

Human Rights state of Internally Displaced Persons in Sri Lanka: A Politico-Legal Perspective

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Abstract:

In Sri Lanka, the phenomenon of internal displacement had mainly been attributed to the existence of two factors; natural disaster and civil war. Of these, the war related internal displacement constitutes to be the major one as its impact still lingers even after the end of decade-long war. Using robust data, this paper examines human rights related problems encountered by Internally Displaced Persons (IDPs) in Sri Lanka from the politico-legal perspective. The study was carried out based on both qualitative and quantitative methods. However, the qualitative method was given priority for analysis and interpretation purposes. It was found that, IDPs in Sri Lanka faced immeasurable sufferings due to weak legal framework and mechanism to protect and promote IDPs rights. Although the Government of Sri Lanka had taken actions in order to address the problems and difficulties faced by IDPs, there was no single piece of legislation brought about to address IDPs rights in particular. The issue of resettlement of the IDPs was tied up with the issue of their rights to land and shelter. The situation of IDPs in Sri Lanka is so uncertain and their plight is very pathetic as there had been no any proper mechanism put in place to ensure the enjoyment of basic and fundamental human rights by IDPs. The resettled peoples also face challenges, thus they are unable to enjoy a wide range of rights involving socio-economic, cultural and civil rights.

Key Words: Internally Displaced Persons, Guiding Principles on Internal Displacement, Human Rights, Resettlement, Civil War

01. Introduction

Sri Lanka has been experienced and suffered not only due to the prolonged war but also natural disaster. Thus it faced challenges related to Internally Displaced Person (IDPs). The IDPs is not unique to Sri Lanka. Some 23.7 million people worldwide currently live in situations of internal displacement as a result of conflicts or human rights violations. IDPs are people or groups of individuals who have been forced to leave their homes or places of habitual residence and who have not crossed an international border. Growing trend

of outnumbering of the internally displaced people at present in the world, international attention and consensus to address this issue is also broadening.

The conflict, in Sri Lanka, is an intractable conflict, which has been existence since the mid-20th century, witnessed the beginnings of a direct contradiction between the Sinhalese and the Tamil communities. Since 1983, a violent conflict has raged between the government and the Liberation Tigers of Tamil Eelam (LTTE) (Orjuela 2004, p.13). This conflict has caused immense destruction to the social, political and economic institutions, in addition to the loss of more than 80,000-100,000 Sri Lankan lives -at least half civilians and another 1.6 million either refugees or displaced (ABC Australia 2009). "An estimated 1.3 million persons out of the total population of around 19 million have been displaced within and outside Sri Lanka. Of these people, an estimated 800,000 persons are internally displaced, mainly within the Northern and Eastern Provinces (Remembering the Displaced 2000, p.06). Another 300,000 had displaced during final stages of the war occurred between 2008 and 2009 (Amnesty International 2009).

Unlike refugees, internally displaced persons do not have a special status in international law with rights specific to their situation. As a crucial element of sovereignty, it is the Governments of the states where IDPs are found that have the primary responsibility for their assistance and protection. The international community's role is complementary. Many IDPs remain exposed to violence and other human rights violations during their displacement. IDPs in Sri Lanka live in complex circumstances. They are often more vulnerable, thus their rights are violated than other members of the population. Taking the scenario in to consideration, using robust data the study attempts to explore the challenges faced by IDPs in Sri Lanka.

02. Material and Methods

Non-probability sampling (purposive sampling) is used to select the respondents meant to collect primary data. Also in-depth and semi-structured interview methods were used. In addition, a number of focus groups and individual interviews with IDPs (including children and women) were carried out to support the data gathered in the field and existing literature and to include their views. Secondary data took significant place in this study. They were collected from relevant existing literatures such as books, previous research works, seminar papers, reports, journal and relevant websites. The study was carried out based on both qualitative and quantitative methods. However the qualitative method meant to analyze and interpret data is given priority.

03. Internally Displaced Persons (IDPs)

According to the 1951 Convention on the Status of Refugees, a "refugee" is a person who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (Baral and Muni1996, p.02)." Subsequent international instruments have expanded this definition for some states to persons fleeing the general effects of armed conflict and/or natural disaster. A crucial requirement to be considered a "refugee" is crossing an international border. Persons forcibly displaced from their homes and who cannot or choose not to cross a border, therefore, are not considered refugees, even if they share many of the same circumstances and challenges as those who do. Unlike refugees, these internally displaced persons do not have a special status in international law with rights specific to their situation.

