



SCHWEIZERISCHE VERTRETUNG
REPRÉSENTATION SUISSE

in / à COLOMBO

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Datum	3.6	3/6							
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EDA		03.06.92		10					
Ref. p. B. 41. 21. S.L.O.									

E J P D - B F F
zh. Direktor P. Arbenz

E D A
Koordinator für internationale
Flüchtlingspolitik

Ihr Zeichen
Votre référence

Ihre Nachricht vom
Votre communication du

Unser Zeichen
Notre référence

Datum
Date

355.1 - AG/RW

1.6.1992

Gegenstand / Objet

Repatriierung von abgewiesenen Asylbewerbern.
Stellungnahme des HCR-Vertreters in Colombo

Mit letztem Kurier liess ich Ihnen schon die beiliegende Stellungnahme von H. Utkan, dem neuen, initiativen HCR-Vertreter in Sri Lanka, zur Frage der Rapatriierung abgewiesener Asylbewerber, zukommen (Dok. vom 22.5.92 und 25.5.92). Daraus können Sie namentlich folgendes entnehmen:

- Utkan steht einer allfälligen Repatriierung abgewiesener Asylbewerber grundsätzlich positiv gegenüber, da er sich bewusst ist, dass der derzeitige Zustand die Asylidee gefährdet (Wirtschaftsflüchtlinge, Berücksichtigung der verbesserten Menschenrechtssituation, "It remains that SL in 1992 is certainly not SL in 1989").
- Er geht, u.a. auch wegen der neuen indischen Repatriierungspolitik, ebenfalls von der Annahme aus, dass der Zustrom von tamilischen Asylbewerbern in nächster Zeit zunehmen werde (vgl. Tertio BBB).
- Ich habe ihn über unsere beabsichtigte neue Politik gegenüber srilankischen Asylbewerbern informiert (Gespräch BR Koller - Ranil Wickremasinghe vom 11.5.92. In Pkt. quarto wird indirekt darauf Bezug genommen). Er steht diesem geplanten Vorgehen grundsätzlich auch positiv gegenüber, obwohl sein "approach" eher die Repatriierung derjenigen abgewiesenen Asylbewerber, die aus **sicheren Orten** stammen, ist (also unabhängig vom Zeitpunkt der Ankunft im Aufnahmeland).
- Utkan plädiert für eine Monitoring-Funktion des HCR bei einer zukünftigen Rapatriierungsaktion, um eine "sichere und würdige" Rückkehr zu gewährleisten (vgl. Septimo DDD und Oktavo BBB sowie NONO).



- Im UNHCR-Dokument vom 22.5.92 wird aufgrund verschiedener Kriterien (lokale und ethnische Herkunft, "old-established, displaced persons or returnees") der jeweilige Gefährdungsgrad untersucht. Das Ergebnis lautet im wesentlichen: der Süden und das Zentrum des Landes gelten als sicher, der Norden und Osten mit Ausnahme von Trincomalee- und Vavuniya-Stadt und Mannar Island als mehr oder weniger unsicher.
- In diesem Dokument wird auch auf die wirtschaftlichen Motive der Flucht hingewiesen, und typische Missbrauchsfälle werden beschrieben (vgl. Quarto).

Beurteilung:

1. Die Heranziehung verschiedener Kriterien und insbesondere des sicheren Herkunftsortes hat Vor- und Nachteile. Als Nachteile sehe ich namentlich:
 - Schwierigkeit der Beurteilung der Sicherheitslage im Norden und Osten, die sich ständig ändern kann (Trincomalee gilt z.B. zur Zeit als sicher, die Vororte schon weniger und der Distrikt ist unsicher).
 - Bei abgewiesenen Asylsuchenden dürfte es auch schwierig sein, den Herkunftsort oder den letzten Aufenthaltsort festzustellen (stammen sie z.B. aus Colombo, oder haben sie sich dort länger aufgehalten, haben sie dort Verwandte oder Bekannte).
 - Wenn Orte als sicher (Trincomalee), bzw. als unsicher bezeichnet werden (z.B. Batticaloa), käme dies einer Einladung zur Auswanderung für diejenigen aus unsicheren Orten gleich.
 - Wird auf das Kriterium des "sicheren Ortes" abgestellt, sollte man konsequenterweise alle aus diesen Lokalisationen zurücksenden und nicht nur die zukünftigen abgewiesenen Asylsuchenden.


Der Vorteil des Abstellens auf solche Kriterien liegt darin, dass bei Erfüllung aller Voraussetzungen auch die zwangsweise Repatriierung nicht in Frage gestellt werden kann (z.B. für Tamilen, die keine LTTE-Supporter sind und deren Familien in Colombo leben).

Ranil Wickremasinghe empfahl in seinem Gespräch mit BR Arnold Koller, dass vorerst mit der Repatriierung abgewiesener Asylsuchender aus sicheren Orten begonnen werde, da es wichtig sei, dass die ersten Repatriierungsaktionen reibungslos ablaufen.
2. Da die neue schweizerische Praxis auch präventiv wirken und potentielle Asylsuchende von der mit hohen Kosten (3000 - 6000 US\$) verbundenen Reise nach Europa abhalten sollte, wäre es meiner Auffassung nach angebracht, diese neue Politik möglichst frühzeitig anzukündigen (z.B. durch ein Presse-Communiqué, das in tamilischen Zeitungen veröffentlicht würde).

3. Diese Politik wird mit anderen Aufnahmeländern koordiniert werden müssen.
4. Die Bereitschaft des hiesigen HCR-Vertreters, dass seine Organisation eine Ueberwachungstätigkeit bei einer zukünftigen Repatriierungsaktion übernehmen würde, ist zu unterstützen, da die Sicherheit der Zurückkehrenden dadurch erhöht würde. Auch wären die hiesigen Botschaften mit dem derzeitigen Personalbestand für die Erfüllung dieser Aufgabe nicht ausgerüstet (ebenfalls Auffassung meines deutschen Kollegen).

Mit freundlichen Grüßen

Der Schweizerische Botschafter:



A. v. Graffenried

2 Beilagen



UNHCR

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

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நாடுகள் உயர்வு தாவிக்கரின்
காரியாலயம் இலங்கை.

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FROM : UTKAN

REF : LKA/HCR/0280

DATE : 25 MAY 1992

PAGES : 08

RE REJECTED SRI LANKAN ASYLUM SEEKERS

PRIMO : PLEASE FIND ATTACHED COPY OF A TELEX TO BO BONN IN REPLY TO A REQUEST FOR INFORMATION SUBMITTED BY A LAWYER. LATTER'S QUERY WAS TWOFOLD: FIRST, IS IT CORRECT THAT OUT OF SOME 200 SL ASYLUM SEEKERS WHO RETURNED VOLUNTARILY UNDER GERMANY'S REAG PROGRAMME NONE HAVE CONTACTED THIS BO AND SECOND, ARE ALL YOUNG TAMILS CONSIDERED AT RISK. WHILE ANSWERING THESE TWO QUESTIONS, WE HAVE ALSO ATTEMPTED TO DEVELOP SOME GUIDELINES TO IDENTIFY GROUPS OF ASYLUM SEEKERS WHO CAN BE CONSIDERED SAFE. CRITERIA USED FOR THIS PURPOSE WAS SECURITY IN HOME AREAS AND ETHNIC ORIGIN OF PERSONS CONCERNED, IT BEING UNDERSTOOD THAT INDIVIDUAL SECURITY IS PREDICATED UPON LACK OF ACTIVE INVOLVEMENT WITH LTTE. IN DOING SO, WE HAVE EXTENSIVELY RELIED ON OUR OWN FINDINGS AS WELL AS THOSE OF EMBASSIES, NGOS AND THE ICRC. THERE IS NO DOUBT THAT SUCH AN ANALYSIS COULD BE FURTHER REFINED AND IN A SITUATION AS FLUID AS THE ONE IN SL, CONCLUSIONS WILL HAVE TO BE REGULARLY REVIEWED. THERE ARE HOWEVER TWO MAIN CONCLUSIONS THAT CAN ALREADY BE DRAWN AT THIS STAGE: FIRST, ALTHOUGH DIFFICULT A GROUP DEFINITION CAN AT LEAST BE ATTEMPTED AND SECOND, THE OVERALL PICTURE THAT EMERGES IS ONE OF A MOSAIC OF SITUATIONS WHICH CONTRASTS WITH THE MONOLITHIC VIEW OFTEN EXPRESSED OF SL AS A COUNTRY FACING AN ALL OUT CIVIL WAR.

