





Crisis reports

Sri Lanka

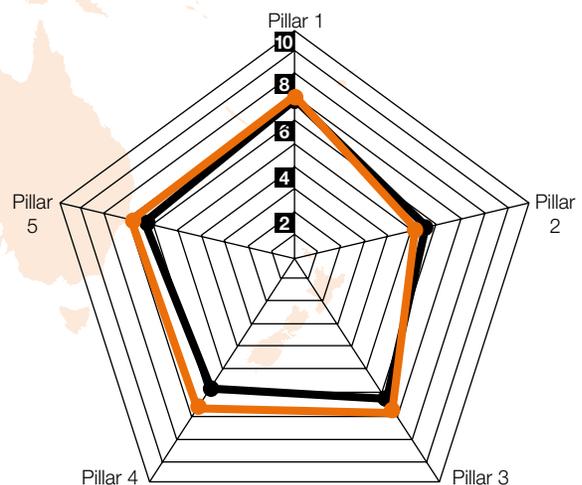
Sri Lanka at a glance

The crisis and the response

- IDPs face multiple difficulties: destroyed homes, the danger of returning to areas not yet cleared of mines and challenges regaining land.
- By August 2010, 90 percent of the 280,000 Tamils forcibly interned after victory against the LTEE had been released from government-controlled camps.
- Assistance includes immediate shelter cash grants of US\$220 per family, supplied by the UN, NGOs and the Sri Lankan government.
- CHAP 2010 initially called for US\$337,688,785, but was revised down to US\$287,799,870 in June 2010 due to low implementation capacity, staff security issues and funding shortfalls.
- There are significant gaps in funding for some clusters: economic recovery and infrastructure (one percent funded); WASH (seven percent); mine action (22 percent) and agriculture (23 percent).
- Overall response is limited by government's micromanagement, lack of access and a diminishing number of humanitarian staff.

Donor performance

- Donor coordination was perceived as more active and effective.
- There is widespread concern that donors are now prioritising northern Sri Lanka, with severe consequences for eastern areas where humanitarian needs remain following 20 years of LTTE occupation.
- Donors were criticised for not more highly prioritising the involvement of beneficiaries in the design and implementation of programmes.



— Sri Lanka
— All Crisis Average

HRI 2010 scores by pillar

- Pillar 1** Responding to needs
- Pillar 2** Prevention, risk reduction and recovery
- Pillar 3** Working with humanitarian partners
- Pillar 4** Protection and international law
- Pillar 5** Learning and accountability

Key challenges and areas for improvement

- The government robustly leads the response, has an antagonistic relationship with the international community and seeks to convey a negative image of aid agencies and disparage their efforts.
- The government restricts access, controls reporting of the crisis, manipulates language used to describe it and continues to reject the CHAP.
- Agencies generally lack access to resettlement areas and/or are unable to directly approach communities and vulnerable people.

Sri Lanka

Antagonistic Relations imperfect response

In May 2009, government forces won a decisive military victory over Tamil secessionists – the Liberation Forces of Tamil Eelam (LTTE) – following 26 years of fluctuating conflict which had already displaced some 200,000 people (Internal Displacement Monitoring Centre 2010). In the final months of fighting, grave violations of human rights were committed by both sides and around 300,000 Tamil civilians were displaced, most finding themselves helplessly trapped between combatants. The humanitarian consequences were, and remain, enormous. Most of those forcibly interned for months after the conflict have now been released but durable solutions to displacement –

particularly for the old cohort of internally displaced persons (IDPs) – remain elusive. While much of Sri Lanka is relatively prosperous, and there is now extensive investment in infrastructure in northern and eastern areas, most communities in war-affected former LTTE-controlled regions are chronically poor. Humanitarian indicators are markedly worse in former conflict areas: for example, 40 percent of under-fives are underweight (World Food Programme 2010). The humanitarian response and post-war reconstruction has been government-led with hardly any international engagement. Relations among the government, the United Nations (UN) and traditional donors are fraught with tensions, misunderstanding and accusations while the increasingly autocratic government of President Mahinda Rajapaksa has forged new alliances with regional powers.

