

**PRACTITIONER'S KIT  
FOR**

**RETURN,  
RESETTLEMENT,  
REHABILITATION  
AND  
DEVELOPMENT**

**An Agenda for a  
*Call for Action***

**by  
*Consortium of Humanitarian Agencies  
&  
The Brookings – SAIS Project on Internal Displacement***

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## **FOREWORD**

The Consortium of Humanitarian Agencies is pleased to introduce the *Practitioner's Kit for Return, Resettlement, Rehabilitation and Development*. Although the initial intent was to design, develop and produce a kit to help practitioners, the document developed into an agenda for a “**call for action**”.

The methodology (annexure 1) consisted of a consultative process with key stakeholders, which took place at two levels. One was at the field level, handled by a consultant researcher, and included discussions with local officials, non-governmental organisations, and the Tamil Rehabilitation Organisation. The other was through high-level meetings with Officials from the Government of Sri Lanka, the UN High Commissioner for Refugees (UNHCR), the Human Rights Commission and non-governmental groups (annexure 2).

Through the consultations, it was found that return, resettlement and development involved complex issues and that the Sri Lankan experience had its own unique features due to the long and protracted nature of conflict and displacement in the country. Indeed, coming out of war, which was vicious and costly, those who suffered most were civilians with long and bitter experiences. Therefore recovery would require a holistic approach and one able to manage infinite needs with finite resources within a given period of time. In this instance, the vision is the end of displacement by 2006.

**Consortium of Humanitarian Agencies**  
**Colombo, Sri Lanka**  
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## ACKNOWLEDGMENTS

**The *Practitioner's Kit* has drawn from many of the following valuable documents:**

- 1 *The Guiding Principles on Internal Displacement*, presented in 1998 to the United Nations by the Representative of the Secretary-General on Internally Displaced Persons, Francis M Deng
- 2 *Modules on Internal Displacement*, developed by the Norwegian Refugee Council (NRC) and the Office of the UN High Commissioner for Human Rights (OHCHR), based on the Guiding Principles on Internal Displacement
- 3 *Handbook for Applying the Guiding Principles on Internal Displacement* (UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Brookings Institution Project on Internal Displacement, November 1999)
- 4 *A Toolkit for Dissemination, Advocacy and Analysis* by Consortium of Humanitarian Agencies
- 5 *Exodus within Borders* by David A. Korn - an Introduction to the Crisis of Internal Displacement (Brookings, 1999)
- 6 *The Forsaken People: Case Studies of the Internally Displaced*, by Roberta Cohen and Francis M. Deng (Brookings, 1998)
- 7 UNHCR newsletter and other publications related to Sri Lanka
- 8 *Forced Migration Review* - May 2003 issue on When Displacement Ends

We are particularly grateful to all those (as listed in Annexure 2), who gave us their time and insights, which ultimately provided the design and content of the Call for Action. The process of developing the document was undertaken by Ms. Jean Samuel (Consultant Coordinator) and Mr. Raj Kumar Nagarajah (Consultant Researcher) with guidance from the Executive Director of the CHA Mr. Jeevan Thiagarajah.

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## **PART 1**

### **BACKGROUND**

The twenty-year-old civil war in Sri Lanka cost approximately 70,000 lives, while more than 750,000 became internally displaced and another 700,000 fled the country. In February 2002 the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) signed a ceasefire agreement. However the prospect of effecting a speedy resettlement of those displaced became overshadowed by scepticism due to the many challenges in moving the peace process forward. Since the ceasefire, more than 300,000 internally displaced persons (IDPs) have returned home in the north and the east. In addition, some of the Sri Lankan refugees living in India have begun to return but much less interest has been shown by the Sri Lankan Tamil Diaspora to return to their country of origin. Of course, one must keep in mind that returning refugees often become IDPs since they are not able to return to their original homes immediately for a variety of reasons. If most of the 700,000 persons abroad do not want to return to the country, this will leave about 500,000 more to be resettled. Of these, 125,000 are non-Tamil IDPs displaced from LTTE-controlled areas and some 50,000 to 70,000 Tamils from the military-held High Security Zones (HSZ).

According to a national survey on internally displaced persons conducted jointly by the Ministry of Refugees, Rehabilitation and Reconstruction and UNHCR in April 2002:

- 1 63% of the surveyed IDPs responded that they would like to return home
- 2 3% indicated that they would like to move to a new place
- 3 25% indicated that they wanted to remain where they were, and 7% were undecided.

Given these findings, the Government of Sri Lanka in collaboration with other key stakeholders should assume the responsibility of looking after

the needs of the IDPs and helping them to find durable solutions. The LTTE must also be expected to assume certain responsibilities in this process.

The IDPs had little choice in opting to flee their homes. As a group they continue to have few opportunities to meet their basic needs. At the same time, the experiences of the displaced differ. Although they overall share a common experience, in that they have been uprooted and forced to flee, the specifics of their situations differ depending on their geographic location, ethnic background, their relationship to the local population, and other factors.

Six broad categories of displaced persons have been identified:

- 1 Those displaced and living in welfare centres
- 2 Those displaced and living outside welfare centres
- 3 Refugees who have returned from Tamil Nadu, India and are living in transit camps
- 4 Those who have been resettled/relocated
- 5 Refugees being repatriated by Western governments, and
- 6 Refugees outside the country.

