

BATTICALOA FIELD MISSION

MAY 2007

A team from the Centre for Policy Alternatives (CPA), INFORM Human Rights Documentation Centre, the International Movement Against Discrimination and Racism (IMADR) and the Law and Society Trust (LST) visited Batticaloa District from May 17-18 2007 to assess the resettlement process in Vellaveli (Porathivu Pattu D.S. Division) in Batticaloa west.

Given previous instances of forced resettlement, such as the movement of people from Kanthale and Kinniya to Mutur in September 2006 and from Batticaloa to Killivetti Transit Site and Vakarai in March 2007, the team visited to ascertain whether the resettlement was being carried out in line with international human rights standards.

The team spoke to displaced persons awaiting settlement, those who already been resettled and to local organisations and international agencies involved in humanitarian and human rights issues in the district. The team visited displacement sites including Vinyagapuram Maha Vidyalayam and Alankulam, in Valaichennai. They attempted to visit Porathivu Pattu but were denied access.

This report is one in a series of reports by human rights groups highlighting human rights and humanitarian issues following the upsurge in violence during 2006-7.

Key Findings

- The voluntary nature of the resettlement process, which is a basic international human rights principle, was clearly in question. IDPs were not consulted regarding their return and resettlement, thus violating a key article of the Guiding Principles on Internal Displacement.
- The resettlement process was heavily militarised. Civil administration and relief and humanitarian agencies were clearly excluded from playing any critical role in the initial process of resettlement
- Elements of coercion were visible in the early part of the resettlement process - STF guards showing aggression when calling out family names and reportedly even pointing a gun at the crowd.
- The growing unwillingness of larger international agencies such as the UNHCR to publicly raise the issue of forced resettlement.

Context

The large-scale military operations launched in March 2007 by the security forces in LTTE-controlled areas to the west of Batticaloa District, and on its borders with Amparai District (including Kokkadicholai, Vavunativu and Thoppigala) saw a mass exodus of residents from these areas to government-controlled areas in Batticaloa. It is estimated that more than 40% of Batticaloa's entire population was displaced over the last six months. By the end of March, the Ministry of Reconstruction and Rehabilitation quoted a

figure of 34,927 families consisting of 127,134 persons living in Welfare Centres in Batticaloa.

Since March 2007 the Government has engaged in massive resettlement initiatives to ensure that displaced people return to their homes in areas under military control. The haste with which the resettlement was planned and executed raises questions with regard to the observance of and respect for international norms and principles. Concerns were also raised about the lack of consultation with the affected communities and with the local and international NGOs that work with them. Reports indicated that there was forced resettlement and instances where coercion was used. The Minister of Resettlement, Rishard Badurdeen confirmed these reports.¹

Following the capture of areas west of the Batticaloa lagoon by the military, the Government announced plans for resettlement which were to proceed in three phases. In the first phase – May 14 -24 - Vellaveli (Porathivu Pattu D.S division) which was home to approximately 38,577 persons from 9,870 families was to be resettled.

Pre – Resettlement Concerns of IDPs

On the 17th May we travelled to Batticaloa via Valaichchenai. In Valaichchenai, we visited the camp at the Vinjayagapuram School, where the numbers of IDPs were depleted due to resettlement to Vakaraai and to Kiliveddy. The families still remaining there were from areas of Mutur East - Eachalampattu and Seruvila D.S. divisions - to which resettlement had not yet commenced. The camp, which had once accommodated over 1000 families, seemed deserted. The people feared that they would be sent to the Killivetti Transit Centre, which they had heard was in poor condition and saddled with water and sanitation problems. They were also concerned of reports of abductions in the camp and hence claimed that they felt much safer in Vinyagapuram.

We then visited a camp at Ondtachimadam from which people were to be taken to Porativu in the next days. There was a mixed sense of excitement and anxiety. People were very clear that they did not want to continue living in the tent sites that had been their home for several weeks. Their anxiety about returning was mostly based on the fact that they had no idea as to what to expect. Many of them had heard rumours that their livestock had been stolen and were worried about the implications of this for their livelihood options after resettlement. They were also not at all clear about their entitlements - what they would receive when, and where. Their Grama Sevakas had not been with them in this process of displacement and they were not sure whether the GS would turn up once they had returned.

Procedural problems

The resettlement of Porativu took place over eleven days, each day being allotted to resettling three G.N. divisions. All the displaced persons were notified of the days on which resettlement would take place for each of the thirty four G.N divisions. The

¹ Daily Mirror, “IDPs moved against their will?” March 20 2007.

