



Humanitarian Operation in Sri Lanka

1. Introduction

1. Throughout the LTTE's 30-year campaign it regularly launched attacks against civilians and civilian targets¹ and forcibly evicted large parts of the population settled in the northern and eastern provinces of Sri Lanka and in certain parts of the world.² These tactics resulted in large civilian movements and the creation of IDPs. In 2004, the devastating effects of the Tsunami exacerbated the situation, causing severe loss of life and damage to infrastructure. As a result of these manmade and natural disasters, the Government of Sri Lanka (GOSL) carried out several large-scale humanitarian assistance operations in order to relieve its civilian population.
2. The last such humanitarian operation took place during Eelam War IV between June 2006 and May 2009. This was the most expensive and challenging of the operations as it took place in the context of an armed conflict in which the LTTE was surrounding itself by the civilian population in order to commit hostilities.
3. In 2006 the GOSL did not have access to substantial part of Jaffna and the northern provinces. These had been effectively cut off from the rest of the GOSL controlled territories.³ Furthermore, the GOSL did not have de facto control over the Vanni and Eastern Provinces.⁴ In these areas the LTTE had complete control over the civilian population and had set up parallel state structures, including a banking, police, tax, hospitals to treat LTTE cadres and court system. The LTTE limited access to this area by way of a pass system and from late 2008 access was completely restricted to the GOSL. Despite these challenges, the GOSL honoured its decision to support the civilian population in both the Northern and Eastern provinces.

2. International Access/NGO collaboration

(i) *International involvement in the CCHA*

4. The GOSL created a number of bodies to coordinate humanitarian efforts. The Ministry of Resettlement was made a central body for policy-making and coordination.⁵ In August 2006, the GOSL appointed a Commissioner General of Essential Services to maintain all essential services in the Northern and Eastern provinces.⁶ However, the main body

¹ Attachment 1, Sri Lankan Ministry of Defence, *Humanitarian Operation Factual Analysis: July 2006 – May 2009* (July 2011), Annex B, Some of the Attacks Carried out by LTTE on Civilian Targets at pp. 96 - 105. Also see Attachment 1, Sri Lankan Ministry of Defence, *Humanitarian Operation Factual Analysis: July 2006 – May 2009* (July 2011), Annex C, The List of LTTE Attacks on Vulnerable Villages at pp. 106 - 113.

² In October 1990 the LTTE forcibly evicted approximately 75,000 Muslims from the Jaffna region. See Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 4.

³ See maps titled 'LTTE dominated area as at July 2006' and 'LTTE dominated area as at 07 Feb 2007', LLRC, Report of the Commission of Inquiry on Lessons Learnt and Reconciliation (November 2011), Annexes at pp. 56 and 58.

⁴ See maps titled 'LTTE dominated area as at July 2006' and 'LTTE dominated area as at 07 Feb 2007', LLRC, Report of the Commission of Inquiry on Lessons Learnt and Reconciliation (November 2011), Annexes at pp. 56 and 58.

⁵ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 14.

⁶ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at ii.



responsible for ensuring that assistance was provided in a co-ordinated manner was the Consultative Committee on Humanitarian Assistance (“CCHA”). The CCHA was established in September 2006 on the recommendation of Japan, the US, EU and Norway.⁷The CCHA convened on 28 occasions from October 2006 onwards and held regular meetings during the most difficult period of the conflict between January and May 2009.