The sequence of events which follows most humanitarian disasters has not happened: no independent needs assessments; no international conference; no government-UN appeal for donor assistance; no international peacekeepers; no protection monitoring; no consultations with those in humanitarian need; no monitoring to ensure the resettlement of IDPs meets international standards for safe and dignified returns and a modest and virtually impotent UN presence. In short, both a major apparent violation of *Principles of Good Humanitarian Donorship* (GHD) and a challenge for international humanitarians not used to a confident national government insisting on taking care of humanitarian needs. During its mission the Humanitarian Response Index (HRI) team was repeatedly told by donors and humanitarian agencies that many questions they asked were simply inapplicable to the situation in Sri Lanka.

Disenchantment with traditional donors

Since the 2004 tsunami, and particularly since protracted Norwegian-brokered attempts at peace between the LTTE and the government conclusively broke down in 2008, the government has become increasingly estranged from traditional donors. The post-tsunami influx of large numbers of aid agencies heightened national concerns over sovereignty and prompted moves towards greater state scrutiny and control of international non-government organisations (INGOs). Often classifying INGOs as “neo-colonial”, operational agencies were required to regularly meet government administrators for lectures on national sovereignty and to provide details of their programmes. It became increasingly difficult for international staff to obtain permission to work. HRI 2009 reported how state agents harassed national staff of INGOs, but managers were unable to protest due to fears for the safety of their colleagues. INGOs were thus forced to increasingly rely on expatriates who then found that their movements were increasingly restricted and visas and residence permits harder to obtain (Hidalgo 2010). Over time, many INGOs became frustrated and left the country (Gowrinathan & Mampilly 2009).

The government consistently protested at contacts between Western governments and Tamil diaspora associations which it alleged were LTTE front organisations. It felt irked by criticism of its efforts to pursue a military solution to restore national unity and defeat an internationally-proscribed terrorist organisation. The government perceived double standards, rebuked by the same donors who themselves vigorously prosecuted the War on Terror in Iraq, Afghanistan and Pakistan – despite “collateral” damage to civilians – yet urged a political settlement in Sri Lanka. The West’s determination to promote pro-peace objectives tarnished its humanitarian engagement as humanitarian endeavours became perceived as an extension of Western geopolitical objectives (Harris 2010).

Relations deteriorated further in the final months of the conflict when traditional donors called for a cessation of hostilities to enable assistance to civilians trapped by a beleaguered LTTE. Tensions escalated after the war’s decisive climax when donors criticised the mass interment of Tamil civilians along with surviving LTTE cadres. Sri Lanka argued that its security policies – designed to separate Tamil civilians, hard-core LTTE cadres and those who were unwillingly pressed to take up arms – were standard international practice. In October 2009, the government reacted with fury when a US State Department enquiry found “credible and well substantiated” evidence that government forces abducted and killed civilians, attacked no-fire zones and hospitals and killed senior rebel leaders with whom they had brokered a surrender (US State Department 2010a). There was further anger in June 2010 when the UN Secretary-General, Ban Ki-moon, appointed a three member panel (who are thought to have international business interests) to advise him on ensuring accountability for the alleged abuses during the war. There is concern that the panel – which held its first meeting with the Secretary-General in September (UN New Centre 2010b) – could result in restrictions on key government figures. In August 2010, the US State Department alleged no progress on improving

accountability, noting there had been no effective investigation into laws-of-war violations (US State Department 2010b). The government is further irritated by international criticism of the trial of Sarath Fonseka, the former commander of the Sri Lankan military who unsuccessfully opposed Mahinda Rajapaksa’s re-election.

New donors and regional contestation

Since re-commencement of military efforts to recapture the northern and eastern territories under LTTE control, the Sri Lankan government has markedly increased its foreign relations with a number of Middle Eastern and Asian states – notably Pakistan, India, China and Iran. The new donors have no interest in the global humanitarian agenda – in the words of a respondent: “they are very different animals in this setting and can’t be compared. Far less principle-driven”. The Asian states competing for influence share Sri Lanka’s vehement rejection of Western “interference” in their internal affairs and have provided powerful support at the UN. India is the major provider of funding for reconstruction of housing in war-affected areas and has committed to rebuild 50,000 of the 160,000 houses in conflict-devastated areas which need to be repaired or rebuilt (IRIN 2010a). China’s investment and provision of soft loans is highly significant – building a new airport, power plant, oil refinery, and bunkering, ship, and container repair facilities as part of a strategic drive to secure a string of assets across the Indian Ocean between China and its oil and mineral extraction interests in the Horn of Africa and the Middle East. China is substantially assisting the government to restore transport links in war-ravaged eastern and northern areas. China’s growing influence in Sri Lanka also serves its objective of containing India, which has been providing Sri Lanka with assistance for much longer.