To deal with this situation, **a call for action** is needed to encourage the fulfilment of national responsibility and ensure that individual and collective actions are taken to protect the rights of the internally displaced. The *Guiding Principles on Internal Displacement*, acknowledged by the United Nations, should be utilized as the framework for these activities. The *Principles* call upon Governments, non-state actors, civil society and the international community to assist and protect the displaced and provide a common basis for action. This underlying commitment reinforces the potential of **“the call”** to contribute towards peace and development.

Indeed, this **“call for action”** transforms *the Guiding Principles* into a set of recommended activities adapted to the specific context of Sri Lanka. The **“call”** is made on behalf of the internally displaced and for those affected by conflicts, past and present.

Essentially assistance to IDPs should encompass prevention, protection, and political, economic and social solutions. The provision of

humanitarian assistance should go hand in hand with efforts to advocate for and protect the physical safety and the human rights of the affected populations. It should be accompanied by political initiatives to resolve conflicts and by plans for reintegration and development. The remedies designed should not only be a response to emergency needs but should seek to prevent the conditions that caused the problem.

### **Why a *Practitioner's Kit*?**

The *Practitioner's Kit* has been developed to assist: 1) IDPs who have decided to return or resettle, and 2) caregivers and other stakeholders seeking to help promote the smooth and peaceful return and resettlement of IDPs. It is a practical guide to all those involved in this process. It is based on the *Guiding Principles on Internal Displacement*, in particular Principles 28-30 **Relating To Return, Resettlement and Reintegration**. Reference however is also made to other Principles where applicable. It also draws from the *Toolkit for Dissemination, Advocacy and Analysis* published by the Consortium of Humanitarian Agencies, from materials of the Office of the High Commissioner for Human Rights (OHCHR) and UNHCR, and from the Norwegian Refugee Council Training Manual. Much effort was made to getting a field perspective thereby making this a practical guide to help the process. An extensive consultative process including a joint meeting with all stakeholders was held to reach a consensus before this *Practitioner's Kit* was written.

## DEFINITION OF INTERNALLY DISPLACED PERSONS

### Key Concepts

... Persons or groups of persons who have been forced or obliged to flee or leave their home 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 humanitarian disasters, and who have not crossed an internationally recognized State border

***Definition contained in the Guiding Principles on Internal Displacement (1998)***

## **GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT** **Return, Resettlement & Reintegration (*Principles 28-30*)**

### ***Key Concepts/Themes***

- Defining return, resettlement and reintegration
- Theme
  - Voluntary return in conditions of safety and dignity
  - Participation and management of return by IDPs
  - Non-discrimination
  - Recovery of property or compensation
  - Access by humanitarian organizations

**Return** is used to define the process of going back to one's original place of residence.

**Resettlement** (*different from refugee resettlement*) is used to define the process of starting a new life in another part of the country.

**Reintegration** is used to describe the re-entry of formerly internally displaced people into the social, economic, cultural and political fabric of their original community or a new community.

### **Theme I: Voluntary Return in Conditions of Safety and Dignity**

#### ***Principle 28 (1)***

Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons.

**Voluntary-** The decision to return should be a voluntary one. This requirement is more than a matter of principle; a return which is voluntary is more likely to be lasting and sustainable. This involves freedom of choice and an informed decision.

**Safety-** Return in safety is one that takes place under conditions of

- 1 Legal safety
- 2 Physical security
- 3 Material security

**Dignity-** This is less self-evident than safety. It is about being treated with respect and acceptance and full restoration of rights.

## **Theme II: Joint Participation in Planning and Management of Return**

### ***Principle 28 (2)***

Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

The elements of “voluntariness” and “dignity” imply the participation of the internally displaced in the planning and management of their return or resettlement and reintegration. Involving the displaced will make their return or resettlement more successful as well as more sustainable.

## **Theme III: Non-Discrimination and Equality of Participation and Access**

### ***Principle 29 (1)***

Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

IDPs are exposed and vulnerable to discriminatory treatment. The concepts of equality before the law, equal protection of the law and non-discrimination form a cornerstone of international human rights law.

Areas where non-discrimination is most important::

- 1 “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law” (art.26 of the ICCPR)
- 2 Access to public services such as education, health services
- 3 Access to public affairs and employment
- 4 Freedom of access and non discrimination with regard to vulnerable groups such as women within internally displaced communities
- 5 Returning IDPs not being considered or treated as “enemies”

## Theme IV: Recovery of Property or Compensation

### *Principle 29 (2)*

Competent authorities have the duty and responsibility to assist returned and /or resettled internally displaced persons to recover, to the extent possible, their property and possessions, which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

The issue of property in the *Guiding Principles* is multidimensional in that it is focused not only on the protection of property occupied before displacement but also property acquired during displacement.

