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Sri Lanka's Post-Conflict Transition: Reconstruction, Reconciliation and Aid Effectiveness

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Abstract

In the heyday of the Non-Aligned Movement, Sri Lanka's politicians and diplomats wielded an influence disproportionate to the country's size on the international stage. However, the last 30 years of armed conflict and the way in which it ended has tarnished the island's international reputation. Yet, at home, the Mahinda Rajapakse government, by comprehensively defeating the Liberation of Tamil Tigers of Eelam, has secured the lasting gratitude of the majority of the people and is widely expected to sweep the general and presidential elections to be held in 2010. The Sri Lankan government also has a golden opportunity to move quickly to heal the wounds of years of conflict through timely reconstruction and reconciliation. The international community would need to support the transition by ensuring aid effectiveness and good donorship.

Introduction

The President of Sri Lanka, Mahinda Rajapakse, had planned to attend the 64th Sessions of the United Nations General Assembly in New York in September 2009 and showcase the success of the island's military strategy in defeating terrorism. The current regime in Colombo had argued all along that it was fighting a "war on terror" and various experts had suggested that the country may be a role model for defeating terrorism. However, President Rajapakse's trip was later cancelled and Prime Minister Ratnasiri Wickremanayake went in his place instead. In the same week, the United Nations sent two high profile representatives of the Secretary General to Sri Lanka for consultations on the post-conflict resettlement and reconciliation process.²

Though the United Nations annual meetings in New York may have provided an ideal venue to showcase Colombo's success on the terrorism front, the failure to resettle approximately 250,000 displaced people still held in internment camps in the north and to develop a roadmap for reconciliation and power sharing with the Tamil-speaking minority communities

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² The two representatives were Walter Kaelin, United Nations Representative on the Human Rights of Displaced People and B. Lynn Pascoe, Under-Secretary-General for Political Affairs.

in the northeast, as well as the general human rights situation in the country, seem to have caught up with Colombo. Western countries with large Tamil diaspora communities that protested the war in northern Sri Lanka in the days of the final dénouement had been circumspect about Colombo's credentials to be a model of how to defeat terrorism. While the President's office remained tight-lipped on why he had changed his mind about attending the United Nations General Assembly meetings, he suggested that there is an international conspiracy to devalue the victory over the Liberation Tigers of Tamil Eelam (LTTE). The President also stated that he is willing to face any judiciary processes and defend the soldiers who fought for their motherland and defeated the LTTE.

Four months after the end of the war, Sri Lanka is in transition. The challenge of winning the peace, demilitarising, democracy and governance, and integrating the minority communities to ensure reconciliation and lasting peace remain. The government continues to act as if the LTTE presents a clear and present danger even though the organisation has been dismantled. Given the highly centralised organisational structure of the LTTE, the remaining foot soldiers are unlikely to present a significant threat, as was the case with the *Janatha Vimukthi Peramuna* (JVP) once its leadership was gone. In the present context, the levels of militarisation and securitisation, particularly of Colombo and the northeast regions, seem to merely serve the purpose of extending the extraordinary executive privileges of the ruling Rajapakse family.

Sri Lanka's post-conflict challenges may be classified into two categories – immediate humanitarian and human rights issues; and long-term political settlement with the devolution of power to the conflict-affected regions, and the recognition and institution of multiculturalism. On both these counts, the Sri Lankan government is under considerable pressure from India, the United States, the European Union and the United Nations to quickly resettle those held in camps and to come up with a political solution to the conflict to ensure lasting peace. At the same time, Colombo has secured the support of India and China as well as Iran, with which it recently inked an oil deal with a loan on an extended payment plan. Japan too remains actively engaged in Sri Lanka and historically has been its largest donor. The Sri Lankan government has secured an International Monetary Fund (IMF) loan of US\$2.4 billion to stabilise its balance of payments crisis and post-conflict reconstruction in the aftermath of the war. The Sri Lankan Central Bank announced last week that its foreign reserves have never been larger.

Resettlement of 250,000 internally-displaced people held in camps

The resettlement of the 250,000 internally displaced people (IDP) held in internment camps is an immediate humanitarian and human rights concern. These people lack the ability to move about freely and engage in income generation. Many are held involuntarily. The government argues that there is mine clearing to be done before they can return safely and that there are LTTE cadre in the camps. It therefore needs to carry out rigorous screening in the interest of security. Some of the camp inmates may be witnesses to war crimes committed by both parties.