5. The CCHA was generally chaired by the Minister of Disaster Management and Human Rights and meetings were regularly attended by influential and significant representatives of the international community.⁸ Attendees included: Ambassador Robert O Blake (US Ambassador); Mr H E Kiyoshi Araki (Japanese Ambassador); Mr Jacques Villeain (Deputy Head of Mission, French Embassy); Mr Julian Wilson (Head of Delegation, EC); Mr Juergen Weerth (EU representative for the President and the Ambassador to Germany); Mr Amin Awad (Acting Resident Coordinator/Humanitarian Coordinator for the UN and Representative to the UNHCR); Mr Axel Bisschop (Senior Programme Officer, UNHCR); Mr Laurent Raguin (Senior Programmer Officer, UNHCR); Ms Chris Mathews (Senior Field Coordinator, UNHCR); Ms Cecilia Dahlgren (Program Officer, UNHCR); Mr Toon Vandenhove (Head of Delegation, ICRC); Mr Anthony Dalziel (Deputy head of Delegation, ICRC); Mr Jeff Taft-Dick (Country Director, WFP); Mr Jean-Yves Lequime (Director WFP); Adam Khan (Director of WFP); Mr Jean-Yves Lequime (Deputy Country Director, WFP); Mr Mohamed Salaaheen (Country Director, WFP); Mr Valentin Gatzinski (Head of Office, UNOCHA); Ms Carmen Van Heese (Deputy Head of Office, UNOCHA); Ms Zola Dowell (Head of Office, UNOCHA); Mr Steve Ray (Deputy Head Office, UNOCHA); Mr Philippe Duamelle (Country Representative, UNICEF); Ms Joanna Van Gerpen (Country Representative, UNICEF); Ms Yasmin Ali Haque (Acting Country Representative, UNICEF); Ms Desiree Jongsma (Deputy Representative, UNICEF); Mr Christian Friedrichs (Deputy Security Advisor, UNDSS); Mr Chris du Toit (Country Security Advisor); Mr David Verboom (Head of Office, ECHO); Mr F Hashim (CHA); Mr Ravi Thambar (Liaison Coordinator, CHA); Mr Frederick Lyons (Acting Resident Coordinator/Humanitarian Coordinator for the UN); Dr Agostino Borra (Representative, WHO); Ms Tine Staermose (Director, ILO); Mr Mazahim Hanifa (Emergency Livelihood Advisor, ILO); Mr Marc Bellemans (Senior Emergency Coordinator, FAO); Neil Buhne (UN Resident/Humanitarian Coordinator); Mr Salaaheen (Acting UN Resident/Humanitarian Coordinator); Ms Angela Kane (Assistant Secretary-General of the UN on Political Affairs); Mr Udo Wagner Meige (Deputy Head of Operations, Central and South Asia, ICRC); Mr Dominick Stillhart (Deputy Director of Operations, ICRC); Ms Avanti Coonghe (Economic Security, ICRC); Mr Paul Castella (Head of Delegation, ICRC); Ms Niloufer De Silva (Mine Action, UNDP); Mr. P Tharmedra (Programme Assistant, UNDP); Ms Niloufer De Silva (Senior Project Officer, UNDP).
6. Furthermore, NGOs were also actively involved in CCHA sub-committees. The WFP participated in the Logistics and Essential Services Sub-Committee; the UNHCR

⁷Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at ii.

⁸ See Attachment 3, CCHA minutes from: 28 November 2006; 19 January 2007; 20 November 2007; 13 December 2007; 21 January 2008; 25 February 2008; 17 March 2008; 3 June 2008; 08 September 2008; 16 October 2008; 10 February 2009; 30 March 2009.



participated in the Resettlement and Welfare Sub-Committee; UNICEF participated in the Education Sub-Committee; the WHO participated in the Health Sub-Committee; and ECHO and OCHA participated in the Mode of Operations and Guiding Principles Sub-Committee.⁹

7. Ms Angela Kane of the UN described the CCHA as a good example of how practical humanitarian issues can be tackled through dialogue and cooperation even though there may be temporary setbacks and difficulties.¹⁰ The meetings presented an opportunity for full and frank discussions regarding the humanitarian effort and members of the international community regularly drew attention to issues that the GOSL needed to address. However, it was never suggested that the GOSL was deliberately restricting access to essential supplies or services.¹¹ It must also be noted, that separate to the joint humanitarian operations between NGO and government agencies, agencies such as the WFP and ICRC were supplying food and medical aid directly to the affected areas.

