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Sri Lanka's Civil War and Prospects for Post-Conflict Resolution

By Lisa M. Kois, Dana Francis, and Robert I. Rotberg

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Sri Lanka's Civil War and Prospects for Post-Conflict Reconstruction emanates from (but does not entirely summarize) a meeting of international scholars and practitioners which took place at Harvard University in November 1997 under the sponsorship of the World Peace Foundation and the International Centre for Ethnic Studies in Sri Lanka. A conference agenda and list of participants can be found in the back of this report.

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In early March, suicide bombers detonated explosive devices near one of Colombo's railway stations during the crowded lunch hour. Although the likely target was a government installation, at least thirty bystanders were killed and more than 200 other Sri Lankans wounded. This was but a recent manifestation of Sri Lanka's long-running civil war. Since 1983, the Liberation Tigers of Tamil Eelam (LTTE) have battled the government and security forces of Sri Lanka, for long periods achieving a military ascendancy in the north. Only in recent years has the national government reduced the LTTE's power. In late 1995, the LTTE's hold on the Jaffna Peninsula was ended, forcing the Tamil Tigers to take to the jungle north of Vavuniya and Trincomalee. From those jungle encampments, the LTTE has continued to fight a guerrilla war against government soldiers. It has matched its intermittent successes in the near north with occasional suicide bombings in Colombo, Kandy, and elsewhere.

The current conflict, however, belies a long history of ethnic accommodation in Sri Lanka. The past is an elemental ingredient in developing strategies for the future political, social, and economic reconstruction of Sri Lanka (the title of the conference of which this is a report). Although the past, on the one hand, has been shunned and, on the other hand, manipulated by politicians for short-term political leverage, there has been little space opened up truly and constructively to scrutinize Sri Lanka's history. This must be done if long-term, sustainable, reconstruction is ever to be accomplished.

In the meantime, and despite the hope that can be gleaned from pluralistic elements in Sri Lanka's past, the war continues. Until a resolution to the conflict is reached, its political, social, and economic costs will continue to limit any discussion of, or attempts at, the successful reconstruction of the country.

Roots of Conflict

Sri Lanka's civil war has multiple roots. Originally, it was largely a response to the continuing marginalization of the Tamil minority, first through officially-mandated linguistic exclusivity and, subsequently, through various legislated and informal actions. The largely agricultural and rural nation that emerged from British colonial rule with thriving civil service, military, and commercial establishments overrepresented Tamils proportional to their numbers in the island's population. By the 1970s, Sri Lanka had become a country in which Sinhala politicians curried favor with the voting majority by appealing to ethnic mobilization. Nearly all Tamils have experienced what they regard as unjust discrimination, especially since 1956.

The Sinhala-speaking majority (74 percent of the country's 18 million people) and the island's Tamil speaking, minority (18 percent of the population) have long lived in close proximity. Although most Sinhalese are Buddhists, and most Tamils are Hindu, the war is not rooted in religious differences. Almost 6 percent of the Tamil minority are tea-estate workers who emigrated to Sri Lanka in the nineteenth century (other Tamils have lived on the island for centuries) and who are known as Estate or Upcountry Tamils. Sri Lanka's remaining important communal group is composed of Muslims who are predominantly Tamil-speakers (7 percent of the total). Few Muslims, however, have ever supported the Tiger separatists. Many Muslims are

allied to Sinhala political parties and in recent times have emerged with their own political leadership drawn from the Eastern Province.

Tamils, like the various ethnic groups in Bosnia, can and do trace the origins of discrimination to periods in their island's deep past. But modern conflict began in the 1950s, when Sri Lanka's independence from Britain was less than a decade old. Sinhala-dominated parties began to ignore the grievances of the Tamil minority in order to compete with one another for the votes of their country's ethnic majority.

The politically motivated actions of the successive governments of post-independence Sri Lanka eroded provisions of the 1948 constitution which had been intended to protect minorities and ensure the smooth functioning of a multi-ethnic independent nation. By making Sinhala the official language, and then by enforcing strict Tamil quotas in universities, the Sinhala majority greatly increased the number and seniority of the public sector jobs which it occupied and the positions that it controlled. Three legislative acts immediately after independence effectively deprived Upcountry Tamils of citizenship and the right to vote. Half of the Upcountry Tamil population was also repatriated to nearby Indian Tamil Nadu. These developments enhanced the electoral weight of the rural Sinhalese population. Tamil pressure for greater regional autonomy was a direct response to the rise of communal mobilization. An implicit undertaking to preserve the island's plural harmony was breached.

Prime Minister Solomon West Ridgeway Bandaranaike (father of current President Kumaratunga) won a closely-contested election in 1956 by promising to boost Sinhala interests.