The term "IDPs" is merely descriptive. There is yet no widely accepted definition of the "Internally displaced." According to the Guiding Principles on Internal Displacement, internally displaced persons are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular, as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border (Guiding Principles 1999). This definition highlights two basic elements in understanding main characteristics of IDPs:

- The coercive or otherwise involuntary character of movement
 - The fact that such movement takes place within national borders

“Every state, on the basis of either treaty obligations or customary international law, has the obligation ‘to respect’ and ‘to ensure, universally guaranteed human rights to all its citizens, including IDPs. Some problems relating to the protection of IDPs follow from the fact that IDPs by definition remain within their national boundaries. They are, therefore, largely dependent upon their own government to uphold their rights. Even though, it may be their own government that has violated their basic human rights. The government may, in fact, view IDPs as ‘enemy sympathisers’ in a civil conflict and may be in no position to offer any protection (Wilkinson 1999, p.02).

03.1 Internally Displaced Persons’ Rights Protection Mechanism

The Guiding Principles on Internal Displacement, created in 1998, restate and compile existing international human rights and humanitarian law germane to the internally displaced and also attempt to clarify grey areas and gaps in the various instruments with regard to situations of particular interest to the internally displaced. Although the guiding principles have received many complimentary reviews, they have also been criticised. Apart from some provisions of international humanitarian law, there are currently no international standards directly applicable to the situation of displacement. At the 51st session of the commission of Human Rights the special representative presented a “Compilation and analysis of legal norms” with regard to IDPs (ECN4/1995/CRP.1, 30 January 1995). International Human Rights law (IHRL), which is applicable both in peacetime and during war, does not mention IDPs as a special category of people. In such situations, both international human rights law and humanitarian law are relevant (Plattner 1992, p.569). In situations of armed conflict, moreover, they enjoy the same rights as other civilians to the various protections provided by international humanitarian law. The rules applicable in armed conflicts are set out in the four Geneva Conventions of 1949 and its two protocols of 1977.

Sri Lanka is a party to the Geneva Conventions of 1949 and thus it is expected to implement the human rights safeguards contained therein. But it is not a party to either the convention on the Non applicability of statutory limitations to War Crimes and Crimes against Humanity or to Protocol-II. The Guiding principles, although not binding, serve as international standards to guide state and non-state actors, as well as humanitarian and development agencies, in providing assistance and protection to IDPs. They also reflect and are consistent with international human rights and humanitarian law norms. As a crucial element of sovereignty, it is the Governments of the states where internally displaced persons are found that have the primary responsibility for their assistance and protection.

IDPs have not crossed an international border they live within the borders of Sri Lanka. Thus there is a common understanding of the nature of IDPs is that national authorities must commit as the sole entity with

primary responsibility for protection, assistance, and development of IDPs. Law and order are integral parts of a civilized society. It is the responsibility of the State to ensure that an effective civil and criminal justice is maintained in order to preserve law and order. The system casts a heavy burden on the State to protect and safeguard the property of every citizen. There is no single piece of legislation that addresses IDPs specifically let alone any comprehensive legislation. Meaning in Sri Lanka, IDPs have not been accorded a special place in the legal system (<http://reliefweb.int>).

Nevertheless the Government of Sri Lanka took initiative in order to deal with IDPs related issues. In July 1999, the government of Sri Lanka initiated the Relief, Rehabilitation and Reconciliation (RRR) Framework process to address the challenges of ensuring effective programming for conflict-affected populations. The aim of the Framework was to address these challenges by: ensuring that the basic needs of people affected by conflict are met; rebuilding productive livelihoods; and facilitating reconciliation across ethnic lines.

Further following the signing of the ceasefire agreement between the government and the LTTE in 2002, the government and UN developed an integrated program (Joint Strategy to Meet the Immediate Needs of Returned Internally Displaced Persons) to cope with the immediate and initial reintegration of spontaneous returnees into their home communities, while protecting and assisting IDPs. The tsunami was one of the worst disasters ever recorded in Sri Lankan history. The tsunami left tens of thousands dead, many more homeless, displaced, and caused widespread chaos throughout the island. Hence, the government passed the Tsunami (Special Provisions) Act in 2005. Purpose of this Acts is to help overcome obstacles faced by tsunami victims in the enjoyment of human rights and benefits.