(ii) *Decision by the GOSL that they could no longer guarantee safety to NGO staff*

8. In September 2008, the GOSL decided that it could no longer guarantee the safety of humanitarian workers in the Vanni and asked international agencies to relocate to Vavuniya.¹² The UN Panel of Expert report suggests that the GOSL was unwilling rather than unable to guarantee their security and the decision was made to rid the area of international observers.¹³ This suggestion does not reflect the reality of the situation.
9. By September 2008, the Vanni, including Kilinochchi, had become part of the frontline of the conflict.¹⁴ The LTTE had a number of bunkers¹⁵ and bases in Kilinochchi¹⁶ and would regularly place strategic offices near UN premises¹⁷ and hospitals¹⁸.
10. The proximity of humanitarian objects to LTTE targets prompted a dialogue between the GOSL and the UN RC/HC and other agencies. The issue of UN relocation was raised by the UN RC/HC in a letter sent on 04 September 2008 to the Minister of Foreign Affairs in the following terms: “[i]n the event that the security situation means that we must relocate staff out of Kilinochchi, it would be imperative to arrange this relocation in a way that reduces risk to the maximum extent”.¹⁹ This sentiment was echoed in a statement

⁹ For an example see Attachment 3, CCHA minutes, 17 March 2008.

¹⁰ Attachment 3, CCHA minutes, 25 February 2008;

¹¹ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 48.

¹² Attachment 3, CCHA minutes, 8 September 2008;

¹³ Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka (31 March 2011) at para 74.

¹⁴ For example see 'SLAF raids LTTE mortar gun-positions – Nachikuda' accessed at http://www.defence.lk/new.asp?fname=20080902_05

¹⁵ For example see 'Wanni liberation operation continues, 35 terrorists killed, over 35 wounded' accessed at http://www.defence.lk/new.asp?fname=20080902_08

¹⁶ For examples see 'SLAF raid LTTE intelligence nerve center in Kilinochchi' accessed at http://www.defence.lk/new.asp?fname=20080910_02.

¹⁷ Report of the Secretary-General's Internal Review Panel on United Nations Actions in Sri Lanka (November 2012) at pg 49.

¹⁸ Attachment 4, Affidavit of Dr Veerakathipillai Shanmugarajah dated 10th May 2012 at para 19: "I had at various points in the conflict remonstrated with LTTE commanders about munitions being placed near to hospital buildings. Sometimes they were sensitive to the need to remove these munitions and at other times my objections were ignored". Also the News Video and the TV discussion video

¹⁹ Letter quoted in Report of the Secretary-General's Internal Review Panel on United Nations Actions in Sri Lanka (November



made on 09 September 2008 by the UNCT, which stated “[t]he UN notes that the Government recognizes it holds primary responsibility for ensuring the safety of humanitarian workers”. The final decision that safety could not be guaranteed to humanitarian workers was made following a meeting attended by Neil Buhne (UN RC/HC), the Heads of Agencies of WFP and UNICEF, the Senior Security Advisor UNDDSS, the UNHCR Programme Manager, the Deputy Head of Delegation of the ICRC and the Executive Director of the CHA.²⁰

11. The validity of the concerns regarding the safety of staff working in the region was confirmed in October 2008, when the LTTE rejected a request for local UN and NGO staff to accompany the expatriate staff out of the Vanni.²¹ In taking this decision, the LTTE subjected the local staff to arbitrary detention, contrary to customary international law.²²
12. Following the evacuation, UN agencies and NGOs attended and participated in CCHA meetings.²³ The CGES worked with the WFP to arrange 12 food convoys to the Vanni between October 2008 and January 2009.²⁴ In a CCHA meeting on 16 October 2008, Neil Buhne (UN RC/HC) thanked the GOSL and the Government Agents operating in Vavuniya, Mullaitivu and Kilinochchi for their assistance in sending the convoys to the Vanni.²⁵ On 29 December 2008, Neil Buhne (UN RC/HC) carried out a Joint UN Needs Identification Mission to the Vanni. The Assessment Team was comprised of the WFP, UNICEF, UNOCHA, ICRC and Government Agent staff who were working in consultation with the Commissioner General of Essential Services.²⁶ In the subsequent CCHA meeting, Neil Buhne applauded the good work done by the Government Agent structures in delivering relief and assistance to IDPs in such circumstances.²⁷
13. It is therefore clear that the international community continued to play an active and present role in assisting the humanitarian operation in the Vanni. Furthermore, the responsibility to ensure the safety of international staff lay with the GOSL and its assessment that they could not continue to do so, based upon known operational risks at the time, must be respected.