The Official Language Act of 1956 declared Sinhala the country's official language. The language issue was more than symbolic. Tamil speakers could no longer count on equal opportunity in seeking government employment.

The practical result of the Bandaranaike government's language policies, and their subsequent elaborations, was precisely what was intended: the Sinhala-speakers became more and more numerically preponderant in the civil service. From 1956 to 1970, the proportions of Tamils employed by the state fell from 60 to 10 percent in the professions, from 30 to 5 percent in the administrative service, from 50 to 5 percent in the clerical service, and from 40 to 1 percent in the armed forces.¹

In response to Tamil protests and intensive political negotiations, Bandaranaike promised to grant extensive autonomy to Tamils within the Northern and Eastern provinces. Tamil would be the recognized regional administrative language in both provinces. As autonomous regions, they would have taxing and other important fiscal powers. Alas for the harmonious future of Sri Lanka, this major accommodation of Tamil political and economic demands fell foul of party competition within the Sinhala community. The Buddhist clergy protested. The United National Party (UNP), led by J.R. Jayawardena, used Bandaranaike's promises to campaign against him and the Sri Lanka Freedom Party's rule. There were riots, with hundreds of deaths. Ten thousand Tamils lost their homes and were evacuated to Jaffna. Bandaranaike called out the army, declared a state of emergency, and withdrew his plan.

¹ Amita Shastri A Government Policy and the Ethnic Crisis in Sri Lanka, in Michael E. Brown and Sumit Ganguly (eds.), *Government Policies and Ethnic Relations in Asia and the Pacific* (Cambridge, MA, 1997), 146.

In 1958, a Tamil Language Act, which provided for the reasonable use of Tamil in the Northern and Eastern provinces, and in government, was passed by parliament. But no implementing regulations were ever arranged; the Act languished, becoming one of the many Sinhala promises that were not kept. (Modest concessions were made by the Jayawardena government at the end of the 1970s, but they did little to right the damage that had been done to communal relations.) Likewise, a promise in the 1960s to create district councils where Tamils would have some autonomy, also languished. Throughout the 1960s and 1970s, as a partial result of the statist, interventionist economic programs pursued by a succession of Sri Lankan governments, the country became more, rather than less, centralized. The realization of autonomy for Tamil-speaking sections of the nation receded farther and farther into the distance, even with some modest improvements at the beginning of the 1980s.

In 1986, moderate Tamil members of parliament were ousted when the second Jayawardena government passed a law requiring all members of parliament to swear that they were against separatism (the war of secession having started three years before). This left no legitimate representatives of the Tamil population in parliament.²

Direct intimidation of the Tamil minority was condoned, if not orchestrated, by successive governments. The communal riots of 1983, which followed the ethnically inspired violence of 1977 and 1981, were led by Sinhala thugs with voter registration lists. About 100,000

² Shastri, *An Ethnic Crisis*, 152.

Tamils were made homeless in Colombo and about 175,000 elsewhere in the country. Thousands were killed.³

Earlier, in 1971, the Janatha Vimukthi Peramuna (JVP), or People's Liberation Front, a Sinhala youth movement, launched its first armed revolt. It was quickly crushed, only to resurface in 1989, stronger and more violent than before. It attempted to topple the government, which responded with repressive force, characterized by tire pyres, disappearances, arbitrary executions, and torture. The government crushed the uprising, but only after 66,000 Sri Lankans, most of whom were Sinhala, had been killed.

Competing Nationalisms

Sri Lanka's civil war is fueled by competing conceptions of nationalism. Sinhala nationalists view Sri Lanka as a sacred island where Buddhists have a responsibility to preserve Buddhism and linked concepts of race, land, and nation. Tamil nationalism in part responds to such Sinhala nationalism, and emphasizes Tamil autonomy within the northern and eastern regions of the island.

July 1983 is commonly identified as the starting point of the protracted war that continues to be fought today by the government of Sri Lanka and the LTTE. In 1976, the Tamil United Liberation Front (TULF) initiated the call for a separate Tamil state, albeit through democratic means. Two years later, in 1978, Tamil youth broke away from their democratically-minded

³ See Stanley J. Tambiah, *Sri Lanka: Ethnic Fratricide and the Dismantling of Democracy* (Chicago, 1986), 13-33. For communal riots as early as 1915, and the 1958 riots, see Tambiah, *Leveling Crowds: Ethnonationalist Conflicts and Collective Violence in South Asia* (Berkeley, 1996), 36-94. See also Tambiah, "Ethnic Fratricide in Sri Lanka: An Update," in Tambiah, *Ethnicity and Nations* (Austin, 1988), 293-319.

elders and took up arms against the state as the LTTE. The LTTE was, at the time, one of several militant Tamil groups. Except for cease-fires in 1989/90 and 1994, the LTTE has been fighting for a separate state since 1983, using a combination of conventional as well as sporadic terrorist-type tactics.