- 1 The return of personal property is of crucial importance for a dignified return
- 2 In the process of return, IDPs should be assisted to the extent possible to transport to areas of origin assets required for their livelihood
- 3 Access to land, especially agricultural land, is crucial for sustainability both in the short term, and the medium and long term; otherwise returning internally displaced persons become dependent on assistance
- 4 Property disputes often become the source of continuing conflict so that local conflict resolution techniques can be important

## Theme V: Access by Humanitarian Organizations

### *Principle 30*

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

- 1 It is important to ensure that IDPs have access to assistance (*Principle 3- the right to receive and request assistance*) and that there is free passage and access for humanitarian assistance (*Principle 25(3) protects the delivery of assistance*).

## **A Community-Based Perspective for Programme Response**

Internally displaced persons are not passive “recipients” of assistance and protection, but can and should be key actors in identifying and addressing their own needs. Accordingly, programmes responding to situations of displacement must be designed in a way that draws as well as builds upon the capacities of internally displaced communities. The importance of doing so will be shown to be a cross-cutting theme throughout the *Guiding Principles* and all of the phases and aspects of internal displacement that they cover.

Programme design should include these key elements:

### **Key Concepts/Themes**

- ❑ IDPs are not passive but key actors in identifying and addressing their own needs
- ❑ “Recipients” as resources
- ❑ Responses to internal displacement need to take into account the perspectives of the displaced and draw as well as build upon their capacities
- ❑ Themes
  - Preserving family and community links
  - Supporting strategies of self-help
  - Empowering IDPs in the protection of their rights
  - Involving IDPs in decision making
  - Promoting self-reliance

## **Theme I: Preserving Family and Community Links**

### **Family Links:**

#### ***Principle 17***

1. Every human being has the right to respect of his or her family life.
2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.
3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by the family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.
4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Efforts to unify families create support structures for unaccompanied or separated children and enable displaced persons to remain with or rejoin members of their village should receive high priority.

#### ***Principle 16(1) and (2)***

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.
2. The authorities concerned shall endeavor to establish the Fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.

## **Community Links:**

Community structures represent the most fundamental source of protection for internally displaced persons. The weakening or severing of community links increases the vulnerability of the internally displaced. Activities that promote the maintenance or restoration of community links, including with local communities in areas of refuge and return or resettlement, are therefore an important means of enhancing the security of IDPs.

Factors to be considered are the preservation of community identity among groups of internally displaced persons and the participation of internally displaced persons in community affairs. Respect for the linguistic heritage, religion or beliefs and cultural identity of internally displaced populations is also important.

## ***Principle 22***

Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:

- (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
- (b) The right to seek freely opportunities for employment and to participate in economic activities;
- (c) The right to associate freely and participate equally in community affairs;
- (d) The right to vote and participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right;
- (e) The right to communicate in a language they understand.

### ***Principle 23(2)***

- a. Every human being has the right to education
- b. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.

### **Theme II: Supporting Strategies of Self-Help**

It is important to enable internally displaced persons to retain or recreate their previous family and community links. This new sense of community is manifest in efforts by internally displaced populations to organise themselves to collectively undertake efforts to address their needs. Conflict resolution and reconciliation initiatives undertaken within displaced populations as well as with local communities in areas of return or resettlement can contribute to the security of the internally displaced and facilitate their reintegration into these communities.

### **Theme III: Empowering the Displaced in the Protection of their Rights**

### ***Principle 3(2)***

Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these [national] authorities. They shall not be persecuted or punished for making such a request.

### ***Principle & 22(1) (C)***

1. Internally displaced persons, whether or not they are living in camps shall not be discriminated against as a result of their displacement in the enjoyment of the following rights

(c) The right to associate freely and participate equally in community affairs

Internally displaced persons can formally organise themselves into groups for the purpose of collectively advocating for the protection of their rights. Authorities should be expected to ensure that organisations of the internally displaced can operate in an environment conducive to advocacy efforts.

### **Theme IV: Involving the Displaced in Decision-making**

Internally displaced persons should be involved in the decisions that affect their lives. Taking into account their views in the design of programmes for responding to their needs can help to ensure the appropriateness and effectiveness of such programmes.

### ***Principle 7(3)(c)& (d)***

If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:

- (c) The free and informed consent of those to be displaced shall be sought;
- (d) The authorities concerned shall endeavor to involve those affected, particularly women, in the planning and management of their relocation;

### ***Principle 28(2)***

Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 28(2) as mentioned previously calls for full IDP participation in the planning and management of return or resettlement and reintegration. In considering the views of the displaced, it is essential to solicit the views of all segments of the population. Too often, the importance of consulting

women is overlooked and their capacities ignored, notwithstanding the fact that women and children typically constitute the overwhelming majority of internally displaced populations.

### ***Principle 7 (3) (d)***

If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantee shall be complied with:

- (d) The authorities concerned shall endeavor to involve those affected *particularly women*, in the planning and management of their education;

### ***Principle 18(3)***

Special efforts should be made to ensure the full participation of women in the planning and distribution of ...basic supplies.

## **Theme V: Promoting Self-reliance**

Especially with a view to the long term, designing programmes in a way that draws and builds upon the resources and capacities of the displaced is essential. So long as the displaced lack the means to be self-reliant, they will remain dependent upon relief assistance, and long after the emergency phase.

### ***Principle 22 (b)***

Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following right:

(b) The right to seek freely opportunities for employment and to participate in economic activities;

In protracted situations of displacement, the loss of skills becomes a serious risk. Where the opportunities for income generation are different than the activities in which the internally displaced engaged in their areas of origin, the development of new skills may be required.