Displacement resolved? Government assertions disputed

After proclaiming victory on 19 May 2009, President Rajapaksa announced formation of a Presidential Task Force (PTF) to oversee humanitarian assistance, rehabilitation and reconstruction. He appointed a Minister for Resettlement who pledged that all displaced families would be resettled within six months. The government has consistently cited its capacity to respond effectively to displacement, saying it has learned lessons from the tsunami and previous waves of conflict-induced displacement. The president has said that his visit to observe post-earthquake operations in China further enhanced his government’s competence to implement resettlement programmes.

The exact numbers of those trapped in the final weeks of fighting is contested by the PTF, the UN and human rights groups and the true figure is unlikely to ever be determined. There has been no official recognition that very large numbers of people are still missing (Fonseka 2010). What is clear is that some 280,000 IDPs were forcibly interned, the majority in a massive military-run camp known as Manik Farm. Denial of international access was justified on dubious grounds – NGO vehicles would cause environmental pollution, international humanitarians would not respect the privacy of IDPs and would treat camps as “photo opportunities”. Access to the “surrendered” population was initially denied to the International Committee of the Red Cross. Rebutting critics, the government asserted that IDPs could live with dignity as “no other IDP camps elsewhere in the world had playgrounds, cooperatives, waste management projects, libraries, health centres, ayurveda, schools, hospitals, recreation facilities and farms” (Amarasinghe & Kahandawaarachchi 2010). Most humanitarians regarded such statements with derision. The HRI team was told that at very short notice the government asked the International Organisation for Migration (IOM) to transport IDPs to new locations. While IOM then informed the UN High Commissioner for Refugees (UNHCR) there was no opportunity for rigorous IDP registration.

In the run-up to presidential elections in January 2010 there was a sudden policy shift, – apparently driven with a view to win votes and to assuage international criticisms. In October 2009, the government unveiled a Crash Resettlement Programme and by mid-November over 100,000 IDPs were said to have returned to their places of origin. In August 2010, the government claimed that 90 percent of those displaced by the post-2008 fighting had been resettled (Daily Mirror 2010).

Government IDP data is disputed by international observers and Sri Lankan civil society. Many who the international community would regard as IDPs are not officially registered. Sri Lankan officials use the terms ‘return’ and ‘resettlement’ interchangeably without regard to international standards such as the *Guiding Principles on Internal Displacement*. This has resulted in a situation where upon returning to the district of origin, regardless of whether a person has returned to his/her own home and land, there is an erroneous assumption by the state that return is complete. Knowledgeable local government officials, many with extensive experience working with tsunami- and conflict-displaced populations, have been sidelined by officials in PTF headquarters in Colombo who make all decisions, including on IDP numbers and deregistration of individual IDPs (Fonseka 2010).

IDPs are returning to areas that have been heavily damaged and completely emptied of population for long periods. The majority of houses in return areas are completely destroyed, heavily mined and lacking in water. As a result, many ex-detainees are living with host families and there are reports of some seeking to return to camps because conditions in areas of origin are even more dire. There are grave fears that most returnees have inadequate shelter to protect them from the annual northeast monsoon rains which begin in November (IRIN 2010b). On return to places of origin, some find their land appropriated by the army for a High Security Zone (HSZ). The destruction of housing and property due to

conflict, secondary occupation of private lands by actors including the security forces and police and creation of numerous HSZs have all adversely affected IDPs’ ability to access their human rights to adequate housing, return and restitution. The lack of policies consistent with human rights obligations has left many marginalised and vulnerable communities no remedy to defend their housing, land and property rights in the face of the larger security and development interests of the government and the military (Centre on Housing Rights and Evictions 2009). In September 2010, there are reports that some freed IDPs have to regularly report to the army and cannot move without military permission (Fonseka 2010).