The LTTE constructed a formidable insurgent apparatus throughout the 1980s. Drawing support in the 1970s at first from marginalized Tamils in the north, and then from the innumerable Tamils who fled to escape Sinhala violence, the Tigers in the 1980s struck at the ill-prepared defense forces of the country, assassinated politicians and opponents, and terrorized both Sinhala governments and Tamil-speaking moderates. As Chris Smith indicated at the conference, the LTTE drew heavily upon the financial support of Tamils who left Sri Lanka throughout the 1970s and 1980s for India, Malaysia, Europe, Canada, and the United States. A recent report indicates that, despite international surveillance in the late 1990s, the LTTE continues to smuggle arms and import cash at will.⁴ Its military tactics and intelligence are formidable, and a match for the rather feeble information gathering facilities of the Sri Lankan Defence Force and its demonstrated strategic weaknesses.

The protracted civil war in Sri Lanka has had regional consequences, particularly affecting the relations between India and Sri Lanka. The outpouring of refugees across the Palk Strait, onto the shores of India, served as a justification for a highly contested but officially-arranged Indian military intervention in northern Sri Lanka beginning in 1987. As tensions flared between the Sri Lankan and Indian governments first over the economic blockade by Sri Lanka's government of Jaffna and, then, over India's defiance of Sri Lanka's attempted

⁴ See Raymond Bonner, 'Tamil Guerrillas in Sri Lanka: Deadly and Armed to the Teeth', *New York Times* (7 March 1998).

interdiction of a proposed Indian relief effort, President Jayawardena's rule in Sri Lanka weakened.

The Indo-Lankan Accords of 1987, forged between the Sri Lankan and Indian governments with only an eleventh-hour offer to the LTTE for input, led to the introduction of an Indian Peace Keeping Force (IPKF), charged with disarming armed Tamil groups in the North and East and restoring the rule of law. The Indo-Lankan Accords generally, and the IPKF intervention specifically, proved disastrous. Although the IPKF was able to marginalize the LTTE, the introduction of the IPKF fueled Sinhala nationalism in the South, exacerbating persistent fears of an Indian invasion. Ultimately, after the withdrawal of the ineffectual IPKF -- hastened when the Sri Lankan government provided arms to the LTTE for just this purpose -- the LTTE assumed de facto control of the North and East, establishing its political headquarters in Jaffna.

Although a formal cease-fire between the government and leaders of the LTTE was agreed and peace talks commenced in 1989, halting the war, Eelam War II was launched by the LTTE in 1990. With the JVP crushed, the government was able to reorganize its troops, sending them to the North and the East to renew the war against the LTTE. Counter-terrorist tactics, used in the government's suppression of the JVP, became the model in the North and East. Exemplary killings and government-sponsored death squads -- which had proved effective in the government's counterinsurgency campaign against the JVP -- were now widely employed in the government's battle with the LTTE.⁵ After seventeen years of rule in Sri Lanka by the UNP, a

⁵ The government of Sri Lanka has never admitted the existence of death squads. Such squads moved freely within areas heavily controlled by the military.

period characterized most infamously by a poor human rights record, the Peoples Alliance (PA) was voted into power in 1994 on a platform of peace, human rights, and constitutional reform. Within two months of Kumaratunga's assumption of power, in early 1995, the PA initiated peace talks, and declared a cease-fire.

After three months of discussions, the Tigers in 1995 attacked military installations and broke off talks. The army retaliated, eventually ousting the Tigers from Jaffna, and seeming, by early 1997, to have overcome the LTTE's long-time seeming invulnerability. In 1997, the PA released forward-looking proposals for constitutional reform. Nevertheless, as the war drags on well into 1998, it is clear that Sri Lanka's army and navy are as yet unable to overcome LTTE resistance. Casualties, internal displacement, and war-related expenditures all have increased. It is within this context that national reconstruction must be contemplated. The latest bombings are a manifestation of Tamil Tiger determination.

Costs of Conflict

By 1998, at least 60,000 Sri Lankans had lost their lives as a result of combat between the Tigers and government forces. As Smith, former Sri Lankan air force commander Harry Goonetilleke, and others indicated, about 10,000 Tiger guerrillas are opposing an official army of about 143,000. In 1995 and 1996, after rapidly sweeping the Tigers out of the Jaffna Peninsula, the government offensive bogged down. In late 1997 and the first quarter of 1998, the LTTE militants managed to attack government naval patrols, set off three major bombings, and keep control, at least at night, of the thinly populated coastline north of Trincomalee and the northern interior either side of the main road from Vavuniya to Jaffna. The government's effort is

hindered by weak leadership, corruption, poor training, poor soldiering by conscripts, and ineffective intelligence. Yet the government has the preponderance of numbers, the support of India, the United States (which labeled the Tigers a terrorist organization in 1997), and many Sri Lankans.