### ***Principle 23(4)***

Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

The above Principle places special emphasis on the right of women to have access to education and training facilities.

Assistance and development programmes for internally displaced populations also can and should to the extent possible employ the internally displaced in programmes undertaken on their behalf.

### **WHEN DOES DISPLACEMENT END?**

This has become a much-debated issue. Displacement ends when a durable solution is reached. But determining when displacement ends is complex and can be approached through 3 identified criteria.

#### **1. Cause-based criteria**

**The causes of internal displacement no longer exist**

In Sri Lanka even though there is a ceasefire in place, the peace process is not finalised and in effect is in a state of transition between war and a final peace. Hence durable solutions for IDPs do not necessarily follow. Although circumstances have changed, some institutions do not recommend return until there is a more stable situation. A ceasefire does not necessarily mean the environment is conducive to return. IDPs who are returning are doing so on their own initiative with some assistance from support systems and mechanisms. So in effect return is not “official”. One has to find a final solution to the original cause of the displacement

for return to be fully justified.

## **2. Solutions-based criteria**

**Return is seen as the best option**

However the following has to be kept in mind:

- 1 Lack of safety in places of return
- 2 Inadequate reintegration assistance
- 3 Lack of property compensation
- 4 Access to services
- 5 Self-sufficiency
- 6 Return has to be voluntary

Moreover even if IDPs return one must be cautious not to simplify the mere act of return or resettlement as a basis on which to deem an end to displacement. It also should be noted that IDPs have the right to remain in the area in which they have integrated or to move to another part of the country.

## **3. Needs-based criteria**

**When needs and vulnerabilities specific to IDPs no longer exist**

These criteria would apply to IDPs who are able to access protection and assistance from the Government of Sri Lanka, in some instances with the cooperation of the international community.

## **An Integrated Approach**

The above 3 criteria are not mutually exclusive but rather include overlapping elements. Hence an integrated approach is recommended to ensure that IDPs have options - to return, to resettle or to reintegrate

locally. The specific needs and vulnerabilities created by displacement should be addressed so that solutions are effective and durable. It must be recognised however that cause-based criteria will often be a key factor in determining the end of displacement.

**An optimistic target is to end displacement by 2006.**

## **PART 2**

### **SRI LANKA SPECIFIC ISSUES RELATED TO RETURN, RESETTLEMENT, REHABILITATION AND DEVELOPMENT**

#### **A CALL FOR ACTION**

##### **PREVENTION**

The most effective way to address internal displacement is to avoid conditions that might compel people to leave their homes against their will. Protection against arbitrary displacement is a fundamental human right. On all accounts displacement should be prevented and all means and methods used to deter displacement. It is tragic that in the 20 years of war in Sri Lanka no one agency or body was capable of preventing displacement. There are lessons to be learned. Even now early warning mechanisms should be in place. Information gathering on existing and developing situations remains important. In Sri Lanka it has political overtones because it has to do with the demographic distribution of people. Indeed, there has been some evidence of sponsored settlements. The proposed Interim Administration and arrangements will come with their own complexities, which will have definite implications for returnees' safety and protection and for the prevention of further displacement. Once the unit of administration and accompanying powers are defined, there will be the particular challenge of coordinating and integrating central and regional approaches to the protection of IDPs and refugees.

If displacement is unavoidable it should be temporary. It should last no longer than required. This means that solutions to displacement should be explored and implemented as soon as possible. Crises of displacement inevitably stem from the failure of protection.

Conflict prevention requires attention to causes, particularly inequity and competition for scarce resources.

### **Call for Action**

- 1 *Establish early warning systems that alert communities, authorities and organisations to the risk of displacement*
- 2 *Hold discussions with local populations to identify possible alternatives to displacement. They are more informed about options than national authorities. People should feel they have taken part in the decision-making*
- 3 *Look for alternatives to displacement, through analysis, studies and discussions with community leaders and other authorities*
- 4 *Identify groups with special needs among populations at risk*
- 5 *If communities are at risk of displacement, advocate with authorities, donors and international organizations on their behalf.*
- 6 *Open channels of communication between displaced communities and national and local authorities who may be able to prevent displacement*
- 7 *Establish presence in communities threatened with displacement to reduce the risk of displacement*
- 8 *Acknowledge that the only sound and lasting basis for prevention is good governance. A system of governance that is responsive to the needs of its population for justice and general well-being offers the best way to safeguard against crises of displacement*
- 9 *Strengthen the legal basis for preventing displacement through the articulation of the legal right not to be arbitrarily displaced. This provision makes explicit what is already implicit in international law; it can offer protection and provide the basis for actions to prevent displacement*
- 10 *Ensure that minorities, peasants, and other groups with a special dependency and attachment to their lands are protected against displacement*
- 11 *Undertake mediation and reconciliation efforts to prevent repeated displacement.*

## PROTECTION

Protection is about securing basic human rights. These include civil, political, economic, social and cultural rights. The responsibility to protect lies primarily with States and their Governments. Though the *Guiding Principles on Internal Displacement* are not a binding instrument like a treaty, they are nonetheless based on existing humanitarian and human rights law which is binding and constitute the first authoritative statement of the protection of IDPs. The principles, it should be noted, also apply to non-state actors.

