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OBSTACLES TO PEACE IN SRI LANKA

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For some people, the February 2006 peace talks between the government of Sri Lanka (GOSL) and Liberation Tigers of Tamil Eelam (LTTE) in Geneva came literally as a last-minute reprieve from a death sentence; in fact, the reprieve came too late for victims of the undeclared war over the previous two months. We must be grateful that full-scale war was averted, but also remember that this has happened before. Every time there is a breathing space, there is renewed hope that a durable peace will follow, and every time that opportunity has been allowed to slip away. If the same thing is not to happen yet again at the next round of talks in April, it is necessary to identify the obstacles to peace and ensure that they are removed, one by one, until only Prabakaran and his supporters are left. All our experience up to the present confirms that they will be the hardest obstacles to remove, but if all others are cleared out of the way, they too will have no choice but to jump on the bandwagon or be cleared away themselves. So let us identify these obstacles.

No.1: Head-in-the-Sand Denial of Reality

If the peace process is to get anywhere, government negotiators as well as NGOs and liberals campaigning for peace need to have their eyes wide open. This involves recognising the reality that (a) thanks to the Ceasefire Agreement (CFA) of 2002, a de facto separate state already exists in parts of the Northeast, with its own well-equipped army and navy and rudimentary air force, police, tax system and foreign policy; the government does not in any sense rule these areas although it does finance them. (b) Prabakaran will never settle for anything less than a separate state; for him, ceasefires and negotiations are purely for the purpose of re-arming, recruiting and training more soldiers, and eliminating Tamil critics and rivals. (c) Having achieved most of these goals over the past four years, what he is aiming for currently is to extend the territory of the separate state, gain international recognition which will preclude any outside interference in the affairs of his Tamil state, and above all, eliminate his most troublesome rival, Karuna. (d) The Tamil state is a fascist dictatorship, where Prabakaran wields the power of life and death not only over its inhabitants but over all Tamils in Sri Lanka, and has used it to eliminate thousands of

If the Norwegian mediators had genuinely wanted peace, they would have called for a new CFA that took account of the changed reality: a three-cornered CFA, with each of the armed parties agreeing not to attack the other two, and a human rights clause in the agreement, or a linked human rights agreement, that would rule out the harassment or killing of civilians by the Sri Lankan armed forces, Prabakaran and Karuna. Ian Martin, the advisor on human rights to the peace process, could have been invited to present his draft of the human rights agreement, and it could have been negotiated and agreed between the three parties. But obviously this did not suit Prabakaran, and therefore it did not suit his Norwegian mentors. Therefore they resorted to the expedient of calling Karuna's forces a 'paramilitary' as defined by the CFA, whereas it is abundantly clear that these forces were part of the LTTE when the CFA was signed in 2002, and therefore the term 'paramilitary' does not refer to them.

The government is in a double-bind with respect to the Norwegian mediators: it cannot dispense with them, because then Prabakaran would end the ceasefire and the government would be blamed for the ensuing war. But it can be very firm in refusing to violate the ceasefire or collude in war crimes at their behest. So long as the LTTE insists that the old CFA still holds, Karuna is still a legitimate armed party and it would be a ceasefire violation for the government to attack him, just as it would be a violation if they attack Prabakaran. If they want Karuna to be disarmed, a new CFA with water-tight human rights guarantees must be negotiated and signed between the three parties, thus bringing to an end the killing of armed as well as civilian supporters of both warlords.

In other words, the Norwegian mediators should be challenged openly whenever they put obstacles in the way of peace, and on no account should their instructions to violate the CFA be followed. If the government concedes to LTTE and Norwegian demands to disarm Karuna without also disarming Prabakaran, it will not only be violating the CFA but also colluding in a war crime and throwing away the chance of achieving peace in the foreseeable future. If Karuna's forces are paramilitaries, then so are Prabakaran's, and both should be disarmed. Alternatively, both have to be recognised as armed parties

civilian dissidents over the years, including Rajani Thiranagama, Sarojini Yogeswaran, Neelan Thiruchelvam and Lakshman Kadirgamar; freedom of expression or association and the right to elect representatives in free and fair elections contradict the essence of this Tamil state.

Unless negotiations take account of these ground realities, they will simply serve to prolong the conflict, as on previous occasions.

