

Chairman's Report

by

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*“Observation of the Progress of National Reconciliation and Reconstruction
in Sri Lanka”*

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Acronyms

Association of War-Affected Women -- AWAW
Attorney General – AG
Civilian Investigation Unit – CID
Foreign Direct Investment -- FDI
Government of Japan – GoJ
Government of Sri Lanka – GSL
Global Tamil Forum – GTF
Internally Displaced Persons – IDPs
International Committee of the Red Cross – ICRC
International Humanitarian Law – IHL
International Human Rights Law – IHRL
International Non-Governmental organizations – INGOs
Lessons Learnt and Reconciliation Committee – LLRC
Liberation Tigers of Tamil Eelam – LTTE
Member of Parliament – MP
Millennium Development Goals – MDGs
Ministry of Defence – MoD
National Action Plan – NAP
National Human Rights Action Plan – NHRAP
National Peace Council – NPC
Non-Governmental Organizations – NGOs
Panel of Experts – PoE
Parliamentary Select Committee – PSC
Peace-keeping Operation – PKO
Prevention of Terrorism Act – PTA
Sri Lanka Army – SLA
Sri Lanka Freedom party – SLFP
Tamil National Alliance – TNA
Transnational Government of Tamil Eelam – TGTE
Truth and Reconciliation Commission – TRC
United National Party – UNP
United Nations – UN
United Nations Human Rights Council – UNHRC
Universal Periodic Review – UPR

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Background

Diplomats from Bangladesh, Brazil, Italy, Japan, Nigeria, Romania, and South Africa, as well as faculty from Columbia University (Attachment A), participated in an observation mission to Sri Lanka (6-8 December 2012). The delegation visited Colombo, Jaffna and Kilinochchi. It met with officials from the Government of Sri Lanka (GSL), opposition members of parliament, civil society representatives, religious figures, the Colombo-based business and diplomatic communities, and members of the United Nations (UN) country team (Attachment B).

This project -- “Observation of the Progress of National Reconciliation and Reconstruction in Sri Lanka” -- is organized by the Government of Japan (GoJ) in association with Columbia University.¹ The Government of Sri Lanka (GSL) provides assistance to the project. The invitation letter sent by Japan’s Permanent Representative to the UN summarized the intention of the mission: “The goal of this project is to encourage the progress of national reconciliation and reconstruction in Sri Lanka through observation from neutral, objective viewpoints. To this end, the Permanent Representatives are expected to visit Sri Lanka in an effort to observe the current developments in Sri Lanka’s reconciliation and reconstruction process... Observation may be the basis for assessing progress towards implementation of the Lessons Learnt and Reconciliation Commission (LLRC) recommendations, challenges with implementation, and requirements for further implementation, including recommendations.”

This Chairman’s report summarizes the observations and findings of the delegation. It is based on interviews by the delegation, as well as published sources.² The initial section highlights progress with reconstruction. The second part of the report deals with the challenge of reconciliation, combining information from both government and non-government sources. The report also suggests steps which may assist the stated goals of reconstruction and reconciliation in Sri Lanka.

Reconstruction

The GSL’s post-war efforts have focused on humanitarian assistance, resettlement, reconstruction, rehabilitation, and reintegration. The UN Resident Representative Subinay Nandy stated that there had been “great progress” in relation to the physical

reconstruction of the country.³ Secretary of Defence and Urban Development, Gotabaya Rajapaksa, said “We are very proud of what has been accomplished during this short period. We wanted to bring normalcy to the area.”⁴ The progress of reconstruction and the level of normalcy have been witnessed by the delegation on the ground.

Minister of Economic Development Basil Rajapaksa, explained, “LTTE terrorism that ravaged Sri Lanka devastated the economic and social fabric of the Northern Province. The development momentum that increased in other parts of the country did not extend to the North due to the conflict. As a result, the economic framework including infrastructure of road networks, water supply and irrigation had been seriously neglected. Much of the social infrastructure, particularly schools and hospitals, had also been destroyed.”⁵

Since the war’s end, the donor community has provided \$2.5 billion towards reconstruction efforts. According to the GSL, 80% of this amount has been allocated to the North and East. A Master Plan, “Uthuru Vasanthaya, ” focuses on rehabilitation of infrastructure including roads, bridges, railways, utilities, and rural electrification. Under the plan, hundreds of miles of roads have been paved and power lines restored. The A-9 route from Kandy to Jaffna has been widened and black-topped, facilitating travel and commerce. The A-32 route and Point Pedro road have also been rehabilitated. The North-South railway line will be completed in 2013. Gotabaya Rajapaksa stated, “(There are) no restrictions on traveling. Anyone can go anywhere.”⁶

Uthuru Vasanthaya also included a focus on housing, hospitals, revival of the education sector, resuscitating paddy cultivation, highland cultivation, home gardening and lift irrigation. Approximately 15,000 wells were cleaned or renovated. The Iranaimadu irrigation project has been completed. Fisheries have also been a priority, including inland, deep sea and lagoon fishing.

De-Mining

In order for resettlement to occur, the GSL cleared large tracks of territory of antitank mines, antipersonnel mines, and different types of improvised explosive devices. As of October 2012, Sri Lanka has achieved an impressive de-mining record, having cleared 1,319 sq. km including towns, villages, agricultural areas and paddy fields (out of confirmed hazardous areas of 1,419 sq. km).⁷ The SLA played an indispensable role, demining approximately 75% of the land.⁸ As of June 2012, 469,275 antipersonnel mines,

1,399 antitank mines, and 388,963 unexploded ordnance devices had been recovered.⁹ Mine Action Centers, offering mine awareness training, resulted in a low casualty rate. Basil Rajapaksa recalled, “Japan was the first country to help with de-mining. India, Australia and the United States also helped.”¹⁰ Foreign aid for mine action will end in 2013, thereby reducing the pace of mine clearance to 1 sq. km/month.

Resettlement

According to GSL statistics, it resettled 501,194 internally displaced persons (IDPs) by October 2012. Durable solutions for resettlement include the provision of adequate housing for recipients of assistance. Between 2005 and September 2012 the GSL built 124,184 houses in the Northern and Eastern Provinces at a cost of Rs. Billion 33.34.¹¹ Manik Farm, the largest IDP facility, which housed approximately 300,000 IDPs, was closed on 26 September 2012.¹² When Manik Farm was finally closed, some of the remaining IDPs could not return to their original place due to incomplete demining.

The UN stresses the importance of resettling people in their traditional lands. It endorses the principle of “local settlement” (i.e. people should be able to resettle where they want). Some IDPs were not resettled in areas of their origin, staying with host families, or in “welfare camps.” Nandy explained “Some can’t go back because their homes are in high security zones or have become military camps.” He estimated that 115,000 people live outside their homes, and tens of thousands live in sub-standard conditions where they were resettled. Families lack basic services such as sanitary facilities, clean water, shelter and electricity. Up to 170,000 new homes are needed for resettlement purposes.¹³ India agreed to assist with financing for 50,000 new homes. 1,000 houses were built in July 2012 under the pilot phase of the project.¹⁴

The GSL offers returnees a resettlement package that includes a grant of Sri Lanka rupees (Rs.) 5,000 (approximately USD 39), as a first installment towards a total shelter allowance of Rs. 25,000 (USD 196). It also provides a land preparation grant of Rs. 4,000 (USD 31), as well as 12 roofing sheets and 8 bags of cement. The resettlement package includes 6 months of dry rations, non-food relief items, tool kits, seed patty, and hygiene packs (per UNICEF standards). Distribution of resettlement packages is reported to be ably administered by the district level civil service.