Forgotten in the aftermath of the latest displacement crisis are “old IDPs” – the hundreds of thousands displaced by decades of conflict – Muslims expelled by the LTTE, Sinhala IDPs from northern Sri Lanka and IDPs from all communities in the east. Many suspect that the government is set to declare displacement to have ended, thus denying all responsibility to provide ongoing assistance to those who are often even more vulnerable than recent IDPs and returnees. The return of “old IDPs” is significantly lagging behind that of the new with humanitarian agencies strongly pressured by the government only to support the latter. Most old IDPs who are returning are doing so spontaneously and are chronically vulnerable (Raheem 2010). Particularly ignored by government and non-government actors are Muslims who have been living in a state of protracted displacement for two decades (Norwegian Refugee Council 2010). Prospects of their return to former homes in northern Sri Lanka are uncertain (IRIN 2010c).

War widows – particularly those whose husbands were LTTE combatants – are another vulnerable group whose needs are being insufficiently addressed. Save the Children notes that there are over 26,000 war widows in the Jaffna peninsula alone (Calyaneratne 2010). Insufficient support for livelihood recovery support, agriculture and de-mining creates a risk of long-term food dependency. The majority of Sri Lanka’s 160,000 amputees – most of them war victims – lack prosthetic limbs (IRIN 2010d). 1.2 million people are thought to be in need of food assistance (World Food Programme 2010).

Protection, war crimes and human rights

There is broad agreement among traditional donors and Western observers of the need for a thorough investigation of violations of international humanitarian law in Sri Lanka. As most of the LTTE perpetrators are dead, this must focus on alleged encouragement of, or complicity in, war crimes, at the highest level of the Sri Lankan military and political establishment. The International Crisis Group reflects the broad liberal consensus by arguing that “an international inquiry into alleged crimes is essential given the absence of political will or capacity for genuine domestic investigations, the need for an accounting to address the grievances that drive conflict in Sri Lanka, and the potential of other governments adopting the Sri Lankan model of counter-insurgency in their own internal conflicts”. Less comforting is The International Crisis Group’s observation that “much of the international community turned a blind eye to the violations when they were happening. Many countries welcomed the LTTE’s defeat regardless of the cost of immense civilian suffering and an acute challenge to the laws of war. The United Nations too readily complied with the government’s demands to withdraw from conflict areas,” (International Crisis Group 2010).

The UN High Commissioner for Human Rights, Navi Pillai, has been a rare UN voice when it comes to talking about war crimes, with the rest of the UN opting for a quiet approach to “keep the doors open” (Philp 2009). In effect, UN staffers in Sri Lanka had little choice because the numbers were against them. In May 2009, human rights advocates were appalled when the UN Human Rights Council backed a Sri Lankan resolution – strongly supported by Asian and Muslim states – welcoming the defeat of the LTTE and describing the conflict as a “domestic matter that does not warrant outside interference”. A critic has argued that the UN thus gave “carte blanche to armies to use whatever means available to achieve victory”, endorsing the view that “victory in civil war is paramount, and that any incidental abuses are no one else’s business,” (Binyon 2009).

Protection issues have long been a bone of contention between the government and traditional donors. The Minister of Economic Development (a brother of the president) has declared that IDPs are “given the best protection, not left vulnerable to exploitation, their privacy protected and their interests safeguarded,” (Amarasinghe & Kahandawaarachchi 2010). In May 2010, the government established a Commission on Lessons Learned and Reconciliation. Run by the Ministry of Defence, it has a mandate to “find out the root causes of the terrorist problem,” (Sri Lankan Ministry of Defence 2010). Few observers believe it is impartial as all eight members have previously worked for the government. Amid a climate of ongoing intimidation of local and international media, the BBC was banned from attending evidence-gathering sessions (BBC News 2010). The International Crisis Group warns that the commission is likely to simply perpetuate a culture of impunity (IRIN 2010e). Human Rights Watch (2010) notes that Sri Lanka has a long history of establishing ad hoc inquiries to deflect international criticism over its poor human rights record and widespread impunity, none of which have produced any significant results.