No.2: Undemocratic Procedures

Far too many people, from negotiators to NGOs, think that peace can be an agreement between political leaders, leaving the rest of the population out of the picture, which is not only undemocratic, but also grossly unfair, because the very people who suffer most from the outcome are rendered powerless to have any influence over it. This is a conception that sees a household where the wife is too terrified ever to disagree with her husband as a 'peaceful' one. The fact that she always agrees with him only because she is afraid of being thrashed if she doesn't seems not to worry advocates of this kind of peace.

A different conception would see genuine peace as being dependent on justice, equality and mutual respect, but this would imply taking into consideration all the views of all those involved. The idea of building a 'Southern consensus' on the peace process is a gesture in the right direction, but still falls far short of what is required. The GOSL is not a government just of the South, but of the whole island. In some ways, it is even more important to ensure that the people of the North and East are represented, since the LTTE has deprived them of the right to vote for their own representatives in free and fair elections for such a long time. It is therefore imperative to invite everyone – political parties of all shades, civil society organizations like trade unions, NGOs, even individuals – to participate in a debate on the shape and form of a final peace settlement.

This would solve the problem of the exclusion of Muslims from the ceasefire talks too. It is not appropriate for them to participate in the ceasefire negotiations as a separate entity, since they are not an armed party to the conflict. But their participation in shaping the final peace settlement is crucial. If the government wishes to negotiate with the LTTE from a position of strength, it can do so only if it is genuinely representing the people of Sri Lanka, and this makes it incumbent to take into consideration all the views of all sections of the population. It is a positive development that the government negotiating team should have representation that is more balanced in terms of ethnicity, religion and gender, and the decision to have a Muslim woman is especially welcome. But it is even more important to ensure that

to the old CFA. A new CFA with strong human rights guarantees is by far the best alternative.

No. 5: Ignorance of International Humanitarian and Human Rights Law

Resisting demands from NGOs and Norwegian mediators that would involve the GOSL in violating international law, as well as justifying the rejection of such demands, would be a great deal easier if the government were conversant with the provisions of this body of law, and had made a public commitment to abide by them. For example, while it is legitimate for the armed forces to take action in self-defence, since they cannot be expected to act as sitting ducks, it should be made crystal clear to them that harming civilians in any way is a crime, and that anyone who does so will be punished severely. The police should be warned likewise, and the warnings should be implemented strictly. The government should also make more effort to protect human rights in the areas under its jurisdiction, even when the violations are carried out by other parties; for example, to protect children from conscription, civilians from abduction, extortion and murder, and so forth. Its efforts will undoubtedly be constrained by the inability to carry out investigations or arrest suspects in LTTE-controlled areas, but that is not an adequate excuse for failing to do their best to protect civilians in government-controlled territory.

The most urgent action required from this point of view is to study, sign and ratify the Rome Treaty of the International Criminal Court (ICC). Human Rights Watch could be requested to provide technical assistance in drafting national implementing legislation, and this will be the most convincing evidence that the government is committed to eliminating the crimes against humanity and war crimes committed in the past against Tamil and Muslim communities in Sri Lanka. Moreover, it would facilitate a permanent solution of the conflict by imposing on all future governments the obligation to abide by the Rome Treaty or risk prosecution in the ICC. This would provide the government with a means of evaluating not only its own conduct but also the conduct of other actors in terms of international law. Prabhakaran, as supreme commander of the LTTE, has been guilty of crimes against humanity (the expulsion of Muslims from the North and massacre of Muslims in the East, for example) and innumerable war crimes as defined by the ICC: intentionally directing attacks against civilians not taking part in hostilities, conscripting or enlisting children under the age of fifteen years, ordering the displacement of the civilian population, and committing murder, cruel treatment and torture, for example. Any massacre of unarmed 'paramilitaries' or Karuna fighters constitutes a war crime, and if the government and/or the Norwegian mediators were to collude in this by disarming or

the team actually represents the people of Sri Lanka.