Durable solutions also require establishing a means by which people can earn livelihoods. “Support is still needed,” says Nandy, for example “for connecting back to the land and

gaining fishing rights through access to the sea.” Vulnerable IDPs, especially women heads of household, need psycho-social support. The UN’s budget for Sri Lanka will be reduced by 30% in 2013, resulting in the elimination or downsizing of essential services.¹⁵

Rehabilitation

Rehabilitation refers to the process of identifying LTTE cadres and preparing them for normal social and economic life. According to the GSL, about 12,000 LTTE cadres, including 2,240 women, were surrendered by the SLA at war’s end. Government representatives stated that of these only “636 beneficiaries still remain in rehabilitation.” Married cadres were allowed to rejoin their spouses and family at “peace villages.” Justice Minister Rauff Hakeem indicated, “We emphasize restorative justice, not punitive justice. Only about 300 are to be arraigned before a court of law.”¹⁶ Hakeem did not disclose details of progress bringing those individuals before a court, but mentioned that the police were collecting evidence under the guidance of the Attorney General.

Gotabaya Rajapaksa said, “Combatants were misled. Reconciliation can happen by giving them skills so they can live a normal life.”¹⁷ As part of their rehabilitation, LTTE cadres are undergoing counseling, including “basic life training” and vocational instruction in farming and fisheries. We met 5 women ex-combatants belonging to Tamil, employed as local police in Jaffna.

The NGO, civil society and opposition political leaders claimed that there were no Tamil police in Jaffna. However, the team met many Tamil police on the ground, and local officials stated that their ratio is 20%. Tamils are about 10% of the total population in Sri Lanka.¹⁸ Sri Lankan Business leaders appreciated the government's performance and incentive packages and stated that they have started new factories in the war-torn area. They also employed a significant number of ex-combatants and Tamils in their industries.¹⁹

GSL representatives expressed concern about the re-radicalization of former cadres, and the negative influence of the Tamil Diaspora. The delegation heard repeatedly about a “trust deficit,” which hampers long-term reconciliation. Hakeem maintains, “Terrorism was the biggest deterrent to trust.”²⁰

Economic Development

Nandy highlighted Sri Lanka's "strong social development legacy." He lauded its "tremendous human development in MDGs" noting, "Sri Lanka is a leader in South Asia."²¹ According to GSL statistics, the national economy grew 8.2% in 2011. The industrial sector grew 10.3% between 2011 and 2012. Between 2008 and 2011, exports grew 32%. Foreign Direct Investment (FDI) exceeded USD 1.75 billion in 2012.

Sri Lanka's per capita income grew from USD 1,241 in 2005 to USD 2,835 in 2011. The poverty rate was reduced from 15% in 2005 to 7.6% in 2010. Sri Lanka ranked 91 among 169 countries in the human development index in 2010. From 2005 to 2010, electricity users grew from 75% to 90% and access to safe drinking water increased from 80% to 87%. The literacy rate for both males and females is 95%. Child mortality has been reduced from 39.3/1,000 births to 11.3/1,000 births. Sri Lanka is ahead of projected schedules to achieve Millennium Development Goals (MDGs).²²

The economy in the North has grown by 22%, as against 7% nationally in 2010, and 27% in 2011, as against 8.2% nationally. In 2011, the GSL committed USD 2.8 billion to ongoing project activities. In the North and East, agriculture and fisheries production is on the rise. Gotabaya Rajapaksa believes, "We can have permanent stability by winning hearts and minds." He spoke admiringly of Singapore, where "different ethnic groups live peacefully and prosperously together."²³ The GSL takes a "top-down" approach to economic development benefitting directly-affected populations. Basil Rajapaksa explained, "According to our Sri Lankan way, the king must look after the people."²⁴

Reconciliation

The following is a description of reconciliation, as defined by different stakeholder groups. While the following points are generalizations, they highlight some of the significant challenges to achieving mutually acceptable compromises to advance the goal of reconciliation.

- The GSL emphasizes economic development, the rebuilding of infrastructure, and public services as the most important elements of progress on reconciliation. It envisions a strong unitary state and central government to prevent the recurrence of violence. Several senior officials stated that the GSL knows what is good for the people of Sri Lanka and will deliver this to them.
- The Tamil National Alliance (TNA) maintains that good governance through democracy, decentralization, and minority rights are the essential elements for

reconciliation. It demands free, fair, and timely elections in the Northern Province, and it supports implementation of the 13th Amendment to the constitution, although it believes it to be flawed. Moreover, the TNA supports a formula which it refers to as “13 plus” (i.e. enhanced devolution of power from the center to the regions). It seeks accountability for those who committed atrocities and war crimes.

- The TNA and Tamil civil society in the North and East want to address the root causes of conflict. They emphasize the importance of developing livelihood programs in order to meet the basic human needs of the Tamil people. They are also concerned about land issues, property claims, restitution, as well as alleged state-sponsored internal colonization. Demilitarization, civilian rule, allowing singing of the National Anthem in the Tamil Language, and accounting for missing persons are also priorities.
- Sinhalese Southerners resent expensive programs aimed at reconstruction, rehabilitation and reintegration in the North and East. They seek a more equitable distribution of resources benefitting their communities.

Lessons Learnt and Reconciliation Commission (LLRC)

In May 2010, the GSL established the Lessons Learnt and Reconciliation Commission (LLRC). The LLRC was mandated “to investigate the facts and circumstances which led to the failure of the ceasefire agreement made operational on 27 February 2002, the lessons that should be learnt from those events and the institutional, administrative and legislative measures which need to be taken in order to prevent any recurrence of such concerns in the future, and to promote further national unity and reconciliation among all communities.” It included 8 commissioners: one Tamil, who was also the one woman commissioner, one Muslim, and six former GSL officials.

The Commission conducted over 1,000 oral interviews and received 5,000 written presentations during 41 field visits and 149 public hearings. Despite its public outreach, some witnesses declined to appear in the absence of an effective mechanism for witness protection.

The LLRC was expected to complete its work within 6 months. However, the mandate was extended twice, each time for 6 months. The Commission issued interim recommendations in September 2010. The 388-page LLRC final report was presented to

Parliament on 16 December 2011.²⁵ The report noted “the clear need to heal the wounds of the past and to make recommendations to reconcile the nation by recognizing all victims of conflict, providing redress to them, thereby promoting national unity, peace, and harmony.”²⁶

Harsha Navaratne, founder of Sewalanka Foundation, believes that the report should have more “spirit and values.” He advocates a “greater role for local government and district administration” so that there is a “people’s voice” informing implementation of recommendations included in the report.²⁷ Most Sri Lankans lack information about the LLRC. The report was published in English, but was not available in Sinhalese and Tamil until late 2012. In November 2012, the translation of the report was made available on the GSL web site.

The LLRC report was welcomed by members of the international community at the 19th Session of the UN Human Rights Council (UNHRC), at which a declaratory resolution was adopted calling on the GSL to implement the LLRC’s constructive recommendations (A/HRC/19/L.2/Rev1). In addition, the resolution called on the GSL to adopt an action plan for implementing the LLRC’s recommendations. While commending the GSL’s progress, the resolution also expressed concern that the LLRC report did not adequately address allegations of violations of international law.