During return and settlement there are a host of protection issues to be considered -- that of personal safety, and of returning with honour, dignity and self-respect. Not much emphasis has been given to this point: along with safety comes dignity and honour. Returnees want to be treated as citizens of their country and enjoy the same rights and privileges that other fellow citizens do.

Most returnees have come back voluntarily. However, it is not certain if they had informed choices. They should be consulted in the planning and management of returns and be informed about conditions in areas of return.

Antipersonnel landmines and UXOs are a particular threat to internally displaced persons. Efforts are being made to eliminate these devices. Surveys have been conducted and mined areas are being demarcated. However, once again the failure to mark areas has come up on more than one occasion. Markings were reported lacking in remote and internal areas especially off the A9 road. Disputes about de-mining certificates before resettlement also have come up as an issue. Funding seems to be available for a limited period although the magnitude of the problem is enormous and its implications even greater. Access to schools, cultivation, etc. has implications for day-to-day life. In order to speed up the process the Government and international organisations are looking to increase the number of de-miners with enhanced capacity for mechanised clearance and to this end are seeking additional funding.

The protection needs of women and children, who constitute the majority of internally displaced persons, require special attention. So

too do the protection needs of disabled and elderly persons.

Protection of the rights of members of ethnic, religious or linguistic groups of people must also be given emphasis during returns as part of an overall commitment to non-discrimination.

### **Call for Action**

- 1 *Inform IDPs of their rights. The dissemination of such information can be done through a variety of methods*
- 2 *Train military personnel, including national and peacekeeping forces, in the principles of protection*
- 3 *Establish a monitoring system to report and document human rights violations*
- 4 *Conduct programmes to increase awareness of landmines at all levels*
- 5 *Undertake efforts to find and increase funding for the removal of landmines and UXOs*
- 6 *Intercede with the Government to encourage its signing of the Ottawa treaty as this is linked with future funding for de-mining*
- 7 *Encourage the LTTE to become party to a separate agreement with the Government regarding the laying of mines. This can be adapted in the Final Peace Agreement*
- 8 *Implement programmes to monitor human rights conditions in areas of return or resettlement, with international presence invited in if required*
- 9 *Monitor the treatment of threatened minority groups and intervene with national authorities to request protective action*
- 10 *Design programmes to integrate protection with assistance and development*
- 11 *Train relevant people in measures to ensure better protection*
- 12 *Integrate considerations of gender-specific violence in training and monitoring activities*

## LAND

This has come up at each consultation. Land ownership, possession of land, the High Security Zones, and compensation are the major problems. Although many displaced persons have expressed their willingness to return to their original habitation, in many cases the land issue has prevented them from doing so. The High Security Zones, for example, in the Jaffna peninsula have prevented return in some areas. Approximately 60 to 70,000 people who lived here before are unable to return. Some of the original inhabitants of these zones moved to other parts of Jaffna and occupied houses that were abandoned by other internally displaced persons. This has led to additional difficulties since the original owners of these houses cannot return either. As a result, hostile treatment and unpleasant incidences have taken place with legality put into question. There is also the issue of compensation if houses are completely destroyed, or if land has been acquired by the Government. Another issue is what to do with landless displaced persons. Where do they go?

### Call for Action

- 1 Address land, housing and property issues directly in the Final Peace Agreement*
- 2 Establish a special Commission on Land, Housing and Property Rights to serve as a problem-solving institution to resolve legal and other disputes concerning land, housing or property. Unsolvable disputes should be referred to a decision-making tribunal*
- 3 Formulate a set of legislative and policy reforms*
- 4 Assure the protection of internally displaced persons' property rights. In particular, assistance should be provided to help internally displaced persons understand the law and relevant documents in order to enable them to determine their claims to land and property on return. Programmes also should be designed to ensure that internally displaced persons gain access to legal assistance if*

*needed to reclaim property.*

## **DOCUMENTATION**

It is not uncommon to lose or leave behind important documents while fleeing. Personal identification, registration of births, marriages and deaths, deeds for land ownership etc. are some of the documents that have been lost. Clarity on how these can be acquired and expedited should be looked into as well as who is responsible for providing them. At village level the Grama Sevaka seems to be responsible but his/her role is now somewhat undermined by the establishment of the Village Rehabilitation Committees.

Returnees from Tamil Nadu face even greater hardships as they have to produce several documents in order to register the births of their children who were born in India. Children must show proof of birth in order to enjoy the facilities of schools etc. The national identity card is essential for all transactions with Government departments.

### **Call for Action**

- 1 *Clarify which government office or offices are responsible*
- 2 *Support programmes to replace lost documentation, such as birth certificates or property titles*
- 3 *Streamline documentation process for returnees from India*
- 4 *Arrange mobile registration units to areas of return to expedite the documentation process.*

## **POLICY CONSIDERATIONS IN ADDRESSING ROOT CAUSES**

Although a ceasefire is in operation and plans are on their way to a peace agreement the root causes of conflict and displacement need to be addressed and settled. In this connection, there are general and specific issues requiring attention, such as peace agreements, democratic elections, reforms to the legal system, minority rights, language issues, amnesties, socio-economic conditions, respect for human rights, property restitution, job opportunities, and access to basic living standards. There is a need to recognize the failures of

the past and the challenges of the future in providing protection and the eradication of want and fear in the context of solutions.