According to Donald Snodgrass and Kelman Selegama, the war in the north has deprived Sri Lanka of about 3 percentage points of economic growth each year in this decade. That is a substantial benefit foregone. Even with the war, Sri Lanka's gross domestic product has been growing at 5-6 percent a year in this decade. A major shift from agriculture to manufacturing has taken place since the government of President Ranasinghe Premadasa in 1989. The Kumaratunga government from 1994 further opened Sri Lanka's economy, reduced state subsidies, established an atmosphere of monetary stability, and encouraged private sector entrepreneurial activity while reducing state controls and interference. The island exporter of tea and rubber now exports even more tea than before, but 70 percent of exports by value are manufactures, especially garments and undergarments destined primarily for the U. S. market. Tea, once 50 percent of the country's exports, is now only 22 percent by value.

Post-Conflict Potential

If and when the civil war finally ends, Sri Lanka is poised to take advantage of its position within the South Asian Free Trade Area to export successfully to India and Pakistan as well as to continue to strengthen its position as a producer of garments and sporting goods, and as an assembler of electronic equipment. Those who have established export-oriented facilities in Sri Lanka have, despite the war, welcomed the nation's effective communications infrastructure,

its comparatively efficient port and airport, and its continued reputation for stable currency and sound macroeconomic finances. But most have also been drawn to Sri Lanka by the skills and education of its people, especially its women. Chandra de Silva warned the conference, however, that Sri Lanka was in danger of losing its educational advantages over its neighbors. Literacy levels in Sri Lanka have actually fallen, especially in English, thanks to the policies of successive governments. Because of the war, funds available for education (and health) have fallen per capita and absolutely, in constant dollars.

Sri Lanka has already fouled its own nest, reducing the country's international competitiveness and limiting growth prospects for four decades because of ill-considered economic and ethnic policies. Discord and internal war are never welcome, but both have been a dangerous byproduct of electoral bidding and, until the arrival of the Kumaratunga government, of parochially-focused, authoritarian leadership. Successive governments, until this decade, misunderstood and misconstrued their economic and communal choices. They chose coercive rather than accommodationist options, time after time fueling the growing fires of communal reaction. Sri Lanka is a classic case of how irresponsible, zero-sum leadership decisions so often lead to national disaster, including communal riots, ethnic cleansing, and all-out war, as well as lost opportunities in the fields of medical services, mental health, education, and nearly all other social services. Sri Lanka must now find a way to satisfy the basic needs of its people.

No reconstruction process is value-neutral. Although it is true that a war-torn society will need to be reconstructed on many levels -- politically, socially, and economically -- reconstruction efforts by the international community while the war continues may serve financially to fuel the war by relieving the government of its responsibility to provide fiscal support for national development. Not only can the provision of funds for development by the

international community serve symbolically to sanction the government's military initiatives and present an erroneous picture of normalcy to the international community, but such funding also frees up government resources for increased spending on the war effort.

The very process of reconstruction implies, or is likely to provoke, a myriad of potential contests, conflicting agendas, and political rivalries. Resources, and the allocation of such resources, will be at the core of those battles. Similarly, the allocation of resources -- in the form, for example, of education and employment opportunities -- are at the core of internal armed conflict in countries such as Sri Lanka where the conflict has distinctly ethnic origins and overtones. It is essential to recognize that reconstruction strategies have the potential to exacerbate existing, even if recently quelled, tensions or divisions, and to open up new lines of conflict.

In Sri Lanka, where the war has been more or less confined within regional boundaries, and has consequently impacted sections of the country and populations differently, pre-existing structures must be examined with care. The reconstruction of Sri Lanka implies, but does not for everyone involved mean, the development of a wider Sri Lanka with special attention to war torn areas rather than the reconstruction only of those parts of the country in the North and East which have suffered the most devastation.

The main site of the war for the past fifteen years has been the North and East, but the JVP uprisings and the state violence that met those uprisings left their irreversible mark on the whole country. The war has also seeped beyond the borders of the North and East, most notably to Colombo through the high profile and high impact bombing of targets like the Central Bank and the World Trade Centre. Nonetheless, the physical, social, and psychological destruction

caused by more than fifteen years of armed conflict in the North and East cannot easily be measured. The sight of bombed or bullet-riddled buildings is symbolic of a deeper affliction that daily impacts those living in the North and East. The existence of a large internally displaced population in Sri Lanka, as well as a large Sri Lankan Tamil diaspora, is further testament to the hardships faced by Sri Lanka's Tamil population.