SECUNDO : OUR CONCLUSIONS SHOULD BE SEEN AGAINST FOLLOWING BACKGROUND:

AAA GOVERNMENT AND LTTE CONTROLLED REGIONS ARE CLEARLY DELINEATED IN THE NORTH AND ARMED CONFLICT HAS THEREFORE BEEN CIRCUMSCRIBED TO SPECIFIC AREAS. THE SITUATION IS MORE FLUID IN THE EAST WHERE GOVERNMENT CONTROL IS LIMITED TO MAIN TOWNS AND THEIR IMMEDIATE VICINITY. HENCE, IN TERMS OF SECURITY, EAST AND PARTICULARLY BATTICALOA, IS MORE SENSITIVE THAN NORTH. PATTERN OF MILITARY OPERATIONS IS ONE THAT AIMS AT GRADUALLY AND GENERALLY SLOWLY SHIFTING DEMARCATION LINE. CONCLUSION IS THAT A MILITARY SOLUTION, IF AT ALL FEASIBLE, CAN ONLY BE A VERY PROTRACTED PROCESS.

BBB AS EXPLAINED IN LKA/HCR/0274 EFFORTS TOWARDS A POLITICAL SOLUTION HAVE NOT YET PRODUCED ANY TENGIBLE RESULTS. PROGRESS OF THE WORK OF THE SELECT PARLIAMENTARY COMMITTEE, CONTINUES TO BE AGONIZINGLY SLOW. APART FROM WELL KNOWN DIFFICULTIES IN NEGOTIATING WITH THE LTTE, A POLITICAL CONSENSUS HAS YET TO BE FORGED WITHIN THE REST OF THE POLITICAL SPECTRUM. THE BAN ON THE LTTE BY INDIA HAS ALSO ADDED AN ADDITIONAL ELEMENT OF COMPLEXITY TO DIALOGUE WITH LTTE. MOREOVER, MERGER OF NORTH AND EAST IS SEEN AS A PRE-CONDITION BY TAMIL POLITICAL PARTIES (ANTI-LTTE) BUT IS OPPOSED BY THE SINHALESE SIDE. THE THONDAMAN TALKS WITH LTTE WHICH WERE HEADLINES A FEW MONTHS HAVE NOW SUBSIDED. HENCE, THERE IS WITHIN THE DIPLOMATIC COMMUNITY, A GENERAL FEELING THAT THE SEARCH FOR A POLITICAL SOLUTION MIGHT BE AN ARDUOUS AND LENGIHY PROCESS.

CCC ON THE OTHER HAND, THERE APPEARS TO BE NOTICEABLE IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION (LKA/HCR/032, LKA/HCR/065 AND LKA/HCR/109 REFER). THIS IS CERTAINLY THE VIEW OF THE ICRC WHICH OPERATES WITH 75 EXPATRIATES AND HAS THEREFORE A UNIQUE GRASP OF THE SITUATION ON THE GROUND. THIS VIEW IS LARGELY SHARED BY EMBASSIES WHO ALSO UNDERTAKE FREQUENT VISITS TO THE EAST. AS A CASE IN POINT, THE RATHER UNIQUE POLICY OF PROVIDING FOOD TO THE CIVILIANS IN LTTE CONTROLLED AREAS CONTINUES. NGOS REPORT THAT WAREHOUSES IN THE NORTH ARE FULL THANKS TO A COMBINATION OF THIS POLICY AND A BUMPER CROP. WHILST PROGRESS NEEDS TO BE FURTHER CONSOLIDATED, IT REMAINS THAT SL IN 1992 IS CERTAINLY NOT SL IN 1989. IMPROVEMENT IS LARGELY ATTRIBUTABLE TO CLOSE INTERNATIONAL SCRUTINY AND LINKAGE BETWEEN DEVELOPMENT AID AND HUMAN RIGHTS RECORD. THIS ALSO EXPLAINS THE COOPERATION THAT GSL HAS OFFERED TO UNCHR AND AMNESTY. THE SUCCESS OF THE PARIS CONSORTIUM MEETING IN FEBRUARY 1992 IS ANOTHER INDICATION THAT DONORS RECOGNIZE A POSITIVE TREND BUT ALSO OF THEIR COMMITMENT TO CONTINUE MONITORING THE SITUATION.

TERTIO : CONSIDERABLE TIME AND ATTENTION IS DEVOTED BY EMBASSIES TO ASSESSING HOW DEVELOPMENTS IN SL COULD AFFECT THEIR POLICY TOWARDS REJECTED ASYLUM SEEKERS. FACTORS MENTIONED ABOVE, I.E. REALISATION THAT A SOLUTION TO THE CONFLICT IS STILL ELUSIVE WHILST THE HUMAN RIGHTS SITUATION IS GENERALLY IMPROVING, ARE CERTAINLY NOT LOST SIGHT OF. THERE IS AN AWARENESS THAT AS LONG AS THE CONFLICT CONTINUES SO WILL THE PRESENT MOVEMENT OF ASYLUM SEEKERS WHICH INVOLVES SOME 30,000 PERSONS A YEAR (1991). FURTHERMORE, NUMBERS ARE EVEN LIKELY TO INCREASE DUE TO FOLLOWING FACTORS:

AAA AS REPORTED IN THE ATTACHED TELEX, ILLEGAL NETWORKS WHOSE CENTRE IS IN COLOMBO, ARE FLOURISHING IN SL. THERE IS NO DOUBT THAT FOR A COMMUNITY WHICH HAS A STRONG MIGRATION TRADITION, THE ASYLUM CHANNEL HAS BECOME A CONVENIENT WAY TO GO ABROAD. THAT DEPARTURE IS OFTEN FOR PERSONAL CONVENIENCE IS EVIDENCED BY THE LARGE NUMBER OF PERSONS HAVING BEEN GRANTED REFUGEE STATUS OR EXCEPTIONAL AUTHORISATION TO STAY WHO RETURN TO SL ON LEAVE OR FOR PERSONAL BUSINESS. IT IS ALSO SYMPTOMATIC THAT POTENTIAL TAMIL REFUGEES TRAVEL TO COLOMBO TO ARRANGE FOR THEIR DEPARTURE. AS LONG AS POTENTIAL CANDIDATES KNOW THAT THEY WILL NOT BE RETURNED, THERE IS NO DISINCENTIVE TO DEPARTURE. RESULT IS THAT PEOPLE USUALLY SELL ALL THEIR BELONGINGS OR EVEN BORROW MONEY TO BUY THEIR ASYLUM KITS. FACT THAT WIFE AND CHILDREN ARE IN MOST CASES LEFT BEHIND AND ARE OFTEN UNABLE TO REUNITE WITH FAMILY MEMBER WHO DEPARTED ADDS A HUMAN AND OFTEN OVERLOOKED DIMENSION TO THE PROBLEM. TO SUM UP, SL PROVIDES A PERFECT EXAMPLE OF A SITUATION WHERE FAILURE TO FIND A SOLUTION TO NON-REFUGEE PROBLEMS HAS SERIOUS CONSEQUENCES FOR REFUGEES.

BBB THERE IS A GROWING AND LEGITIMATE CONCERN THAT REPATRIATION FROM INDIA WILL FURTHER INCREASE DEPARTURES TO WESTERN COUNTRIES. CONSIDERING THAT PRESENT REPATRIATION DOES NOT ALLOW FOR A FULL SCALE REINTEGRATION, THIS ALTERNATIVE MIGHT INDEED BE MORE PALATABLE FOR RETURNEES WHO HAVE THE MEANS TO GO ABROAD. WITH REPATRIATION ENTERING A PHASE OF RELUCTANT RETURN, THE PROPENSITY TO SUBSTITUTE ONE ASYLUM COUNTRY FOR ANOTHER MIGHT INDEED INCREASE. AMONGST RETURNEES FROM INDIA, AN ESTIMATED 700 ARE REPORTED TO HAVE GONE TO COLOMBO AND THERE IS ALSO A MOVEMENT OF SPONTANEOUS RETURN FROM MADRAS TO COLOMBO. IT IS LIKELY THAT SOME OF THESE RETURNEES ARE MERELY IN TRANSIT. THIS CONCERN HAD ALREADY BEEN EXPRESSED DURING THE ANVAR/CHETTY MISSION AND IT WAS RAISED AGAIN DURING THE 7 MAY MEETING WITH DONORS.

CCC AS THE ASYLUM CHANNEL IS RECOGNIZED AS ONE OF THE MAIN SOURCE OF LTTE FINANCING, IT IS ANTICIPATED THAT WITH THE LATTER'S GROWING ISOLATION AND LOSS OF RESOURCES FROM INDIA, MORE ASYLUM SEEKERS WOULD BE NEEDED TO SUSTAIN THE WAR EFFORT.

DDD PRESSURE TO LEAVE IS ALSO LIKELY TO BUILD SHOULD GSL FOLLOW INDIA'S EXAMPLE ON BAN OF LTTE. HOWEVER, AS EXPLAINED IN LKA/HCR/0274 THIS IS MOST UNLIKELY.