2. Practical Difficulties in Providing Humanitarian Assistance

14. The humanitarian operations in both Jaffna and the Vanni were regularly interrupted and endangered by the actions of the LTTE.

2012) at pp 49.

²⁰ Attachment 3, CCHA minutes, 8 September 2008;

²¹ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 42. .

²² Arbitrary deprivation of liberty is prohibited in non-international armed conflict. This is a norm of customary international law established by state practice. See Rule 99, ICRC, Jean Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law, Volume 1: Rules*, accessed at https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule99.

²³ See Attachment 3, CCHA minutes on 30 January 2009, 10 February 2009 and 30 March 2009.

²⁴ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 42.

²⁵ Attachment 3, CCHA minutes, 16 October 2008.

²⁶ Attachment 3, CCHA minutes, 30 January 2009.

²⁷ Attachment 3, CCHA minutes, 30 January 2009.



(i) *Jaffna*

15. Until the 11 August 2006, the GOSL delivered humanitarian aid to the civilians in Jaffna by the A9 road. Following the LTTE attack at Muhamalai, the A9 road was rendered impassable and aid had to be delivered by air or sea. In order to meet the demands for aid in Jaffna, the CGES chartered merchant vessels²⁸ and enlisted assistance from the navy.
16. The LTTE interrupted deliveries of humanitarian aid being transported by sea with attacks on both the SLN²⁹ and merchant vessels³⁰. This included an attack in January 2007 on MV Liverpool, a merchant ship unloading cargo at Point Pedro.³¹ Such attacks made vessel owners unwilling to charter their ships and resulted in lengthy diversions to avoid attacks.³² The ICRC refused to lend its flag to assist such operations.³³ The situation was further complicated by poor weather conditions and inadequate harbour facilities at Kankasanturai and Point Pedro. This compelled the government to make special arrangements to send food and other essential by air at a very high cost.

(ii) *Vanni*

17. Throughout the humanitarian operation the Vanni was under de facto LTTE control. The LTTE controlled access to the region by way of checkpoints and exerted complete control over civilian life. This resulted in the LTTE misappropriating supplies sent to civilians³⁴ and taking first choice of the supplies sent.³⁵ This included LTTE cadres appropriating, medicine, high-energy biscuits, meat and chocolate.³⁶ Some of the rice bags were used by the LTTE to build bunkers. (photos were sent. Also news videos show it).
18. The LTTE also hindered and endangered food convoys sent to the Vanni. The last food convoy sent by the WFP was forcibly detained by the LTTE.³⁷ On 23 January 2009, the

²⁸ Attachment 5, Charter Agreement between Eswaraa Bagawaan & Company LTD and CGES M/V CITY OF LIVERPOOL dated 10 September 2006; Charter Agreement between Eswaraa Bagawaan & Company LTD and CGES – M/V HIND-M dated 20 September 2006; Charter Agreement between UNI Marine Shipping LTD and CGES – Ship M/V JEN CLIPPER dated 9 January 2007; Charter Agreement between UNI Marine Shipping LTD and CGES – M/V BINH TAN VOY dated 12 January 2007; Extension of hire period for Mercantile Global Shipping Company LTD – M/V MERCUS RUHUNU dated 1 August 2007; Extension of hire period for Mercantile Global Shipping LTD – M/V MERCUS YALA dated 1 August 2007; Renewal of Shipping Licence for Ceylon Shipping Corporation from CGES dated 24 December 2007.

²⁹ Attachment 1, Ministry of Defence Democratic Socialist Republic of Sri Lanka, *Humanitarian Operation Factual Analysis July 2006 – May 2009* (July 2011), Annex H, Major Attacks Launched by LTTE on Sri Lanka Navy at pp. 149 – 153.