Distinguishing between more and less impacted regions of Sri Lanka or more and less impacted sectors of Sri Lankan society may create an overly rigid dichotomy when, in fact, the distinctions are more subtle. However, in designing concrete remedial strategies, such distinctions are critical. In Sri Lanka's conflict, fueled as it has been by perceived differences, the mere recognition of difference in developing strategies for rehabilitative interventions has the potential to exacerbate existing or latent tensions. It is for this reason that reconstruction strategies and their possible implications must be thought out and planned for thoroughly.

Ripeness

Is it possible to contemplate reconstruction before the cessation of the war? Although raised at the conference, that question was not explicitly answered or discussed. Nonetheless, an unspoken consensus was clear: reconstruction can only be effectively contemplated in the context of an end to the war. Indeed, the conference itself focused as much on methods of second track and third-party conflict resolution as on the details of reconstruction.

There was general consensus among the almost fifty conferees that the Sri Lankan war is unwinnable, as presently being fought. But there were divergent opinions about how to achieve the desired end : peace. Although the hypothetical scenarios for peace are many -- peace with the

LTTE; peace without the LTTE; a political solution; and a military solution -- the central question really is how to achieve peace of one kind or another. The government's view, made evident by its banning of the LTTE in early 1998 after the Tigers bombed the sacred Temple of the Tooth in Kandy, is that the war must continue to be waged more aggressively than the campaign for peace.

The conferees discussed both third-party mediation and continuing military attacks on the LTTE, but a more constructive discussion focused on practical modes of conflict resolution. Education, language policy, and the role of the media were areas highlighted for their vast, and yet untapped, potential to engender peace and plural democracy. The media, it was argued, currently serves as a source of conflict rather than as a source of conflict resolution. Currently, the reporting of Anews,≡ for example, is fueled more by political and ethnic division than by a desire to provide accurate or balanced information. The question thus becomes how to transform existing institutions, such as the press, television, and radio, so that they can help engender pluralism.

Such change is unlikely to occur organically. Rather, the responsibility for such transformation rests, at least in part, on civil society. When movements arise, for example, to challenge media images and representations of fact, create alternatives to mainstream media, or withdraw their advertising rupees, the media, as an industry, is likely to respond constructively. Efforts to track the media and media representations have recently been initiated by two NGOs in Colombo -- the Centre for Policy Alternatives and the Women and Media Collective -- in order to raise awareness and stimulate possible improvements.

The responsibility for opening a space for pluralism, however, does not solely rest on civil society. The process is a dialectical one between state and civil society. Thus, for example, accompanying policy initiatives must be clear symbols and messages that take into account Sri Lanka's multi-ethnic reality and its fractured history. Slogans and symbols invoked in popular campaigns to promote peace -- for example, the recent ASri Lanka: One Country, One People campaign -- must avoid conveying problematic or confusing messages about Sri Lankan identity. To move forward and undertake efforts at sustainable reconstruction, history must not be forgotten, lessons must not go unlearned, and the competitive nature of Sri Lankan politics must not rule the day.

Presuming that there will be an end to the conflict and that peace is attainable, what are Sri Lanka's realistic prospects for the future and how can Sri Lanka best achieve such goals? A lack of adequate forethought about possible impediments to reconstruction will undermine any effective attempts at the political, social, or economic reconstruction of Sri Lanka. Those possible obstacles include the high degree of militarization and the plethora of weapons in Sri Lanka, the politically destabilizing potential of fast economic growth, the development needs of marginalized groups such as women, particularly female heads of households and war widows, and the high levels of trauma both in civilian and military populations.

Overcoming State Dependence: Civil Society

The state as it is presently constituted must be reformulated. The Sri Lankan state, despite its democratic history and early post-colonial success, contains deep flaws. Nonetheless, many members of civil society, including those driving public policy, continue to place great hope that

legalisms and formal state structures will provide solutions to Sri Lanka's communal problem. There is an over-reliance on laws, official commissions, and the promulgation of formal policy. There is a misplaced belief that Sri Lanka's problems can be legislated away despite a history that tells a very different story.

The provincial council system as it presently functions provides an illustrative example. The provincial council system, as created by the Indo-Lanka Accords and enshrined in the thirteenth amendment to the Sri Lankan constitution as a solution to the ethnic problem, arose out of specific demands made by minority Tamil parties in the North and East for the decentralization of power. Yet, the provincial council system currently operates in all regions but the North and East. Thus, demands for increased political power for minority communities resulted in increased power for the majority at the local level.

