

## **International Seminar: Envisioning New Trajectories for Peace in Sri Lanka**

Zurich, Switzerland 7 - 9 April 2006

Organized by the Centre for Just Peace and Democracy (CJPD)

in collaboration with the Berghof Foundation, Sri Lanka

### **Session 8: Re-envisioning Sri Lanka – Lessons learned & Challenges and Opportunities**

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#### **Trajectories for Peace in Sri Lanka**

If the ethnic conflict between the Government of Sri Lanka (GoSL) and the Tamil Tigers (LTTE) is not settled, and fighting breaks out again (now or later), the ‘vision’ for Sri Lanka will be bankruptcy and a ‘failed State’. In addition to an ethnic war with the Tamils in the North and East, the Sinhalese could be looking at a poverty-war in the South with “have-nothing” taking on “have-everything”.

In “re-envisioning Sri Lanka”, it must be appreciated that Sri Lanka is in crisis, the ethnic conflict being only one manifestation (albeit an important one) of a crumbling State. The corollary is that even if the ethnic conflict is settled, the crisis in the Sinhala South will not be resolved. This crisis in the South is so serious that it is beyond redemption. It will have to be ‘re-made’ – a daunting proposition.

#### Some basic facts

##### 1. A British colonial construct collapses

For hundreds of years Ceylon consisted of three separate Kingdoms (States) – Jaffna (Tamil) in the North, Kandy (Sinhalese) in the centre, and Kotte (Sinhalese) in the South. In 1833, the colonial British unified these three States *for administrative convenience* and centralised administrative and developmental power in Colombo.

The result has been a widespread developmental neglect of the periphery which covers the entire Tamil North and East and the Sinhala ‘deep South’. The consequences, especially where employment and job opportunities are concerned, have been serious.

What we are seeing is the collapse of a British colonial construct, as has happened in Malaya, India and many other countries. Some of these colonial constructs have been dismantled, a step long overdue in Sri Lanka. Until this is done, there will be no ‘vision’ for Sri Lanka.

##### 2. The failure to build a nation

A major cause of the ethnic conflict is the majoritarian (Sinhala) practice of minority exclusion (Tamils and, to a lesser extent, the Muslims) from the domains of State power. There has been a determination to exclude the important Tamil ‘minority’ from sharing power at the centre and the periphery. Short-sighted Sinhala politicians after Independence (and even before) did not see the importance, or even the need, for a pluralistic nation. Their concept of Sri Lanka was a Sinhala-Buddhist nation, which was exploited by every Sinhala leader for electoral gain – the pursuit of populist politics at the cost of nation-building. Unsurprisingly, the ‘nation’ is falling apart. It is too late to hold it together now.

If the concept and aim is a Sinhala-Buddhist State, then there is no alternative to the establishment of a separate Tamil State, Eelam. It is as simple as that.

### 3. A democracy in crisis

For democracy to work in the setting of a heterogeneous population divided in ethnicity, religion, culture, language etc, there must either be an enlightened leadership or the minorities must agree to lose their identity and merge with the majority i.e. be assimilated. Enlightened leadership Sri Lanka has not had since Independence in 1948. As for minorities losing their identity, it will be resisted firmly if the minority in question is an ancient people with an ancient language, religion, history and a rich culture eg the Tamils.

Where democracy has failed, it is usually the minorities that are kept out of the decision-making process and become victims of unjust and discriminatory acts at the hands of the majority. This is what has occurred in Sri Lanka. This problem cannot be addressed until Sinhala-dominated Governments are no longer able discriminate against the Tamils i.e. by freeing the Tamil people from Sinhala control.

### 4. Discrimination against the Tamils

This has been extensive, systematic and progressive - in the use of their language (Tamil), education (entry into the Universities), employment, job opportunities and the developmental neglect of the area they live in. This is not something in the past; it is very much there today.

### 5. Violation of human rights

There have been serious violations of human rights of the civilian Tamil population in the North and East at the hands of the Sinhala-dominated Armed Forces. This has included mass arrests, detention without charge or trial, 'disappearances', and even the right to exist. There has been extensive destruction of Tamil lives and property by aerial bombing and shelling by the Sri Lankan Air Force. This is not just "collateral damage" in a war between the GOSL and the LTTE. Tamils in North and East have been specifically targeted and treated as if they are "non-people".

There has not been a word of regret from any Sinhala leader for this outrage. To expect the Tamils to "forgive and forget" is completely unrealistic. Any solution must address this reality of a 'hurting people'.