However, many of the people held in camps have relatives whom they may stay with before returning to their own homes, and the government has announced that those whose relatives apply for their release and are willing to house them may leave. The government has been working with selected international non-government organisations (the International Committee of the Red Cross) and United Nations agencies to provide food, shelter and

medical care to the IDP and has assured the United Nations Secretary General, Ban Ki-moon, that it plans to resettle 80 percent of the IDP by the end of the year.

The Sri Lankan government has also solicited aid from the international community to help fund and speed up the de-mining process, as well as assist with the return and resettlement of IDP in villages. This entails rebuilding villages, housing infrastructure, providing electricity, water, access roads and basic services, as well as a cash grant as a start-up allowance. Leaders and members of the Tamil-speaking minority communities themselves appear to have adopted a pragmatic stance, and the Tamil National Alliance (TNA) [formerly the party that represented the LTTE] has pledged to work with the government to facilitate the speedy resettlement of IDP.

Long-term political solution for sustainable peace: Implementation of the 13th Amendment to the Constitution

Unless the root causes of conflict are addressed, terrorism may return to the country in a few years or decades. For sustainable peace in the long-term, the highly centralised post-colonial state in Sri Lanka would need to devolve power to the northeast regions and share power with the minorities. The substance of power-sharing with the Tamil and Muslim minorities in the northeast is contained in the 13th Amendment to the Constitution, which was effected when India intervened in Sri Lanka in 1987 to ensure a peace settlement between the Sri Lankan government and the LTTE. The 13th Amendment to the Constitution established Provincial Councils as a means to decentralise power and enable self-governance in the regions. However, it was never properly implemented in the north and east due to the secessionist struggle.

There are two models of post-conflict reconciliation. One is reconciliation based on addressing the root causes of the conflict and the second is a more pragmatic model of reconstruction and development sans addressing the thorny issues of human rights violations and war crimes by both parties to the conflict, or the devolution of political power to ensure greater autonomy for the regions. In the near-term, the Sri Lankan government appears to favour the latter model of reconstruction and development of the conflict-affected areas without redress of the political grievances and demands of the Tamil minority community living in the north and east for greater devolution of power to the provinces. This may be largely be due to the fact that some ultra-Sinhala nationalist coalition members of the ruling United Peoples' Front (UPF) are against the devolution of power or power-sharing with the Tamil minority. This could change after the presidential and general elections are held in 2010.

The All Party Representatives Committee (APRC), which was convened three years ago to develop a framework for a political solution, after consultation with all political parties, has recommended a new Constitution and the pruning of Presidential powers. The APRC process was meant to go beyond the 13th Amendment and fix its deficiencies. The APRC report recommends maximum devolution of power to the provinces within a unitary state, and that the provinces should have the power to formulate legislation for the provinces without interference from the centre. There would be a clear division of powers between the centre and the provinces by doing away with the concurrent list, which was one of the obstacles to the setting up of the provincial council system as proposed in the 13th Amendment to the Constitution. However, land, police and security would not be devolved subjects.

Obstacles to a political solution – the 2010 Elections

It is widely believed that the next general elections would enable the Sri Lanka Freedom Party (SLFP), the principle party of the government, to dump its ultra-nationalist coalition members and move towards the implementation of the 13th Amendment. Through this process, therefore, the election can offer a political solution to Tamil demands for self-government in the north and east by the devolution of power to all regions. The current ruling coalition comprises the ultra-nationalist JVP and the *Jathika Hela Urymaya* (JHU), formerly a Buddhist monks' party. Both of these coalition partners are opposed to the devolution of power to the north and east and political settlement with the minorities. It is hoped and anticipated that the 2010 general elections would enable President Rajapakse to address the issue of the political solution to the conflict if his party's reliance on these two ultra-nationalist parties is diminished.

As long as the LTTE controlled significant parts of the northeast, the central government feared that the group would use the devolution of power to consolidate a separate state. Hence, the provincial council system was never properly implemented in the north and east. However, now that the LTTE no longer exists as an organisation on the ground, one of the obstacles to the devolution of power has been removed. The principle stumbling block at this time is the ultra-Sinhala nationalist coalition parties of the government. The primary opposition, the United National Party, has stated that it would support the devolution of power to the provinces as a means of power-sharing with the Tamil and Muslim minorities in the north and east of Sri Lanka.