The reification of legalism has most recently been embodied in the Draft Constitution, released in October 1997, which was put forward as a panacea for all of Sri Lanka's woes.⁶ The draft constitution specifically proposes to devolve power. However, as the existing document is a work of consensus, in its present form it is unlikely to lead to the desired results. For example, at the same time as it creates a mechanism for devolution through which to grant the minority more political power, it exalts majoritarianism by failing to provide a power-sharing arrangement at the center, the seat of real authority. Furthermore, it gives the center unilateral power to revise the constitution. Likewise, concurrent with a prohibition on discrimination based on religion,

⁶ *The Government's Proposals for Constitutional Reform*, Sri Lankan Ministry of Justice, Constitutional Affairs, Ethnic Affairs and National Integration (14 October 1997).

Buddhism is nonetheless granted the foremost place[≡] and the state is required to protect and foster the Buddha Sansana.[≡]

The question of whether the most recent constitutional reform proposals are adequately responsive to the magnitude of the current crisis was raised and vigorously debated at the conference. Some participants stressed the need directly to address the Thimpu Principles, and respond to them in a form and manner that would command the widest acceptance. The Thimpu Principles were advocated by six Tamil parties, including the TULF and the LTTE, during talks with the government at Thimpu, Bhutan, in 1985. The four principles were:

- (1) recognition of the Tamils of Sri Lanka as a distinct nationality;
- (2) recognition of an identified Tamil homeland and the guarantee of its territorial integrity;
- (3) based on the above, recognition of the inalienable right of self-determination of the Tamil nation; and
- (4) recognition of the right to full citizenship and other fundamental democratic rights of all Tamils who look upon the Island as their country.⁷

The need to address the Thimpu principles does not necessarily translate into a need to accept them as presently articulated. Rather, it is believed that the principles can and should be used as just that -- principles -- and reformulated in a way that would obtain widespread support. Even if they are redrafted, however, it is clear that the Thimpu Principles will not be free from

⁷ Rohan Edrisinha, *A Constitutionalism, Pluralism, and the Ethnic Conflict in Sri Lanka: The Need for a New Initiative*,[≡] paper prepared for the conference, 13.

criticism. Hard-line Sinhala Buddhist nationalists have thus far rejected the government's proposed devolution plan.

Other conferees expressed their belief that the devolution proposals provided a sufficient foundation from which to transfer meaningful power to Sri Lanka's minority communities. Since the present proposals go significantly beyond previous efforts at ethnic reconciliation by transferring substantial powers to the regions, emphasis should be placed on the substance of the present devolution package. Even so, there are many hurdles to overcome. The proposals themselves will not lead necessarily to their effective implementation; realities on the ground must be taken into account if the proposed reforms are to advance and succeed.

Although many recognize that the text of the draft constitution will mean little without effective mechanisms of implementation, currently the focus is on the text rather than on ensuring that implementing mechanisms are in fact in place. The draft relies on law and formal remedies, and elevates them to a strategy for reform despite the fact that Sri Lanka has no deep tradition of turning to the courts or the law for remedies. Thus, the worry is that the draft constitution will be the latest in a long line of missed opportunities.

How can the paradox of simultaneous reliance and non-reliance on formal remedies be explained, particularly in light of the fact that, in recent history, the state has been a perpetrator of abuse and injustice? Perhaps the answer lies in the question itself and the realization that those who put faith in formal state structures are not the same people who have suffered the greatest injustices under state repression. Those who put their faith in official state structures are more likely to be the intellectuals and policy makers who comprise Sri Lanka's elite. At the same time that this group is more likely to have access to, and consequently benefit from, such structures, it

is less likely to be the target of state violence and injustice. Thus, although the same group has led the fight against state abuse of power and for human rights, it has had little direct experience with such violence. Except for a few high profile cases, it is the ordinary citizen who has been the principal target of state violence and repression.

The immense fissure between those who drive policy and those who are presumed to be the beneficiaries of policy has been emphasized repeatedly by violent contests for state power, both through armed uprisings and in battles between Sinhala political parties for hegemony. Such violence recently arose in the context of the local government elections, which were held in all but the Northern and Eastern provinces in early 1997. More than 2,000 incidents of election-related violence were recorded, including harassment, intimidation, assault, and murder.⁸

Politics, at least in the early 1980s in rural Sri Lanka, was based on a division between political identity and political criticism. Furthermore, politics has tended to be identified as the amalgamation of individual interests and, to some degree, private vice, and thus has been associated with communal division and individual gain, as Jonathan Spencer told the conferees. The report of a presidential commission to look into the causes of youth unrest during the late 1980s found a similar distrust of political processes. Among the identified causes were: A[the ever widening disparity in opportunities for advancement between urban and rural youth [and] a

⁸ *Final Report of Election-Related Violence During the Local Government Election Campaign (5 February to 20 March 1997) and an Account of Incidents Reported on Election Day (21 March)*, Centre for Monitoring Election Violence, Centre for Policy Alternatives, Colombo.