### 6. Promising little and delivering less.

For over 50 years a succession of Sinhala leaders with whom the Tamils have negotiated, have promised little and delivered even less. The Tamils have completely lost confidence in the Sinhala leadership so that Pacts and Agreements have no credibility.

### 7. The new Tamil leadership

There has been a radical change in the Tamil leadership with elite Tamil leaders replaced by those who have been subjected to anti-Tamil discrimination.

For the first time in Sri Lanka's history, the Tamil leadership has been backed by one of the most highly organised and motivated armies in the world, which has been strongly backed by the powerful expatriate Tamils. The 'games' played by a succession of Sinhala leaders with weak and pliable Tamil leaders over the past 50 years, will no longer succeed.

### 8. Violence

Tamil violence has been portrayed by the GoSL to the outside world as nothing but “terrorism”. The perception of ‘terrorism’ is often in the eye of the beholder. If the beholder (an individual, population or country) supports the goals of the rebels then those rebels are ‘freedom fighters’, if they do not then they are ‘terrorists’. However, there are International instruments that distinguish between the two which, when applied to the LTTE, defines them as ‘freedom fighters’. Sinhala chauvinists and their Governments cannot have definitions of their own.

Any government’s condemnation of terror is credible only if it shows itself to be responsive to reasonable, closely argued, persistent, non-violent dissent. No Sinhala government since Independence in 1948 has been responsive to the reasonable demands of the Tamil minority. Tamil non-violent resistance has been crushed with military might of the Sinhala State. If that is the response that the Tamils have had, then, by default, they have to turn to violence. It is a sad fact, documented across the world, that if one seeks to redress a public grievance, violence is more effective than non-violence.

Violence is highly destructive of lives, property, the economy and the future of the country. In Sri Lanka, it has physically decimated the Tamil areas and is (economically) destroying the Sinhala South, indeed the whole country. The responsibility and answer are in the hands of the Sinhala government.

#### 9. An Internal Armed Conflict

The test that is used to determine whether the dissident armed forces is an “armed group” as opposed to a “terrorist group” is set out in Article 1 of Protocol Additional to the Geneva Convention of 1947. This states that an “*armed conflict... which takes place in the territory of a High Contracting Party (the GoSL)... between its armed forces and dissident armed forces or other organised groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concentrated military operations and to implement this Protocol*”.<sup>1</sup>

The LTTE has met these requirements of “an Armed Group” i.e. it is under a “responsible command”, has an organisational capacity, control over territory and has been able to carry out sustained military operations. It is therefore, by definition, an armed group and the Conflict is an “Armed Conflict” and not exercise in “Terrorism”.

#### 10. Two armies in one country. Disarming and arming.

No country has two armies under separate command. Either one of these has to be disarmed or the country has to be divided.

The LTTE cannot be disarmed. India, with the fourth largest Army in the world, tried to do this in 1988 and failed. To think that the Sri Lankan Army can do what India failed to do is totally unrealistic.

To disarm any armed group is almost impossible. What the Sri Lankan Armed Forces and Government are currently doing – arming paramilitary groups – is thoroughly dangerous. By engineering a split within the LTTE and arming the dissident (Karuna) faction, and arming Muslim groups, the GoSL has added another problem to an already complex one. After the ‘Karuna’ split in 2004, there has been an escalation in political killings in the 2004-2006 period. January 2006 recorded the highest number of political killings in a month (126).

If the problem of two armies under separate command in one country is to be resolved, the country will have to be divided. There simply is no alternative unless we are describing an entirely new State structure.

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<sup>1</sup> UN.Doc.a/32/44/annex 11, 1947, reprinted in 16 I.L.M.1442 (1977).

#### 11. GoSL is a fragmented entity

The Executive President and its coalition partners have entirely different agenda. The Armed Forces have their own agenda. This means that LTTE negotiations with the GoSL are meaningless, since conditions agreed to with the GoSL can be sabotaged from within the Government (coalition partners), and from outside (the Armed Forces).

#### 12 Self-determination

I have dealt with the right of self-determination for the Tamils in a recent presentation to the EU Parliamentarians a copy of which is available. I will only briefly deal with this here because of space constraints.

States that have freed themselves from colonial domination using the right of self-determination have denied that same right to populations within the State, who are no less dominated and repressed by the State, on the grounds that secession is a violation of their territorial integrity.