In 2007, government enacted the Resettlement Authority Act, No. 9 of 2007. Purpose of this Act is to create an authority vested with the power to formulate a national policy and plan, implement, monitor and coordinate the resettlement of the internally displaced persons and refugees. It is worth noting here that the Sri Lanka's IDPs are citizens with the same obligations, rights, and duties, as those who have not been displaced. Existing provisions for protection are scattered in no systematic or orderly manner, with little cohesion, and without addressing critical issues. (<http://reliefweb.int>).

04. Armed conflict and Displacements in Sri Lanka

Internal Displacement is not new phenomenon in Sri Lankan history. Sri Lanka (officially, The Democratic Socialist Republic of Sri Lanka) is a tropical island lying to the Southeast of India, from which it is separated by Palk Strait. Though comparatively small, it is a land of diversity-diversity of peoples, scenery, climate and religions. It has a rich history and traditions reaching back through many centuries recorded in its ancient chronicles.

In the history of Sri Lanka, the last three decades had been the bloodiest not only in terms of ethnic harmony but also on other fronts such as politics and economy. By the late-1970s a number of militant Tamil groups had emerged to demand that the north-east of the Sri Lanka be carved out as a separate state. Later in the 1980s, the conflict between Majority Sinhalese and Minority Tamils, that had remained nonviolent one, transformed itself into a violent conflict and bloody war (Smith 1999, p.18). The war subsequently went through four distinct phases. Meaning the war was marked by phases of high intensity (Eelam War I: June 1983-July 1987; Eelam War II: June 1990-January 1995; Eelam War III: April 1995-February 2002; Eelam War IV: July 2006-May 2009) interrupted by different efforts to find a negotiated solution, which failed altogether (Sandra 2010, p.8). However the war in Sri Lanka came to an end with the military defeat of the LTTE in May 2009. The prolonged war incurred the toil of the many thousands of deaths and immeasurable human suffering. In particular, people who come from the conflict affected areas had experienced widespread displacement during long period of internal armed conflict. IDPs in Sri Lanka have spent all or

some of their displacement in camps or welfare centres set up by the government or non-governmental organizations (NGOs). Others chose not to enter these camps or welfare centres, and fended for themselves within the north-east, in the border areas surrounding the north-east or in other parts of the island (Dhananjayan Sriskandarajah).

In Sri Lanka, levels of displacement escalated dramatically following the departure of the Indian Peacekeeping Force (IPKF) and the resumption of hostilities between the government forces and the L.T.T.E in 1990, when thousands of people fled to escape the violence. During 2000-2001 and after the October 2006 regular rounds of fighting repeatedly triggered new waves of displacement, mainly in Jaffna peninsula (<http://www.idpproject.org>).

There occurred a massive scale of displacement caused by direct hostilities between the government forces and LTTE during the final military operation against the later that lasted for more than a year starting in 2007 and ended in late 2009. By August 2008, reportedly, between 55,000 and 75,000 people were displaced due to the intense fighting which took place in northern part of Sri Lanka. The shift brought the total number of conflict-displaced people in Sri Lanka to over 500,000. Further, more than 280,000 people crossed from the conflict zone to the government-controlled territory in northern part between October 2008 and June 2009. By mid-March 2009, 43,341 IDPs had crossed from the Wannu into Government-held areas¹⁰² and by mid-April there were some 180,000 IDPs registered in Vavuniya. (Report of The Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka - November 2012). Then almost all of the displaced people were residing in temporary camps, this include approximately 260,000 people in camps (Menik Farm) in the Vavuniya district in early June 2009 (Chandran Shamini 2012).

The Menik Farm had been the largest of the closed internment camps in June 2009 (UNOCHA 2010 & UNHCR 2012 cited in Norwegian Refugee Council 2012). The Menik Farm camp was officially closed on 25 September 2012. However, returnees from IDPs camps have not been able to achieve a durable solution. Meaning they do face difficulties in accessing basic necessities such as shelter, food, water and sanitation, in rebuilding their livelihoods, and in exercising their civil rights.