National Action Plan

On 26 July 2012 the GSL cabinet adopted a National Action Plan (NAP) for the implementation of the recommendations of the LLRC. Although the number of recommendations in the LLRC report has been frequently cited as 285, this is actually the number of paragraphs in Chapter 9, which deals with recommendations. Analysis indicates that the NAP does not necessarily include all the recommendations in the LLRC report.

Sections of the NAP are arranged by category: (i) international humanitarian law, (ii) human rights, (iii) land return/resettlement, (iv) restitution/compensatory relief, and (v) reconciliation. Activities, responsible agencies, performance indicators, and time frames are identified. Responsibility for monitoring implementation of the NAP has been assigned to Lalith Weeratunga, a respected civil servant. The GSL has allocated Rs. 740 million for the NAP implementation in the 2013 budget.²⁸

Sri Lankan civil society organizations have put forward a number of criticisms of the NAP, such as:

- The NAP omits many LLRC recommendations. The criteria and process for deciding on which recommendations would be included in the NAP have not been explained.
- In some instances, the GSL is proceeding on the basis that it has completed tasks which in fact are ongoing. These include investigating illegal armed groups, rehabilitating child combatants, and prosecuting those accused of conscripting children.
- In some important cases, the NAP takes a passive approach. For example, in response to LLRC recommendation for domestic legislation to criminalize enforced or involuntary disappearance, the NAP suggests studying the need for such legislation. In response to the LLRC recommendation on legislation concerning the right to information, the NAP states: “The Cabinet will decide the suitable time frame for drafting legislation.”
- The LLRC recommends investigations of alleged violations of IHL, including incidents of attacks on civilians (9.9 and 9.37a), disappearances of persons after they surrendered or were arrested (9.23), and the credibility of the Channel 4 video that showed summary execution of civilians (9.39). Rather than provide for an independent mechanism to implement accountability recommendations of the LLRC, the NAP redefines those initiatives as “ongoing” internal investigations, assigning them to the MoD, and thereby casting doubt on the objectivity of investigations.
- The NAP assigns some issues to bodies such as the Parliamentary Select Committee (PSC) and the Land Commission, neither of which has been established. Devolution and power-sharing, decentralizing police powers, judicial review of legislation, and the recommendation to sing the national anthem in both languages have been assigned to the PSC. In total, eight items (9.150, 9.152, 9.214, 9.215, 9.228, 9.236, 9.237, and 9.277) have been referred to the PSC. Nine items (9.126, 9.128, 9.129, 9.131, 9.132, 9.133, 9.134, 9.135 and 9.136) have been referred to the Land Commission.

Accountability

The LLRC report included recommendations on steps to achieve a level of

accountability, including:

- Investigation(s) into reported Deliberate Attacks in Civilians (9.37a)
- Investigation(s) into alleged Abductions and Enforced Disappearances (9.46)
- Establishment of a Special Investigation Commission (9.51)
- Issuance of Death Certificates (9.52)
- Legal Aid and Financial as well as Mental Assistance for the families of missing persons (9.58)
- Make Available Access of a Database of Detainees to Next of Kin (9.63) and Access to Detainees (9.65)

Investigations

Officials maintained that the GSL had a policy of “zero civilian casualties” and, as a result, any civilians who died were caught in the crossfire. “To lay to rest unfounded allegations that ‘tens of thousands’ of civilian deaths alleged to have occurred in the first five months of 2009, the GSL has undertaken investigations.”²⁹

The delegation was informed that the SLA and Sri Lanka Navy have appointed Courts of Inquiry to study alleged violations and consider the relevant LLRC recommendations. In January 2012, the SLA created a 5-person court of inquiry headed by a Major General to investigate violations of IHL and IHRL. The court is charged with referring cases to the Attorney General (AG) for prosecution. The NAP calls for prosecutions by the AG to commence within 24 months. To date, no cases have been referred to the AG.

At the meeting with the Defense Ministry the delegation was informed that cases were being investigated and would proceed by way of “court martial.” The SLA, which has been given responsibility to investigate alleged civilian deaths, is relying on an “ongoing disciplinary process,” a survey of populations in “affected parts of the island,” and “existing systems as provided for in the Criminal Procedure Code.”

Missing Persons

To address the “unverified sweeping generalization of a highly speculative nature as regards casualty figures,” the LLRC recommends a professionally administered household survey across the country to determine the full scale and circumstances of death and injury to civilians.³⁰ The NAP proposes the establishment within 6 months of a

national system to collect data on missing persons compiled by the Department of Census and Statistics in collaboration with the MoD, which is supposed to make available the database of detainees to next of kin. It also calls on the GSL to implement the “Registration of Deaths Act,” which was adopted in October 2010.³¹

Minister for External Affairs G.L. Peiris stated that all missing persons have been accounted for. Their whereabouts were determined by the 2011 census, electoral lists and school lists. According to Peiris, those still not accounted for fled the country after the war.³² Basil Rajapakse explained how the problem of missing persons was compounded by the LTTE administration, which failed to issue either birth or death certificates for persons living in territory under its control. “There can’t be a death certificate for someone whose birth was never recorded.”³³ Gotabaya Rajapaksa stated, “Missing persons were cadres fighting. When an artillery shell lands, people are blown up (and become indistinguishable).”³⁴

The Emergency regulations were lifted in August 2011, but similar powers of summary detention of suspects are authorized under the Prevention of Terrorism Act (PTA). Though persons arrested must see a magistrate within 24 hours, they can be held under administrative detention for up to 30 days with unlimited extensions. The ICRC’s mandate does not allow it to visit persons detained under the PTA.

Truth-Telling

Truth-telling is important to break taboos and prevent demonization of “the other.” Ambassador Usman Sarki, a member of the delegation, described Nigeria’s conciliation after the 1967 civil war that was based on the principle: “No victor -- no vanquished.” Uncovering and making public the facts around what took place during the conflict, and particularly during the final stages of the war, was recognized as a fundamental requirement for achieving reconciliation by the LLRC, and was a primary reason for its establishment.

TNA Chairman A. Sampanthan doubts the GSL’s commitment to accountability. He demanded “an impartial inquiry.” According to Sampanthan, “There will be no reconciliation without addressing accountability. There can be no peace without justice.” Sampanthan described the GSL’s approach: “Forget the past. Terrorism is over. Now get along.”³⁵ Basil Rajapaksa represented a different view. “The more you go into history, the more hatred comes.”³⁶ Pakiasothy Saravanamuttu of the Center for Policy

Alternatives took a centrist approach. “Tamils don’t want punitive justice,” he pointed out. “They want an acknowledgement of truth, which is integral to the notion they are equal citizens.”³⁷ Ambassador Abulkalam Abdul Momen, a member of the delegation, explained that Bangladesh did not engage in truth-telling for more than 3 decades after its war of independence, but the scourge did not vanish. The nation wanted punishment of those that had committed crimes against humanity.

The Rule of Law

The LLRC dedicates one section of its report to “Issues relevant to addressing grievances and promoting reconciliation: failure to protect the rule of law.” The report stated that a failure to adhere to the rule of law would result in tensions between communities. “Along with an independent Judiciary and a transparent legal process a strict adherence to the Rule of Law is a *sine qua non* for peace and stability which is of the essence, if there is to be any meaningful reconciliation.”³⁸ Although GSL officials confirmed a strong commitment to the rule of law, the delegation was informed about a number of issues.

