

Introduction

Since the end of the war in Sri Lanka in May 2009, the discourse on Sri Lanka has largely revolved around the country's human rights record and the Government's attempts at redressing Tamil grievances. Revelations in international media about the scale of human rights violations during the last phase of the military operations against the Liberation Tigers of the Tamil Eelam (LTTE) led to mounting international pressure on Sri Lanka for accountability of war crimes. The Sri Lankan Government (SLG), in turn, made efforts to address the issues of resettlement of Internally Displaced Persons (IDPs) and the economic development of war affected zones in the Northern and Eastern Provinces of the country. President Mahinda Rajapakse also constituted the Lessons Learnt and Reconciliation Commission (LLRC) to recommend measures to address the Tamil problem and framed a National Action Plan (NAP) to implement its recommendations. However, key Tamil grievances, related to the devolution of power, remained largely neglected. Attempts at fixing the accountability for human rights violations were also half-hearted. This was evident in the widely publicised Army Court of Inquiry, appointed to investigate allegations of war crimes, which eventually absolved the Army of any wrong-doing¹. This in turn, shaped the international opinion on the SLG's willingness to resolve the Tamil problem. Today the prospects for reconciliation in Sri Lanka are linked to certain key issues. These include (i) Action related to human rights accountability,

(ii) Resumption of dialogue between the main Tamil Party, Tamil National Alliance (TNA), and the Government on finding a political solution to the Tamil grievances and, (iii) Preventing the rise of religious intolerance in the country. The contemporary issues with regard to these aspects are discussed in this paper.

Human Rights Accountability

Sri Lanka has faced three consecutive resolutions at the United Nations Human Rights Council (UNHRC) since 2012. The incremental text of the resolutions, over these years, portrayed the growing impatience of the international community with the lack of progress on reconciliation and human rights accountability. The resolution of 20122 called on SLG to implement the recommendations of the LLRC Report while the resolution of 20133 linked the issues of reconciliation and accountability and termed the country's NAP as an inadequate measure to implement the LLRC recommendations. While acknowledging the progress made by the SLG in the fields of economic development and resettlement, these resolutions stressed on the need for a credible domestic mechanism to investigate into human rights violations.

The 2013 resolution also requested the UN High Commissioner for Human Rights (HCHR) to report on the progress in implementation of the resolution in Sri Lanka. However, finding the progress inadequate, the HCHR recommended a continuous scrutiny of the human rights situation and criticised the SLG for making no comprehensive effort to independently or credibly investigate war crime allegations. The change in the tone and tenor against Sri Lanka was evident with the warning that if the SLG did not engage in a credible national process with tangible results, including successful prosecution of perpetrators of war crimes, before March 2014, the international community would have a duty to establish its own mechanism.⁴

The latest resolution in March 2014⁵ has, thus, laid the grounds for an international investigation into human rights and war crimes related allegations against both the Government Forces and the LTTE from the year 2002 to 2009. The resolution has mandated the Office of the HCHR "to undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka during the period covered by the Lessons Learnt and Reconciliation Commission, and to establish the facts and circumstances of such alleged violations and of the crimes perpetrated with a view to avoiding impunity and ensuring accountability, with assistance from relevant experts and special procedures mandate holders".⁶

There is little doubt that the unwillingness of the SLG to address the issues raised in the three resolutions led to the present scenario of a proposed investigation against the country. Nevertheless the latest resolution does not augur well for reconciliation in the country. The Tamil and Sinhala polity in Sri Lanka has been polarised due to the incessant focus on human rights. While the hard-line Sinhala political parties in the country view the human rights rhetoric as another ploy of the Tamil extremists to achieve their eventual goal of a separate state, the Tamil political parties seem to be using the human rights issue to sustain international pressure on the SLG to achieve other substantial concessions on contentious issues. The polarised positions between the SLG and the TNA were evident in their reactions to the latest resolution. The SLG has refused to cooperate with any investigation mechanism of the Office of the High Commissioner for Human Rights (OHCHR), terming it as an encroachment on its sovereignty, while the TNA welcomed the resolution terming it a victory for truth and justice and a strong message to the SLG on the unsustainability of its current policies.