pervasive sense of injustice ... arising principally from political patronage in employment which culminate[d] in a demoralizing denial of merit....⁹

The AWar for Peace

President Kumaratunga's government has assumed a two-pronged approach to the current crisis. The AWar for Peace was allegedly initiated as a mechanism by which to force the hand of the LTTE into accepting a political solution to the war. A number of politically relevant goals were part of the process. Chief among them was regaining control of the Jaffna peninsula. The subsequent clearing and consequent opening of the land route to Jaffna (code-named Operation Jayasikuru) in 1997 and 1998 has met with numerous military and seasonal setbacks. Like many state policies, and despite few military gains and many setbacks, the war has assumed its own momentum and is now driving policy rather than being steered by it. With high levels of recruitment, amnesties, and a fairly constant string of new offensives, the government now is driven by a desire militarily to crush the LTTE. Whether or not doing so is possible remains a critical strategic question.

Faith is also being put in electoral and political rearrangements. Sri Lanka's electoral system still produces competition between right of center and left of center political parties which are dependent upon support from Sinhalese-speaking voters. The hope that parties representing the Muslim and Tamil minorities would gain sufficient votes to be decisive has proved chimerical. For those reasons, and in order to pursue the peace while simultaneously pursuing the LTTE on the battlefield, President Kumaratunga's government has sought to

⁹ *Report of the Presidential Commission on Youth*, 19 January 1990, viii.

devolve substantial power to Tamils in the Northern and part of the Eastern province. Devolution was intended to undercut the remaining political appeal of the Tigers and serve as the basis for a sustainable peace. President Kumaratunga in this manner has attempted to undo the damage to ethnic comity perpetrated by the governments headed in the 1950s and 1970s by her father and her mother. Neelan Tiruchelvam opened the conference by wondering whether the political moment was propitious -- whether the well-meant devolution package would be passed, and win the peace. Subsequently, his pessimism proved correct, as the UNP, President Kumaratunga's opponents, in 1998 thwarted the parliamentary enactment of a devolution package.

Tolerance through pluralism has often been posited as a political solution to the Sri Lankan crisis. This solution enshrines tolerance in the context of difference and relies on the classic liberal paradigm that separates the state into two distinct, and in many cases oppositional, spheres -- the public and the private. Whereas the public sphere exalts the political -- i.e. the state and the legitimacy inherent in state structures -- the private sphere is reserved for individual choice and cultural difference. Enshrined in Chapter XV of the draft constitution on the devolution of power, regions are given autonomy and regulatory power overwhelmingly over the private sphere, including religion and culture, and the advancement of women. Thus, rather than making room for difference at the center, the seat of real power, the draft constitution institutionalizes and legitimizes the domain of the private, thereby creating limited space for difference.

Although the public/private dichotomy is a problematic concept in modern state structures, what is arguably the most troublesome implication of this divide was not discussed at the conference. What is the status of women? As the traditional and continuing denizens of the

private sphere, women as important actors in civil society suffer more than men through any further entrenchment of the public/private divide.

As a consequence of the war, women's roles are changing. For example, many war widows are being forced by circumstance to become heads of households. Many women have adapted to the changes, but society has not adjusted as quickly and thus, in many communities, women heads of household, particularly widows, continue to be labeled as prostitutes and treated as outcasts. Additionally, despite the restructuring of traditional roles, women in Sri Lanka nonetheless constitute only a very small percentage of actors in the public sphere.¹⁰

The Militarization of Society

There is no question that civil society in Sri Lanka has been highly militarized. Although the situation in the south has, for the time being, calmed in terms of organized anti-state violence, Sinhala youth continue to express dissatisfaction with the state. Issues identified by the Youth Commission have not been adequately addressed. In the meantime, the employment needs of poor Sinhala youth from the south are currently being met through military service. Overwhelmingly, this population -- supported by little ideology or commitment to an identifiable or winnable cause -- is being actively recruited, armed, and trained to fight the government's ongoing war in the north.

The implications for Sri Lankan society of the high levels of militarization among poor southern youth is already being experienced. High rates of military desertion are being matched

¹⁰ Although the draft constitution mandates a 25 percent minimum threshold for women in elected government positions, that threshold is required only at the local level.

by high levels of violent crime by deserters. This is happening despite the government's earnest attempts to lure deserters back into military ranks by offering fairly regular amnesties. A population that has twice in Sri Lanka's recent past turned against the state has now been armed and trained by the state. If and when the civil war ends, sensitive, well-planned and well-executed demobilization should be high among the government's priorities. Additionally, demobilization must extend beyond disarming and deactivation of military personnel. The government will have to find ways to meet the economic needs of former military personnel and their families. Failure to provide viable economic alternatives to military service could threaten any newly gained security of the state.