Freedom of Expression

A member of the Colombo-based diplomatic community bemoaned Sri Lanka’s “dismal record of press freedoms.”³⁹ A civil society member expressed his view that restrictions coupled with a climate of intimidation have resulted in a high degree of self censorship. The climate of fear also affects civil society, which are mostly funded by foreign agencies. According to the People’s Council for Peace and Goodwill, a Jaffna-based NGO, “After the war, we expected democracy would flourish. We expected freedom of movement and freedom of speech. It’s been a rocky road.”⁴⁰ A civil society representative in Jaffna confided, “We can’t talk openly. If we said what we thought, we’d be ‘disappeared.’”⁴¹

In response to concerns about freedom of expression, President Mahinda Rajapaksa told the delegation: “Read the Sunday papers and tell me there’s no freedom of speech. Every day there is an attack on me, my sons, (and) my family.”⁴² The GSL pledges to investigate claims of police inaction to media harassment. The GSL also promised to guarantee free movement by journalists in the North and East. It also proposed a code of conduct to “promote responsible journalism.”

Violence

The SLA raided the University campus on “Heroes Day” (27 November 2012), discovering pamphlets in dormitory rooms depicting the deceased former LTTE leader Prabakharan. Several students were injured or arrested during the raid.⁴³

TNA Member of Parliament (MP) Suresh Premachandran asserted, “Elements in the Government want to provoke conflict and keep the country in a constant state of fear. Reconciliation, from their point of view, is politically unproductive.”⁴⁴ The Kilinochchi Military Commander asserts that the Diaspora is engaging youth to revive the armed struggle. He maintained that 70 million Tamils in the Diaspora have not abandoned their dream of an independent Tamil Eelam.⁴⁵

Democracy

According to Ambassador Palitha Kohona, the Permanent Representative of Sri Lanka to the UN, “The Government was determined to re-establish democratic institutions and conduct democratic elections.” He believes that, “Democracy would provide Sri Lankans with the opportunity to address their grievances through dialogue.”⁴⁶

Elections for the Jaffna Municipal Council and the Vavuniya Urban Council were held on 8 August 2009. They were the first elections since 1997. Only 22% of eligible voters turned out in Jaffna, as the TNA boycotted the ballot. While the Government won the elections for the Jaffna Council, the TNA were successful in the ballot for the Vavuniya Council. Another round of local government elections was held between March and October 2011. Whereas the TNA won in a total of 32 local authorities, elections for two local authorities in Mullaitivu District were postponed due to delays in resettling IDPs. The SLFP won nearly two-thirds of parliamentary seats in the general election of April 2010. In 2011, President Mahinda Rajapaksa was re-elected with 58% of the vote. Provincial council elections of September 2012 were held in 3 provinces, including the Eastern Province but not in the North, as the voter list was not complete.

The TNA seeks speedy elections for the Northern Provincial Council, where it enjoys broad popular support. The GSL maintains that conditions are not suitable for elections in the Northern Province. President Mahinda Rajapaksa told the delegation that elections in the Northern Province would be held by September 2013 at the latest.⁴⁷

The 13th Amendment to the Constitution

Another issue of particular importance for reconciliation is a degree of devolution of power. The TNA demands devolution in accordance with the 13th Amendment to the constitution and enhanced devolution, which it calls “13 plus.”

However, Gotabaya Rajapaksa told the delegation, “It is my personal view and the view of many Sri Lankans that the 13th Amendment should be revoked. It was forced on the Government and the LTTE by the Indians to solve a terrorist problem. Practically, it has failed. The LTTE rejected it. If Prabakharan had agreed to the 13th Amendment, the war would have stopped.” Gotabaya Rajapaksa believes that the 13th Amendment contradicts Article 2 of the constitution, which enshrines Sri Lanka as a unitary state. Moreover, he views the 13th Amendment as aggravating tensions in society, and causing bloody insurrections such as previously happened in the South (in 1971 and 1987). “You can’t bring peace by dividing the country into ethnic groups.”⁴⁸

Milinda Moragoda, a former Justice Minister and founder of the Pathfinder Foundation, proposes re-thinking devolution, reframing it to maximize benefits and make it more relevant. He explained that in its current form, the political model contains too much overlap between the authorities of central and provincial governments. The so-called concurrent list of shared responsibilities creates confusion and political rivalry over resources. As a result, Southerners feel disadvantaged. They resent the preponderance of services in the North and East where, for example, the number of medical care facilities greatly outnumber those in the South and elsewhere in the country.⁴⁹

Political Dialogue

The LLRC recommends “Finding a Political Solution” (9.185); “Establishing a Power-Sharing Mechanism” (9.235); and “Making General Progress on Devolution” (9.236). The TNA seeks expanded powers for local government, including police powers, and fiscal decentralization. It also seeks greater minority and cultural rights, including expanded use of the Tamil language in local administration. Property rights are also a priority for the TNA. To these ends, the GSL and the TNA started talks in January 2011. Over 12 months, 18 meetings have been held. The TNA tabled a number of specific proposals, to which the GSL did not respond. Government representatives did not even attend the last 3 scheduled meetings; political dialogue is now stalled.⁵⁰ Sampanthan accused the GSL of deliberately delaying the talks in the hope that “delay

will make the issues go away.”

GSL officials expressed an opinion that the LTTE is seeking to gain at the negotiating table what it failed to win on the battlefield. Rather than continue with direct talks with the TNA, the GSL prefers to address constitutional issues through a PSC, in which the TNA will have no more than 4 seats out of a total of 31. Sampanthan fears that the GSL is trying to draw the TNA into a process that will result in the annulment the 13th Amendment. He is “worried about a majority decision being imposed... We want workable, durable, political autonomy. We want self-rule and self-determination. We are all Sri Lankans; we all want peace.”⁵¹ The TNA insisted that it will not engage in the PSC process without establishing guiding principles and an agenda.

Ranil Wickremesinghe, Chairman of the United National Party (UNP), supports the TNA in opposing the PSC parallel process. The UNP refuses to join the PSC until the TNA agrees to participate. The UNP advocates a federal solution with asymmetric elements providing enhanced self-rule to the North and East. Wickremesinghe expressed concern that the growing frustrations in the North may lead to violence. He stated that he does not believe that the GSL is “serious about a solution.”⁵²

A GSL official explained, “The PSC is preferred in order to achieve multi-party consensus on any constitutional changes.” President Mahinda Rajapaksa stated, “I am ready to accept any solution that comes from the parliament. The TNA is not the only Tamil party. A majority of the Tamils are with us, including Tamils in the Eastern Province and Colombo. Our culture is different. We have total harmony.”⁵³ Palitha Kohona adds, “Muslims constitute 7.9% of the population.” He believes, “It would be impossible for the reconciliation talks to focus simply on Tamil grievances.”⁵⁴ Peiris elaborated, “The only way to ensure success is through full participation. If you come to them with a done deal, other MPs will think it’s an affront and won’t do it.”⁵⁵

To help break the log-jam, Geoff Doidge, the High Commissioner of South Africa to Sri Lanka, reported that South Africa is undertaking a low-key initiative through which stakeholders can learn about the process that brought an end to apartheid so that they may be able to draw on any relevant lessons in negotiations between the TNA and the GSL. To date, South Africa has invited 6 senior GSL officials led by the SLFP Senior Vice President, Minister Nimal Siripala de Silva, including Gotabaya Rajapaksa, to South Africa for an “exposure visit” with South African politicians, intellectuals, academics, and conflict resolution practitioners. The TNA was invited to participate in a

parallel program when they visited South Africa on 27 January 2013. Ambassador Doidge reported that the South African Team had met and briefed the Global Tamil Forum (GTF) in London and again in Berlin.