Centres where the people from each G.N. divisions were seeking shelter were identified and these sites served as the gathering point for people to be collected for resettlement.

The Special Task Force (STF) is the primary actor responsible for the resettlement program. It took charge of all the main procedures including transport, registration, security checks, while some civilians were seen assisting in distributing relief assistance packages.

Each morning a bus comes to each camp, with security provided by the STF. The displaced from the G.N divisions that have been listed for resettlement on that day, board the bus and are taken to a eucalyptus grove next to the DS's office in Kaluwanchikudy, where the registration takes place. The buses make multiple trips to and from the camp depending on the numbers from each camp who are set to leave.

At the registration site there are separate queues for each of the G.N. divisions being resettled for the day, plus an additional one to deal with people who missed their assigned day. The displaced first have to undergo a body search and a through search of all their baggage before they are registered and a family photograph taken. The family photograph is a crucial element of this process.

The 'family photo' created a great deal of insecurity and uncertainty, since the IDPs had been told that this photo would be the basis on which the security forces would accept their right to remain in Porativu. Thus, the IDPs felt that if any member of the family was not present in the photograph for any reason, those persons would have difficulty in entering Porativu at a later date. A particular dilemma confronted families in cases where children had been entered in schools in and around Kaluwanchikudy prior to this round of displacement. There was a fear that if the children did not appear in the family photo they would not be able to visit their families during vacation, and on the contrary that if they did appear in the family photo, they would be forced on to the buses that were carrying their family back to Porativu.



The Porathivu Patu returnees reportedly were to be provided with a special identity card, like in Vakarai, but this was not done at the registration site. Subsequent reports by other agencies have stated that returnees were given special IDs. The returnees we met at the

registration site told us that they were given slips of paper to obtain their ration and, if they possessed a vehicle, another slip with which they could recover it at the Porativu end. They then board another bus that took them over the Padiruppu Bridge to Porativu, reportedly to the school where they would be given their two week rations and instructions regarding security and their future.

We visited Thettathivu Camp on the 18th, the fourth day of resettlement, when residents from Kalumunthanveli, Veeranchanai and Gandhipuram G.N. divisions were being taken back to their homes. For the most part, the entire process appeared to work smoothly. When we arrived at the camp at 7 a.m. families were already dressed and packed, waiting for the bus. Individuals from local NGOs and INGOs were also present and prepared to allay fears and intervene where necessary. We stayed until the final set of families had

boarded the last bus. There was a general rush to get into the bus and load belongings. On the second trip the bus driver shouted that this was the last trip he would be making which led to a panic among the remaining families. They rushed towards the bus and tried to force themselves onto it, squeezing their belonging and children through the windows. However, this was not before



some traumatic moments had already taken place. For example, a little girl who had been pushed into the bus through a window while her parents remained on the ground trying to get a foot on to the bus, screamed and leapt out of the window in a hysterical state when the bus driver revved his engine. This was an unnecessary situation as it was clear that the bus was full and that the remaining families and their possessions could not be squeezed in. Individuals from INGOs and NGOs intervened and the bus driver agreed to make a third journey.

The Militarization of the Resettlement Process

At the eucalyptus grove, the registration process was carried out with military efficiency by the STF and in a manner that was sensitive to the basic needs of those being resettled. The selection of the location for the registration site was thoughtful, since the trees provided shade for the mass of people gathered there. Drinking water was provided and there were loudspeakers playing Tamil music. Towards noon, lunch packets were distributed to those who were still at the site by the STF. There were also simple gestures like providing a chair for old people standing in queue. Importantly, the searching of women was carried out by female police officers.



The militarised nature of this resettlement operation was clear. Though there were civil administrators sitting in one of the tents, procedurally they were playing a peripheral role. Individuals from the D.S office did drive up to Thettathivu camp during the transport process but there was no attempt by them to engage with the people.

The displaced people in one camp complained to us that the local G.N. was not involved in the process, and only wanted to ensure that they would leave behind some of the items they had received as part of relief packages distributed by various NGOs. In other instances the displaced complained that relief items were provided to the GN by agencies but not distributed.