QUARTO : ALL THESE DEVELOPMENTS HIGHLIGHT THAT PRESSURE MIGHT BE BUILDING UP TOWARDS A CHANGE IN PRESENT POLICY OF MAIN ASYLUM COUNTRIES WHICH HAS BEEN SO FAR EXTREMELY CAUTIOUS ON RETURN OF REJECTED ASYLUM SEEKERS. THIS IS ALL THE MORE LIKELY WHEN VIEWED AGAINST THE BACKGROUND OF EVER INCREASING ASYLUM APPLICATIONS IN EUROPE. WITHIN THIS OVERALL CONTEXT, IT IS NOTEWORTHY THAT ADDITIONAL PUSH FACTORS WHICH ARE NOT FULLY RELATED TO GENUINE ASYLUM CONSIDERATIONS ARE AT WORK IN SL. THE CHANGE OF POLICY MIGHT NOT PLACE OVERNIGHT BUT VIEWED FROM HERE WE ARE CONVINCED THAT THE TREND WOULD EMERGE PERHAPS EVEN SOONER THAN ANTICIPATED. IT IS LIKELY TO BE PROMPTED BY A COMBINATION OF FACTORS WHICH INCLUDE POSSIBILITY OF SAFE RETURN TO SOME AREAS OF SL AND DETERRENCE AGAINST USE OF ILLEGAL IMMIGRATION NETWORKS. POSSIBILITY THAT AT LEAST SOME OF THE MANIFESTLY UNFOUNDED APPLICANTS MIGHT BE RETURNED IS INDEED LIKELY TO EXERCISE A RESTRAINING EFFECT ON ROUTINE USE OF ILLEGAL CHANNELS, AS THE PROSPECT OF LOSING EVERYTHING MIGHT INDEED TRIGGER A MORE CAREFUL CONSIDERATION OF THE ECONOMICS OF DEPARTURE. ANOTHER TREND OF THOUGHT I HAVE DISCERNED IS TO CONSIDER IN FUTURE RETURNING ALL REJECTED CASES WHILST CONTINUING TO GRANT EXCEPTIONAL AUTHORISATION TO STAY TO THOSE ALREADY IN COUNTRY. THIS VIEW DRAWS FROM THE INTERNAL FLIGHT ARGUMENT, I.E. THAT PERSONS AFFECTED BY VIOLENCE CAN MOVE FROM ONE AREA TO ANOTHER WITHIN GOVERNMENT CONTROLLED REGIONS OR ALTERNATIVELY, FROM GOVERNMENT TO LITE CONTROLLED AREAS. IN ANY CASE, IF ONE ACCEPTS THE ASSUMPTION THAT A CHANGE OF POLICY IS INDEED POSSIBLE, OR AT LEAST THAT THERE ARE SUFFICIENT EARLY WARNING SIGNALS TO THAT EFFECT, IT WOULD THEN BE APPROPRIATE TO EXAMINE WHAT OPTIONS ARE AVAILABLE TO UNHCR.

QUINTO : ANOTHER POINT WORTH RAISING IS WHETHER OTHER COUNTRIES WOULD DRAW ANY CONCLUSIONS FROM PRESENT REPATRIATION IN RESPECT OF REJECTED CASES. HAVING SEVERAL TIMES DISCUSSED MATTER WITH EMBASSIES, I DO NOT BELIEVE THAT A DIRECT CORRELATION IS DRAWN, AS IT IS WIDELY RECOGNIZED THAT REPATRIATION IS TAKING PLACE UNDER VERY UNUSUAL CONDITIONS. HOWEVER, THERE IS NO DOUBT THAT OPERATION IS CAREFULLY MONITORED AND FACT THAT IT HAS SO FAR TAKEN PLACE WITHOUT MAJOR INCIDENT (ACCORDING TO OUR INFO, 12 RETURNEES ARRESTED BUT ALL RELEASED OUT OF A POPULATION NOW EXCEEDING 23,000) IS PERCEIVED AS AN ENCOURAGING DEVELOPMENT. GENERAL FEELING, AS SUMMARIZED BY ONE AMBASSADOR DURING 7 MAY MEETING, IS THAT HUMANE TREATMENT WHICH OVERWHELMING MAJORITY OF RETURNEES HAVE RECEIVED ON ARRIVAL IS ONE CONSIDERATION TO BE TAKEN NOTE OF WHEN ASSESSING POLICY ON REJECTED CASES. ANOTHER

OBSERVATION IS THAT SOME 2,400 RETURNEES HAVE NOW GONE BACK OF THEIR FREE WILL TO UNCLEARED AREAS. A UNHCR MISSION TO KILINOCCHI AND MULAITIVU, ON WHICH WE SHALL REPORT SEPARATELY, HAS CONFIRMED THAT MOVEMENT HAS INDEED BEEN VOLUNTARY AND THAT FAMILIES WERE NOT SPLIT. THIS INDICATES THAT ONCE RETURNEES ARE BACK IN SL, LARGE NUMBERS PREFER TO PROCEED TO THEIR HOME AREAS WITHOUT APPARENTLY FEELING ENDANGERED. FINALLY, DESPITE REPORTS ON COERCION SINCE MID-APRIL, FACT THAT AT LEAST INITIAL 15,000 APPEAR TO HAVE RETURNED VOLUNTARILY HIGHLIGHTS THAT FEASIBILITY OF THIS OPTION, EVEN ON A LIMITED SCALE, CANNOT ALTOGETHER BE DISCARDED.

*Voluntarily
with security*

SEXTO : UNHCR PRESENT POSITION AS DETAILED IN CABLE OF 31 OCT TO NET MINJUST, CAN BE SUMMARIZED AS FOLLOWS.

AAA AS A POSITION OF PRINCIPLE, DECISION TO RETURN PERSONS DETERMINED NOT TO QUALIFY FOR REFUGEE STATUS IS A RESPONSIBILITY OF GOVERNMENTS.

BBB DEPORTATION SHOULD BE APPROACHED WITH EXTREME PRUDENCE AS THERE HAS BEEN NO IMPROVEMENT IN SITUATION, PARTICULARLY IN NORTH AND EAST, AND CONDITIONS ARE NOT CONDUCTIVE TO VOLREP PROGRAMME FOR REFUGEES.

CCC UNHCR DOES NOT HAVE A MONITORING POSSIBILITY REGARDING RETURNEES.

DDD HOWEVER, IT IS UNDERSTOOD THAT THERE MIGHT BE INDIVIDUAL CASES WHO LEFT FOR PERSONAL CONVENIENCE AND WHERE THERE IS INDEED A COMPLETE LACK OF CREDIBLE FEAR OR HARM DUE TO THE CIVIL WAR SITUATION. IN THE LATTER CIRCUMSTANCES, UNHCR SHOULD NOT OBJECT TO DEPORTATION OF SUCH INDIVIDUALS.

EEE IT IS DIFFICULT TO GIVE A PRECISE DEFINITION OF WHOM AMONG THE TAMILS CAN BE CONSIDERED SAFE OUTSIDE THE CIVIL STRIFE AREA.

FFF MEMBERS OF TAMIL FAMILIES FROM COLOMBO AND TAMILS ORIGINATING FROM NORTH AND EAST WHO HAVE RELATIVES IN COLOMBO SHOULD BE ABLE TO RETURN TO COLOMBO UNLESS THEY HAVE BEEN SUBJECT OF INDIVIDUALLY TARGETTED DETENTION AND ARREST.

SEPTIMO : WHILE THIS POLICY FRAMEWORK REMAINS BY AND LARGE VALID, I WISH IN LIGHT OF LATEST DEVELOPMENTS TO OFFER FOLLOWING COMMENTS:

AAA EXTREME PRUDENCE APPLIES MAINLY TO EAST (WITH EXCEPTION OF TRINCOMALEE TOWN AND IMMEDIATE VICINITY). PRUDENCE APPLIES TO NORTH DESPITE SIGNIFICANT NUMBER OF RETURNEES HAVING ALREADY GONE BACK AND VIRTUAL STANDSTILL ON MILITARY OPERATIONS DURING LAST TWO MONTHS. ON THE OTHER HAND, CONDITIONS IN SOUTH, I.E. NOT ONLY COLOMBO BUT ALSO VAVUNIYA, ANURADHAPURA AND OTHER AREAS, GENERALLY LEND THEMSELVES TO SAFE AND DIGNIFIED RETURN OF REJECTED CASES. HOWEVER, A CAUTIOUS APPROACH WOULD JUSTIFY THE SETTING UP OF A MONITORING MECHANISM AS WELL AS INFORMATION GATHERING ON POTENTIAL RISK.