Many IDPs returnees also have specific needs. Many of these IDPs have suffered multiple displacements during the course of the conflict. The majority of those displaced are from the north and east provinces, the erstwhile contested areas where most of the fighting took place. Several attempts to halt the war had been made. Peace negotiations in 1985, 1989 and 1994 ended in failure. (Gunatilake 2001, p.04). In February 2002, with the facilitation of the Norwegian government, the Government of Sri Lanka and LTTE signed a ceasefire agreement (CFA) that brought an end to hostilities. Peace talks began in late 2002. Due to the ceasefire the flows of forced migrants from Sri Lanka had slowed and some internally displaced people (IDPs) had been able to return to their home.

It is clear that conflict-induced internal displacement in Sri Lanka has occurred on a massive scale. It was found that, by early 2002, just before the signing of the ceasefire, It was estimated that there were some 683,286 IDPs, including 174,250 people at the 346 welfare centres around the island (Gomez 2002 cited in Dhananjayan Sriskandarajah). However, after several rounds of talks the LTTE withdrew from the negotiations in April 2003 citing the lack of peace dividends for the north and east. The breakdown in peace negotiations engendered uncertainty in the whole peace process and a sense of insecurity among the IDPs.

The Ministry of Resettlement and Disaster Relief Services has a direct bearing on assistance to IDPs. In addition, the country receives aid from international agencies and direct help from NGOs. On the other hand, many steps have been taken within the institutional level to address and find solutions to the IDP problem. However, the main problems faced by the displaced people are still remaining without any remarkable lessening. Following problems faced by the IDPs were identified by the Refugee Council in Sri Lanka:

- The inability to satisfy basic needs such as food, water, shelter, sanitation, privacy, family life and medical treatment.
- The lack of educational facilities for children and the burden placed on the existing schools in areas where there are welfare centres.
- Moral and cultural problems created in welfare centre areas where a lowering of moral and ethical standards is discernible.
- Tension between welfare centre dwellers and local inhabitants, in areas where welfare centres are located.
- Psychological and psychiatric problems as a result of displacement and the sudden separation from traditional neighbourhoods and the new way of life having traumatic effects.
- The normal daily routine of life and economic activities coming to a standstill.
- The lack of information on events and the situation in home areas and other information affecting their lives, due to lack of communication facilities.
- Inability to obtain gainful employment competing with local residents.
- Forced child labour and abuse of women and children.

05.1 Issues and challenges related to IDPs Rights in Sri Lanka

Due to the prolonged civil war that lasted for more than twenty five years, the citizens of the Island faced immeasurable suffering. Indeed the war took a serious toll on health-care services, water and sanitation facilities, education systems and protective safety nets for women and children particularly living in Northern and Eastern Provinces of Sri Lanka.

Further the people forced to flee or leave their homes - particularly in situations of armed conflict - are generally subject to heightened vulnerability in a number of areas. Many IDPs have spent some or all of their displacement in camps and welfare centers run by the government and non-government organizations (NGOs), others have sought informal assistance from family and friends or have fended for themselves in their new locations. International human rights law guarantees a wide range of rights. These rights include the right to life, protection from torture and ill treatment, right to freedom of movement, right to property, and right to family life. These rights are affirmed, among others, civil, political, economic, social and cultural rights, for all persons.

5.1. The right to life

The protection of the right to life is one of the most pressing concerns in international law today. The right to life is the basic human right which is inalienable: that is to say that it cannot be waived or renounced. Furthermore, it is an essential right and all other rights derive from it: if a person is deprived of his right to life, all other human rights become meaningless. Justice Field in *Munn v Illinois* 94 US 113 (1877) stated that the right to life means something more than mere animal existence and that the inhibition against deprivation of life extends to all limbs and faculties by which life is enjoyed (cited in Jayampathy 2007, p.257). In Sri Lanka the framers of the present constitution (1978 Constitution) omitted a specific reference to the central core. Meaning the 1978 Constitution does not contain a provision expressly guaranteeing the

right to life. On the other hand it was argued that, they included certain attributed of the right to life (Ibid p.259). Meaning the right to life is not expressly recognized as a fundamental right that right is impliedly recognised in some of the provisions [Article 11 and 13(4)] of the Constitution. Arbitrary killings, torture, disappearances and threaten to the right to life of IDPs are the crucial issues due to absence of appropriate provision in relation to the right to life.