Another reaction of the SLG has been the renewed vigour in investigating attempts by LTTE remnants to revive the group. Many LTTE cadres who had managed to escape the fighting have either left the country or have continued to lie low and away from the eyes of the authorities. Aware of such elements, the SLG's target, after the end of the war with the LTTE, has been to rout both LTTE remnants in the country and initiate action against Tamil diaspora groups who have been supporting the Tamil cause since the 1980s. While these attempts have been ongoing since 2009, recent reports of alleged anti-state activities of LTTE elements surfaced around the same time as the UNHRC session in early March. A few days after the session concluded, the SLG proscribed 15 Tamil diaspora organisations and over 400 individuals for being affiliated to the LTTE.⁷ Subsequently, commemoration of those who were killed during the war between the Sri Lankan forces and the LTTE was also banned ahead of the 5th anniversary of the decimation of the LTTE on May 198, even as the Sri Lankan Armed Forces (SLAF) hold "Victory Day" celebrations every year to celebrate their victory over the LTTE. While the SLG is well within its right to counter the threat of terrorism, for the Tamils restrictions on their right to mourn the dead and the right to hold free discussions are signs of repression and

intimidation. These developments have further heightened the insecurity amidst the Tamil population.

After the resolution was passed the SLG has also been keen to give more impetus to domestic mechanisms for addressing reconciliation issues such as setting up of a Sri Lankan version of a Truth and Reconciliation Commission (TRC)⁹ besides speeding up the implementation of several physical aspects of the LLRC recommendations. Though such an impetus is largely in order to reduce international pressure and stymie the international investigation before it begins, there has been a fresh momentum in the country towards the need for effective dialogue and domestic investigation mechanisms. The apposite utilisation of such a momentum would not only address the issues raised in the UNHRC resolutions but also build trust within the Tamil community. Key to such an environment would be the removal of the impunity enjoyed by the SLAF, establishment of the truth and delivering of justice and rendering accountability for human rights crimes.

Government- TNA Relations

The measures outlined above could, in turn, lay the grounds for a durable political solution to the conflict. Furthermore, a political solution also rests on the outcome of a dialogue between the SLG and the TNA. A dialogue between the TNA and the SLG, on finding a political solution to the Tamil issue, had been initiated in 2011. It continued through that year, in fits and starts, but even after several rounds of talks, both parties failed to arrive at any solution. Thereafter the SLG formed a Parliamentary Select Committee (PSC) envisaging the participation of all political parties to recommend constitutional amendments to address the Tamil grievances. The SLG's insistence on TNA's participation in the PSC has been one of the contentious issues between the two sides. President Rajapakse has been insisting that since any arrangement reached between the two parties has to be approved by the parliament, the PSC is the only platform for resolving the Tamil issue. However, the TNA wants to present a proposal at the PSC once an arrangement was reached bilaterally between the TNA and the SLG. Further, suspicions that the PSC proceedings were being state-managed by President Rajapakse increased the scepticism and served to strengthen hard-line elements within TNA at the cost of moderate elements.

Though the TNA was disenchanted with the SLG, it utilised the formation of the Northern Provincial Council (NPC) as a platform to voice its grievances. Elections to the NPC were held in September 2013 after nearly three decades, addressing one of the longstanding demands of the Tamils for political representation. SL's main Tamil political party, the Tamil National Alliance (TNA) won a landslide victory, securing 30 out of the 38 seats while the ruling coalition United People's Freedom Alliance (UPFA) secured the remaining 7 seats.¹⁰ However, despite the victory, the TNA led NPC has been unable to function effectively. The NPC government faced a host of problems relating to the devolution of power under the 13th Amendment (13A) including interference by the NPC Governor, Major General GA Chandrasiri (Retd), in the administrative domain of the Chief Minister CV Vigneswaran, problems in the appointment of key officials, like the Chief Secretary, allocation of required finances by the Centre, inability to solicit foreign funds directly and the inability to exercise land and police powers.¹¹ Another NPC concern has been the military control over vast swathes of private land in the province and the delays in reallocation or return of land to the Tamils in the province.¹²

At the core of the problem today is the implementation of the 13A, which resulted from the Indo-Sri Lanka Accord of 1987 and laid the basis for the devolution of powers to all the Provinces in Sri Lanka. After the failure of talks in 2011, the PSC has formed the main forum for discussing the implementation of the 13A. However, the credibility of the PSC can be questioned. Not only the main opposition United National Party and the TNA, but some of the constituents of the UPFA have also boycotted the proceedings. There are also suspicions amidst the TNA and some allies of Rajapakse that the PSC proceedings are being stage-managed, with a majority of the people appearing before the PSC, either advocating against devolution of powers or recommending that the provincial council system itself be abolished.¹³ This, along with attempts to repeal some of the provisions of the 13A and reduce the powers vested with the Provinces, heightened the scepticism of the TNA which sought recourse in using the international pressure on human rights issues to compel the SLG to address as many contentious issues as possible. As a result the two sides have maintained a confrontationist attitude both at the national and international levels.