Human Rights

National Human Rights Action Plan

In response to the 2008 UPR of the UNHRC, the GSL developed a National Human Rights Action Plan (NHRAP) under the direction of Special Envoy of the President for Human Rights and head of delegation to the UNHRC, Mahinda Samarasinghe. The NHRAP is part of a broader set of institutional reforms included in the NAP on Social Cohesion and the NAP for implementing LLRC recommendations.

The UN conducts a UPR for every Member State every 4 years. Sri Lanka's report identified focus areas, goals, issues, activities, performance indicators, timeframe, and identified which agencies are responsible for implementation. The UPR met from 22 October to 1 November 2012. During the session on Sri Lanka, 98 delegations provided statements. Questions were submitted by 20 countries.

Samarasinghe explained the GSL's plans to achieve human rights improvements in the context of post-conflict, peace-building and reconciliation. He stated that the UPR process has provided impetus for a strategic focus on improving the performance of Sri Lanka's legal and institutional reforms.

The UNHRC noted that the GSL had made progress in a number of areas but expressed ongoing concerns about the freedom of expression, minority language use, women's rights, land issues, and militarization. The GSL welcomed 110 of the recommendations, but rejected 100.

Language

The LLRC recommends "Effective Implementation of the Country's Language Policy" (9.241) and "Bilingualism in all Government Offices" (9.247). Civil society calls for further integrating Tamil speakers into Government service, as well as use of Tamil for State circulars, gazette notifications, and signboards. While Sri Lanka's tri-lingual

language policy is exemplary, Kohona indicated that the GSL lacks the capacity and resources for full implementation.

Women's Issues

The Association of War-Affected Women (AWAW) arranged for the delegation to meet grass-roots women's organizations from the Northern and Eastern provinces. The women presented a summary of challenges, offering recommendations to the GSL and representatives of the international community. Their views are represented in AWAW's Sri Lankan Women's Agenda on Peace Security and Development. AWAW's Visaka Dharmadasa called on the GSL to develop a NAP for UNSC Res. 1325, which recognizes the unique role of women in peace-building. AWAW advocates for an increase of women's participation in the political process in order to operationalize UNSC Res. 1325. It also offered its services in coordinating a dialogue on 1325 between the GSL and directly-affected female populations.

Land Claims

Land claims and property restitution in the North and East are complicated by lost and multiple title documents issued by both the GSL and LTTE. The NAP for LLRC implementation recommends the establishment of a Fourth Land Commission to address issues related to property rights (within 24 months). The Commission has not yet been established.

Military Issues

This section notes the GSL's steps to demilitarize the North and East. It assesses the military's ongoing presence, economic activities, and the military's role in civilian affairs.

Demilitarization

The GSL lifted state of emergency provisions on 30 August 2011. It has also taken significant steps to relax on-the-ground security measures. These include check points, travel pass systems, requirements for prior approval for travel to the North, security clearances for fishing in certain areas, road blocks, house-to-house searches, curfews, closure of roads for security reasons, compulsory registration with the army, and the provision of army identity cards. The delegation rarely witnessed check points or road

blocks by the military. Instead, it observed some military personnel engaging with road construction.

In May 2009, about 175 battalions were stationed in the North. As of May 2012, the presence had been reduced to 115 battalions. According to the MoD's June 2012 report, there had been nearly 1,800 road blocks in the North and 200 in the East in 2009. In 2012, these numbers had been reduced to approximately 450 in the North and 5 in the East.⁵⁶ In accordance with the recommendations of the LLRC (9.142) security zones are being phased out. One high security zone was closed on 28 October 2010. Three more were closed on 27 November 2010; an additional nine closed on 9 May 2011; two more on 6 October 2011; and two on 29 November 2011.⁵⁷ Despite progress, Northern Provincial Governor G.A. Chandrasiri and Minister Douglas Devananda indicate that high security zones still function in the Jaffna district.⁵⁸

Sampanthan disputes the MoD's statistics on troop withdrawals. He stated, "Of the 50 divisions in the army, fifteen are in the North. This means there are 15,000 soldiers in the North alone. This is highly unnecessary. We want all entities handled by the army to be handed over to civilians." Private lands have been seized by SLA-run enterprises, such as a fish farm in the Waligamam North area. We do not like the manner in which the army is deployed, which gives the idea that the Tamils are different to those living in other areas of the country."⁵⁹

Sampanthan told the delegation that the SLA has confiscated land to build 10,000 houses in Kilinochchi. Peiris confirmed this housing project. Explaining the SLA's indispensable role with de-mining and reconstruction, he asked: "If the army is doing so much to help the Tamils, what's wrong with giving them land to build a house?"⁶⁰

TNA leaders are upset that military are still stationed in Jaffna area and demanded demilitarization, claiming that Tamils are being deprived of businesses and jobs. In contrast, the team met the President of Colombo Chamber of Commerce, who himself is a Tamil, and they also met many established Tamil and Muslim business leaders. One Muslim businessman has a garment factory outside Sri Lanka. Earlier, because of the war, he established it outside Sri Lanka, and now after the war, he has established factories in Jaffna as well. They argued that since education level is low among Tamils in Jaffna due to the 30-year-long war, their recruitment in professional jobs is still a problem.⁶¹

The SLA has a prominent place in Sri Lankan society, and adjustment to the post-conflict setting requires time. According to Major General Udaya Perera, Commander of Security Forces in Kilinochchi, “A 200,000 strong army cannot just be sent home.”⁶² Downsizing the armed forces, which is dominated by Southerners (Sinhalese), could lead to unrest. Kohona explained, “The armed forces are being reduced through attrition when they retire or pass away from old age.”⁶³

Conclusion

Since the war’s end in May 2009, Sri Lanka has made great progress on reconstruction, especially rebuilding infrastructure, and with economic development. While it has also made progress with resettlement of IDPs and rehabilitation of ex-LTTE combatants, additional measures are needed to assist the resettled IDPs and reintegrate the ex-combatants.

The delegation was surprised to hear totally different briefings from two groups; the government is upbeat about its performance and records, while the opposition, civil society and NGO perceptions, including that of Western diplomats, are the opposite. They argue that Sri Lanka is a disgrace and there is no light at the end of the tunnel.

Government leaders argue that these NGOs and civil society leaders being funded by Western governments have only one mission– to create chaos and disruption within countries like Afghanistan, Iraq, Libya, and Syria to get more funds. There exists a strong “trust deficit” in Sri Lanka.

Building confidence is equally important as reconstruction. Adhering to international norms of human rights, demonstrating a commitment to the rule of law, and decreasing the footprint of the military in civilian life will help to build confidence among all communities in Sri Lanka. Priority Confidence Building Measures (CBMs) could include accounting for missing persons, addressing land issues, and holding elections in the Northern Province.

There was a great opportunity to heal society’s wounds after the end of the conflict. However, the delegation observed that there was a “trust deficit” among different stakeholders. An NGO representative said, “War is over, but conflict is ongoing.”⁶⁴ Conveying a “message of care,” the intention to create a new, better, more inclusive and compassionate society would also go a long way to address the root causes of conflict.

As exemplified by the GSL and other parties concerned during the delegation's visit, efforts by Sri Lanka to keep its door open and to provide credible explanations would be welcomed.

Recommendations

The delegation heard many ideas for further advancing reconstruction and reconciliation in Sri Lanka, some of which are summarized below.