The right to life is enshrined in many international human rights documents binding on the parties to the conflict. Throughout the conflict, there had been incidents in which several IDPs were killed by both parties to the conflict. The basic international standards on the right to life are contained in Article 3 of the Universal Declaration of Human Rights (UDHR), Article 6 of the International Covenant on Civil and Political Rights (ICCPR), Article 2 of the European Convention on Human Rights and Fundamental Freedoms of 1950 (ECHR), Article 4 of the American Convention on Human Rights of 1969 and Article 4 of the African Charter on Human Rights and Peoples' Rights of 1981.

During the last months of the final battle the living conditions of IDPs became increasingly difficult. They were living and sleeping in mud-and water-filled trenches. By March 2009, thousands were reported dead from inadequate medical care and lack of food. (Report of The Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka - November 2012)

Although Many IDPs and IDP returnees also have specific needs, many have not been able to achieve a durable solution instead continue to face difficulties in relation to accessing basic necessities such as shelter, food, water and sanitation, in rebuilding their livelihoods, and in exercising their civil rights. Another crucial problem is de-mining operations that are still underway in livelihood areas (Norwegian Refugee Council 2012, p.1)

The primary concern of the IDPs in Sri Lanka is their feeling of uncertainty about their future. In particular, large number of people is still living in IDP camps without proper basic conditions of living. Though the Sri Lankan government has taken steps to tackle the deteriorating living conditions of IDPs through resettlement and relocation, the government has not ensured the strength and efficacy of such institutions in the long term. The Human Rights Commission and the Attorney General's office, with its unenforceable mandates, provide ineffective remedies and prevention strategies for curtailing violation of right to life.

5.2. The Right to freedom of movement

The freedom of movement which applies to all persons in a territory would correspondingly guarantee a person the freedom not to be forced to return to a situation where his or her life or fundamental freedoms are in danger. Under Article 14(1) (h) of the Constitution of Sri Lanka, all citizens are entitled to the freedom of movement and the right to choose their residence. The right is subject to restriction on the grounds of national economy, apart from the other general restrictions laid down in Article 15(7). These are: national security, public order and the protection of public health or morality, securing recognition and respect for the rights and freedoms of others, and meeting the just requirements of the general welfare of a democratic society.

Under the present post conflict conditions the displaced persons certainly cannot exercise their right to freedom of movement, in particular. In many areas of the North and East such as Kilinochchi, Muttur, Vanni, Mullaitivu, Trincomalee, Batticaloa and Vauniya etc, movements are restricted for security reasons. That,

the government in power tends to suspect people in the IDP camps and welfare centres either as LTTE supporters, cadres or sympathizers.

5.3. The Right to property

The successful state should recognize the institution of property, while also recognize the need to modify property rules and distribution in appropriate circumstances. Principle 21 of the UN Guiding Principles on Internal Displacement states that, no one shall be arbitrarily deprived of property and possession. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts: Pillage, Direct or indiscriminate attacks or other acts of violence, being used to shield military operations or objectives, being made the object of reprisal and being destroyed or appropriated as a form of collective punishment. Further the property and possession left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use (Principle 21-UN Guiding Principles on Internal Displacement).

During the displacement, people are often compelled to leave behind their property and other belongings. IDPs can subsequently return to their properties: others, however, have been unable to do this for over 30 years. Damage to property and infrastructure in the North East caused by fighting, looting and negligence, is considerable. 65,275 houses were completely damaged and 38,561 houses partially damaged but are still habitable (http://www.womenwarpeace.org/sri_lanka/sri_lanka.htm). As soon as IDPs flee from their homes, they go either to the so called welfare centres or they go and live with relatives or friends. As it is over twenty years since they left, their prospects for complete returning to their properties remain bleak since under the current property law (Section three of the prescription ordains, no. 22 of 1871 and 02 of 1889), unlawful occupant's property can gain rights it after laps of ten years, although some of the people who are displaced during the early 1990s from Northern province have already returned to their villages and properties (<http://www.irinnews.org>). Nevertheless, most of the other IDPs who are displaced in the early and last stages of the war are on the verge of losing their properties to trespassers. There is an urgent need to enact new legislations to protect their properties.