BBB THERE HAS BEEN A MARKED IMPROVEMENT IN THE HUMAN RIGHTS SITUATION, AT LEAST IN THE SOUTH, PARTICULARLY ON DISAPPEARANCES.

CCC IN LIGHT OF OUR OBSERVATIONS THAT RETURNEES FROM INDIA HAVE AT LEAST UNTIL MID-APRIL COME VOLUNTARILY, VIEW THAT QUOTE CONDITIONS IN GSL ARE CERTAINLY NOT CONDUCTIVE TO VOLREP UNQUOTE SHOULD BE AMENDED TO SOUND LESS CATEGORICAL, I.E. THAT CONDITIONS ARE GENERALLY NOT CONDUCTIVE TO VOLREP.

DDD WHILE IT IS CORRECT THAT UNHCR DOES NOT HAVE AN ADEQUATE MONITORING POSSIBILITY REGARDING RETURNEES, THIS DOES NOT MEAN THAT SUCH A MECHANISM CANNOT BE ESTABLISHED. FURTHERMORE, MY READING OF THE SITUATION IS THAT IT WOULD BE VERY MUCH SUPPORTED BY THE INTERNATIONAL COMMUNITY (SHOULD COUNTRIES DECIDE TO GO AHEAD WITH RETURN OF REJECTED CASES) AS WELL AS BY GSL DUE TO THEIR SENSITIVITY ON HUMAN RIGHTS ISSUES. HENCE, QUESTION IS NOT SO MUCH ONE OF FEASIBILITY THAN OF UNHCR'S READINESS TO EXPLORE SUCH A NOVEL APPROACH.

EEE AS STATED EARLIER, DEPARTURES FOR INDIVIDUAL CONVENIENCE ARE NOT LIMITED TO A FEW CASES BUT ARE PART OF A WIDESPREAD AND ORGANIZED PHENOMENON.

FFF WHILST PROVIDING A PRECISE GROUP DEFINITION OF PERSONS WHO CAN BE CONSIDERED SAFE IS INDEED DIFFICULT, I HOPE THAT THE ATTACHED TELEX DEMONSTRATES THAT IT IS NOT TECHNICALLY IMPOSSIBLE. IT WOULD CERTAINLY REQUIRE HUMAN RESOURCES AND I UNDERSTAND THAT EVEN QUESTIONS COULD BE RAISED AS TO RELEVANCE OF GATHERING SUCH INFO IN COUNTRY OF ORIGIN (I AM CONVINCED IT IS VERY RELEVANT) BUT I SUBMIT THAT IT CAN BE DONE.

OCTAVO : AAA SHOULD OUR PREDICTION OF POLICY CHANGE PROVE TO BE CORRECT, I WISH TO STRESS THAT THIS CHANGE WOULD NOT NECESSARILY BE BASED ON INCORRECT PREMISES. THE PRESENT APPROACH COMBINING LOW RATES OF RECOGNITION WITH A GENEROUS POLICY ON EXCEPTIONAL AUTHORISATION TO STAY FOR REJECTED CASES AMOUNTS IN PRACTICE TO LUMPING TOGETHER REFUGEES AND NON-REFUGEES. IT PROVIDES A STRONG INCENTIVE FOR PROLIFERATION OF ILLEGAL NETWORKS, STIMULATES DEPARTURES FOR PERSONAL CONVENIENCE AND GENERALLY SPEAKING REWARDS THE WRONG INCENTIVE. RESULT IS THAT ASYLUM CLAIMS FROM SL ARE GENERALLY PERCEIVED AS LACKING CREDIBILITY WHICH EXPLAINS SINGLE DIGIT RECOGNITION RATES PREVAILING IN SEVERAL COUNTRIES. ALSO, SINCE REJECTED APPLICANTS ARE IN ANY CASE BEING GIVEN A STATUS ALLOWING FOR THEIR TEMPORARY STAY, THERE COULD ALSO BE A TENDENCY TO DENY BENEFIT OF THE DOUBT WHEN REVIEWING ASYLUM APPLICATIONS, HENCE, A CHANGE OF POLICY ON REJECTED CASES COULD GENERATE A DIFFERENT APPROACH TO STATUS DETERMINATION, I.E. ONE THAT IS NOT CARRIED WITH A FRAME OF MIND THAT APPLICANT WOULD IN ANY CASE NOT BE DEPORTED. IT IS ONLY AN APPARENT PARADOX THAT A LESS FAVOURABLE TREATMENT ON REJECTED CASES, AT LEAST ON MANIFESTLY ABUSIVE ONES, MIGHT RESULT IN SOMEWHAT INCREASED RECOGNITION RATES.

BBB THIS SITUATION LENDS ITSELF TO THE SEARCH OF QUOTE UNORTHODOX SOLUTIONS UNQUOTE REFERRED TO IN THE NOTE ON INTERNATIONAL PROTECTION DATED 27 AUGUST 1990 (A/AC.96/750). FROM THE THREE ROLES REFERRED TO THEREIN FOR UNHCR TO PLAY IN RETURN OF REJECTED CASES, I.E. OPERATIONAL, CATALYTIC AND MONITORING (OR COMBINATION OF THE THREE), THE EMPHASIS SHOULD AT THIS STAGE BE ONLY ON MONITORING. I ALSO BELIEVE THAT UNHCR SHOULD NOT TAKE A PRO-ACTIVE STANCE ON THIS MATTER BUT NEITHER SHOULD WE BE AVERSE TO CONSIDERING A MONITORING ROLE IF SUCH A PROPOSAL WERE INDEED TO BE PUT FORWARD BY THE INTERNATIONAL COMMUNITY. THIS SHOULD ALSO NOT AFFECT OUR POLICY OF NON-PROMOTION OF VOLREP FOR RECOGNIZED REFUGEES.

CCC I ALSO BELIEVE THAT THERE IS NO INCONSISTENCY BETWEEN THE TWO APPROACHES (I.E. ON REJECTED CASES AND GENUINE REFUGEES), ALL THE MORE SO SINCE IMPLEMENTED IN TENDEM THEY MIGHT LEAD TO A MORE CONGENIAL TREATMENT OF GENUINE REFUGEES. I WISH TO STRESS THAT THE SITUATION REFERRED HERE IS ONE IN WHICH GOVERNMENTS CONCERNED, IN THE EXERCISE OF THEIR RESPONSIBILITY ON REJECTED CASES, WOULD DECIDE TO RETURN SOME OF THEM, SUCH AS MOST ABUSIVE CASES. THAT STILL LEAVES OPEN THE QUESTION OF SAFE AND DIGNIFIED RETURN. UNHCR COULD, DUE TO ITS EXPERTISE AND CREDIBILITY IT ENJOYS WITH GSL, INDEED PLAY A USEFUL ROLE IN ENSURING THAT SUCH AN OPERATION IS CARRIED OUT IN ACCORDANCE WITH HUMANITARIAN PRINCIPLES.

NONO : AAA AS EVIDENCED BY IMPACT OF OUR PRESENCE AND PROTECTION ROLE ON MANNAR ISLAND, ~~A POSSIBLE MONITORING ROLE~~ FOR UNHCR WOULD CERTAINLY PROVIDE ADDITIONAL GUARANTEES FOR SAFE RETURN. IT WILL ALSO HIGHLIGHT THAT INTERNATIONAL COMMUNITY IS NOT INSENSITIVE TO HUMAN SIDE OF THIS COMPLEX ISSUE, I.E. THAT PEOPLE ARE NOT SIMPLY DUMPED. AS STATED EARLIER, THE CLOSE COOPERATION OFFERED BY GSL TO HUMANITARIAN AGENCIES AS WELL AS WEIGHT THAT THEIR VIEWS CARRY PROVIDE NECESSARY GUARANTEES FOR SUCCESSFUL IMPLEMENTATION OF SUCH AN OPERATION.

BBB THIS MECHANISM WOULD ALSO PROVIDE FOR A USEFUL SAFETY NET. A REGULAR REPORTING TO CONCERNED COUNTRIES WOULD ENSURE THAT IMPLEMENTATION IS SYSTEMATICALLY REVIEWED AND NECESSARY REMEDIAL MEASURES (INCLUDING REGULATING OR IF NECESSARY HALTING FLOW OF ARRIVALS) ARE TAKEN.

CCC FINALLY MONITORING WOULD ENSURE THAT FLOW OF RETURN IS ADJUSTED TO SECURITY CONDITIONS PREVAILING IN SPECIFIC AREAS.