The 1970 UN General Assembly Declaration on Principles of International Law Concerning the Friendly Relation and Cooperation Among States supports territorial integrity but qualifies it by stating that States can invoke this only if they are “*conducting themselves in compliance with the principle of equal rights and self-determination of people*”. If people are denied these rights, deprived of access to governance, and subjected to conditions of oppression and discrimination, they are entitled to external self-determination. On these grounds the Tamil people have a very strong case for secession.

#### 13. The link between Human Rights violations and self-determination.

There is a close link between self-determination and the violation of human rights. The ability to determine a people’s political status as well as their economic, social and cultural development, is fundamental in protecting their human rights. This close connection between the two was stressed by the UN special Rapporteur Hector Espiell in his report on the “Right of Self-determination”. “*Human Rights and fundamental freedoms can exist truly and fully when self-determination also exists, such is the fundamental importance of self-determination as the human rights and prerequisite for the enjoyment for all of the rights and freedom*”.

Some (but not all) of the most serious violation of human rights will be addressed if there is self-determination for the Tamils.

#### 14. The impossibility of a military solution by the GoSL.

The GoSL cannot win this ‘war’. Nine major Sri Armed Forces operations from October 1995 – April 2001 have not only failed but have enabled the LTTE to amass a large quantity of weapons and substantial territory. The GoSL is the largest supplier of arms to the LTTE!

The economic cost has been massive and clearly not sustainable. The defence budget has increased exponentially every year from Rs. 750 million in 1977, to Rs. 52 billion in 2004, Rs. 56.6 billion in 2005, and a staggering Rs. 91.6 billion estimated for 2006. Actual expenditure overshoots budget estimates by 20-25%. With total Government expenditure for 2006 estimated at Rs. 568 billion, ‘defence’ expenditure is seriously affecting the economy and compromising productivity and the delivery of essential services e.g. health and education. It is simply not sustainable.

#### 15. A de facto Tamil State has already been established.

It is not possible to discuss solutions to the ethnic problem without appreciating the reality that the LTTE has already established a de facto Tamil State in the Wanni (Northern Sri Lanka). It has a separate Army and Navy, a comprehensive judiciary and Police, a Health and Education system, and much more. From all accounts, in particular from international observers<sup>2</sup>, it is functioning well. It is a *de facto* State but one that is so advanced and established that it cannot be dismantled. To claim that it can be is to distance oneself from reality.

#### 16. Problems in the Sinhala South.

It is not widely recognised that Sri Lanka is in crisis. The ethnic conflict is only a part (albeit an important part) of a much more general crisis.

There are extensive problems in the South with galloping corruption, increasing poverty, a breakdown of law and order, major problems with the Judiciary and Police (reputedly the worst in the world), and abysmally poor governance. There is a real possibility of a collapse of the Sinhala State which might not be preventable. A restart of hostilities will make this possibility a certainty. The implication is that even if the ethnic problem is settled, it will not resolve the problems in the South.

The crisis in the South is so serious that it might require a complete ‘remaking’ of the South – a daunting prospect. The answer, if there is one, is to completely dismantling of a corrupt, incompetent and hopelessly inadequate Central government, separate the Tamil areas as a separate Tamil State, extensively decentralise developmental power *within* the ‘new’ Sinhala State and hope for a better Sinhala leadership rising from the Sinhala periphery (such as has happened with the Tamils).

#### Possible solutions

The choices facing Sri Lanka are rapidly decreasing.

##### 1. A united Sin Lanka with nominal devolution of power to the Tamils.

This has “worked” in the past 50 years but will not work in the future. Attempts by the GOSL to persist with this “solution” will lead to war.

##### 2. A Federal Tamil State (internal self-determination)

This was a possibility three (or more) decades ago. It might no longer be a possibility. For any Federal arrangement to work there must be trust in the centre. Unless there are some very powerful international guarantees that the Sinhala centre will not destructively interfere with the function of the Federal Tamil State, especially if the Tamil State ‘takes off’ economically (as is likely to happen), a Federal arrangement will not work. I do not see the possibility of such an international guarantee.

The only advantage of a Federal solution is that it will be the most acceptable option for the international community. However, those outside Sri Lanka do not have to put up with a corrupt, irresponsible, incompetent, and unpredictable regime with ethno-religious chauvinists determined to make Sri Lanka into a Sinhala-Buddhist nation. International ‘acceptability’ is no reason to adopt solutions which the brutalized Tamil people after years of suffering find unacceptable.