Donor dilemmas

At the height of the humanitarian crisis in 2009 – as they observed with much frustration the dominance of state actors and inability to respond to calls for help from those in Manik Farm who could get heard – traditional humanitarian actors in Sri Lanka faced a major dilemma: “should they stay silent but involved, or speak out and be expelled?” (Salignon 2009). There has been no consensus answer and there is ongoing division among donors on how rights and protection issues should be approached.

In order to receive permission from the PTF to carry out projects, agencies report they have been forced to adopt the government’s preferred terminology. There is debate on whether to placate the government by using the terminology it prefers to use. The HRI team received several comments: “clusters is a dirty word”; capacity building, psychosocial... are not terms that can be used in Sri Lanka”; “we also had to drop or stop advocating for the *Guiding Principles* because the government started using the language against us and to its benefit.”

Response of traditional donors

International response capacity was limited by the post-tsunami winding down of engagement and the subsequent frustrated withdrawal, or reduction in staff numbers, of agencies whose efforts to work with conflict-affected IDPs were not welcomed. The UK Department for International Development was among those who had wound up operations in Sri Lanka after the tsunami – not wanting permanent engagement in a middle-income country – but deployed humanitarian experts in early 2009. It has been difficult for some donors to accept that they are not in the driving seat and also frustrating that the UN has not been in a position to provide leadership or even to gather comprehensive information on what was disbursed and who did what in the turbulent period leading up to and following the LTTE defeat.

Responding to needs has been challenging. Many donors have humanitarian and development programmes but nothing in between to link the different types of interventions. With no peace agreement or UN-government cooperation framework the government has been able to retain complete control over the humanitarian response. The HRI team was told of several attempts by donors to fund needs assessments which never happened due to prohibition of access. Needs were thus never formally identified and humanitarian aid was largely limited to the relatively small numbers who managed to flee the conflict area.

The 2009 Common Humanitarian Action Plan (CHAP) sought US\$155.5 million, revised upwards to US\$270 million in the mid-year review. It was 73.5 percent funded. Requests for food aid and protection were met, but sectors which attracted insufficient response included education (36 percent), health (32 percent), agriculture and food security (18 percent) and economic recovery and infrastructure (six percent).

A further CHAP was prepared in early 2010 but the government refused to endorse it in protest at UN investigation of alleged war crimes. It sought US\$337.7 million, a figure reduced downwards to US\$287.8 million in June 2010 as a result of restricted implementation capacity, time-consuming NGO-approval processes and safety issues associated with ongoing mine/unexploded ordnance contamination (OCHA 2010). By mid-October 2010, 47 percent had been covered. The food cluster has been best supported (81 percent covered), while economic recovery and infrastructure has received only eleven percent of the amount requested and water and sanitation ten percent.

Given the extensive amount of support from non-traditional donors, data from the Financial Tracking Service (FTS) of the UN Office for the Coordination of Humanitarian Affairs (OCHA) is not comprehensive. (Indeed donors from the Organisation for Economic Cooperation and Development's Development Assistance Committee who were interviewed in Colombo said they had prepared their own, more accurate database). According to FTS data, by late September 2010 the largest providers of humanitarian assistance in 2010 have been the US (19.7 percent of the total, Australia (15.7 percent), Canada (5.7 percent), the European Commission (4.5 percent) and Norway (4.5 percent). 9.1 percent has come from the Central Emergency Response Fund (CERF) – to which India has contributed.

The HRI team found evidence of donor fatigue and reluctance to support reconstruction initiatives which it is believed the government is able to afford. There is widespread concern that humanitarian needs and livelihoods support are being overlooked, the UN calling on donors in August 2010 to “stay the course” and provide funding to ensure durable solutions to displacement (UN News Centre 2010).

Coordination

Despite the realities that the humanitarian response in Sri Lanka is largely operating without a real framework and that donors have markedly different policies regarding cooperation with the government, the HRI team was told that coordination has improved. Despite official disdain for the cluster system it is reported that in general it works well in Colombo and elsewhere and PTF representatives attend meetings.

Donor coordination was perceived as more active and effective. There are several donor coordination groups and sub-groups which most of those interviewed during the HRI mission regarded as useful sounding boards and fora for gauging the positions of other donors. However, donors' expectations of coordination are extremely divergent. While donors such as the European Commission and Switzerland argue for strong leadership, countries such as Japan are uncomfortable with the

idea of participating in a decision-oriented platform. Many donors adopt the position that if the government wishes to take over responsibilities that it should do so and should use its own resources.