DECIMO : WHILST CONSIDERATIONS OUTLINED ABOVE ARE AT THIS STAGE MAINLY PART OF AN EARLY WARNING EXERCISE, I BELIEVE THAT THEY DESERVE CAREFUL CONSIDERATION. AT LEAST PRO AND CONS OF THIS APPROACH SHOULD BE CAREFULLY WEIGHED. I REALIZE THAT VIEWS EXPRESSED ABOVE MIGHT NOT BE MOST POPULAR AT HQ. HOWEVER, I FEEL DUTYBOUND TO PROVIDE YOU WITH A REALISTIC PICTURE OF NEWLY EMERGING TRENDS AS WE PERCEIVE THEM FROM HERE.

(UNHCR COLOMBO)

UNHCR (COLOMBO) 22MAY92

LKA/GFR/HCR/0145 ATTN: LINDENBAUER
LKA/CAN/HCR/0146 FOR INFO

RE YR FAX 610.LKA-92/2064 OF 30/4/92 ON RETURN OF REJECTED ASYLUM SEEKERS TO LKA AND QUESTIONS RAISED BY MR HEINHOLD IN HIS FAX OF 28/4/92.

PRIMO: ACCORDING TO THE INFORMATION PROVIDED BY BO BONN TO THIS OFFICE 46 FAMILIES RETURNED VOLUNTARILY UNDER THE REAG PROGRAMME FROM THE FRG TO LKA IN 1991 AND 17 FAMILIES IN THE FIRST 4 MONTHS OF 1992. THEY ORIGINATE FROM THE FOLLOWING DISTRICTS:

1991	1992
JAFFNA: 23	JAFFNA: 6
COLOMBO: 9	COLOMBO: 5
PUTTALAM: 5	
GAMPAHA: 3	GAMPAHA: 1
TRINCOMALEE 2	TRINCOMALEE 2
BADULLA: 1	
KURUNEGALA: 1	
NUWARA ELIYA: .. 1	NUWARA ELIYA: .. 1
MATARA: 1	MATARA: 1
	BATTICALOA 1

IT IS TRUE THAT NONE OF ABOVE RETURNEES REPORTED TO THIS OFFICE OR SOUGHT OUR ASSISTANCE. WE PRESUME THAT ILL-TREATED PERSONS WOULD REPORT TO THIS OFFICE. OUR CONCLUSION IS THAT THEY DID NOT FACE ANY DIFFICULTIES AND THAT THEY ARE EITHER STAYING WITH RELATIVES AND FRIENDS IN THE SOUTH (E.G. COLOMBO) OR THAT THEY RETURNED TO THEIR HOMES. EXPERIENCE WITH RETURNEES FROM INDIA SHOWS THAT LATTER IS POSSIBLE, EVEN TO UNCLEARED AREAS LIKE JAFFNA. IN FACT, ONCE BACK IN LKA, RETURNEES ORIGINATING FROM THESE AREAS OVERWHELMINGLY PREFER TO PROCEED TO THEIR HOME AREAS WHERE THEY ARE ACCOMMODATED WITH FRIENDS AND RELATIVES. AT PRESENT BO COLOMBO DOES NOT HAVE RESOURCES TO MONITOR ARRIVALS OF RETURNEES AND DEPORTEES FROM EUROPE BUT, IF REQUIRED AND APPROVED, A GENERAL MONITORING SYSTEM COULD BE ESTABLISHED. IN OTHER WORDS, THE FACT THAT SUCH A MECHANISM DOES NOT EXIST AT PRESENT DOES NOT MEAN THAT IT CAN NOT BE ESTABLISHED. IF NUMBER OF PERSONS RETURNING OR WHO ARE DEPORTED INCREASES, THIS MECHANISM WILL BE OF CRITICAL IMPORTANCE IN ASCERTAINING CONDITIONS OF RETURN.

SECUNDU: WE ARE NOT OF OPINION THAT ALL YOUNG MALE TAMILS ARE ENDANGERED. SUCH A VIEW WOULD BE TOO SIMPLISTIC. THIS IS EVIDENCED BY YOUNG TAMILS WHO AT PRESENT ARE SPONTANEOUSLY RETURNING FROM INDIA THROUGH REGULAR FLIGHTS TO COLOMBO IN ADDITION TO SIGNIFICANT NUMBERS WHO HAVE RETURNED UNDER THE ONGOING REPATRIATION. SIMILARLY, THERE HAVE BEEN NUMEROUS INSTANCES WHERE YOUNG TAMIL MALES WHO HAVE BEEN GRANTED REFUGEE STATUS OR EXCEPTIONAL AUTHORIZATION TO STAY HAVE RETURNED TO COLOMBO AND JAFFNA FOR PERSONAL BUSINESS OR TO GET MARRIED.

IN ORDER TO EVALUATE THE SECURITY SITUATION ONE HAS RATHER TO PROCEED ON A CASE BY CASE BASIS. THIS EVALUATION HAS TO BE BASED ON THE PREVAILING SITUATION OF THE AREA THE IC IN QUESTION ORIGINATES FROM AND ON THE SECURITY AND LIVING CONDITIONS OF THE CATEGORY OF PERSONS IC BELONGS TO.

TERTIU: TO ENABLE YOU TO REPLY TO QUESTION RELATED TO INDIVIDUAL ASYLUM AND DEPORTATION CASES PLEASE FIND BELOW AN OVERVIEW OF THE SECURITY SITUATION PREVAILING IN THE MAIN AREAS OF CONCERN AND A SHORT DESCRIPTION OF THE SECURITY AND LIVING CONDITIONS REGARDING CATEGORIES OF PERSONS LIVING IN THIS AREAS.

AAA) AREAS NOT AFFECTED BY CIVIL WAR:
THE FOLLOWING DISTRICTS ARE BACK TO NORMAL AND ARE COMPLETELY CONTROLLED BY CIVIL AND MILITARY ADMINISTRATION: COLOMBO, KANDY, ANURADHAPURA, NUWARA ELIYA, MATARA, PUTTALAM, KURUNEGALA, POLONNARUWA, KEGALLE, RATNAPURA, BANDARAWALA, BADULLA AND PARTS OF VAVUNIYA. ALL THESE DISTRICTS TRADITIONALLY HAVE MORE OR LESS LARGE TAMIL AND MUSLIM COMMUNITIES (E.G. COLOMBO ABOUT 250.000 TAMILS). IN VAVUNIYA TAMILS ARE IN THE MAJORITY.

A1) OLD-ESTABLISHED INHABITANTS OF TAMIL ORIGIN:
TAMIL COMMUNITIES MAINLY LIVE IN ENCLAVES IN THE ABOVE AREAS, E.G. IN COLOMBO PLACES LIKE LITTLE JAFFNA ARE INHABITED BY TAMILS ONLY. ONLY THOSE TAMILS LIVING CLOSE TO THE DISTRICT BORDERS ADJOINING AREAS AFFECTED BY CIVIL WAR (POLONNARUWA, ANURADHAPURA AND PUTTALAM) CAN BE ENDANGERED BY REPRISAL ATTACKS OF MUSLIM HOME GUARDS OR BAND OF SOLDIERS (E.G. THE LTTE MASSACRE OF 28/4/92, WHERE 67 MUSLIMS WERE KILLED IN POLONNARUWA DISTRICT, LED TO REPRISAL ATTACKS BY MUSLIM MOBS THAT LEFT 83 TAMILS IN THE AREA DEAD). THE OLD-ESTABLISHED INHABITANTS OF TAMIL ORIGIN ARE GENERALLY DOING RATHER WELL. TAMILS BELONGING TO THIS GROUP HAVE NOT BEEN PERSECUTED OR HARASSED IN THE SOUTHERN DISTRICTS (IN PARTICULAR IN COLOMBO) SINCE 1984. NEVERTHELESS IT SEEMS THAT, IN PARTICULAR, MEMBERS OF THE TAMIL MIDDLE CLASS MIGRATE (USING THE ASYLUM TRAIN) FOR ECONOMICAL REASONS (SEE QUARTO).