In Sri Lanka, the ownership of immovable property is evidenced by a document commonly known as the deed. The deed (proof of ownership) has been identified as a common problem for returning refugees and IDPs. Crucial issue is, due to the direct or indirect effect of the war the Title deeds and other documentation have been lost or destroyed and registration of title deeds has not been consistent. Further some Land Registry offices and their registers, too, have been damaged, lost and destroyed (Sriskandarajah, Karunakaran & Sumanthiran 2003). Most returning refugees and IDPs find other people in occupation of their properties. If they seek to evict the occupants they will have to follow laid down legal procedures.

5.4. The right to liberty and security of person

The personal liberty of IDPs in Sri Lanka is often at risk upon relocation in welfare centers. IDPs frequently have no identification documents with them, such as national identity card or birth certificates, which results in IDPs frequently being arrested and detained under the Prevention of Terrorism Act (PTA). The right to everyone to be free from arbitrary arrest or detention is enshrined under Article 9 of the UDHR, Article 9(1) of the ICCPR and principle 12 of the Guiding Principles. Although this right may restrict, Article 9(5) of the ICCPR stipulates that "anyone who has been a victim of unlawful arrest or detention shall have an enforceable right to compensation." In the context of Sri Lanka, the right to be compensated for the violation of this right is problematic, since the constitution does not enshrine the right to liberty and security of person

of its citizens. However, under Article 141(b) of the present constitution, the Court of Appeal may grant and issue orders in the nature of writ of habeas corpus to bring before such court the body of any person illegally or improperly detained in public or private custody. Therefore, it can be argued that although the right to liberty and security of person is not a fundamental right, the protection of this right can be derived from claiming compensation under Article 141(b) of the constitution.

5.5. Women and Child Rights

Women's rights are the economic, social, civil, political and cultural freedoms to which all people are entitled. To realize women's right, they (women) must have equal access to resources and opportunities and equal treatment in economic and social life. In every civilized society, 'childhood' is considered to be a very important period because the well-being of a child would make a large impact on the issue as to how the future generation is going to be. Child protection is an inalienable human right, not a relief activity or a service. The vulnerability of internally displaced women and children in Sri Lanka is crucial issue in human rights discourse.

The majority of IDPs in Sri Lanka are women and children who are especially at risk of abuse of their basic rights (IDMC 2010). International human rights law recognises the family as the basic unit of society and in need of protection and support (Article 16(3) of UDHR). Human rights law also protects the right to privacy. Displacement has particularly affected these rights in significant ways. In several cases the men of the family have either been killed or have disappeared. Women have had to assume greater responsibility in the management of their families, including discharging economic burdens. Camp life has resulted in outrageous invasions of privacy, especially of women. There are, however, NGOs that provide financial assistance to widows and support self-employment projects for female headed households. The former Special Rapporteur on Violence against Women, Radhika Coomaraswamy, reported that rape was used in Sri Lanka's conflict, and that violent crimes increased against the backdrop of conflict.

The issues related to child soldiers also crucial one in the case of Sri Lanka. According to the International Coalition to Stop the Use of Children as Soldiers (CSC), child soldiers is "any person under 18 years of age who is a member of, or attached to, government armed forces or any other regular or irregular armed force or group, whether or not an armed conflict exists. They may perform a range of tasks, including participation in combat, logistical and support functions and domestic and sexual services" (Peters, 2005 cited in David, Gray & Tom Owen Matchin 2008).

It was found that child soldiers are "drawn from the poorest, least educated and most marginalized sections of society who have been forced to grow up in a 'roving orphanage of blood and flame'" (Singer, 2006 cited in David, Gray & Tom Owen Matchin 2008). Children who are living on the street, who have been orphaned or displaced as well as refugees, are all easily recruited and often times forced into organizations such as the LTTE (David, Gray & Tom Owen Matchin 2008). The ability to utilize simple forms of propaganda in order to effectively recruit either forcibly or voluntarily has made the LTTE very successful in their ability to increase the number of child soldiers they had. It is noteworthy that an increased level of recruitment by the LTTE took place during the final phase of the conflict.

Further the estimated children been kidnapped is over 5000 for the last two decades by the LTTE. Most of these children are between ages of 10 to 18 and both Male and Female. Since 2005, due to the lack of man power, LTTE used children to fight with the government armed forces. Information available indicates that

over 500 children alleged to be former child soldiers of LTTE were found in rehabilitation centers (Coalition to Stop the Use of Child Soldiers February 2010).