Reintegration of displaced populations should be recognized as a gradual process running in tandem with national reconciliation, the constituent elements of which include economic, social and developmental advances within the overall context of human security.

### **Call for Action**

- 1 *Ensure non-discrimination in post-conflict political and economic solutions*
- 2 *Hold free and fair elections*
- 3 *Support an independent judiciary, including expedited training programmes for judges, law enforcement officers and other officers in human rights protection*
- 4 *Guarantee an independent media*
- 5 *Pay special attention to the rights of persons belonging to minority groups, in accordance with the United Nations Declaration on the Rights of Persons belonging to National, Ethnic, Religious or Linguistic Minorities, the first international instrument on this question, and the Guiding Principles on Internal Displacement, which prohibit displacement based on “practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population” and which oblige States to protect against the displacement of minorities.*
- 6 *Promote respect for human rights by military and police*
- 7 *Strengthen civil society at the grassroots to offer a counterbalance against the kind of social unrest that produces displacement*
- 8 *Promote a participatory approach on the part of Government to engage and strengthen civil society. It should be expected to demonstrate accountability and transparency in managing and distributing resources and to provide legal and political frameworks for dispute resolution and conflict management. In particular, national reconciliation should be promoted as displaced populations are reintegrated.*

## **ENVIRONMENT**

War has had a strong impact on the environment including on water, vegetation, forest cover and land. In some instances water flows leading to irrigation systems have changed due to forward defence lines, bunkers etc. The role of the environment in supporting communities and livelihoods therefore needs attention. Uncultivated land would take many seasons of cultivation to have optimum productivity.

### **Call for Action**

- 1 Conduct environmental impact studies, including of return or resettlement areas*
- 2 Explore ways to restore areas and to minimise environmental damage from the return process.*

## **HUMANITARIAN ASSISTANCE**

It has been observed that some IDPs have decided not to return to their home areas for various reasons. They have settled in their new environment and their children have enrolled in local schools where they feel safe. Most of these people depend on remittances from abroad. The social values of many seem to have changed as a result of displacement. There are also other disparities. People from different districts see return in a different light as do people coming from agricultural and fishing communities. Solutions thus have to be designed that keep these different perspectives in mind.

When displaced persons return or resettle, they need access to humanitarian assistance. National authorities have the primary duty and responsibility for providing such assistance. At the same time, the LTTE bears responsibility with regard to civilian populations under its control. Both authorities should carry out assistance in accordance with principles of humanity and in a manner that demonstrates impartiality and non-discrimination. If they are unwilling to provide aid they should make room for other organizations that are capable and willing to undertake such programmes to do so. (For further discussion, see section on

Coordination below.)

## **Call for Action**

- 1 Acknowledge that some displaced persons will return home while others will resettle in new areas*
- 2 Independently assess conditions of return by visiting areas of potential return or resettlement*
- 3 Prepare for well organised transport with active participation of the displaced community, so they can travel with dignity to their homes or places of resettlement*
- 4 Design programmes to ensure assistance and protection for displaced persons during transit*
- 5 Ensure that humanitarian assistance is provided to displaced populations and host communities without discrimination upon their return or resettlement*
- 6 Advocate and establish codes of conduct for humanitarian operations with donors, governments, international organisations and other actors*
- 7 Convene regular consultative meetings with donors to ensure consistency and uniformity in humanitarian assistance policies and an avoidance of political agendas*

## **WOMEN AND CHILDREN**

Women and children have suffered most in the conflict. Although they have been promised special provisions, this has not always been carried out. Widows and female headed households are blatantly marginalised in the current cultural context, and unless special provision is made they will continue to suffer further. Because of the lack of social and economic opportunities for women, as well as sexual and gender-based violence, women face a unique set of challenges in the context of displacement and return.

Women should be a part of the decision-making process. The protection needs of women and their children require special attention.

Rehabilitation of underage combatants has begun although the

spectre of recruitment has not entirely diminished. This provides acute challenges for protecting children. In addition, children suffer from lack of facilities for schooling and education, health problems, malnutrition, and sexual and commercial exploitation, thereby depriving them of their childhood and their rights as children. Indeed, many children have not been to school at all or have dropped out due to their inability to buy books, uniforms and other school supplies. Some children have dropped out of school to be employed to help support their families. Transport and the security situation have also been contributory factors. Getting children back to school should be made a priority.

