

Sri Lanka on the Precipice

Political Solution or Sweeping Debacle?

The report of the All Party Representative Committee on constitutional reform and the establishment of the commission of inquiry to investigate human rights violations offer a glimmer of hope in Sri Lanka.

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The much internationalised Norwegian peace process in Sri Lanka has failed. And various international actors, while publicly stating their hopes for peace, are in reality engaged in accounting for the unforeseen failure, in political, monetary and resource terms. The bulk of the blame will be cast on the Liberation Tigers of Tamil Eelam (LTTE).

The LTTE's stance was characteristically intransigent. It was unwilling to transform and adapt itself to democratic politics and cease from its habitual preoccupation with eliminating all traces of opposition, it rejected the possibility of a deal with the south and resumed a debilitating war for separation. The accounting will also blame the southern political formations, which were unwilling yet again to arrive at a possible solution to the conflict and continued to prevaricate with minority

concerns. Finally, the Norwegians themselves will have to take a significant share of the blame for their design of a process that lacked inclusivity, was weighted too heavily on an uncertain deal between the LTTE and the United National Party (UNP), sacrificed human rights for an erroneous conception of stability and for their active internationalisation of a process with grave foundational flaws.

The international actors, while apportioning blame and attempting to grasp the utter failure of their models of conflict resolution, are also trying to salvage any positive gains from the internationalised peace process. The last leg of the international process launched in 2002, is now an undeclared war. What is open now is the possibility of putting forward a set of proposals for constitutional reform and some mechanisms for the protection of human rights and humanitarian access. The issue facing the international actors is

whether Sri Lanka will at least deliver on these dual concerns of constitutional reform and human rights, or would the process flounder so completely as to discredit the international community's attempts at peace building and conflict resolution.

The international actors' accounting and face-saving measures aside, the war in Sri Lanka has indeed come back with a vengeance to the detriment of the civilian population. While there can be no illusions about the LTTE's project of a separate state and fascist rule over the north and east, the reaction of the Sri Lankan state and the Rajapakse government strongly indicate moves towards a military solution accompanied by brutal repression of any opposition to that military project. The Sri Lankan state then is at the crossroads, it has to either choose a military solution with the attendant repression of human rights or it has to choose a political solution with protection of human rights. The military solution will involve the imposition of the majoritarian agenda on the minorities, whereas the political approach

would demonstrate concern for the well-being of minorities and respect for international humanitarian law, even when the state is responding to provocations by the LTTE.

Dangerous Turn

During the last many months, the Sri Lankan state has taken a dangerous turn. It has, in responding to calculated provocations by the LTTE, got muddled up in a territorial war with adverse humanitarian consequences. Politically, the controversial Supreme Court has ruled for the demerger of the North-East Province, which was temporarily merged as part of the Indo-Lanka accord. A process of engagement with the LTTE characterised by appeasement during the first few years of the peace process, has now turned into an engagement based on the war on terror, particularly with the announcement of new anti-terror regulations in December 2006. There has also been a militarisation of the state, in actions ranging from the disproportionate influence of the defence

establishment to even the appointment of governors and a government agent in Trincomalee with military backgrounds. There has been a resurgence of disappearance, torture and other grave violations reminiscent of the darkest years of the war in the 1980s and early 1990s. In most estimates, over 3,000 people were killed in 2006, over 2,50,000 internally displaced and another 16,000 have found refuge in India. In short, the ground reality points to a major shift in the direction of a militarist approach to the situation with scant regard for human rights.

On the other side, there is also hope for a political solution arrived at through a parallel process initiated by the Sri Lankan president. There are mechanisms which were perhaps instigated by the prodding of the international community, which have the potential to address both the questions of constitutional reform and human rights.