³⁰ Attachment 1, Ministry of Defence Democratic Socialist Republic of Sri Lanka, *Humanitarian Operation Factual Analysis July 2006 – May 2009* (July 2011) at para. 59.

³¹ Attachment 1, Ministry of Defence Democratic Socialist Republic of Sri Lanka, *Humanitarian Operation Factual Analysis July 2006 – May 2009* (July 2011) at para 59.

³² Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 22.

³³ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at iv.

³⁴ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 152 and 153.

³⁵ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 35.

³⁶ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 59.

³⁷ Extract from CCHA Logistics and Essential Services Sub-Committee Meeting dated 27 January 2009 quoted in Attachment 2, Presidential Task Force for Resettlement, *Development and Security in the Northern Province 2011*, Sri Lanka's Humanitarian Effort (2011)



decision was made to halt the delivery of essential goods by road due to the escalation in fighting and special arrangements were made to transport goods by sea.³⁸ On 17 February 2009, a senior advisor to the President met with the ICRC Country Director, senior officers of the SLN and the Ports Authority to discuss the transportation of goods to Mullaivaikkal.³⁹ Due to the lack of port facilities and the fear of LTTE Sea Tiger attacks, cargo would regularly be unloaded at sea.

19. In the final stages of the conflict the GOSL did not have any access to the civilian population. The LTTE forced the civilian population to retreat with them, actively preventing their escape to Government controlled territory, in order to use civilians as human shields and for their war activities.⁴⁰

3. Allegation of Food Restrictions in the Vanni

20. The Panel of Experts report suggests that due to low estimates of the population by the GOSL, insufficient food was delivered to the Vanni.⁴¹ Such criticism is not made of the humanitarian operation in Jaffna. Therefore the suggestion is that the GOSL were only concerned with depriving part of the civilian population of essential services.
21. This allegation against the GOSL relies on their wilful miscalculation of the number of civilians trapped by the LTTE. In fact the GOSL relied on information from Government Agents and NGOs, including the WFP, operating in the area to ascertain the number of civilians in the Vanni.⁴² This was made more difficult by LTTE cadres deliberately dressing as civilians.⁴³
22. The difficulty in accurately calculating the number of civilians detained in the Vanni is confirmed by the widely varying figures quoted by UN sources. At a CCHA meeting on 30 March 2009, Neil Buhne (UN RC/HC) estimated that there were between 120,000-180,000 trapped civilians⁴⁴; UNOCHA estimated between 75,000-150,000 civilians⁴⁵; while Sir John Holmes in his briefing to the UN Security Council estimated 150,000-190,000 civilians⁴⁶. Further, this position is reflected in the US Cables.

at para 37.

³⁸ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at pp. iv.

³⁹ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 50.

⁴⁰ Attachment 1, Ministry of Defence Democratic Socialist Republic of Sri Lanka, *Humanitarian Operation Factual Analysis July 2006 – May 2009* (July 2011) at para 167.

⁴¹ Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka (31 March 2011) at para 128.

⁴² Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 29.

⁴³ Attachment 1, Ministry of Defence Democratic Socialist Republic of Sri Lanka, *Humanitarian Operation Factual Analysis July 2006 – May 2009* (July 2011) at para 179.

⁴⁴ Attachment 3, CCHA minutes, 30 March 2009.

⁴⁵ Population figure estimate in Killinochchi and Mulaithivu quoted in the Rapid Assessment of Nutritional Status among the Displaced Population in Vavuniya Transit Camps – March 2009, Department of Nutrition Medical Research Institute in collaboration with UNICEF, quoted in Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 49.