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<sup>2</sup> For example, Professor Christian Stokke, Professor, Department of Sociology and Human Geography, University of Oslo, Norway – *Building the Tamil Eelam State: Emerging State Institutions and Forms of Governance in LTTE-controlled Areas of Sri Lanka* (2006 Third World Quarterly).

## A Confederation

Short of a complete separation of the Tamil State, the least that the GoSL can ‘get away with’, is a Confederal set-up. A single central administration with equal representations from the two confederating States (Sinhala and Tamil) will be responsible for monetary affairs and foreign policy (but excluding foreign aid). The degree of distrust is such that I do not know whether even this will work.

It might work in 30 - 40 *years*, when both States have developed and the necessary time has passed for the current bitterness and hurting to settle. At that point in time, it might be possible for two vibrant nations (for that is what the Sinhala Nation and the Tamil Nation are), to Confederates.

## 2. A Separate Tamil State (Eelam) and a Separate Sinhala State

This would essentially be a reversal (or partial reversal) of the disastrous British colonial ‘construct’ referred to earlier. There is no doubt that the two States, with hostilities a thing of the past, will develop (as did Malaysia and Singapore).

### Sri Lanka too small to be divided

The claim that Sri Lanka is too small to be divided is arrant nonsense. Sri Lanka is 25,300 sq.miles which is bigger than 71 of the 191 UN nations. If divided, the Sinhala State (73,000 sq.mls) will be larger than 62 UN nations, including 18 in Europe among which are six of its richest (Switzerland, Denmark, Belgium, Netherlands, Luxemburg and Liechtenstein). The new Tamil State (18,000 sq mls) is larger than 37 UN countries, and 30 times larger than Singapore which is fast becoming the worlds richest country on a per capita basis.

On a population basis, of the 191 UN countries, 138 have smaller populations than Sri Lanka. The Sinhala State will have larger populations than 134 UN members, the Tamil State larger than 70.

There is not a grain of truth in the claim that Sri Lanka is too small to accommodate two States which would be economically viable with a reasonable prospect of prosperity. To believe otherwise is egregious fallacy.

### Problems to separation

1. The Sinhala “mind set” that Sri Lanka is a Sinhala Buddhist nation part of which “cannot be given to the Tamils”. With the degree of anti-Tamil feeling in the South (and the potential to whip this up even more), a separate Tamil State cannot be ‘negotiated’. It will be have to be obtained by force.
2. India will not support a solution which she will not agree to implement when dealing with her own minorities. The point that seems to be missed is that the minorities in India, with few exceptions, have not been treated in the same discriminatory way that the Tamils in Sri Lanka have been treated by a succession of Sinhala Governments.

A new dimension is that with the impending collapse of the corrupt, incompetent and intransigent Sinhala regime, India (and the rest of the world) will not ‘jump in’ to rescue the Sinhala regime if threatened by the LTTE. The ball-game is different to what existed in 1972 when the Sirima Bandaranaike SLFP government was brought to its knees by the JVP uprising and had to beg for international help (which was given). It is different from 1987 when the J.R Jayawardene UNP government was brought to its knees by the LTTE and had to be rescued by the Indians. It is different from 2000 when the Chandrika Bandaranaike

Kumaratunga government found 20,000 Sri Lankan Forces entrapped within the Jaffna municipal limits, facing annihilation. Panic stricken, Kumaratunga appealed for international help and India even considered evacuating the trapped troops to India. The Sri Lankan Forces were able to extricate themselves with newly acquired military hardware from the Czech Republic!

President Mahinda Rajapakse rushing to see Indian Prime Minister Manmohan Singh and returning with some good advice (to settle his problems with the LTTE using Norwegian help), is visible evidence of a change in Indian thinking. So also the unprecedented insult of Tamil Nadu Chief Minister, Jayalalitha, who refused to even *see* President Rajapakse.

### The choice

The final choice of who does what in Sri Lanka will have to be determined by the main players and the people of Sri Lanka. We can only offer suggestions, hopefully based on reality and not emotion.

#### 1. GOSL

The GOSL must appreciate the determination and power of the new Tamil leadership backed by one of the most powerful and best organised militant armies in the world. If the GOSL fails to come up with a realistic power sharing with the Tamils, it will be war. This will almost certainly lead to a collapse of the economy which is already in crisis.

