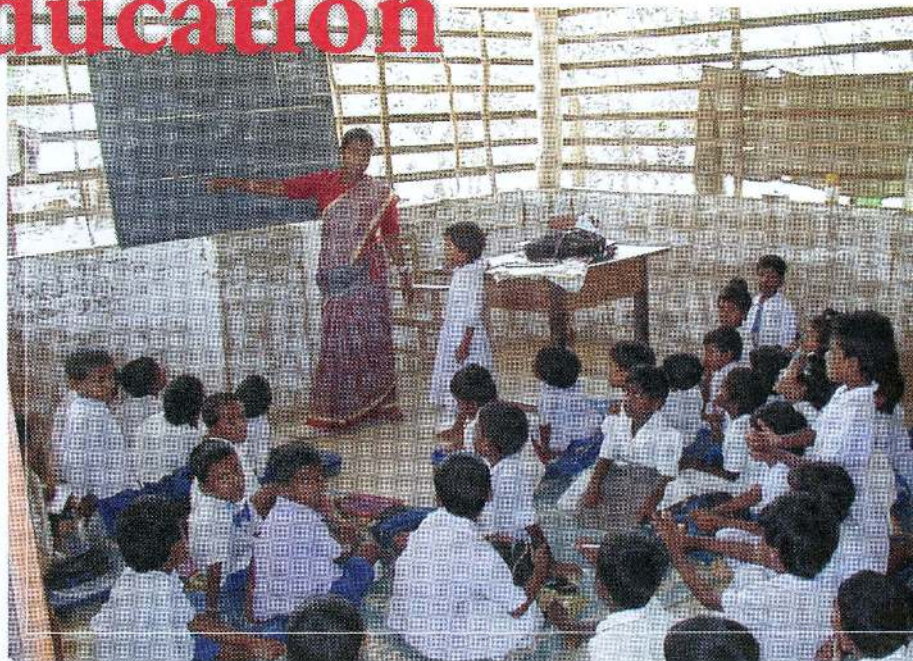
Displaced children have the right to receive a Quality Education

Protection of Displaced Children

The needs of children affected by conflict are unique. Involvement in armed conflict leaves lasting scars on children, which are difficult to undo during post-conflict transitions. It is therefore imperative that national authorities, international organisations and other actors break this cycle before it begins.

UNICEF is the primary UN agency mandated to protect children. Nonetheless, in accordance with its mandate, UNHCR is also playing a key role in protecting children.

On the issue of **underage recruitment**, UNHCR, in close cooperation with UNICEF, highlights complaints to the authorities, monitors developments in open cases and puts pressure on alleged offenders. At the end of May 2003, a coordinated database maintained by UNICEF with support from the other UN agencies included 1,370 reported cases of underage recruitment in Sri Lanka. 315 of these have resulted in releases, while 936 remain unresolved. In an



UNHCR / B. Barrett / 2003

effort to share information on the issue, UNHCR, UNICEF, and the National Human Rights Commission (HRC) are taking part in an **Underage Recruitment Working Group**, which meets regularly in all districts in the North and East and in Colombo.

UNHCR has also supported UNICEF's efforts to develop an **Action Plan for Children Affected by War**. The Plan received approval from the GoSL and the LTTE in June 2003. The Action Plan addresses the needs of vulnerable children, including children engaged in hazardous labour, street children and child soldiers.

Protection of Stateless Persons

A stateless person is "a person who is not considered as a national by any State under the operation of its law." In the case of Sri Lanka, this legal definition applies to some "**Up-Country Tamils**," who are descendants of tea-estate workers brought from Southern India by the British during the 19th century.

Few Up-Country Tamils were granted citizenship under the Ceylon Citizenship Act of 1948, passed after Independence. Since then, efforts have been made to establish citizenship for these persons, including agreements

with India for citizenship upon return to India and legislation granting citizenship to the majority of Up-Country Tamils remaining in Sri Lanka.

However, these efforts did not address the situation of some 80,000 Up-Country Tamils residing in Sri Lanka, who remained stateless. Since Sri Lanka is not a signatory to the **Convention relating to the Status of Stateless Persons (1954)**, nor to the **Convention on the Reduction of Statelessness (1961)**, those Up-Country Tamils continue to receive little protection under domestic law. Concerns have also been expressed in some quarters about the situation of Up-Country Tamils who were granted

Indian citizenship but were not repatriated to India and wish to make Sri Lanka their home.

UNHCR continues to advocate that the GoSL accede to the 1954 and 1961 Conventions, but very much welcomed recent newspaper reports that the GoSL intends granting citizenship to the affected Up-Country Tamils. If implemented, this proposal would effectively solve the problem of statelessness among the Up-Country Tamil population.

UNHCR is also pursuing durable solutions for these Up-Country Tamils, along the lines of its protection programmes geared towards IDPs.