⁴⁶ Briefing to the UNSC on the humanitarian situation in Sri Lanka by John Holmes, Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator on 26 March 2009. Accessed at http://warwithoutwitness.com/index.php?option=com_content&view=article&id=88:26-march-2009-briefing-on-the-



23. Despite confusion over the number of civilians in the area, the GOSL continued to deliver food to the Vanni. As already noted, the CGES worked with the WFP to enable the delivery of 12 convoys between October 2008 and January 2009. These convoys delivered a total of 7,694 metric tons of food to Kilinochchi and Mullaithivu districts.⁴⁷In October 2008 alone security forces checked and sealed 28 lorries containing 271 MT of food in six hours, to ensure timely despatch to the Vanni.⁴⁸ In December 2008, the WFP confirmed that it had completed its “largest delivery of food” to IDPs in the Vanni, sending a 870 tons of food, enough to feed “over 230,000 people for a week”.⁴⁹The GOSL also worked with the WFP and UN to set up a logistical hub in Vavuniya to store nearly 5000MT of food and speed up the provision of aid.⁵⁰
24. Between 19 February 2009 and 8 May 2009 the CGES arranged to send 4218 MT of food items to Mullaithivu district by sea and successfully delivered 3150 MT.⁵¹Successful deliveries included the MV Bin Tan, which sailed between 7 and 14 March 2009, and MV City of Dublin, which sailed between 1 and 5 April 2009. The ships both carried delivered 1,000MT of food items and were accompanied by the ICRC.⁵²The GA of Mullaithivu acknowledged the receipt of 1000MT of WFP food items and 15 MT of vegetables on 08 and 17 March 2009.⁵³
25. Due to the threat of LTTE attack, the lack of port facilities and the need to unload goods such deliveries relied on the cooperation of the ICRC. The CGES arranged for a further consignment of 1,300 MT to be delivered into MV Thirupathi. This consignment could not be delivered because the ICRC would not accompany the vessel on security grounds.⁵⁴ The CGES also asked for the ICRC to agree to accompany further larger consignments: “[w]e are deeply concerned about the plight of the people held by the LTTE. Therefore, I wish to inform you that a vessel is stationed in Trincomalee anticipating your concurrence to sail cargo to this area at any given time”.⁵⁵MV Thirupathi sailed at the end of April 2009, but had to be diverted to Jaffna from Putumattalan due to LTTE action.⁵⁶ The CGES arranged for smaller deliveries of 30 MT – 40 MT to be regularly delivered by the Green Ocean, a smaller vessel. In May 2009, the Aseb Asrat, Deputy Country Director of the WFP confirmed that “[s]ince February till end of April the WFP in collaboration with

humanitarian-situation-in-sri-lanka-by-john-holmes-un-&catid=41:daily-hr-report&Itemid=65

⁴⁷ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 42.

⁴⁸ Attachment 3, CCHA minutes, 16 October 2008.

⁴⁹ Attachment 6, WFP Statement, WFP Dispatched Largest Food Convoy Since October to the Vanni Region dated 23 December 2008.

⁵⁰ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 34.

⁵¹ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 52.

⁵² Letter from the CGES to Paul Castella, Head of Delegation, ICRC dated 4 May 2009, Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort*(2011) at Annex K.

⁵³ Letter from GA of Mullaithivu to CGES dated 18 March 2009, Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort*(2011) at Annex L.

⁵⁴ Letter from the CGES to Paul Castella, Head of Delegation, ICRC dated 4 May 2009, Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort*(2011) at Annex K.

⁵⁵ Letter from the CGES to Paul Castella, Head of Delegation, ICRC dated 4 May 2009, Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort*(2011) at Annex K.

⁵⁶ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 52.



the Sri Lanka government has send [sic] over 3000 MT of food supplies” to civilians detained by the LTTE.⁵⁷

26. In October 2008, the CGES also ordered the GAs of Kilinochchi and Mullaithivu to maintain a 3 month buffer stock of 750-1000MT of essential food for civilians.⁵⁸ As the LTTE moved civilians towards Mullaithivu district, buffer stocks were moved from Dharmapuram to Mullaithivu.⁵⁹
27. Based on the above figures, a conservative estimate of the amount of food provided to the Vanni between October 2008 and May 2009 is approximately 10,800 MT.⁶⁰ The WFP has suggested that 10,000 MT of rice would feed 1 million people for 1 month.⁶¹ Accordingly, 8,000 MT would be sufficient to feed a population of 100,000 for 8 months.