### **Call for Action**

- 1 *Design programmes for women headed households in areas of return or resettlement to promote their integration into communities*
- 2 *Involve women in Village Rehabilitation Committees so that they become part of the decision-making process and have the opportunity to make decisions on their own development*
- 3 *Monitor and document cases of sexual and gender-based violence (SGBV)*
- 4 *Disseminate information on women's rights and set up structures to deal with victims of SGBV*
- 5 *Design programmes that enable families to stay together*
- 6 *Support training programmes that provide the displaced with information about the location and circumstances of family members*
- 7 *Help families locate children separated during displacement*
- 8 *Provide psychosocial support and counselling when necessary to women and children through trained social workers and other caregivers*
- 9 *Avoid placing children in institutions if possible. Fostering children through extended families should be promoted when children have lost both parents*
- 10 *Monitor the rehabilitation of ex-child combatants. UNICEF and the Tamil Relief Organization (TRO) should be accountable as they have been mandated to move the process forward*
- 11 *Report any underage recruitment to the authorities and monitor such developments in order to put pressure on the offenders*
- 12 *Make education a priority for children. Getting children back to school should be prioritised. Every effort to bring them back to*

*school should be expedited by catch up classes, provision of school supplies, repairs to schools etc.*

*13 Promote wide support for the Action Plan for Children agreed by the Government and LTTE in June 2003. The plan addresses the needs of vulnerable children, including children engaged in hazardous work, street children and child soldiers.*

## **COORDINATION**

There was unanimity among stakeholders that the coordination of efforts on behalf of the displaced should be at District level. This was seen as useful since each district had its own special needs. Efforts by all stakeholders will need to be integrated and coordinated to be effective and efficient. The same is true for accountability. Efforts of those who wish to assist must be accountable to those assisted. Assistance has to be planned so that the impact will not harm any community. Reintegration into the host community has to be addressed in a planned manner.

Once the displaced have returned, the Government 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 Government of Sri Lanka guidelines, which came into operation in February 2003, eligible families are those that have returned to be 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/-. But under this scheme many don't qualify. Assistance to the displaced does not follow a uniform pattern, which has caused considerable problems for many among them. The timing of displacement seems to be an issue and this has to be standardised as all displaced suffer the same consequences and none of them should be marginalised.

As return is a complex process great care has to be taken in the planning of it. Several issues have been mentioned above on this score. Village rehabilitation plans should be in place before

returnees arrive so that their return is not as traumatic as their displacement. Ultimately solutions have to be durable if they are to be effective.

The media can play a greater role in the return of IDPs. Often negative pictures are painted to make return difficult. Healthy discussions with the media by the Government and other stakeholders would be useful. Promoting the rights of IDPs is crucial. They are citizens of Sri Lanka and have to enjoy all the rights of fellow citizens. The media can play a constructive role.

### **Call for Action**

- 1 *Introduce mediation and reconciliation efforts between returning displaced persons and local residents*
- 2 *Identify and help eliminate potential conflicts between communities by convening consultations between internally displaced persons and populations residing in areas of return or resettlement*
- 3 *Establish a coordinating body at district level. Representation on this body should be from government, the non-governmental sector, the military, the Village Rehabilitation Committees, IDPs, and other relevant actors. The process is then owned by all concerned and chances for accountability made greater*
- 4 *Make assistance to the displaced uniform whether in the form of UAS or compensation and whether or not persons have been displaced in the distant past or more recently. IDPs should be kept informed of the criteria and their eligibility*
- 5 *Promote regular discussions of the Government and other authorities with the media in order to give the public the correct picture on return and resettlement.*

### **ECONOMY & DEVELOPMENT**

Much more work needs to be done to incorporate relief into development so that sustainability can be achieved. Many questions need to be asked when there is a transition from a war economy to a peace economy. How should structural poverty and poverty resulting from war be handled? Are they distinct or inter-related? The disparity between north and south is another issue. Is development a condition for peace or peace a condition for

development? Can there be an integrated approach? Income generating efforts need to be looked into and linked to long-term development projects.

Displaced populations need to maintain old skills and develop new ones if they are to become self-sustaining in their areas of displacement or upon return to their former homes.

The post-conflict business is a thriving one. Competition among international agencies working in the area of post-conflict sets up its own dynamic. The tendency to marginalise local knowledge and the failure to come to grips with the political dimensions of conflicts are often the by-products of such competition. This comes to the issue of being accountable to the people of Sri Lanka in delivering humanitarian assistance. Conflicts around the world are different and there is no one blue print for handling post-conflict situations. Being sensitive to the local situation is of utmost importance. There is a myth that international agencies are accountable only to their funders rather than to the people of the country where they work. Local capacity building and institution building is key both at the policy and grass roots level.

### **Call for Action**

- 1 Plan for long-term reintegration activities recognising that the social disruption of return or resettlement may be present for years*
- 2 Activate monies for skills development in order to re-train or teach new skills to the displaced so that they may find means of employment and self-reliance*
- 3 Plan for programmes that bolster the socio-economic fabric of communities in conflict areas in order to reduce pressure on their members to flee, thereby preventing further displacement and easing the way to stronger recovery*
- 4 Empower the displaced to make decisions about themselves and eventually become self-reliant*
- 5 Institute monitoring by local communities of the monies allocated for the reconstruction and rehabilitation of war-torn areas.*

## FEEDBACK AND MONITORING

No mechanisms are in place to get feedback from returnees. There is also no mechanism for monitoring and evaluating the process and who is accountable. Although participatory monitoring is an idea, there needs to be a will to implement it. At present there are no fixed indicators to measure “full integration”. Human rights monitoring also has to be put on the agenda with mechanisms in place to deal with violations.