All children, including those displaced by conflict, have the same rights to food, health and education, as well as the right to preserve their identity and other cultural, linguistic and inheritance rights. Although this right is enshrined in the Convention on the Rights of the Child and the Guiding Principles on Internal Displacement and other international human rights instruments, children from internally displaced camps have less access for education due to poor family and economic environment.

06. Conclusion and Recommendations

IDPs are people who are forced to flee their home but who have not crossed an international border to find sanctuary and have remained inside their home countries. They are among the world's most vulnerable people. Sri Lanka has been facing many challenges related to IDPs rights. Internal displacement in Sri Lanka predominately stems from man-made conflicts as well as natural disasters. It was found that, large scale displacement took place in Sri Lanka in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights. Indeed the duration and intensity of war in Sri Lanka has been a major cause of displacement. Given that almost all of the fighting had taken place in the northern and eastern province, it is not surprising that almost all of those who have been displaced have come from these provinces. The IDPs faced immeasurable suffering during the final war. Although they have been transferred to IDP camps / welfare centres they are still facing number of problems, difficulties and challenges related to human rights thus suffered a lot.

The present Constitution of Sri Lanka does not contain a provision expressly guaranteeing the right to life. The absence of protection under the present Constitution and the inability of the state to carry out comprehensive work plan to safeguard the civil rights of IDPs demonstrate the failure of state in protecting and promoting the rights of IDPs. Therefore, necessary measures should be taken in order to provide proper basic conditions and ensure the right to life of the IDPs. Law and order are integral parts of a civilized society. There is no single piece of legislation that addresses IDPs specifically let alone any comprehensive legislation. Nevertheless, the Government of Sri Lanka took initiative in order to deal with IDPs related issues. Thus, it introduced National Framework for Relief, Rehabilitation and Reconciliation (June 2002), Joint Strategy to Meet the Immediate Needs of Returned Internally Displaced Persons (2002-2003), Tsunami (Special Provisions) Act (2005) and Resettlement Authority Act (2007). It has found that, the rights of IDPs are partially secured by these laws and non-binding frameworks.

The government and Nongovernmental Organizations are still working to resettle the IDPs. The rehabilitation and reconstruction of devastated economic and social infrastructures in conflict affected areas, was also given priority in the Accelerated Development Programmes namely "Negenahira Navodaya" (Eastern Reawakening)" and "Uthuru Wasanthaya". It has found that the government strategy to improve the living standards of IDPs has been further strengthened by the activities contained in the priority areas on Internally Displaced Persons in the National Action Plan. Thus most of the IDPs have been resettled. It does not mean that, all the IDPs are resettled properly. Meaning there are people still living in welfare centres and other places with many challenges. It was found that, most of the resettled people also have many problems related to human security and living standard.

The IDPs are living within the borders of Sri Lanka. Thus the national authorities must commit as the sole entity with primary responsibility for protection, assistance, and development of IDPs. The government had

better taken all the necessary steps to provide accessible and affordable services to IDPs. Also it is necessary to resettle all the IDPs ensuring their security and living standard. In doing so, the government of Sri Lanka and other organizations which work on IDPs related issues need to better consider the following remedial aspects to overcome the problems faced by IDPs in Sri Lanka. a). Strengthening local and national protection capacity: It is essential to assist the authorities in discharging their responsibility to internally displaced persons and to strengthen the national capacity, not only for emergency response but also for human rights protection. b). Protection strategies for women and children: Humanitarian agencies must ensure that gender and child-related aspects of displacement are considered in the planning and programming of operations. Displacement tends to alter the structure of families and households and to change gender roles. c). Promoting protection in the design of return or resettlement programmes: Protection activities must work towards durable solutions. For the displaced this entails a voluntary and secure return or resettlement. Humanitarian and development agencies need to work together to ensure that their programmes are designed to specifically tackle these challenges. d). The government should take necessary measures to ratify protocol II to the Geneva conventions: However, number of key areas where the rights of IDPs are being violated and where action is urgently needed to protect these rights in full compliance with international law and the UN Guiding Principles on Internal Displacement and to help ensure that all of Sri Lanka's IDPs have access to long-term durable solutions. e). The Parliament had better enact the legislation that addresses IDPs right specifically.

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