- A2) OLD-ESTABLISHED INHABITANTS OF MUSLIM ORIGIN:
 ALSO MEMBERS OF OLD-ESTABLISHED AND RATHER WEALTHY MUSLIM COMMUNITIES IN THESE DISTRICTS DO NOT HAVE SECURITY PROBLEMS (MUSLIMS COOPERATE WITH GSL). THE ONLY EXCEPTION ARE MUSLIMS LIVING CLOSE TO THE DISTRICT BORDERS ADJOINING AREAS AFFECTED BY CIVIL WAR (POLONNARUWA, ANURADHAPURA AND PUTTALAM). MUSLIM VILLAGES THERE CAN BE ATTACKED BY LTTE, E.G. ON 28/4/92 MUSLIM VILLAGE CALLED WELIKANDE (POLONNARUWA DISTRICT) WAS ATTACKED BY LTTE AND 67 MUSLIMS WERE KILLED.
- A3) DISPLACED TAMILS:
 THE MAJORITY OF DISPLACED TAMILS FROM THE NORTH AND EAST WHO LIVE IN THE ABOVE AREAS STAY WITH RELATIVES AND FRIENDS RATHER THAN IN DISPLACED PERSON CAMPS (WELFARE CENTRES), WHICH ARE IN VERY BAD CONDITION. THIS IS DUE TO TWO FOLLOWING FACTS: FIRST, THE AUTHORITIES STOPPED THE ADMISSION OF NEWLY ARRIVING DPS IN AUTUMN 1990. SECOND, THERE IS APPARENTLY A COMMUNITY SUPPORT STRUCTURE AMONG THE TAMILS LIVING IN THE SOUTH AND THEREFORE DISPLACED TAMILS CAN FIND ACCOMMODATION WITH THEIR FRIENDS AND RELATIVES. IN PARTICULAR IN COLOMBO MANY DPS (IN PARTICULAR FROM JAFFNA) HAVE RELATIVES AND FRIENDS IN THE ABOVE AREAS (E.G. IN COLOMBO'S LITTLE JAFFNA) WHO SUPPORT THEM. NEVERTHELESS MANY TAMIL DPS FACE ECONOMIC DIFFICULTIES. THIS, HOWEVER, IS NOT DUE TO THEIR TAMIL ORIGIN BUT TO THE GENERAL ECONOMIC SITUATION IN THE COUNTRY. ALSO DISPLACED SINGALESE FROM THE NORTH AND EAST ARE IN SAME SITUATION.

THE SECURITY SITUATION FOR TAMIL DPS IS NOT AS GOOD AS FOR OLD-ESTABLISHED TAMILS IN THE ABOVE AREAS. THE POLICE HAS ESTABLISHED A VERY WELL FUNCTIONING REGISTRATION SYSTEM IN THE EARLY 80IES. ON THE ONE HAND, EACH SRI-LANKAN CITIZEN HAS TO CARRY AN ID CARD STATING HIS/HER ADDRESS. ON THE OTHER HAND ALL PERSONS WHO GIVE SHELTER TO TAMILS FROM OTHER AREAS (EVEN SHORT-TIME VISITORS AND CLOSE FAMILY MEMBERS) HAVE TO REGISTER THEM WITH THE POLICE. THE SAME APPLIES TO THE AUTHORITIES ADMINISTERING THE WELFARE CENTRES, ALSO THEY HAVE TO REGISTER THEIR CAMP RESIDENTS WITH THE POLICE. PERSONS REGISTERED WITH THE POLICE HAVE TO CARRY THEIR REGISTRATION PAPERS WITH THEM. THEREFORE AND SINCE THE POLICE AND THE ARMY HAVE MANY CHECKPOINTS ALL OVER THESE DISTRICTS, THEY ARE ALWAYS WELL INFORMED ABOUT TAMIL DPS WHO NEWLY ARRIVED IN THEIR DISTRICT. ON THE OCCASION OF THE REGISTRATION AS WELL AS DURING THE CHECKS AT THE CHECKPOINTS THE POLICE HAS THE POSSIBILITY TO SCREEN THE DPS AND TO EXAMINE WHETHER THEY HAVE LTTE LINKS. TAMIL DPS (MAINLY BUT NOT EXCLUSIVELY YOUNG MEN) SUSPECTED OF LTTE LINKS HAVE TO UNDERGO TOUGH INTERROGATION. HOWEVER, ACCORDING TO ICRC, THEY WILL BE NORMALLY RELEASED WITHIN 3 DAYS IF THE SUSPICION IS NOT SUBSTANTIATED.

- A4) DISPLACED MUSLIMS:
 THERE ARE ALSO QUITE A FEW DISPLACED MUSLIM IN THE ABOVE AREAS, IN PARTICULAR IN PUTTALAM AND COLOMBO. THESE MUSLIM DPS WERE FORCED BY THE LTTE TO LEAVE THE LTTE TERRITORY IN 1990/91. THE MUSLIM COMMUNITIES IN MANY OF THE ABOVE AREAS ARE RATHER WEALTHY AND THEREFORE ONLY FEW MUSLIM DPS HAVE TO STAY IN WELFARE CENTRES THERE. THE ONLY EXCEPTIONS ARE IN PUTTALAM WHERE THE MAJORITY OF MUSLIM DPS LIVE UNDER APPALLING CONDITIONS IN CAMPS. THE ECONOMICAL SITUATION OF MUSLIM DPS IS COMPARABLE WITH THE ONE OF THE TAMIL DPS. THEIR SECURITY SITUATION, HOWEVER, IS BETTER. IT IS SAME AS THE OLD-ESTABLISHED MUSLIMS IN THE ABOVE AREAS ARE FACING.
- A5) GSL POLICY TOWARDS DPS IN THE ABOVE AREAS:
 THE AUTHORITIES ENCOURAGE DPS (TAMILS AND MUSLIMS) FROM THE EAST, VAVUNIYA, ANURADHAPURA AND MANNAR ISLAND TO RETURN TO THEIR HOMES, AS THESE AREAS ARE NOW UNDER SLA CONTROL. IN PARTICULAR CIVIL SERVANTS HAVE TO RETURN; OTHERWISE THEY WILL LOSE THEIR JOBS. THE WELFARE CENTRES HAVE ALWAYS BEEN AT A VERY LOW LEVEL BUT NOW THE CONDITIONS ARE EVEN DETERIORATING. THIS PUTS PRESSURE ON DPS IN ORDER TO MAKE THEM LEAVE. IN PARTICULAR MUSLIMS DPS ARE NOW RETURNING TO MANNAR ISLAND.
- BBB) AREAS AFFECTED BY THE CIVIL WAR AND PARTLY CONTROLLED BY GSL AND ARMY:
 THESE AREAS ARE THE EASTERN DISTRICTS TRINCOMALEE, BATTICALOA AND AMPARA. THE SECURITY FORCES CONTROL THESE DISTRICTS DURING DAYTIME BUT WITHDRAW TO THEIR BARRACKS AND BASES BY DUSK. HOWEVER, SOME TOWNS AND AREAS IN THE VICINITY OF ARMY BASES ARE CONSTANTLY UNDER THE CONTROL OF THE SECURITY FORCES. THE LTTE HAS NOT ATTACKED THESE PLACES (E.G. TRINCOMALEE TOWN) SINCE THEY HAVE LOST CONTROL IN 1990 AND 1991. BECAUSE OF THEIR DECREASING STRENGTH AND THE DIMINISHING SUPPORT WITHIN THE CIVIL POPULATION, IT IS RATHER UNLIKELY THAT THESE PLACES WILL BECOME A THEATRE OF CIVIL WAR AGAIN. AREAS NOT CONSTANTLY UNDER ARMY CONTROL ARE UNDER CURFEW DURING NIGHT TIME.

THE POPULATION COMPRISES MAINLY FARMERS AND FISHERMEN. THEIR ECONOMICAL SITUATION DUE TO THE DESTRUCTION OF NEARLY ALL INFRASTRUCTURE AND INDUSTRIES (MAINLY FOR FARM AND FISH PRODUCTS) IS NOT VERY GOOD. A GREAT NUMBER OF TAMILS AND MUSLIMS ARE DISPLACED WITHIN THESE DISTRICTS. DPS SELDOM FIND WORK AND ARE COMPLETELY DEPENDENT ON AID PROVIDED BY GSL. THE CONDITIONS IN THE WELFARE CENTRES ARE EVEN MORE APPALLING THAN THE CONDITIONS PREVAILING IN THE DP-CAMPS IN THE AREAS MENTIONED UNDER AAA. THE ECONOMIC SITUATION HAS ALSO DETERIORATED DUE TO THE FACT THAT MANY RETURNEES FROM INDIA HAVE BECOME DPS (SEE LKA/GFR/HCR/034, LKA/HCR/0266).

ALTHOUGH SECURITY SITUATION DIFFERS FROM PLACE TO PLACE IN THE ABOVE AREAS THE FOLLOWING GENERAL STATEMENTS CAN BE MADE:

(B1) TAMILS (OLD-ESTABLISHED INHABITANTS, RETURNEES AND DPS): ACCORDING TO ICRC, NGO, EMBASSIES AND TO OUR OWN FINDINGS THE SECURITY SITUATION FOR THE TAMIL POPULATION (INCLUDING DPS) IN THESE DISTRICTS IS IMPROVING (SEE LKA/GFR/HCR/0039, LKA/HCR/0065). HOWEVER, PERSONS WITH LTTE LINKS ARE STILL HEAVILY ENDANGERED. THE ARMY ARREST TAMILS (IN PARTICULAR YOUNG MALES) EVEN IF THERE IS ONLY A VAGUE SUSPICION REGARDING THEIR LTTE CONNECTIONS. THE INTERROGATION METHODS OF THE ARMY ARE VERY TOUGH (CASES OF TORTURE ARE KNOWN) AND IF THE SUSPICION IS HARDENED THE PERSON CAN BE DETAINED WITHOUT TRIAL FOR 18 MONTHS. HOWEVER, AS ICRC IS VERY ACTIVE THE NUMBER OF DISAPPEARANCE WENT DOWN COMPARED TO THE FIRST HALF OF 1991. FURTHERMORE, PERSONS ARE RELEASED IF NO INDICATION REGARDING THEIR ALLEGED LTTE LINKS ARE FOUND.