- Implement the NAP: The GSL should intensify its efforts to implement the NAP, and make progress reports available to the public. An inclusive mechanism to monitor implementation of the NAP would also assist reconciliation. The international community can support GSL's efforts by offering expertise and providing financial resources.
- Popularize the LLRC report: The GSL can engage civil society more fully by disseminating Sinhalese and Tamil versions of the LLRC report using the State media, traditional print media, and social media. Trilingual summary booklets could be produced and made accessible at the grass-roots level.
- Intensify confidence building: Priority CBMs include speedy, free and fair elections for the Northern Provincial Council (no later than September 2013); accounting for missing persons and issuing death certificates; and set-up of a land commission drawing on best practices for property claims and restitution. Twinning programs that bring youth together from all parts of the country, as well as twinning of women's groups, are also useful CBMs.
- Expand minority language use: The donor community could support full and effective implementation of the GSL's language policy, especially the use of Tamil as an official language and as a language of educational instruction.
- Promote political dialogue: Direct talks between the GSL and TNA should be held, with the goal of agreeing on principles as the basis for a more inclusive PSC process.
- Reduce military presence: While the GSL's effort is noted, the SLA's role and visibility in the North and East and the military's role performing civilian functions could be further reduced. Depending on the security situation, the GSL could consider transferring NGO and INGO oversight to a civilian body.

- Focus on women: The GSL could consider adopting a NAP for implementation of UNSC Res. 1325, working with AWAW to engage grass-roots women's groups. More women could be included in the police forces of the North and East, while ensuring that women police officers are proficient in local languages, and strengthening the women's desks in police stations to better handle gender based violence.
- Highlight children's issues: Child tracing activities, family reunification, and psycho-social services should be provided for war-affected children.
- Protect even more the cultural and religious rights of all ethnic groups, and encourage all religious leaders to bring a stronger contribution to the process of reconciliation.
- Acknowledging Sri Lanka's cooperation with the UN and other international bodies, encourage its continuation.
- Encourage the development of the capacity of local politicians in building stronger community-level party organizations better able to address local needs in the North and East, particularly on land and livelihood issues.
- All efforts should converge towards political reconciliation.

Attachment A

Delegation Members

- H.E. Mr. Kazuo Kodama, Deputy Permanent Representative of Japan (acting head of the delegation)
- H.E. Mr. Abulkalam Abdul Momen, Permanent Representative of Bangladesh
- H.E. Mr. Usman Sarki, Deputy Permanent Representative of Nigeria
- H.E. Mrs. Simona Mirela Miculescu, Permanent Representative of Romania
- H.E. Mr. Marcelo L. da S. Vasconcelos, Ambassador of Brazil to Sri Lanka
- H.E. Mr. Fabrizio Arpea, Ambassador of Italy to Sri Lanka
- H.E. Mr. Geoff Doidge, High Commissioner of South Africa to Sri Lanka
- Mr. David L. Phillips, Director of the Program on Peace-building and Rights at Columbia University's Institute for the Study of Human Rights
- Mr. Patrick Burgess, Senior Adviser on Transitional Justice Issues to the Program on Peace-building and Rights at Columbia University's Institute for the Study of Human Rights

(Note: H.E. Mr. Palitha T. B. Kohona, Permanent Representative of Sri Lanka, joined the delegation for some meetings)

Attachment B

List of Interlocutors

GSL Officials

- President Mahinda Rajapaksa (President)
- Douglas Devananda (Minister of Traditional Industries)
- Rauff Hakeem (Minister of Justice)
- Basil Rajapaksa (Minister of Economic Development)
- G.L. Pieris (Minister of External Affairs)
- Mahinda Samaringhe (Minister of Plantations and Special Presidential Envoy on Human Rights)
- G.A. Chandrasiri (Governor, Northern Province)
- Lalith Weeratunga (Secretary to the President)
- Gotabaya Rajapaksa (Secretary, Defence and Urban Development)
- K. Amunugama (Secretary, External Affairs)
- S.B. Divaratne (Secretary to the Presidential Task Force on Resettlement, Reconstruction and Northern Development)
- Suntharam Arumainayagam (Government Agent, Jaffna)
- Rupavathy Katheeswaran (Government Agent, Kilinochchi)
- Mohan Peiris (Senior Adviser to the Cabinet on Legal Affairs and former Attorney General)
- Milinda Moragoda (Senior Adviser to the President)
- Major General Udaya Perera (Commander Security Forces, Kilinochchi)

Opposition Members of Parliament

- Sampanthan (Chairman, Tamil National Alliance)
- Mavai Senathirajah (Deputy Leader, Tamil National Alliance)
- Suresh Premachandran (Member, Tamil National Alliance)
- Selvam Adaikalanathan (Member, Tamil National Alliance)
- M A Sumanthiran (Member, Tamil National Alliance)
- Ranil Wickremesinghe (Chairman, United National Party)
- Mangala Samarawweera (Member, United National Party)
- Swaminathan (Member, United National Party, Jaffna district)

- Sagala Ratnayake (Secretary of International Affairs, United National Party)
- Ravi Karunanayake (Member, United National Party)

Sri Lankan Civil Society

- Visaka Dharmadasa (Chair, Association of War-Affected Women)
- Pakiasothy Saravanamuttu (Executive Director, Center for Policy Alternatives)
- Muttukurishna Sarvananthan (Principal Researcher, Point Pedro Institute of Development)
- Indrajit Coomaraswamy (Former Director Economic Affairs, Commonwealth Secretariat)
- Bernard Goonetilleke (Chairman, Pathfinder Foundation)
- Field Staff (Save the Children, Jeyanthinagar, Kilinochi)
- S.H. Hasbullah (Senior Lecturer in Geography, University of Peradeniya)
- Tony Senewiratne (Chairman, National Peace Council)
- Satyajit Samuel (Deputy Bishop of Jaffna)
- B. Balasundarampillai (President, People's Council for Peace and Goodwill)
- S. Paramanathan (Secretary, People's Council for Peace and Goodwill)
- Rev. Wimala Thera (Nagaviha Jaffna)
- Harsha Navaratne (Chairman, Sewalanka Foundation)
- Vinya Ariyaratne (Executive Director, Sarvodaya Shramadana Movement)
- Godfrey Gunatilleke (Chairman Emeritus, Marga Institute)
- Jeevan Thiyagarajah (Executive Director, Consortium of Humanitarian Agencies)
- Shangar Sivashangar (Manager of the Northern Province, Save the Children/Sri Lanka, accompanied by Thayaharan Nadaraja (SCF Japan Platform Project Coordinator), Misako Oyama (SCF/staff), and Miwako Shiino (SCS/staff))

Business Community

- Mr. Chandra Jayarata (Former Chairman, Ceylon Chamber of Commerce)
- Mr. Asok Hettigoda (President, national Chamber of Commerce/Chairman, Hettigoda Industries)
- Mr. Sujeiva Samaraweera (Secretary, Sri Lanka Chamber of Commerce)
- Mr. Tilak Godamanne (Deputy President, National Chamber of Commerce)
- Mr. Tasuro Naruse (Tokyo Cement Company/Lanka PLC)

- Mr. S.R. Gnanam (Managing Director, Tokyo Cement Company/Lanka PLC)
- Mr. Ashroff Omar (CEO, Brandix Lanka)

UN Country Team

- Subinay Nandy (UN Resident Representative and UNDP Representative)
- Michael J. Zwack (Representative, UNHCR)
- Brendan McDonald (Head of Office, OCHA)
- Antonia de Meo (Deputy Representative, UNICEF)
- Firdosi Rustom Mehta (Representative, World Health Organization)
- Richard Danziger (Chief of Mission, International Organization of Migration)