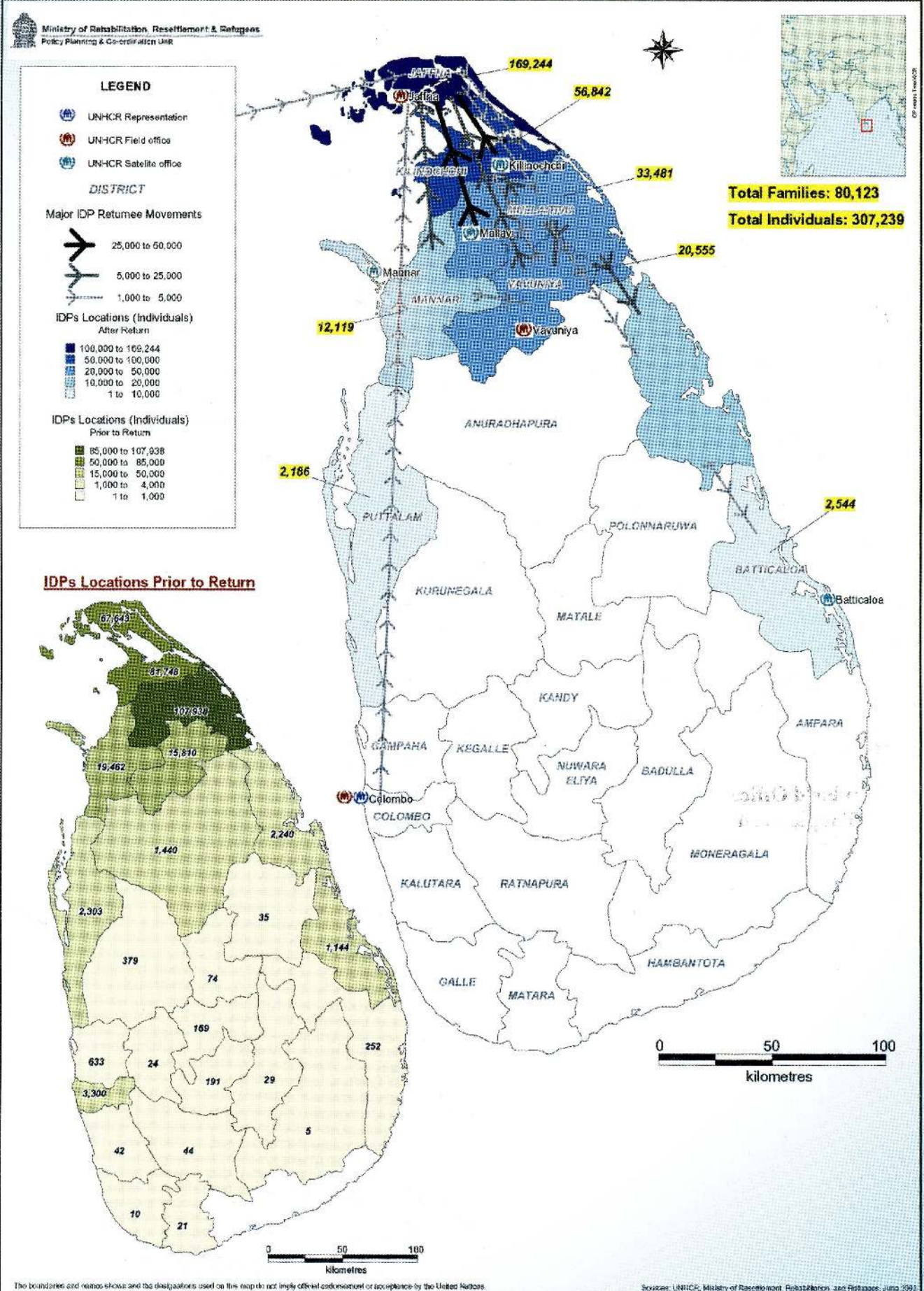
Humanitarian Relief to All Regions of Sri Lanka

Last but not least, in collaboration with national authorities and a variety of agencies, UNHCR works to protect and assist individuals who have been displaced by natural or human-made disasters. In May 2003, for instance, heavy monsoon rain in the South and Southwest of Sri Lanka led to the most serious flooding and landslides in over 50 years. Six districts were affected: Ratnapura, Galle, Kalutara, Matara, Nuwara Eliya, and Hambantota. Severe damage to roads, bridges and power and telecom infrastructure occurred in all the affected districts.

UNHCR and other UN Agencies provided medical supplies, relief items, drinking water, water purification tablets, food and assistance with reconstructing schools and other public buildings. Though the flood waters in all districts have now subsided, the clean-up operation will continue for many months. According to Government reports, the remaining priorities include: improved access to water and sanitation, health care, and rebuilding damaged infrastructure. In addition, hundreds of families remain displaced. UNHCR is supporting the national authorities as they seek durable solutions for these vulnerable individuals.



SRI LANKA IDP RETURNEE MOVEMENTS BY DISTRICT (within January 2002 - May 2003)



We thank you for your interest in UNHCR's protection activities. For more information please contact any one of our offices.

UNHCR Representation in Sri Lanka
97, Rosmead Place
Colombo 7
01-683-968
Lkaco@unhcr.ch

ZONE 1:

Jaffna Field Office
223, Temple Road
Nallur, Jaffna
021-2222-005
021-2223-663
Lkaja@unhcr.ch

Killinochchi Satellite Office
021-2225-722
lkaki@unhcr.ch
hcrkali@unhcr.ch

ZONE 2:

Vavuniya Field Office
210/25 Temple Road
Kurumankadu, Vavuniya
024-22550
Lkava@unhcr.ch

Mannar Satellite Office
Moor Street, Mannar
023-32380
lkama@unhcr.ch

Trincomalee Satellite Office
63, Post Office Road, Trincomalee
026-240-27 or 026-218-45
lkatr@unhcr.ch

Batticaloa Satellite Office
53B, Lady Manning Drive, Batticaloa
065-264-78
Lkaba@unhcr.ch

ZONE 3:

Field Office Colombo
(Covering Puttalam, Anuradhapura, Polonnawura and South)
97, Rosmead Place
Colombo 7
01-683-968 ext. 358
Genaille@unhcr.ch