PERSONS WITH LTTE LINKS, THEREFORE, WILL HIDE IN THIS GUERRILLA AREA OR ESCAPE TO THE NORTH. TAMILS THREATENED BY LTTE CAN AVAIL THEMSELVES OF PROTECTION GRANTED BY ARMY OR TAMIL PARAMILITARY GROUPS IN THE AREA. IN THIS CASE THEY HAVE TO STAY IN WELFARE CENTRES IN AREAS CONSTANTLY CONTROLLED BY SECURITY FORCES. THE SOUTH (E.G. COLOMBO) IS AN ALTERNATIVE ONLY FOR THOSE WHO HAVE RELATIVES AND FRIENDS THERE AS WELFARE CENTRES IN THE SOUTH WILL NOT ADMIT THEM (SEE A3).

ONE OF THE MAIN PROBLEMS, NAMELY ILL-TREATMENT AND HARASSMENT OF THE LOCAL TAMIL POPULATION, IS CREATED BY PARAMILITARY TAMIL GROUPS (TELO, PLOTE, EPDP), MUSLIM HOME GUARDS AND NORMAL SOLDIERS, WHENEVER THEY ARE NOT (OR BADLY) CONTROLLED BY OFFICERS. THEY ALL VERY OFTEN BEHAVE LIKE AN OCCUPATION FORCE. HOWEVER, IT SEEMS THAT CHAIN OF COMMAND IS IMPROVING AND THAT GSL AS WELL AS THE SUPREME COMMANDERS OF THE ARMY ARE MORE AND MORE RELUCTANT TO TOLERATE MISTREATMENT OF LOCAL POPULATION. THEREFORE, THE NUMBER OF REPRISALS AND REVENGE ATTACKS ON TAMIL VILLAGES HAS STRONGLY DECREASED.

(B2) MUSLIM (OLD-ESTABLISHED AND DPS): MAJORITY OF MUSLIMS LIVE IN THE EAST, IN PARTICULAR IN BATTICALOA. ECONOMICALLY THEY ARE IN THE SAME SITUATION AS THE TAMIL POPULATION IN THESE AREAS. AS FAR AS THEIR SECURITY IS CONCERNED IT HAS TO BE STATED THAT THEY ARE STILL ENDANGERED BY LTTE, ALTHOUGH THE NUMBER OF LTTE ATTACKS ON MUSLIM VILLAGES DECREASED ALREADY IN 1991 (NONE THIS YEAR). THIS DEVELOPMENT, INTER ALIA, IS DUE TO THE FACT THAT THE MUSLIM COMMUNITIES IN THE ABOVE AREAS WERE ARMED BY THE SECURITY FORCES AND HAVE RAISED SO CALLED HOME GUARDS.

CCC) AREAS COMPLETELY CONTROLLED BY THE ARMY BUT NOT BACK TO NORMAL SO FAR:

MANNAR ISLAND IS COMPLETELY CONTROLLED BY THE SECURITY FORCES BUT IT IS STILL IN A STATE OF EMERGENCY. ALTHOUGH LTTE IS NOT PRESENT ON THE ISLAND THE ARMY HAS IMPOSED A CURFEW DURING NIGHT TIME. FURTHERMORE, ONE THIRD OF MANNAR ISLAND IS A SO-CALLED NO-GO AREA (MAINLY BECAUSE OF THE MINES) AND THE BAN ON CERTAIN ITEMS (SEE BELOW) IS STILL IN FORCE. NEVERTHELESS, THE SECURITY SITUATION IS MUCH BETTER THAN IN THE AREAS MENTIONED BBB.

C1) TAMILS (OLD-ESTABLISHED, DPS AND RETURNEES):

THE ECONOMICAL SITUATION IS NOT PROMISING. THE ISLAND AND ALL INDUSTRIES HAVE BEEN DESTROYED LATE 1990 WHEN THE ARMY TOOK BACK THE ISLAND. AS THE ROAD TO THE MAINLAND IS CLOSED ALL TRANSPORT IS MADE BY (FISHING)BOATS, WHICH RUN TO GSL AREA (KALPITIYA) AS WELL AS TO LTTE AREA (VIDATTAL-TIVU) ONLY TWICE A WEEK. DUE TO POLICY OF BANNED ITEMS MANY ESSENTIAL THINGS (CEMENT, WOOD, BATTERIES ECT.) ARE NOT AVAILABLE. THE FISHERMEN ARE NOT ALLOWED TO GO MORE THAN 1 MILE OFFSHORE. AS MAIN INDUSTRY WAS RELATED TO FISH PRODUCTS AND AS MAJORITY OF TAMILS EARNED THEIR LIVING DIRECTLY OR INDIRECTLY THROUGH FISHING THEIR ECONOMIC SITUATION IS CRITICAL. THE SAME APPLIES, BECAUSE OF THE NO-GO AREAS, TO THE FARMERS WHO CANNOT WORK ON THEIR FIELDS. THE CONSTRAINT ECONOMICAL SITUATION IS INTENSIFIED BY LARGE NUMBERS OF RETURNEES FROM INDIA, WHO ORIGINATE FROM THE MAINLAND AND WHO ARE NOW DISPLACED ON THE ISLAND.

AS MENTIONED ABOVE THE SECURITY SITUATION HAS IMPROVED. IN OTHER WORDS: VERY FEW ARRESTS TOOK PLACE SINCE SEPTEMBER 1991 AND ONLY TWO CASES OF DISAPPEARANCES HAVE BEEN REPORTED DURING THIS PERIOD. ONE ALLEGED LTTE SUPPORTER WAS SHOT AND KILLED BY SLA WHILST RESISTING ARREST. TWO OTHERS WERE ALSO SHOT DEAD BY SLA WHEN CAUGHT AT NIGHT INVOLVED IN SMUGGLING ACTIVITIES. THE PARAMILITARY GROUPS (TELO AND MUSLIM HOME GUARDS) ARE MORE EFFICIENTLY CONTROLLED BY ARMY OFFICERS THAN IN THE EAST. HOWEVER, THE ESTABLISHMENT OF MUSLIM HOME GUARDS AT THE BEGINNING OF THIS YEAR HAS LED TO GROWING TENSIONS BETWEEN TAMILS AND MUSLIMS. ALSO RETURNEES FROM INDIA DO NOT HAVE SECURITY PROBLEMS. THERE HAVE BEEN ONLY 12 ARRESTS OF RETURNEES AND ALL OF THEM WERE RELEASED AFTER UNHCR INTERVENTION. THE SECURITY SITUATION HAS MOST PROBABLY SO IMPROVED BECAUSE OF THE INTERNATIONAL OBSERVERS, IN PARTICULAR UNHCR STAFF MEMBERS, WHO ARE PRESENT ON THE ISLAND.

LTTE SUPPORTERS - IF THEIR ATTITUDE BECOMES KNOWN - HAVE VERY LITTLE CHANCES TO HIDE ON THE ISLAND OR TO LEAVE IT. THE ISLAND IS VERY EFFICIENTLY CONTROLLED BY THE SECURITY FORCES AND BOAT PASSAGES TO GSL AREAS AS WELL AS TO LTTE TERRITORY HAVE TO BE APPROVED BY SLA. WHO ALSO VERY EFFICIENTLY, IN COOPERATION WITH THE NAVY, PREVENTS ILLEGAL BOAT TRIPS. AS LTTE IS NOT PRESENT ON THE ISLAND THE SECURITY OF LTTE OPPONENTS IS NOT ENDANGERED.

- C2) MUSLIM RETURNEES:
 LTTE FORCED ALL MUSLIMS TO LEAVE THE ISLAND AUTUMN 1990 WHEN THE CIVIL WAR BROKE OUT AGAIN. SINCE JANUARY 1992 THE MUSLIMS DPS FROM THE SOUTH HAVE BEEN RETURNING TO THE ISLAND. THEY HAVE BEEN MORE OR LESS FORCED BY GSL TO DO SO. THEIR RELUCTANCY TO RETURN IS DUE TO THE FACT THAT THE MAJORITY OF THEM ARE TRADERS WHO SUFFER MOST FROM THE ABOVE DESCRIBED LACK OF INFRASTRUCTURE. THE MUSLIM FARMERS AND FISHERMEN FACE THE SAME PROBLEMS AS THE TAMILS.