Representatives of the Diplomatic Community

- H.E. Mohammad Sufiur Rahman (High Commissioner, Bangladesh)
- H.E. Bernard Savage (Ambassador, EU)
- H.E. John Rankin (High Commissioner of the United Kingdom)
- H.E. Robyn Mudie (High Commissioner of Australia)
- Mrs. Marja Einig (Deputy Chief of Mission, Embassy of Germany)
- Mr. P. Kumaran (Deputy Chief of Mission, India)
- Mr. William Weinstein (Deputy Chief of Mission, United States of America)
- Mr. Marc Lamy (Deputy Chief of Mission, France)
- Ms. Dagny Mjos (Director of Development, Norway)

Attachment C

Additional personal note on Observations and Suggestions by a delegation member

The main concerns of the parties in Sri Lanka were, like in many other developing countries, linked to governance, since the government is the most important agent of change for better or worse. Unlike many other developing countries, however, Sri Lanka has a viable and robust parliamentary democratic tradition. This asset should in fact be the basis for reconciliation and peaceful co-existence of the various ethnic and religious groups in the country. There are only three main parties or entities in the country that could be said to be contending for power, resources and other privileges. They are the Sinhalese majority, the Tamils, and the Muslims, representing the confessional divide of Buddhism, Hinduism and Islam, respectively.

The ill feelings, suspicions, and bitterness that were engendered by thirty years or more of atrocious civil war cannot be so easily forgotten and reconciled in a few years of normalcy after the end of such a long conflict. Hard work, sincerity of purpose and the passage of sufficient time will be needed for the process of healing and forgiveness to result in reconciliation. For this, a deliberate movement toward reaping the dividends of peace must be made by all the parties, but largely and initially led by the GSL.

The core issues or main concerns, as far as can be judged from a brief visit to Sri Lanka, can be classified as follows:

- (i) The "nationality question," that is to say, national identity issues centering on minority rights, and the use of language: The issue of identity seemed to override all other considerations due largely to the emotional and other subjective but powerful sentiments attached to both individual and group identities in Sri Lanka. In fact, religion and ethnicity could hardly be differentiated because they seem integral and intertwined with the identities of the Sinhalese (Buddhist), Tamil (Hindu), and Muslim Sri Lankans.
- (ii) Land tenure system and access to traditional or inherited lands: This was the second most important consideration that a brief visit could allow an outsider to notice. Land was central to the thirty year civil war; otherwise, there was no point in waging such a protracted and bitter civil war if it were merely for the sake of practicing one's faith or speaking one's native tongue.

(iii) Devolution of power to provincial and local or district councils: This was a most favoured arrangement expressed by the Tamils and Muslims. But the issue is that the majority of the Tamils and Muslims now live in and around the capital city, Colombo, which is the heartland of the Sinhalese majority. This poses a major problem which only constitutional rearrangements, delineation of boundaries and even relocation of entire populations could successfully resolve. Invoking the 13th Amendment or even advocating "13 plus Amendment" may only compound rather than ameliorate the situation.

(iv) Civil liberties, particularly the freedom of the press: This was also identified as another major concern, especially by members of the Sri Lankan opposition and some civil society organizations. Freedom of the press is not an absolute condition, and is therefore a matter of opinion, just as "responsible reporting" may also be a subjective matter, depending on which side it is viewed from. In a period of tentative moves to find a sure footing toward reconciliation, inflammatory reporting and unbridled and sensational journalism would harm rather than advance any effort aimed at making all parties come together to rebuild the country. Unrestrained utterances, sometimes bordering on incitement, might be counterproductive even to the enjoyment of freedom of expression and the press. This does not however extend to genuine expression of views and opinions or constructive criticism, which are the hallmarks of true democracy.

(v) Equitable or fair representation in public institutions: This seems to be a concern mainly expressed in connection with recruitment into the Police Force, the Armed Forces, the Civil Service and other Sri Lankan public agencies. Opinions might differ on the way forward on this point. The lack of a fair representation of Tamils in the Army for instance, had been explained as being caused by the desertion of a large number of members this ethnic group from the Army, either to join the LTTE rebels, or to move abroad. This concern of course will have to be addressed in a fair and transparent manner for the sake of inclusiveness and equal representation in all public institutions in Sri Lanka.

The way forward:

There is no simple panacea to a long-standing and complicated problem like the one that

now exists in Sri Lanka. But the first tentative steps have been taken toward resolving the problem after the end of the conflict. Resettlement efforts of war-affected populations and other displaced persons have sufficiently advanced as to enable the GSL to concentrate on other urgent priority issues. These are reconstruction and rehabilitation. The GSL has embarked on massive reconstruction efforts, especially in the North and the East, where most of the fighting took place and destruction was the most widespread and intense.

Rehabilitation seems to be another priority area for the GSL. Land reclamation through demining action and repair of damaged or completely destroyed irrigation systems and water supply infrastructures are progressing at an appreciable pace. Without these measures, resettlement of displaced persons would make little or no sense, since the returnees must go back to some safe places and become engaged in some form of gainful employment which can mainly only be agriculture, fishing or artisanship.

Reconciliation is of course a more difficult proposition to deal with. One may resettle, rebuild and reabsorb, but reconciliation is a much more difficult object to achieve, owing to the very nature of the process and the intrinsic difficulties it harbours. Reconciliation is much more than meeting certain physical needs. It involves the temperaments of the people and the psychological framework of the interlocutors. Sometimes reconciliation is achieved through meeting intangible needs and satisfying certain deep and innate yearnings. Here, it is policy that may matter most, rather than expedience or even practical implementation of actions.

From this perspective, reconciliation in Sri Lanka which all seemed to desire most, and is the main objective of everyone in the country, can proceed if certain basic principles are agreed upon and observed. Already, all the parties in Sri Lanka seemed committed to the unity, independence and territorial integrity of their country. Proceeding from this understanding, it may be useful to suggest the following as "confidence building measures" that may lead to early harvest of the "dividends of peace" in Sri Lanka:

(i) Declaration of Rights of all Sri Lankans regardless of racial, ethnic or religious affiliations: this may have already been done and established in practice. But a deliberate policy crafted around this principle can help and go a long way in assuaging suspicions and any residues of mistrust among and between the different parties in the country, and thus aid speedy and durable reconciliation.

- (ii) **Minority Absorption Policy:** to enhance the recruitment of the Tamils and Muslims into the Civil Service, the Army, the Police and all other public agencies, departments and bodies on a fair, just, and equitable formula or basis.

- (iii) **Declaration on Missing Persons:** which should aim at assuaging the feelings of those whose sons, daughters and loved ones have been missing on account of the long civil war, which affected *all* of the populations of Sri Lanka.

- (iv) **Judicial, Administrative and Political Reforms:** which should aim at overhauling the State structures and entrenching further the rule of law, accountability, representation, participation, and establishing the basis for a durable and sustainable reconciliation in Sri Lanka.

- (v) **Implementation of elements of the 13th Amendment:** that are not inimical to public order, safety, national unity and security, mainly at the local and grassroots levels, toward enhancing devolution of administrative prerogatives and responsibilities.

- (vi) **Establishing time lines:** for the implementation of specific actions agreed to by all the parties such as a new national language policy, etc.

- (vii) **The LLRC and the GSL Action Plan:** could, subject to agreement of all sides, form the basis of action toward achieving "early harvest" of specific issues, programmes and policies that are central to an overall reconciliation endeavour. The Presidential Statement at Parliament on 19 May 2009 and the Joint Statements by the President of Sri Lanka and the UN Secretary-General on 23 May 2009 can all serve as the basis for making progress toward reconciliation.