The process could begin with all participants making it clear what they mean by 'peace'. Is it, for example, a situation where people in the North and East are too terrorised ever to disagree with their lord and master because they know they will be killed if they do? Does 'giving peace a chance' mean ignoring the killing of dissidents and forcible conscription of children? If not, how do they envisage the human and democratic rights of minorities and political dissenters being protected, locally and nationally? Is it a unitary or federal state – or, indeed, two states – and what do the participants mean by these terms? The Opposition, in particular, must not be allowed to stand in the way of peace by mindlessly opposing anything suggested by the government, as in the case of the proposals for constitutional change in 2000; they must be required to spell out their own proposals for evaluation by the public. Once all the positions have been presented, differences can begin to be thrashed out, with participants obliged to defend their own view in public against differing ones. Without such a process, the government cannot represent all the people of Sri Lanka in the negotiations next April. Lack of such a process has been a major obstacle to peace in the past.

No.3: Sinhala Chauvinist supporters of Eelam

If the government were able to prove beyond all reasonable doubt that Tamil people could expect justice and equality in a united Sri Lanka, a great deal of political support for the LTTE would melt away. It is the utterances of Sinhala chauvinists, throwing doubt on the possibility that Tamils will ever be free of discrimination, persecution and violence in a united Sri Lanka, that provides much of the support for separatism. Despite claiming to love their country, these people seem to care neither that their stance condemns it to permanent war and de facto division, nor that large numbers of Sinhalese are needlessly being killed in the process.

Their latest ploy is to refuse to consider anything other than a unitary state in Sri Lanka. Why? Because, they say, federalism is simply a stepping-stone to a separate state. This displays abysmal ignorance of the history of our subcontinent. An examination of debates prior to Independence in India suggests very strongly that if greater autonomy had been granted to Muslim-majority provinces, partition might have been avoided. Later, East Pakistan split off to form Bangladesh, again, because it was not given enough autonomy. Even in Sri Lanka, it is the unitary state as practiced by the Sinhala chauvinists that has resulted in a separate state of Eelam existing in parts of the North and East which are no-go areas for the government.

Conversely, if India had not been a federal state, it is likely that there would have been more splits. In other

insisting on the disarming of the victims, they too would become persons who aid, abet or otherwise assist in the commission of the crime; indeed, it is possible that by pouring money into the LTTE at a time when they knew it was committing war crimes, the Norwegian mediators are already liable for prosecution in the ICC.

It is not accidental that two eminent Tamils working to make Sri Lanka compliant with international norms for human and democratic rights – Neelan Thiruchelvam and Lakshman Kadirgamar – were both killed by the LTTE.

No.7: Other Supporters of Fascist Eelam

This is a mixed bag, consisting firstly of expatriate Tamil supporters of Eelam, including those who choose to live in Sri Lanka but outside their proclaimed homeland. While eager to shed the last drop of other people's blood for this homeland, it is notable that they themselves stay away, and make sure their children cannot be conscripted by the LTTE. And while extorting money from other Tamils to support the cause of Eelam, their own investments are made outside it. Such cowards and hypocrites should be told that their sincerity is under suspicion so long as they hold back from sacrificing themselves, their children and all they possess for the cause. Unless they are ready to live in Eelam and work to build it up, they have no right to coerce others to support it.

Then there are NGOs which raise large sums of money for peace activities but never talk about the plight of Tamils and Muslims in LTTE-controlled territory, and promote the LTTE's claim that they are the sole representative of the Tamils. Most Sinhalese are compassionate people; this compassion was demonstrated during the tsunami. Their sympathy and solidarity with the Tamil and Muslim people of the North and East can easily be aroused by telling them about the terrible oppression inflicted on these people by the LTTE. But instead of doing that, these NGOs stir up hatred against Tamils by suggesting that they support atrocities committed by the LTTE. This is especially dangerous because the military is recruited mainly from the Sinhalese masses. When they see dozens of their comrades blown up in unprovoked attacks, they conclude that ordinary Tamil civilians are responsible because this is what they have been told, and retaliate accordingly.