THE SECURITY SITUATION OF THE MUSLIMS IS VERY GOOD AND THERE HAS NOT BEEN A SINGLE INCIDENT.

- DDD) AREAS CONTROLLED BY LTTE:
 THE NORTH I.E. JAFFNA, MULLAITIVU, KILLINOCHCHI, MANNAR MAINLAND AND NORTHERN PART OF VAVUNIYA DISTRICT ARE CONTROLLED BY THE LTTE BUT THE CIVIL ADMINISTRATION IS STILL MAINTAINED BY GSL. THE CIVIL SERVANTS, HOWEVER, MAY CARRY OUT GSL INSTRUCTIONS ONLY IF THEY ARE APPROVED BY LTTE. IN THIS CONTEXT IT IS OF PARTICULAR INTEREST THAT GSL PROVIDES THE DPS IN THE NORTH WITH FOOD, WHICH IS TRANSPORTED TO THE NORTH BY CONVOYS ESCORTED BY INTERNATIONAL STAFF OF ICRC, NGOS OR UNHCR.

AT PRESENT ONLY TAMILS LIVE IN THE NORTHERN DISTRICTS AS THE LTTE HAS FORCED OUT ALL SINGALESE AND MUSLIMS SOON AFTER THE OUTBREAK OF THE CIVIL WAR IN 1990. THE LOCAL POPULATION AS WELL AS THE PERSONS DISPLACED BY ARMY AND AIRFORCE ATTACKS ARE SUFFERING FROM A HEAVY ECONOMICAL CRISIS. BECAUSE OF GSL'S POLICY OF BANNED ITEMS AND THE HIGH TAXES COLLECTED BY LTTE THE ECONOMIC CAPACITY - EVEN OF THE FORMER RICH JAFFNA PENINSULA - SEEMS TO BE DIMINISHING.

AS THE NORTH IS THE MAIN THEATRE OF THE ONGOING CIVIL WAR THE POPULATION IS SUFFERING FROM BOMBING AND SHELLING AS WELL AS FROM ARMY ATTACKS TOWARDS AREAS CLOSE TO THE DEMARCATION LINE. ALTHOUGH THE AIRFORCE AND THE ARMY DO NOT CONSTANTLY ATTACK - IN FACT THERE WERE ONLY FEW OPERATIONS IN JAFFNA, KILLINDCHCHI AND MULLAITIVU DURING THE FIRST 4 MONTHS OF THIS YEAR - MANY PERSONS HAVE BECOME DISPLACED. QUITE A NUMBER OF PERSONS HAS LOST THEIR HOMES DUE TO BOMBINGS; WHILE OTHERS PREFER TO STAY AWAY FROM LTTE BASES. A SMALLER NUMBER OF DPS ORIGINATE FROM OTHER DISTRICT AND HAVE FLED TO THE NORTH WHEN THEIR HOME DISTRICTS WERE TAKEN BY THE ARMY. THEY ALL LIVE NOW EITHER WITH RELATIVES OR FRIENDS OR STAY IN WELFARE CENTRES. IN APRIL 1992 ABOUT 1,400 RETURNEES FROM INDIA PROCEEDED VIA VAVUNIYA TO THEIR HOME AREAS IN THE NORTH (SEE LKA/GFR/HCR/0134, LKA/HCR/0266). THE MAJORITY OF THEM WENT TO THEIR HOME TOWNS AND VILLAGES AND STAY THERE WITH FRIENDS AND RELATIVES.

LTTE OPPONENTS ARE PERSECUTED (QUITE A FEW CASES OF TORTURE HAVE BECOME KNOWN) AND HAVE TO SEEK REFUGE IN ARMY CONTROLLED AREAS. HOWEVER, TO LEAVE THE ABOVE DISTRICTS WITHOUT PERMISSION OF LTTE IS MOST DIFFICULT AS THEY CONTROL THE BORDERS OF THEIR TERRITORY QUITE EFFICIENTLY.

QUARTO: MIGRATION FROM SRI LANKA:

WHILE SINGALESE AND MUSLIMS TRADITIONALLY MIGRATE TO THE NEAR EAST, THE MEMBERS OF THE TAMIL COMMUNITY PREFER TO LEAVE FOR EUROPE AND OVERSEAS WHERE THE OVERWHELMING MAJORITY APPARENTLY APPLY FOR ASYLUM. THEIR FLIGHT, HOWEVER, IS VERY SELDOM RELATED TO THE REASONS MENTIONED IN THE REFUGEE DEFINITION OF THE 1951 CONVENTION. THEREFORE IT SHOULD BE POINTED OUT WITH REGARD TO MOST OF TAMIL DPS ARRIVING IN COLOMBO THAT THEIR MAIN MOTIVATION TO LEAVE THE AREAS IN THE NORTH (IN PARTICULAR JAFFNA) AND EAST WAS NEITHER THEIR FEAR OF BEING PERSECUTED BY LTTE OR BY THE SECURITY FORCES NOR THE ONGOING CIVIL WAR BUT THE DIMINISHING ECONOMICAL POSSIBILITIES. QUITE A NUMBER OF YOUNG MEN LEAVE THE LTTE TERRITORY ALSO TO AVOID FORCIBLE CONSCRIPTION BY LTTE. TO OUR KNOWLEDGE MANY OF THIS DPS ARRIVED IN ORDER TO OBTAIN AN SO-CALLED QUOTE ASYLUM KIT UNQUOTE, I.E. PASSPORT, FORGED VISA AND TICKET TO EUROPE OR CANADA. THESE ASYLUM KITS ARE AVAILABLE FOR US \$ 3,000 TO 6,000.

IN THIS CONTEXT IT IS WORTH TO MENTION THREE CASES WHICH, TO OUR EXPERIENCE, ARE NOT VERY EXCEPTIONAL:

- A TAMIL BUSINESSMAN RECENTLY WENT TO CANADA AND APPLIED FOR REFUGEE STATUS THERE. WHEN HE OBTAINED THIS STATUS HE LEFT FOR COLOMBO WITH THE INTENTION TO STAY FOR ONE MORE YEAR IN ORDER TO SETTLE HIS BUSINESS AFFAIRS.
- A TAMIL WOMAN WITH HER CHILDREN CAME TO COLOMBO EARLY 1991 IN ORDER TO OBTAIN FRG VISA TO JOIN HER HUSBAND (ASYLUM SEEKER) IN THE FRG. WHEN SHE RUN OUT OF MONEY SHE CAME TO BO COLOMBO AND REQUESTED ASSISTANCE. ASKED FOR THE REASONS OF HER HUSBAND'S FLIGHT SHE STATED THAT NEITHER HE NOR HIS FAMILY HAD EVER BEEN PERSECUTED OR HAD SUFFERED FROM THE CIVIL WAR. SHE STRESSED THAT IT WAS HER HUSBANDS LEGITIMATE RIGHT TO SEEK EMPLOYMENT OUTSIDE SRI LANKA LIKE MANY OTHER TAMILS OF THE MIDDLE CLASS. TO HER OPINION, ONLY THE EDUCATION ENTITLES A PERSON TO ASYLUM AND UNHCR IS JUST A TRAVEL AGENT.
- RECENTLY A TAMIL REFUGEE RECOGNIZED IN SWEDEN RETURNED BY AIR TO COLOMBO AND PROCEEDED TO JAFFNA WHERE HE GOT MARRIED. FROM JAFFNA HE WENT BACK TO COLOMBO WHERE HE APPROACHED THE SWEDISH EMBASSY AND REQUESTED REFUGEE STATUS AS WELL AS ENTRY VISA FOR HIS WIFE.

NEEDLESS TO SAY THAT THERE ARE, OF COURSE, PERSONS WHO HAVE A WELL-FOUNDED FEAR OF PERSECUTION. THE MAJORITY OF THEM, HOWEVER, CAN AVAIL THEMSELVES OF SUFFICIENT PROTECTION INSIDE THE COUNTRY. IN OTHER WORDS: PERSONS PERSECUTED BY LTTE CAN SEEK REFUGE IN AREAS CONTROLLED BY GSL AND THE ARMY; TAMILS PERSECUTED BY GSL AND THE ARMY HAVE THE POSSI-

BILITY TO FLEE TO THE LTIF TERRITORY IN THE NORTH. WITH REGARD TO THE LATTER GROUP IT SHOULD BE NOTED THAT THEY, CERTAINLY, WILL NOT COME TO COLOMBO IN ORDER TO ESCAPE OUTSIDE THE COUNTRY, AS THE CAPITAL AND THE AIRPORT ARE VERY EFFICIENTLY CONTROLLED BY THE POLICE AND BY THE ARMY.

(UNHCR COLOMBO)