Principles that could underpin dialogue in Sri Lanka:

In order that dialogue shall succeed and lasting reconciliation shall be achieved in Sri Lanka, some principles that could serve as the basic building blocks of the initiative could be put forth for consideration by the parties. These could, among others, include:

- (i) That all sides should commit themselves to respect and strive toward the unity, sovereignty, indivisibility, integrity and independence of Sri Lanka.

(ii) That all sides should agree that only a body or entity established by law and the Constitution could lawfully bear arms for the defense of the State, the sovereignty and integrity of the country, and for the protection of public safety and national security.

(iii) That all political parties, their affiliates and membership both at home and in the Diaspora, must commit to the unity, integrity and indivisibility of Sri Lanka. They must also individually and severally refrain from making inflammatory statements, declarations and taking any actions or measures that might be construed as threats to the unity of the country or the peaceful co-existence of all ethnic and religious groups in Sri Lanka.

(iv) As much as possible, all sides should acknowledge that progress has been made in Sri Lanka since the end of hostilities in the areas of resettlement, rehabilitation, reconstruction and reintegration, and that further measures would need to be put in place to speed up land reform and redistribution.

The above principles thus, if faithfully adhered to, could possibly be a firm basis upon which a lasting, sustainable and just peace could be established in Sri Lanka.

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- ¹ The Program on Peace-building and Rights and Columbia University's Institute for the Study of Human Rights.
- ² Draws on meeting notes prepared by David L. Phillips, Director of the Program on Peace-building and Rights at Columbia University's Institute for the Study of Human Rights.
- ³ Meeting notes, UN Resident Representative Subinay Nandy, 6 December 2012.
- ⁴ Meeting notes, Gotabaya Rajapakse, 6 December 2012.
- ⁵ Presidential Task Force, "From Conflict to Stability," p. iii, 2012.
- ⁶ Meeting notes, Gotabaya Rajapakse, 6 December 2012.
- ⁷ Presidential Task Force, "From Conflict to Stability," p. xxiii, 2012.
- ⁸ United Nations General Assembly, "Report of the Working Group on the Universal Periodic Review," A/HRC/wg.6/14/L.14.
- ⁹ Remarks by Gotabaya Rajapaksa at the 2012 Defence Seminar, Colombo, Sri Lanka.
- ¹⁰ Meeting notes, Basil Rajapakse, 7 December 2012.
- ¹¹ United Nations General Assembly, "Report of the Working Group on the Universal Periodic Review," A/HRC/wg.6/14/L.14.
- ¹² Called "welfare village" by the GSL.
- ¹³ Meeting notes, Subinay Nandy, 6 December 2012.
- ¹⁴ Meeting notes, India's Deputy Chief of Mission P. Kumaran, 6 December 2012.
- ¹⁵ Meeting notes, Subinay Nandy, 6 December 2012.
- ¹⁶ Meeting notes, Justice Minister Rauf Hakim, 6 December 2012.
- ¹⁷ Meeting notes, Gotabaya Rajapaksa, 6 December 2012.
- ¹⁸ Meeting notes, Major General Udaya Perera, 8 December 2012.
- ¹⁹ Meeting notes, Business Community, 7 December 2012.
- ²⁰ Meeting notes, Rauf Hakim, 6 December 2012.
- ²¹ Meeting notes, UN Country Team, 6 December 2012.
- ²² National Action Plan for the Protection and Promotion of Human Rights (2011-2016).
- ²³ Meeting notes, Gotabaya Rajapakse, 6 December 2012.
- ²⁴ Meeting notes, Minister of Economic Development Basil Rajapakse, 7 December 2012.
- ²⁵ Remarks by Ambassador Palitha Kohona, "Sri Lanka Looks Ahead – Now, to Win the Peace," Utah Valley University, 1 November 2012.
- ²⁶ LLRC report, section 1.7.
- ²⁷ Meeting notes, Chairman of Sewalanka Harsha Navaratne, 6 December 2012.
- ²⁸ Meeting notes, Lalith Weeratunga, 8 December 2012.
- ²⁹ United Nations General Assembly, "Report of the Working Group on the Universal Periodic Review," A/HRC/wg.6/14/L.14.
- ³⁰ LLRC report, paragraph 9.35.
- ³¹ Ministry of Defence and Urban Development, "Analysis of the Disappearances Reported by "Ground Views" Website, June 2012.
- ³² Remarks by Minister for External Relations G.L. Peiris at Columbia University, 2 October 2012.
- ³³ Meeting notes, Basil Rajapakse, 7 December 2012.
- ³⁴ Meeting notes, Gotabaya Rajapakse, 6 December 2012.
- ³⁵ Meeting notes, TNA delegation, 6 December 2012.
- ³⁶ Meeting notes, Basil Rajapakse, 7 December 2012.
- ³⁷ Meeting notes, Center for Policy Alternatives, 7 December 2012.
- ³⁸ LLRC Report, 9.202.
- ³⁹ Meeting notes, 6 December 2012.
- ⁴⁰ Meeting notes, People's Committee for Peace and Goodwill, 8 December 2012.
- ⁴¹ Meeting notes, Anonymous, 8 December 2012.
- ⁴² Meeting notes, Mahindra Rajapaksa, 7 December 2012.
- ⁴³ Networking for Rights, "State security forces obstruct peaceful assembly in Jaffna; students and journalists assaulted and arrested," 30 November 2012.

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- ⁴⁴ Meeting notes, TNA delegation, 6 December 2012.
- ⁴⁵ Meeting notes, Major General Udaya Perera, 8 December 2012.
- ⁴⁶ Remarks by Ambassador Palitha Kohona, “Sri Lanka Looks Ahead – Now, to Win the Peace,” Utah Valley University, 1 November 2012.
- ⁴⁷ Meeting notes, Mahinda Rajapaksa, 7 December 2012.
- ⁴⁸ Meeting notes, Gotabaya Rajapakse, 6 December 2012.
- ⁴⁹ Meeting notes, Milinda Moragoda, 6 December 2012.
- ⁵⁰ Meeting notes, TNA delegation, 6 December 2012.
- ⁵¹ Meeting notes, TNA delegation, 6 December 2012.
- ⁵² Meeting notes, Ranil Wickremesinghe, 6 December 2012.
- ⁵³ Meeting notes, Mahindra Rajapaksa, 7 December 2012.
- ⁵⁴ Remarks by Ambassador Palitha Kohona, “Sri Lanka Looks Ahead – Now, to Win the Peace,” Utah Valley University, 1 November 2012.
- ⁵⁵ Meeting notes, G.L. Peiris, 7 December 2012.
- ⁵⁶ Ministry of Defence and Urban Development, “Details of dismantling of the High Security Zones (HSZ) in Jaffna and present status of security force’s cantonment, June 2012.
- ⁵⁷ Ibid.
- ⁵⁸ onlineuthayan.com/english-news/uthayannews/1344z211h1h1r2, accessed 16 December 2012.
- ⁵⁹ Meeting notes, TNA delegation, 6 December 2012.
- ⁶⁰ Meeting notes, G.L. Peiris, 7 December 2012.
- ⁶¹ Meeting notes, Business Community, 7 December 2012.
- ⁶² Meeting notes, Udaya Perera, 8 December 2012.
- ⁶³ Meeting notes, Palitha Kohona, 8 December 2012.
- ⁶⁴ Meeting notes, NGO representative, 7 December 2012.