### Call for Action

- 1 As recommended above, make a district coordinating body accountable for return, resettlement and rehabilitation. As the body is inclusive, a participatory monitoring process should be put in place*
- 2 Acknowledge that the District based consortia can play an important role in bringing the different stakeholders together to review progress and regular intervals*
- 3 Put mechanisms in place to monitor human rights conditions in areas of return or resettlement*
- 4 Ultimately turn over to displaced people the monitoring of the progress of their return.*

## **PART 3**

### **CONCLUSION**

Taking on the enormous issues of mass displacement and dealing with solutions for the internally displaced is a complex task. The starting point is recognising the fact that providing humanitarian assistance alone cannot be expected to stabilise dangerous situations. When displacement is engendered by conflict, it is only through the restoration of peace accompanied by development programmes that safe and viable return or resettlement can be made possible and effective. To be effective, solutions to conflicts must promote respect for human rights and democratic participation and go hand-in-hand with programmes to guarantee economic opportunity for the displaced and other affected populations.

In Sri Lanka the Government has not forced return although assistance has induced return. Return firstly should be voluntary. The provision of protection upon return also requires special attention. Return can be as traumatic as displacement when returnees find their homes, land and their personal property taken by others and no judicial system in place to resolve such disputes. Even after peace comes unsettled scores in villages and towns can target returnees. In these instances it is important to foster reconciliation among different ethnic, religious, and racial communities and promote peaceful and equitable resolutions of land and property disputes.

The other serious issue to be addressed as quickly as possible is that of land mines as it has implications for return, cultivation, economic development, education and a host of other social and economic issues.

It is important to integrate relief with development. Provision of emergency assistance and the planning of development programmes should take place simultaneously. Relief programmes should be designed to lay the foundation for development. Loss of skills among the displaced should be rectified by re-training or by teaching new skills.

It is important for those who provide aid and those concerned with political negotiations to coordinate closely to make certain that aid

interventions support the negotiating process. Aid programmes also need to address the developmental problems that had beset the society before conflict.

What is important to remember is that conflicts leave deep cleavages that cannot be healed simply by providing emergency relief and then development assistance. These efforts must be integrated and there must also be mechanisms for prevention, protection, reintegration and political reconciliation. Another challenge in Sri Lanka is to find ways to deal with the problems of coordination in trying to promote effective solutions for the displaced. Bureaucracy, turf protection, agency rivalries and lack of funding have often obstructed the collaborative system's performance. Dedication and commitment by all stakeholders are required to make the strategy work. Only then will real peace, development and justice have a chance.

## ANNEXURE 1

### METHODOLOGY

#### ***PRACTITIONER'S KIT FOR RETURN, RESETTLEMENT, REHABILITATION & DEVELOPMENT***

This will be a practical guide to all stakeholders involved in the return, resettlement, reintegration, recovery, rehabilitation and development of IDPs. This will help translate the *Guiding Principles, Toolkit* and other material into a user-friendly kit to address the needs of IDPs. This will be designed and developed in the Sinhala, Tamil and English languages. It will be disseminated and promoted through workshops, the media etc. The *Practitioner's Kit* will be promoted as a base document. Feedback and evaluation will be a key aspect.

1. Consultations with stakeholders
2. Review of existing materials - *Guiding Principles, Handbook, Manual on Field Practice, Toolkit* etc.
3. Development of content
  - Principles of return & reintegration
  - Minority protection
  - Property restitution
  - Compensation issues
  - Minimum standards of assistance
  - Determining end of IDP status
  - Principles of participatory development & community mobilisation & action
4. Convene design group
5. Consultation with the Brookings-SAIS Project on Internal Displacement
6. Review by readers

## ANNEXURE 2

### Consultations with Stakeholders:

Individual and Joint Consultative meetings:

1. A. Jayaratnam (Mr) - Ministry of Refugees, Rehabilitation & Reconstruction
2. A. Visvalingham (Mr) - Government Agent - Mullaitivu
3. Aurvasi Patel (Ms) - Senior Protection officer - UNHCR
4. Bradman Weerakoon (Mr) - Secretary to the Prime Minister
5. Emelda Sukumar (Ms)- Government Agent - Mannar
6. K. Ganesh (Mr) - Government Agent - Vavuniya
7. Lawrence Christy (Mr) - Tamil Relief Organisation (TRO), Kilinochchi
8. **Official of the Ministry of Eastern Development**
9. P. Narasingham (Mr) - President, NGO Consortium, Vavuniya
10. R. Tharmakulasingham (Mr) - Ministry Assisting Vanni Rehabilitation
11. S. Sivathasan (Mr), Secretary, Ministry of Rehabilitation, Northeast Provincial Council
12. S. Ravindran (Mr) - Human Rights Commission
13. Selvin Irennius (Mr) - Director- SIHRN (Sub Committee for Immediate Humanitarian Relief for the North), Kilinochchi
14. V.Thiyagarajah (Mr) -President NGO council - Jaffna
15. Zelha Senior (Ms) - Protection Adviser- Danish Refugee Council
16. Field visits and consultation meetings with IDPS, recently resettled, relocated in the following areas:
  - Mannar
  - Puttalam
  - Jaffna
  - Kilinochchi
  - Batticaloa
  - Valachchenai
  - Trincomalee

Vavuniya  
Ampara