Economic and governance challenges in post-conflict areas

The Rajapakse government is increasingly dovetailing its policies to make Sri Lanka a destination for Indian and Chinese investments. As a first step in attracting investments in the former northeastern conflict zones, the government recently announced a 15-year tax holiday for companies setting up operations in these regions. Among those queuing up are NTPC, Cairn, L&T, Purvankara and various information-technology companies. India's National Thermal Power Corporation is expected to sign an agreement soon to set up a 1,000 MW coal-based power plant in Trincomalee with an investment of US\$500 million, while Cairn India has received approvals for oil exploration projects at a cost of US\$400 million. Infrastructure companies Larsen & Toubro and Puravankara are also headed to the island nation to set up shopping complexes and housing projects. BSNL recently bid for the Sri Lankan operations of Luxembourg-based mobile service provider, Millicom International. Sri Lanka is seeking technological investments as well. Meetings with information-technology majors such as Mphasis, HCL and Accenture to set up delivery centres have been concluded, according to C. Ignatius, Director of the Board of Investment, the Sri Lankan government's investment promotion agency.

Clearly, development cannot be a substitute for democracy and power-sharing with the minority communities in the north and east. Rather, development and democratisation must be concurrent. Presently, in the northeast, some government-backed Tamil paramilitaries continue to engage in the old war economy of terror, extortion, taxation and cronyism. Development priorities are not done in line with the development needs and priorities of local populations, but are rather controlled by Colombo, particularly the President's brother, Basil Rajapakse, who controls reconstruction in the northeast with related crony capitalists.

There are also anxieties about a land grab of valuable coastal lands from IDP to build hotels and Special Economic Zones, particularly in the Sampur area in the Trincomalee District, where the INTP is to build its coal power plant as well as other parts of the northeast at this time. Simultaneously, moderate Tamil voices remain marginalised from the development process. In this context, there is an urgent need to fully implement the 13th Amendment to the Constitution and devolve power to the provincial and regional governments. The Chief Minister of the Eastern Province, a former LTTE child soldier that was part of an eastern wing that broke away from the organisation and supported the government, has repeatedly stated that his office is marginalised and does not receive the funds necessary for the reconstruction and development work in the eastern province. Moreover, recently, the highly-respected University Teachers for Human Rights (Jaffna) reported that while fishing restrictions by the navy have been lifted in the conflict-affected regions, Tamil fishermen were harassed by the navy when Sinhala fishermen brought to Mannar (on the west coast) were challenged by the native Tamil and Muslim fishers of the area who have smaller boats and no political or military backing.

Aid effectiveness and responsible donorship

At the macro-level, in the context of an expanded defence budget for 2010, the IMF may need to review the situation before the disbursement of the second tranche of its US\$2.6 billion loan to the Sri Lankan government even though the LTTE has been defeated. The expanded military budget may be subsidising corruption in high places given aid fungibility – this is especially so since military budgets are rarely open to scrutiny for reasons of “national security”. At this time, questions are being raised as to whether the defence budget is part of a Rajapakse slush fund, given that significant parts of the almost-defunct Mihin Airlines budget came from the Ministry of Defence and the President and his brother are the Minister and Secretary of Defence respectively.

Locally, in the northeastern post-conflict zone, the old land and resource conflicts and forms of state-sponsored economic discrimination against the minorities that were at the root of the 30-year war between the government and the LTTE in the northeast need to be addressed in a transparent and objective manner to ensure economic justice and necessary reconciliation, particularly for people who have been displaced and the traumatised in the war. In this context, post-conflict reconstruction assistance provided by foreign donors must have provision for tracking, monitoring and evaluation of aid projects by independent academics and civil society experts to ensure transparency, and that the funds reach their intended beneficiaries. Aid should not contribute to a new set of conflicts and conflict-sensitive aid policy and frameworks are necessary. Aside from Japan, the new Asian donors tend to have a circumscribed view on aid and have not been concerned about linking aid to good governance or human rights. Monitoring and evaluation have increasingly been part of the Organisation for Economic Co-operation and Development aid frameworks, which have recognised, over time, that aid could fuel poor governance, corruption, and cycles of conflict.