Despite this limited interventions it seemed that there was a clear decision to exclude the civil administration and relief and humanitarian agencies from playing any critical role in the process of resettlement. This reflected the decisions taken earlier on in the year, when the resettlement to Vakaraï took place. Decisions regarding the process, the dates and the modus operandi were taken within the security hierarchy. Batticaloa based INGOs working with the IDPs claimed that they first found out about the dates of resettlement from the displaced. There were a few local NGOs and INGOs that seem to be actively monitoring the process on a daily basis and trying to intervene.

In addition the Government imposed strict restrictions on access to Porathivu Pattu. None of the UN agencies was allowed access until the resettlement process was well under way. Their own security advisories as well as the official denial of access to Porativu had no doubt influenced their decisions regarding the role they would play in this process at this phase. The UN agencies had been taken on one 'go and see' visit by security personnel, and had reported a relatively low level of impact in the area, but NO agency local or international was given permission to actually accompany the IDPs on their trip back home. On the 17th, a UN convoy reached the transit point in Kaluwanchikudy by mid day. The UN was granted permission to enter Porativu only on the 19th despite having been given assurances that they would have access on the 16th May.

Our request to cross the Padiruppu Bridge on May 18th was also refused by the STF. They cited security considerations raising a question as to how safe these areas are. The

Government is using blanket security to deny any monitoring of the resettlement process in progress.

Overall the militarized nature of the resettlement process has meant that it is efficiently carried out but because of the fear associated with the military, be it the army or the STF, the lack of a civilian administration and humanitarian agency presence makes the process all the more frightening for the displaced.

Voluntary Nature of Return in Question

The resettlement process to Porathivu Pattu has been publicly presented as a voluntary process. The Government has stated that it would not engage in forced return, having acknowledged that it had previously done so with regards to the movement of IDPs to Kilivetti from Batticaloa.

Voluntary resettlement, as identified in the Guiding Principles on Internal Displacement, is when the displaced make a free and informed decision and choose to return home. By contrast forced return takes place when different forms of coercion, be it armed force or the denial of or the threat of denial of food and other forms of assistance to the displaced, are used to move people back to their homes. Based on the interviews during our visit it became clear that the voluntary nature of return was clearly in question.

Restricted Rights: The key issue regarding the resettlement process that was brought to our attention was the lack of options presented to the IDPs regarding their future.

There were no real provisions in place if the displaced did not wish to return. While all actors including government officials repeat the mantra that resettlement has to be voluntary there is a general expectation that all the displaced will move back. For instance, we did not hear of a Government actor informing the displaced that they could continue to stay at the welfare camp or with host families and that they would continue to receive rations.

There are very specific cases where individuals have been allowed to remain where they currently are. Examples of this are people who are in need of hospital treatment or children who have been transferred to schools outside Porathivu Pattu. In these instances INGOs and NGOs have had to rely on the discretion of the local authorities and STF officers. This was the case with children in schools in Kaluwanchikudy who had families in Porativu, and who wanted to be sure that their right to visit their families was not affected by the fact that they did not join the families in the return. It should be noted that at least on one occasion the STF officers permitted individuals with very specific reasons to stay in their current location rather than join the resettlement.

In a Press Release issued on May 15, 2007, the UNHCR quoted its Representative in Colombo, cautioning that ‘attention should be given to categories of people with special

needs'.² While some local groups and INGOs are playing a crucial role in assisting such cases, it was most often as a response to a crisis situation.

The “success stories” of the ‘special cases’ who managed to win the right not to be returned – such as the students, or the ones in hospital - emphasize the fact that the right of refusal to being resettled has been restricted to very specific sets of displaced persons and is no longer a general right.

Lack of information and a consultative and participatory process: In our conversations with the IDPs, it became clear that the IDPs were not consulted regarding their return and resettlement, thus violating a key article of the Guiding Principles on Internal Displacement.

From the IDPs themselves, we heard a full range of opinions regarding the desire to return to their villages. Some were eager to return immediately due to the poor conditions in the camps. The rains in early April, which had inundated the empty fields in which most of the tents and shelters had been erected, had been the last straw for many. Most were determined to return eventually, but were apprehensive of resettling right now. A key reason cited for not wanting to return immediately was security. The IDPs knew that there were some military operations continuing in West Batticaloa, and wanted to return after fighting ceased. This fear is very real, based on their experiences of being used as human shields by the LTTE in the past. They were also haunted by previous experiences of living amidst mortar fire and some were also concerned about retaliation from the LTTE as it was the STF that asked them to move. The secrecy in which the resettlement process was shrouded, heightened this fear.