In the aftermath of the latest UNHRC resolution, there has been a momentum towards reviving the talks between the two sides. Significant among the efforts at hand is the likely engagement of South Africa as a facilitator between the SLG and the TNA. The South African (SA) Government, keen on facilitating the talks, had appointed a Special Envoy to Sri Lanka, Cyril Ramphosa, to hold discussions with the two sides on the proposed agenda of the talks. There has also been some forward movement on the SA initiative with the TNA delegation's visit to the country in early April 2014 and a scheduled meeting between Ramphosa and the SLG in June 2014. However, it is important to note that in the past whenever such momentum for talks had been built, political calculations of the ruling government always took precedence over the resolution of the Tamil issue. It, therefore, remains to be seen whether the present momentum can be sustained. Though the SA initiative may have come at an appropriate time for the SLG to counter international claims of its unwillingness to resolve the conflict, sections within the UPFA are against SA's role. Ramphosa is perceived to be close to pro- LTTE Tamil diaspora groups such as the Global Tamil Forum (GTF) and Transnational Government of Tamil Eelam (TGTE), which are now proscribed by the SLG, and is viewed as being influenced by the Tamil diaspora's narrative of the conflict in Sri Lanka.

Religious Intolerance

Besides the Tamil problem per se, the prospects for reconciliation in Sri Lanka are also being threatened by the growing trend of religious intolerance in the country. Over the past year and a half several Sinhala extremist groups have been formed in the country. These include the Bodu Bala Sena (BBS), the Sinhala Rawayaya and the Ravana Balaya. BBS has spearheaded an anti-Islam campaign which has included protests against the alleged forcible conversion of Buddhists to Islam, attacks on mosques and Muslim businesses, and also cases of physical assaults. The BBS has further objected to the attire of a section of Muslims and the practice of halal certification.¹⁴ The Sinhala Rawayaya has been primarily targeting the Catholic establishment while the Ravana Balaya has been campaigning against the TNA, the support for SL Tamils from Tamil Nadu in India, and the international community, particularly the United Nations, for

the various resolutions brought against Sri Lanka at the UNHRC. These groups have also been at the forefront of an anti-13A campaign which is said to be supported by sections within the SLG.¹⁵

The anti-Muslim aspect of the campaign by these groups has in turn heightened the insecurities of the Muslim minority in the country. The reluctance of the SLG to act, so far, on the excesses of these groups and the relative impunity with which these groups have been able to function over the past year has raised the concerns of the Muslim polity and the Muslim population. Hence, taking a leaf out the TNA, the Sri Lanka Muslim Congress (SLMC), a constituent of the UPFA, sought to internationalise the religious intolerance in country with a recent report titled “Religious Violence in Sri Lanka January- December 2013”, which has detailed particulars of 227 incidents of hate crime against Muslims, including 14 cases of physical assault, 12 attacks on mosques and 12 on Islamic businesses¹⁶. The issue of religious intolerance has thus not gone unnoticed by the international community which has included this aspect in the latest UNHRC resolution.

Conclusion

Progress on the aspects elaborated above could lay the grounds for effective reconciliation in Sri Lanka. The contemporary concerns on human rights accountability and dialogue between the SLG and TNA are not new in the sense that Sri Lanka has been facing a debate on the devolution of power and on the basic rights of the Tamils for decades. However, the key issue is the ability to sustain the momentum for reconciliation. Such a momentum can be sustained only if the SLG can give precedence to the resolution of the Tamil problem over its own political calculations.¹⁷ In the present scenario the momentum is being driven largely by the need to rebut international claims and allegations, which does not bode well for the prospects of reconciliation.

Endnotes

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17. Understanding the political compulsions and the calculations of the government in Sri Lanka merits another article in itself and hence has not been dealt with in this paper.

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