These NGOs share responsibility with extremist Sinhala nationalists for instigating violence by the armed forces against Tamil civilians, and perpetuating the war by spreading hatred and prejudice. During their frequent trips abroad, they propagate the same picture, thus blocking any solidarity action for the beleaguered Tamils and Muslims of the Northeast; indeed, people who do not know much about Sri

words, the truth is the very opposite of what the Sinhala chauvinists claim: federalism can keep a country united, over-centralisation leads to division. Given the trauma suffered by so many Tamils in a unitary Sri Lanka, it is not surprising that many of them want a federal state. In these circumstances, rigid adherence to the goal of a unitary state is calculated to perpetuate the de facto existence of a separate state in the North-East. The offer of a federal state in an overall democratic framework, perhaps implemented in a phased manner, would, if accepted by the LTTE, oblige them to lay down their arms and respect human and democratic rights. If rejected by them, it would demonstrate their contempt for democracy and rejection of peace, thus alienating some of their supporters. Either way, it would be a step towards peace and a united Sri Lanka.

It is possible that in going along with the unitary-statist position, the President was simply bargaining with the LTTE: they demand a separate state, he offers a unitary state, and they settle for a federal state. But this is a dangerous game that risks alienating potential supporters; for example, many Tamils in Sri Lanka, and the Indian government, would not feel able to support the GOSL if it sticks to this position. Yet the government may also be constrained by election pledges given to some of its allies.

The best way to resolve this dilemma is by means of the democratic process outlined above: open up the issue for debate, so that the unitary-statists have to present arguments in support of their position and respond to counter-arguments in public. Perhaps it will then become clear that in Sri Lanka today, 'unitary' is the opposite of 'united'. The Sinhala chauvinists have had fifty-eight years to show us that a unitary state can work in Sri Lanka, and all they have to show for it is a divided country at war with itself. A change is long overdue, and all those who really love their country can be convinced of it. Those who refuse to accept change should not be allowed to continue being an obstacle to peace.

No. 4: Ceasefire-Violating Norwegian Mediators

The Norwegian mediators seem to have short memories. In 2002 they presided over a CFA with Prabakaran and Karuna on one side, and the GOSL on the other. But in mid-January 2006, they issued a strong statement insisting that the government must disarm Karuna's forces, which, as the case of Mahattaya and his supporters demonstrates, is equivalent to handing them over to be massacred. Knowing this, Karuna said he would resist being disarmed unless Prabakaran's forces were also disarmed. In other words, the Norwegian mediators want the GOSL to start a war with Karuna.

One can imagine Prabakaran smiling smugly as the

Lanka would not even guess that there are Muslims in Sri Lanka, much less that they have been subjected to ethnic cleansing by the LTTE! Thus these NGOs ensure a steady supply of money, prestige and foreign trips for themselves by perpetuating the war. While it would be counterproductive to harass NGOs in general, since many are doing excellent work, the activities of these war-mongers dressed up as peace-makers certainly requires scrutiny.

Thirdly, there are some Sinhalese Left and liberal intellectuals, like those who supported Ranil Wickremasinghe in the last presidential elections, whose intentions may be good but ethical and philosophical assumptions are questionable. They seem to think that the end – peace – justifies the means – the murder of thousands of Tamils and Muslims, and selling the people of the North and East into slavery – without considering that using human beings as a means to an end is morally unjustifiable. They think the world is divided into those who are oppressors and those who are oppressed, without seeing that some people who are oppressed as Tamils can also be oppressors towards Muslims and other Tamils. The irony is that by supporting the oppressors among the Tamils, they fulfil the stereotypical Sinhalese role of being oppressors towards the rest of the Tamils! Lenin would have been astonished to know that people who claim to be his followers interpret the 'right to self-determination' as meaning the support of a fascist dictatorship against the people fighting to liberate themselves from it! Finally, they seem to forget that pacts signed by fascist leaders cannot guarantee peace: the fact that Hitler signed such pacts with Chamberlain and Stalin did not prevent him from attacking Britain and Russia. The positions of such people should be taken on and demolished in public debate.

Finally, there are elements in the international community, for example the Norwegian government, some BBC reporters and even some left-inclined MPs and activists, who have supported the LTTE. Their main problem seems to be that they are stuck in the horrific events of the 1980s in Sri Lanka, and ignorant of the changes that have taken place since then. But positions that would have been appropriate and helpful when Tamils were being slaughtered by a fascist Sinhalese state are inappropriate and harmful when Tamils are being slaughtered by a fascist Tamil state. If newspapers like The Hindu and organisations like Human Rights Watch can produce intelligent and well-informed reports about the current situation, other reports should aspire to the same standards of excellence. And in this day and age, when such reports are accessible on the Internet, it is inexcusable that people who have claims to being progressive or unbiased should take positions that aid and abet the commission of human rights violations.