A problem facing the GOSL is the increasing popularity of the extremist Sinhala political forces. This is a reflection not necessarily of increasing anti-Tamil feelings amongst Sinhalese but of economically desperate people clutching at straws in the context of increasing poverty. The increasing Sinhalese support for the “Marxist” JVP (in reality Sinhala political opportunists) and JHO (hardline Buddhist clergy) is a frustration with the main-line Sinhala political parties – the UNP and the SLFP - and their inability to address domestic economic problems. It is a problem that cannot be addressed without a major decentralisation of administrative power to the periphery – in this case, the Sinhala periphery.

#### 2. The LTTE

The LTTE has already declared its choice by establishing a *de facto* Tamil State. The move from *de facto* to *de jure* might mean war, with the shedding of more blood (including LTTE blood). That is a decision they will have to make.

The LTTE have promised the Tamils ‘deliverance’ from Sinhala oppression. After so much blood shed and destruction of the Tamil areas as a result of the pursuit of this “liberation”, it will not be possible for the LTTE to agree to some nominal power-sharing arrangement with the Sinhalese. If they do so, they will lose credibility.

#### 3. The Sinhala people

The Sinhalese must clearly see that a failure to share power with the Tamils will result in war. Despite claims to the contrary, it will almost certainly be an unwinnable war with bankruptcy of the country a virtual certainty.

The Sinhala people are the most powerful group that can pressure the Sinhala Government to come up with some realistic proposals to share power with the Tamils. I am not convinced that this crucially important group has been properly informed of the alternatives to war.

#### 4. The Tamil people

It is often forgotten that it is not the LTTE but the Tamil people, who, in 1977, voted *en masse* in the North and East for a Separate Tamil State. They have seen the cost of this in terms of human suffering and devastation. Perhaps it is time their views were obtained again although I personally do not think that they will any different. From the suffering that has been inflicted on them by their Government, I suspect that their determination to free themselves from Sinhala Governments will be even greater.

If the Tamils in the North and East still feel that as they did in 1977, the international community has a duty to support them.

#### 5. The Muslims

They have a problem. They are too dispersed to do anything other than to negotiate with the Sinhala and Tamil regimes for fair and just treatment. They have made a major contribution to Sri Lanka in a variety of areas and, like other ethnic groups, have a right to be where they have been for years and be treated with dignity, respect and equality. If they are not, there will certainly be an armed uprising which is already occurring.

#### 6. The Plantation Tamils

These seriously neglected people working in near slave conditions deserve better treatment. By their sweat and toil they have put Sri Lanka on the map. They have no 'fire-power' but if they down tools, Sri Lanka will collapse in a week. Sri Lanka must realise that the time for slave labour is gone. A re-envisioning of Sri Lanka must address the disgraceful treatment these people have been subjected to for more 150 years.

#### International action

##### a. Governments

The least that foreign governments can do is not to inflame an already volatile situation. This means refraining from making irresponsible comments such as what a succession of US Ambassadors in Colombo have done or supplying weapons to either side.

Taking partisan and stupid actions such as banning the Tamil Tigers from visiting their countries only results in Governments opting out of playing a constructive role in the Peace Process.

##### b. Expatriate Tamils and Sinhalese

To ban expatriate Tamils and Sinhalese from supporting one or other side in this ongoing conflict is an exercise in futility. It cannot and will not work.

##### b. Peace Groups and facilitators

If international Governments are, by their stupidity, opting out of the Peace Process, it is up to various Peace Groups to fill the void and provide at least the opportunity for a dialogue. If these groups can then lobby international Governments to behave in a responsible manner in dealing with the complex problem in Sri Lanka, much can be achieved.

### A new “breed” of Sri Lankans

Sooner or later there will have to be a new breed of Sri Lankans who respect each other’s culture, language and ethnicity, especially since both the Tamil State and the Sinhala State will have a substantial mix of other ethnic groups. To ask the half million Tamils living in the Sinhalese areas to leave and go to the Tamil area is absurd. Similarly, to ask the Sinhalese in the Tamil areas, whether they got there by Government manipulation of population dynamics or not, to leave the Tamil areas and return to the Sinhala areas is equally absurd. There are also substantial numbers of Moors living in both areas, who have a right to be where they are, as do the other ethnic groups.

For a new “breed” of Sri Lankans to appear, the abolition of the “language streams” in schools is mandatory. A disastrous decision (1943) recommended that the mother tongue should be used as the medium of instruction in schools. As a result, children were separated into different “streams” depending on their mother tongue i.e. ethnicity. It is the very opposite of what was needed for nation building. This must be reversed if the Sinhala nation and the Tamil nation are to become nations where there is mutual respect among the ethnic groups that will necessarily be there in each nation.