

Human Rights, Humanitarian Standards and the War in Sri Lanka

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The positions and policies of the principal protagonists in the war in Sri Lanka will determine the prospects for desperately needed human rights protection and observance of international humanitarian standards. Indeed, the current situation of civilian fear, insecurity and misery is attributable to the emergence of the GOSL and the LTTE as mirror images of the other. Both have chosen to rely predominantly, if not exclusively, on the use of force to advance their perceived interests. In doing so, they have relegated the primary issue of human security to one of scant importance, if any importance at all. International and civil society efforts notwithstanding, there is every prospect of the space for human rights violations and humanitarian tragedy increasing with the intensification of hostilities in the north. Intensified and protracted conflict underpinned by the further polarization of perspectives and interests poses the seemingly insuperable challenge in respect of what can be done to alleviate civilian suffering. Should all efforts be concentrated on stopping the war or should they focus on ensuring to the extent possible that the war is fought with a minimum of civilian suffering?

In terms of what is practical and feasible in the current context, it would seem that efforts to stop the war, laudable in themselves will not succeed against the polarization referred to above. Put another way, both sides are caught in a “trap” of their own making in which a clear and decisive military victory is believed to be possible and forthcoming, in their respective favour. On the one side, human rights violations and humanitarian tragedy are secondary at the very most and more often than not human rights protection and humanitarian standards are seen as inconveniences or encumbrances in the march to certain victory. The raising of such concerns are accordingly labeled as the hallmarks of a conspiracy designed for the sole purposes of rescuing the other side from the jaws of defeat. This is mirrored by a cynical calculation that human rights violations and humanitarian tragedy will swing international opinion and assistance as well as a matching disregard in the conduct of hostilities for human security and international standards relating to the treatment of civilians caught up in armed conflict. The fighting in the east was replete with examples of this from both sides. Will the fighting in the north be any better?

In such a context, civil society in particular has no other option than to continue to try to focus the attention of the protagonists on human rights and humanitarian concerns with the minimum aim of mitigating civilian suffering. This requires convincing the protagonists that civilian suffering should not be exploited for political gain but should be accorded precedence even when a clash with political interests is perceived. This is by no means easy in the face of entrenched positions and determination to defend them.

For instance, it has been reported that the LTTE has refused to guarantee the security of ships carrying the Red Cross flag, when taking food supplies to the Jaffna Peninsula. This is connected to the LTTE demand that the A9 land route be re-opened and allegations that the vessels will also ferry military equipment and personnel to the peninsula. Should not civilian suffering take precedence? Is there an acceptable logic to the argument which seems to say that the alleviation of civil suffering over the long term (i.e. the reopening of the A9) has to be secured by compounding it (the consequences of the refusal to guarantee safety and security of ships bearing the ICRC flag) in the short term?

Another example of this are the reported instances of the LTTE forcibly preventing civilians from moving to places of safety in the face of bombing and bombardment by government forces. Whilst, given the current logic, it is in the military and political interests of the government forces to ensure depopulation of areas under LTTE control and it is in the interests of the LTTE to demonstrate that despite horrendous privation and suffering, the civilian population did not “desert” them, should civilians be treated as pawns in a bloody chess game between actors who conceive of them in instrumental terms only ?

Can there be a concerted focus of advocacy efforts on a human rights and humanitarian standards agreement or memorandum of understanding between the two sides that conditions the conduct of hostilities between them, since a cessation of hostilities in the current context appears to be extremely remote ? This would ideally revolve around the Common Article 3 of the Geneva Conventions and incorporate the Deng Principles on the rights of Internally Displaced Persons. It could incorporate agreement with regard to Zones of Peace and ensure that places where civilians seek shelter and refuge from the fighting are not targeted by either side.

Such an initiative itself has to be focused, targeted and political in nature. Civil society will have to take the initiative and canvas whatever support it can from the international community. Exclusive and even primary reliance on the latter is misplaced in that the international community in the main, is not disposed towards proactive involvement in Sri Lanka and the key players that are involved either subscribe to the “war against terror” approach of the government and/or accord precedence to their economic and commercial interests.

Accordingly, civil society should take stock of the relations it has with the principal protagonists and explore existing and potential avenues of influence. Buy in from the main protagonists, if it is to be at all attainable, is best sought at the outset by actors with whom they have established relationships of trust and confidence. This should be backed up by persistent international focus on these issues and the identification of them as key benchmarks in any relationship.

Unless civil society is willing and able to even try to influence the protagonist it has best access to, the savagery of the conflict will continue unabated. In this respect, the challenge to civil society is to be able to differentiate between clearly political goals and human rights and humanitarian ones and the relationship between the two. Is civil society in the context of the conflict in Sri Lanka, a reflection or extension of the principal protagonists or is it able to create and maintain a space on behalf of the civilians caught up in this brutal conflict ?

Civil society has to make this effort or else it will be shown up to be bogus. And rightly so.