Simultaneously, the current regime in Colombo needs to reaffirm that Sri Lanka is a multicultural and multi-religious polity and a Commission on ethno-religious equality should be set up. Finally, the challenge would be to move from a national security state to the human security paradigm that, in the post-conflict period, people and equitable human development should be put first to ensure sustainable peace in Sri Lanka. In the language of human rights, this would entail balancing civil and political rights with economic and social rights.

Local-global disjuncture in the post-conflict aftermath

In post-conflict Sri Lanka, it is apparent that there is a disjuncture between a significant part of the international community and domestic opinion. Domestically, President Rajapakse and the UPF government enjoy high levels of popularity for defeating the LTTE, listed as one of the world's most dangerous terrorist organisations in the world. The conflict was a 30-year scourge on the country, with an estimated 80,000 killed and well over half a million displaced internally and into the Sri Lanka diaspora during that time. Prime Minister Wickremanayake announced during his United Nations General Assembly address that the last thrust to defeat the LTTE had cost the country US\$2.8 billion. At this time, the majority of people in Sri Lanka, regardless of their ethnicity, are glad that the bombs are no longer going off, their children have a more secure future and the prospect for development in the country is brighter than it has been in the past three decades of armed conflict. Yet the question of reconciliation and substantive peace-building, which would entail re-structuring of the highly centralised state and power-sharing with the minorities in northeast Sri Lanka, remains.

Elections, both general and presidential, are expected in 2010. President Rajapakse and the SLFP are widely expected to sweep through, given the comprehensive defeat of the LTTE. President Rajapakse's personal popularity and the ruling UPF coalition government's popularity is evident in the local government and municipal council elections held in August and October 2009 in the southern and northern districts. In the south, the ruling party's candidate won almost 80 percent of the vote. Municipal council elections were held in Jaffna and Vavuniya. In the north, the results were mixed, with the pro-government Eelam Peoples' Democratic Party (headed by a former rebel, Douglas Devananda) winning in the Jaffna municipal council elections. On the other hand, in Vavuniya, where over 250,000 people are held in internment camps, the TNA, which is the LTTE's political front, won.

There is a continuing trust deficit between Colombo on the one hand, and the United Nations and West on the other, which was not helped by Colombo's decision to cancel the visa of a United Nations employee in the country last month – for the first time. At the same time, the European Union is currently pondering and is likely to extend the Generalised System of Preferences (GSP)-plus facility, which if lost to the country, could significantly affect the garment sector. The extension of the European Union's GSP-plus facility is linked to the human rights situation in the island.

Conclusion

Sri Lanka was once recognised as a leader in the developing world in the decades following independence in 1948. During the heyday of the Non-Aligned Movement, the island's politicians and diplomats wielded an influence disproportionate to the country's size on the international stage. During those decades, Sri Lanka was also considered an 'outlier' with some of Asia's best human and social development indicators despite relatively low per capita income. However, the last 30 years of armed conflict and the way in which it ended has tarnished the country's international reputation.

It may be that the government which won the war in Sri Lanka may lose the peace but the jury is still undecided on this matter. Having succeeded in comprehensively defeating the LTTE and securing the lasting gratitude of the majority of the people, the government has a golden opportunity to move quickly to heal the wounds wrought by three decades of war on the island's multicultural and multi-faith social fabric, by ensuring the demilitarisation and

the restoration of full democratic rights and institutions, including a repeal of the Emergency Regulations and the Prevention of Terrorism Act.

At the same time, the Sri Lankan government's defeat of the LTTE raises the question of how, when and under what circumstances do the ends justify the means in combating terrorism. The key players in the international community, including the United States and the European Union, had listed the LTTE as one of the most dangerous terrorist organisations in the world and the chaos of the final showdown was orchestrated by the LTTE that held civilians as human shields. The international community had agreed that the LTTE needed to be neutralised but the means employed by the Sri Lankan government have been regarded as excessive. On the other hand, there are claims about western hypocrisy with regard to the war on Al-Qaeda and the Taliban in Afghanistan and Pakistan, where tens of thousands have been displaced and drones that target terrorists also fall on civilians. It seems that there are degrees of difference and these degrees matter when it comes to the number of people killed and displaced and the manner in which this is done, as well as, perhaps most importantly, how reconciliation, peace-building and post-conflict justice is enabled.

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