In July 2006 the president initiated the All Party Representative Committee (APRC) and the all party conference to produce proposals for constitutional

reform in Sri Lanka. A multi-ethnic experts committee consisting of a total of 17 members was formed to provide advice to the APRC. In December, after much deliberation a majority of the committee, 11 of them from all three ethnic groups produced a report promoting the need for devolution of power and power sharing at the centre with a bicameral legislature. While a minority report consisting of four Sinhala nationalists was also produced calling for a unitary constitution unacceptable to most members of the minority communities, the majority report was a testament to the ability of Sri Lankans to propose imaginative solutions for the complex problems related to the ethnic question. Thisa Vitarana, the chairman of the APRC, has put forward his own report based on the organisation's deliberations and findings of the majority report, for the consideration of the APRC's final proposal. The advancement hailed by both these reports themselves was a victory, given the climate of intimidation and manipulation by Sinhala nationalist actors within the state. It should be noted that this victory also came at tremendous costs, as Kethesh Loganathan the secretary to the experts committee was assassinated by the LTTE a month after the committee was convened.

On the human rights front, in response to pressure from the international community on some of the grave violations of human rights such as the massacre of the 17 ACF aid workers, the president appointed a commission of inquiry (COI) consisting of eight commissioners, a number of whom have an excellent reputation and an international eminent persons group to support the work of those commissioners. The commissioners, with a tenure of one year, are to look at 15 serious violations beginning in August 2005 and have the mandate to take up other cases in the future. It is yet to be seen if the COI, which is just beginning its work, will be able to challenge the climate of impunity in the country.

Dual Mechanisms

These dual mechanisms meant to shift the militarist and repressive approach towards a political and human rights approach are the minimum necessary for the task at hand, and it will be an ongoing struggle to see if the mechanisms can also challenge the Sinhala nationalist forces that have reared their heads during the past year. It further raises questions about the

resiliency of the political approach if the LTTE continues to escalate the undeclared war. But here again, the cards are with the state, as to whether it will attempt to contain the LTTE, defeating it politically, or will it adopt a purely militarist position and engage in a "war for peace" manoeuvre, with elusive military gains and definite humanitarian costs and the alienation of the Tamil community?

One of the lost opportunities of the years of the peace process was the absence of efforts towards building social movements for human rights and democratisation. Sections of the Sri Lankan elite seem all too keen to oppose the current trajectory in Sri Lanka, by merely mobilising neo-colonial labels such as a "failed state". Appealing to the international community alone will not solve the problems in Sri Lanka. The crisis in Sri Lanka is one of a crisis not only of the state, but also of civil society and of its elite. Just as the majority report and the Vitarana report are victories in the direction of a political solution that addresses the aspirations of the minority communities, the COI also needs to deliver a serious challenge to the climate of impunity in the country.

Today, as the state swings between a political solution and a militarist approach with possible infringement of democratic rights, not only in the north and east, but also in the entire country, a balance in favour of a political solution would also hold out hope of a democratic future for the country.

For Tamil aspirations, every past attempt at constitutional reform has been that of being kicked around like a football by the two major southern political parties in

Sri Lanka. This football game reached the international arena with the much internationalised Norwegian peace process, where Tamil aspirations were again booted between the sole representation claims of the LTTE and the majoritarian claims of the southern political forces. The international games for legitimacy and support seem to be now taking a different direction, with the government leaning towards Pakistan and China as its diplomatic dancing partners. Such games are bound to unnerve India, which has had a clear and consistent position over the last two decades calling for a political solution within a united Sri Lanka while addressing the aspirations of the minority communities. It is in that long-term context that the APRC process should be actively engaged.

The mechanisms described above, intended to find a political solution and address human rights, however fragile and despite the withering attacks and scepticism, are the only major mechanisms at work in Lanka during this volatile period. The work of such mechanisms needs to be above the local, regional and international political fray. The APRC process needs to deliver an acceptable political solution, the Sri Lankans need to engage with it and others should come out in solidarity. The odds of success are not great, but cynicism in the face of a once in a decade opportunity is irresponsible. It is now a time for praxis to defeat extremism and chauvinism on all sides and to strengthen those standing for peace and justice. **EPW**

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