IDPs who were interviewed questioned as to why NGOs, INGOs and camp officers were not allowed to go and see their homes prior to their resettlement. They asked “What are they [the state] hiding? Why are they sending us back but won’t let anyone else visit?” They invited us to come and visit them.

The lack of a ‘go and see’ procedure heightened the suspicion among the IDPs about the process of resettlement. They were anxious because they were returning to a situation in which they did not know whether or not their homes had been damaged, whether or not their household goods were intact, whether or not their means of livelihood – livestock, agricultural implements - had been destroyed or stolen. This meant that there was no assessment, either by the IDPs or by the humanitarian agencies as to what measures needed to be put in place in order to facilitate the return. In addition, since the IDPs had no clear idea as to what of their goods and belonging were left, they felt that if any one IDP family was to return, the others should go along as well in order to prevent theft and looting. In communities that are poor and lack resources, the desire to preserve whatever possessions they have is paramount. People also raised concerns that in their absence wild elephants would have caused significant damage to their fields and property. This issue of looting of property was also repeated to us by some recent returnees to Porativu

² (UNHCR, Press Release, “UNHCR helps government start return of 90,000 IDPs to Batticaloa district,” May 15 2007)

who had crossed over the bridge to carry out errands in town. Some of them said that they were happy to be back but related stories of their houses being damaged and looted. The famous Paduvankarai Kannagi Amman Temple in Kokadichcholia is not going to hold its annual festival this year. While the security situation and displacement of local residents has been cited as the reason for this, it was also reported that the temple had been looted. This report however, has not been substantiated.

The silence of the NGOs regarding the upholding of the principles that IDPs should be offered choices and that their return should be voluntary, was very critical in this situation. We observed that the IASC notice regarding IDP rights, including on voluntary return, which had been widely disseminated in Tamil, Sinhala and English during the earlier processes of resettlement were not as widely distributed or re-issued during this phase. Nor was there any comprehensive awareness-raising process regarding the resettlement and avenues for reporting grievances



Use of Coercion: Firstly, the manner in which transport from the displacement camp was carried out indicated a significant measure of coercion. According to conversations we had with agencies working on the ground and the displaced in the camps the process we witnessed on Friday the 18th was markedly different to the first day. On Monday the 14th the bus was accompanied by, not just two STF personnel on board, but also others on motor bikes. They had been much more aggressive when calling out family names and reportedly had even pointed a gun at the crowd. Some of the people we spoke to said that people had actually wanted to resist being returned, having heard the stories from Killivetty and fearing the security conditions in their places of origin. Faced with the aggressive response of the STF, the displaced whose names were on the list for that day complied. This set a precedent. In the following days there appears to have been no resistance. No instances of people being dragged into buses were reported to us. . The displaced also told us that the IASC notices gave contact information to report problems. They pointed out the obvious difficulties in finding a phone in an emergency to make a report and also wanted to know what support the NGOs, local and international, could provide them if they chose not to return. Clearly they wanted more international and local presence in the displacement camps, especially prior to and during the boarding of buses.

The role of humanitarian and human rights actors regarding protection of the rights of IDPs

The lack of space for participation of IDP communities and humanitarian agencies in discussions and decision-making regarding the resettlement has made it difficult for the INGOs and local NGOs to be more proactive. Ideally, the decision as to the ‘special

circumstances’ in which people from Porativu did not have to join the resettlement process should have been taken prior to the resettlement process being put into action.

The fact that a number of key actors in the humanitarian arena have characterized the resettlement as being voluntary creates an environment in which focusing on the obstacles to a resettlement with dignity for the returnees or with the fullest respect for their internationally recognised rights has become all the more difficult. In its press release of May 15, UNHCR characterized the resettlement as “voluntary and in line with international standards”. This is contrary to our findings, unless the term ‘voluntary’ has been re-defined.

The Inter Agency Standing Committee³ issued a Situation Report (No.75) covering the period 17-24 May in which it reported that an inter-agency mission consisting of representatives of UNHCR, UNICEF, OCHA and the UN Security Division had visited Vellaveli (Porativu Pattu DS Division) on May 18. The statement issued by IASC on May 24⁴ states that “initial findings reveal that the majority of people wished to return home and that the area was conducive to return.” This finding that a majority of people wished to return home confirms our findings that many of the people we spoke to expressed a desire to resettle. Our conversations suggested, however, that people were afraid of resettling immediately and felt that they had no choice but to resettle. The IASC also mentions the ‘ideals’ of resettlement – full access to information, re-establishment of local administrative structures, ‘go and see’ visits, grievance mechanism – without mentioning whether these standards were complied with in Phase I. However, the IASC statement also pointed out that the issues of agriculture-based livelihoods and sustainable food security posed a challenge, as did the existence of mines and unexploded ordinances in the area. Again the IASC does not comment on whether this was a violation of international standards in Phase I.