Humanitarians' evaluation of donors

The HRI team was repeatedly told that many questions they asked were simply not relevant to the situation in Sri Lanka. Lessons learnt from the numerous evaluations of the tsunami response are also regarded as inapplicable. There is a general comment that while the *Principles of Good Humanitarian Donorship* may be of relevance to informing responses to other crises, they are inapplicable in Sri Lanka.

The HRI team learned that the reputation of ECHO – previously considered one of the best donors in Sri Lanka – has suffered. UN agencies resented being pressured by ECHO on humanitarian principles, especially since they believed that the European position was ineffective and un-nuanced. ECHO was criticised for inflexibility, one respondent complaining that “in the midst of a crisis, ECHO becomes too bureaucratic and unrealistic”, another saying it cannot “think out of the box and is stuck in its procedures.”

“The humanitarian consequences of the final fighting were, and remain, enormous.”



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In general, agencies interviewed by the HRI team felt they received funding in a timely manner for those actions that they were able to carry out. Australia was praised for quickly supporting initiatives – such as UNHCR’s shelter cash grant programme – but it was also noted that its humanitarian agenda in Sri Lanka is shaped by geopolitical considerations and desire to prevent Sri Lankan asylum seekers reaching Australia. Japan was also criticised for allowing its humanitarian allocations to be influenced by national political considerations. Switzerland is commended for its principled advocacy of human rights. Canada, the Netherlands, the UK and Sweden were complimented for flexibility in reallocating funds as needs changed.

There is widespread concern that donors are now prioritising northern Sri Lanka, with severe consequences for eastern Sri Lanka where humanitarian needs remain following 20 years of LTTE occupation.

Lessons learnt and recommendations for the future

Recent experience in Sri Lanka “provides international humanitarian actors with a cautionary tale of the sensitivities surrounding operations in a conflict affected environment beset by opposing constructs of nationalism and a state determined to maintain control over the nature and direction of humanitarian response”. Humanitarian agencies need to be aware of the ways in which nationalist agendas can shape perspectives of humanitarianism (Harris 2010).

Key implications for donors committed to humanitarian principles are that:

- Donor (and UN) pressure to allow humanitarian access and space is unlikely to be effective if alternative donors are readily available.
- Non-traditional donors are likely to be more attractive because of their lack of conditionality and interest in domestic affairs
- Once lost, donor and UN/aid agency influence may be difficult to regain and avenues for effective engagement with humanitarian issues may be lost for ever.

Despite the general pessimism about the effectiveness of humanitarian advocacy, there are those who think that decreased post-conflict and post-election tensions could provide opportunities to move away from past tensions and find common ground with the government of Sri Lanka. Some of those interviewed by the HRI team urged the humanitarian community to be patient, to understand government nervousness and sensitivities, to show greater respect for Sri Lankan security concerns and to find avenues to enter into dialogue about how to avert the risk of long-term aid dependency and to agree on development priorities in impoverished conflict-affected areas of the country.

Key areas of concern which traditional donors must address include:

- 1 Lack of a consistent and comprehensive policy on IDP resettlement.** Donors need to work with the UN, INGOs and Sri Lankan civil society to persuade the government of the need to ensure IDP returns are voluntary and informed and to provide assistance to ensure returns lead to durable solutions for all displaced and conflict-affected populations.
- 2 Avoiding excessive aid conditionality:** Donors should bear in mind that non-traditional donors present a viable and willing alternative to Western assistance.
- 3 Dialogue:** It is important to reach out to non-traditional donors and assimilate them into donor consortia.
- 4 Equality of response:** Donors must ensure that humanitarian assistance is not simply focused on areas which were last to be liberated from the LTTE. The large number of war widows must be included in resettlement and rehabilitation programmes.
- 5 Implementors’ capacity:** Donors should be more cautious about supporting international agencies to take on activities for which they have no mandate or expertise when there are qualified Sri Lankan implementing partners.

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Information based on field interviews with key humanitarian agencies in Sri Lanka from 17 to 27 April 2010, and 116 questionnaires on donor performance (including 99 OECD/DAC donors).

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