In addition to providing post-conflict economic alternatives for current military personnel, there already is a clear need to address trauma among the troops. After fifteen years of war, high levels of trauma exist not only within the civilian population, but also within the military and police populations. Post-traumatic stress syndrome has been widely documented among war veterans internationally, especially among American veterans of the Vietnam and Gulf wars. In developing rehabilitation strategies for security personnel, Sri Lanka will want to turn to the international community for assistance, for Sri Lanka is presently ill-equipped to deal with the magnitude of psychological malaise among its population. In addition to treating the military, Sri Lanka must develop mechanisms to address trauma within the civilian population as well.

There is an equally acute need to manage the police, both in their capacity as military auxiliaries and in their role as civil administrators. Police in Sri Lanka are increasingly being militarized, not only through the creation and then expansion of the Special Task Force, but also

more generally.¹¹ The role of the police is often confused with the role of the military. It is unclear where the military ends and civil administration begins. As Sri Lanka's police force has been trained in the context of emergency powers, a great percentage of the police only know policing within a war-time context that grants extensive powers of arrest, detention, and interrogation to the police with little civilian or judicial oversight. Thus, like the military, Sri Lanka's police force will have to be reconstituted after the civil war ends.

¹¹ The Special Task Force is a militarized police force operating in conflict areas under the control of the Ministry of Defense.

Questions of accountability for violations of human rights and impunity must also be confronted for their potential as either contributors or deterrents to reconstruction. Despite the establishment of a total of four distinct Commissions of Inquiry into Disappearances in Sri Lanka (one commission by a prior regime and three by the Kumaratunga government) and the appointment of, first, a human rights task force, and, second, a human rights commission, very little has been accomplished to hold state actors accountable for human rights abuses. The reports of three Commissions of Inquiry into Disappearances, given to the president in September 1997, were unceremoniously released in early 1998. Although two of the three reports have named those accountable for disappearances, many of whom are still active in military service, the reports have received no official response. All three commissions found credible evidence of a pattern of gross and persistent human rights abuses, including arbitrary executions perpetrated overwhelmingly by state actors and agents.

What is to be done with the highly incriminating evidence contained within the reports? Thus far, the government has not acted. Despite interventions by the commissions and appeals to the government, no prosecutions have been initiated.

Rather than being specifically instituted to promote the truth-telling aspect of the commissions, as was done in South Africa, the current policy of impunity seems to have arisen more from default and/or the perception of military necessity. Prosecutions, it has been said, not only would threaten to remove key military figures from the field, but also would potentially damage troop morale. However, human rights violations breed in atmospheres of impunity.

In addition to individual and state accountability for state actors, there is an issue with respect to the accountability of non-state actors. Such non-state actors range from the LTTE to political parties with paramilitary overtones like the People's Liberation Organisation of Tamil

Eelam (PLOTE), Tamil Eelam Liberation Organisation (TELO), Eelam People's Democratic Party (EPDP), and Eelam People's Revolutionary Liberation Front (EPRLF), to civilian homeguards. International law does not provide the same level of obligation for non-state actors as it does for state actors. It also does not provide tribunals before which an individual or a state may bring non-state actors. The issue of accountability for non-state actors is a delicate one that depends largely on whether state actors are held accountable. In precarious post-war periods, decisions about responsibility and how individuals are held accountable will be scrutinized carefully for any signs of favoritism or discrimination. The abuses, for example, committed by an opposition group or paramilitary organization, must not be treated more seriously than the abuses committed by government forces.

Conclusion

Sri Lanka cannot simply win the war against the LTTE and assume that a sustainable peace will follow. The breach between Tamil and Sinhala is wide, and probably unbridgeable without decentralization. Strongly autonomous regions within a small state may not make much sense economically or in terms of the provision of social services, but devolution is essential if Sri Lanka is to be governed without continuing bloodshed. The final revision of the devolution proposals is not yet known. Nor is the precise nature of the Tamil/Muslim geographical divide in the eastern province. Nevertheless, it is clear that even with the crushing of the Tigers, should that ever happen, Tamils have lost too much since 1956 within a centralized Sri Lanka ever again to put their faith in a state dominated by Sinhalese Buddhists.

The Bandaranaiques and their successors poisoned the serendipitous well of communal goodwill. Now its waters are tainted forever. Official discrimination may have moderated since 1994, but hostility between communities still permeates many kinds of individual interactions, especially at the bureaucratic level. Only extraordinary levels of leadership, and a national commitment to ethnic accord, can begin successfully to reconstruct a country sundered by decades of deliberate discrimination. Finally ending the war, which conceivably will come when a much weakened LTTE agrees to third-party negotiated talks, will be much easier than winning the subsequent peace.

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Harvard University
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