An assessment of Porathivu is to be carried out so as to identify immediate needs. Although the initial assessment carried out by an UN Advance Team reported a “relatively low level of impact,” subsequent visits have revealed more extensive damages including by wild elephants, with approximately 1,000 houses being partially damaged.

In general it seems that there has been a gradual loss of will among critical international agencies, including UNHCR, to publicly raise concerns regarding the process of resettlement, amounting to a significant shift in policy from March 2007.

In the case of national institutions, the National Human Rights Commission, which has an office in Batticaloa and also a special IDP Protection Unit at the Colombo office, was notable by its absence, despite its protection mandate. The Commission was not

³ (IASC, comprising FAO, OCHA, UNDP, UNFPA, UNHCR, UNICEF, WFP, WHO, IOM, World Bank, OHCHR, CHA, FCE, Sarvodaya, Sewalanka, Oxfam, NRC, CARE, World Vision, ACF, ZOA, Solidar, Save the Children, Merlin)

⁴ Inter Agency Standing Committee Country Team, “Inter Agency mission confirms progress; calls for greater civilian involvement in return process,” May 24 2007)

monitoring the resettlement process and was in fact still debating a possible visit to Vakarai, months after the resettlement had taken place.

Conclusion

Based on our observations, the Porativu Pattu Resettlement process or Phase I was not a completely voluntary process given that people were unable to make informed decisions, had little choice and could not fully exercise their right to refuse to return due to the militarized nature of the process. It seems also clear that most of the displaced do want to go back to their homes but are apprehensive about returning immediately primarily due to security-related fears.

It is important that the IDPs have the right of return and that the Government supports that right. It should however, be a return that is voluntary and with dignity and safety. The Government faces a significant challenge in carrying out resettlement and these efforts need to be supported so as to ensure normalization for the affected populations. Yet, the process through which resettlement has been carried out raises a number of key concerns. As such we make the following recommendations, some of which echo those made by the IASC, in the hope that they may have some impact on changing the frameworks within which future processes of resettlement in Western Batticaloa and the other resettlement processes in the North, East and border areas are carried out:

- 1 The resettlement process should be spearheaded by civilian authorities, who can draw on the assistance of the security forces when it is absolutely necessary, such as for security related issues.
2. There should be no intimidation or coercion including the use of armed military personnel to collect people for resettlement, including the threat of cutting off food rations or not providing relief assistance, in order to 'engineer' consent to return
3. Displaced people should be reassured that if they choose not to return they will continue to receive rations and will not face repercussions, including being deprived of resettlement packages when they do return.
4. Resettlement should not commence before 'go and see' visits by representatives of the displaced (Camp Committee members) and humanitarian and protection agencies have taken place, so that potential returnees can make an informed choice.
5. Local and international actors, especially humanitarian agencies, human rights groups and independent media, should be allowed access to the areas earmarked for resettlement before, during and after the resettlement process, , so as to ensure a more effective delivery of assistance and support for the returnees. This would also help allay the returnees' fears. Access would also facilitate more comprehensive and accurate assessments. If there is a due procedure to gain access, this procedure should be made clear to actors involved in advance.
6. De-mining should be carried out prior to areas being opened for resettlement and a de-mining certificate obtained by the relevant government authorities of the area.
7. International and national humanitarian agencies should continue their assistance to IDPs and returnees and identify gaps in the current assistance system.

8. International agencies, particularly UN agencies, should take a more active stance in monitoring the resettlement process and play a more proactive protection role, such as making IDPs aware of their rights through distributing the IASC notices and being present at all stages of the resettlement process. International agencies should work in a more coordinated manner on the ground and make a rights-based approach a reality for displaced communities..

9. While the failure to appoint the Human Rights Commission in a legitimate manner raises serious questions regarding its independence, the IDP Unit and the Batticaloa Human Rights Commission should be encouraged to live up to its mandate and take an active role in protecting the rights of IDPs, particularly with regards to resettlement, including by monitoring and timely interventions.

Dated: June 4 2007