4. Allegations of Restrictions of Medical Supplies in the Vanni

28. The POE report suggests that the GOSL deliberately restricted the provision of medical supplies to the Vanni.⁶² The deliberate restriction of medical aid to persons *hors de combat* could constitute a breach of Common Article 3 of the 1949 Geneva Conventions.
29. To support this assertion it relies on an alleged statement made by an unnamed “senior Government official”⁶³ and on documents prepared by Dr Sathyamoorthy and Dr Varatharajah in March 2009, while operating from the LTTE controlled area. The doctors publicly recanted these statements in July 2009 and the POE report suggests that they were put under pressure by the GOSL to do so.⁶⁴ It is just as plausible that the doctors were put under undue pressure by the LTTE to issue false statements from the LTTE controlled Vanni, as they in fact were. The LTTE wielded complete control over the civilian population and used sophisticated propaganda. Ambassador Blake noted the effect of LTTE propaganda when explaining how the LTTE would ensure civilians did not leave the LTTE controlled area in September 2008.⁶⁵
30. The pressure placed on doctors by the LTTE was affirmed by Dr Veerakathipillai Shanmugarajah, Medical Superintendent of Mullaithivu General Hospital, in a signed affidavit dated 10th May 2012: “[o]n one occasion the death toll that day had been 34 but I was instructed to tell the media that the death toll was 534. This was not true but to disobey they [sic] direction of the LTTE would result in immediate punishment. My

⁵⁷ WFP, ‘No let down in food distribution to NFZ, over 3000MT delivered’ (05 May 2009) accessed at <http://www.wfp.org/content/no-let-down-food-distribution-nfz-over-3000mt-delivered>.

⁵⁸ Letter of directive to maintain buffer stock of essential food dated 22 Oct 2008, to GAs of Killinochchi and Mullaithivu, Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka’s Humanitarian Effort* (2011) at Annex F-1.

⁵⁹ Letter from The Kachcheri-Mullaithivu to the CGES dated 14 November 2008, Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka’s Humanitarian Effort* (2011) at Annex G also see para 47.

⁶⁰ This figure is based on 7,694 MT being delivered in food convoys (at para 25) and 3,150 MT delivered by sea (at para 27).

⁶¹ See ‘Cargill donates shipload of rice to fight hunger in the Horn of Africa’ accessed at <http://www.cargill.com/africa-famine/cargill-africa-famine-donation/index.jsp>.

⁶² Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka (31 March 2011) at para 128 and 130 – 131.

⁶³ Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka (31 March 2011) at para.131.

⁶⁴ Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka (31 March 2011) at para 130.

⁶⁵ Attachment 3, CCHA minutes, 8 September 2008.



colleague Dr S refused to obey an LTTE request and that resulted in his being shackled by the ankles and placed in prison for a month”.⁶⁶ Also Doctors’ video interview says that how they were punished when they disobeyed LTTE.

31. Medical supplies were made available to the LTTE controlled Vanni by the Ministry of Health between 2006 and 2009.⁶⁷ All hospitals in the area were supplied, maintained and staffed by the GOSL.⁶⁸ Initially medical supplies were distributed by road. This included regular transfers of medical supplies to RMSD Kilinochchi⁶⁹ and Mullaithivu⁷⁰. When this became impossible in January 2009, deliveries were made by sea.⁷¹ Medical supplies would be sent from MSD Bulk Warehouse to RMSD Trincomalee for use in Mullaithivu.⁷² The medical supplies provided included antibiotics, anaesthetics, narcotics and surgical dressing etc.⁷³ A letter dated 18 May 2009 to the Eastern Command SLN, Pierre van Mele, Head of Sub delegation, ICRC Trincomalee states: “[m]edical items were handed over to the hospital in NFZ and are signed by the hospital administration... The ICRC in Trincomalee would like to take this opportunity to thank you for your support to our humanitarian activities...”⁷⁴ The value of medical supplies distributed in the northern province exceeded 250 million Rupees in 2008 and 350 million Rupees in 2009.⁷⁵
32. This position was confirmed in a signed affidavit by Dr Veerakathipillai Shanmugarajah dated 19 September 2011: “I communicated with the officials of the Health Ministry of the GOSL in order to obtain medical supplies to the Hospitals and Make Shift Hospitals that were functioning during the last stage of the conflict. At these above noted discussions we used to request for equipments [*sic*] and medicine and the Health Ministry of the GOSL supplied our requirements by sending the requested items by land as well as by ICRC shipments during the last stages of the conflict”.⁷⁶
33. Patients requiring further treatment were evacuated from the LTTE controlled region. Up until January 2009 patients were transported by road, with 2433 transported through Omanthai in 2008 and 97 patients transported in January 2009.⁷⁷ After January 2009, 4,740

⁶⁶ Attachment 4, Affidavit of Dr Veerakathipillai Shanmugarajah dated 10th May 2012 at para 20.

⁶⁷ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 56.

⁶⁸ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 57.

⁶⁹ Attachment 7, Stock Transfer Vouchers dated 25 January 2008, 29 September 2008 and 28 October 2008.

⁷⁰ Attachment 7, Stock Transfer Vouchers dated 29 April 2008 and 30 September 2008.

⁷¹ Shipments of medical supplies were made by the navy on the following dates: 19 February 2009, 3 March 2009, 5 March 2009, 21 March 2009, 1 April 2009, 7 April 2009, 27 April 2009, 6 May 2009 and 8 May 2009. See Attachment 8, memoranda from the Regional Medical Supplies Division Trincomalee dated 6 March 2009, 2 April 2009 and 4 April 2009. Also see Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 60.

⁷² Attachment 7, Stock Transfer Vouchers dated 3 March 2009, 12 March 2009, 13 March 2009, 24 March 2009, 25 March 2009, 30 March 2009, 20 April 2009, 21 April 2009, 22 April 2009.

⁷³ Attachment 9, Drugs and Medical Supplies sent to Northern Province from Medical Supplies Division of Ministry of Health by District 2007-2009.

⁷⁴ Attachment 10, Letter from Pierre van Mele, Head of Sub delegation, ICRC Trincomalee to Captain Sarathsena dated 18 May 2009.

⁷⁵ Data provided by the Medical Supplies Division, Ministry of Health cited in Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) on pp 22.

⁷⁶ Attachment 11, Affidavit of Dr Veerakathipillai Shanmugarajah dated 19th September 2011.

⁷⁷ Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka's Humanitarian Effort* (2011) at para 61.



patients were transported by sea to receive treatment in Trincomalee and Padaviya hospitals.⁷⁸ The pivotal role of the SLN in these evacuations was recognised by Paul Castella, Head of Delegation ICRC in a letter to Navy Commander Karanngoda dated 14 February 2009: “[f]ollowing the successful medical evacuations by sea that took place on 10 and 12 February, on behalf of the International Committee of the Red Cross (ICRC) I wish to express my sincere thanks to you and to the Navy for your valuable and effective collaboration, which helped to save many people’s lives....Your men, either at sea or on land...displayed a strict discipline and respect of rules of engagement and at the same time a very respectful and kind attitude to help those in need”.⁷⁹

34. The GOSL willingly distributed medical supplies and funded medical personnel in hospitals in LTTE controlled area for the period between 2006 and 2009 despite the fact that the Government knew substantial part of the medicine were taken over by the LTTE for its use. During the last stages of the conflict, the provision of medical supplies was made difficult and dangerous by the actions of the LTTE. The GOSL and the SLAF made every effort to ensure supplies were not interrupted and injured civilians were evacuated.

Signed
Steven Kay QC
20 October 2014

⁷⁸Attachment 2, Presidential Task Force for Resettlement, Development and Security in the Northern Province 2011, *Sri Lanka’s Humanitarian Effort* (2011) at para 61.

⁷⁹Attachment 12, Letter from Paul Castella, Head of Delegation ICRC, to Navy Commander Karanngoda dated 14 February 2009.