This is all the more disappointing because the

two enemies who threaten his position as absolute ruler of Eelam destroy each other. But what interest do the Norwegian mediators have in such an outcome? How did Karuna, an armed party to the original CFA become a 'paramilitary' – a term that has been used for all those killed by the LTTE, including civilian critics? Why is the government, which was earlier prohibited from intervening in this 'internal dispute', now being ordered to do so? Why are they urging the GOSL to violate the CFA and plunge the country into war?

Since it is most unlikely that all of them are suffering from Alzheimer's disease, what explains the extraordinary conduct of the Norwegian mediators? Shortly after negotiations began, Prabhakaran made the government's refusal to negotiate on the Interim Self-Governing Authority (ISGA) – which would have legitimised Tamil Eelam – an excuse for breaking off peace talks. Even before the negotiations broke off, he was killing Tamil dissidents and forcibly conscripting children, and subsequently he also started threatening a resumption of the war, a threat that he latterly began to carry out.

All this was predictable, and entirely in character. Meanwhile, the Norwegian mediators poured 25 million Norwegian kroner into his pockets, while covering up for his ceasefire violations and war crimes. When Karuna split away, they said this was an internal problem and insisted that the government should not help him, because at that point Prabhakaran boasted he would be able to wipe him out and warned the government not to intervene; the PA government, to its shame, acquiesced in the massacre of Karuna forces. But once it became clear that Prabhakaran would not find it so easy to wipe out Karuna, he was transformed into a 'paramilitary,' and it ceased to be an 'internal affair,' for no reason other than that he had become a problem for Prabhakaran. The argument that he is a 'spoiler' so far as the peace process is concerned does not hold water: indeed, one of the main reasons why he lost favour with Prabhakaran was because he was willing to compromise on the demand for a separate state in order to reach an agreement on peace.

So it appears that the goal of the Norwegian mediators is neither peace in Sri Lanka nor the restoration of democracy in the North and East, but Prabhakaran's totalitarian rule in the Northeast. This hypothesis is confirmed by the behaviour of the Norwegian government in Norway itself, where they allow LTTE thugs to terrorise and extort money from Tamil refugees. Even getting Prabhakaran back to the negotiating table at this point in time (why not earlier?) becomes explicable from this point of view. It seems clear that Solheim told him his blatant attacks on the Sri Lankan armed forces had isolated him internationally, and if he waged a full-scale war at this point, with Karuna on one flank and US-backed Sri

international community has the power to protect human rights in Sri Lanka if it wishes to do so. The recent report by Amnesty International (AI) pointed out that existing organisations like the Sri Lanka Monitoring Mission (SLMM), UNICEF and the ICRC do more harm than good when cases of child conscription are reported to them, by raising these cases with the LTTE but doing nothing to protect the children. The LTTE responds by threatening the families that they will never see their children again if they report these cases to international organisations, and the terrified families are blackmailed into silence. Amnesty has suggested independent international human rights monitors to investigate and take action on such reports. If the UN would appoint such monitors, and take the action proposed by the Secretary-General – namely, a ban on international travel by leaders of the LTTE, an arms embargo, and a ban on any funding being channelled to them from abroad until they comply with the requirement to free all child soldiers and demonstrate that they are not recruiting any more – thousands of children would be rescued from this gross violation of human rights.

Preconditions for Peace

If the next round of peace talks in April are not to have the same disappointing outcome as previous efforts, everyone in Sri Lanka will have to make an effort to support them by initiating a debate around a durable peace, in temples, churches and mosques, trade unions and NGOs, universities and schools, and so on; all those with access to resources or means of communication – NGOs, newspapers and magazines, radio and TV channels, etc. – should contribute to this process. And the 'international community' should take the trouble to find out about the current situation and act accordingly. Peace is possible, but only if there is a concerted effort to achieve it.

Lankan forces on the other, he could well be defeated; also that his insistence on Oslo as the venue for peace talks was an embarrassment to them, because it made their backing for him far too obvious. We still have reason to be grateful to Solheim, because the loss of life in a full-scale war – including the lives of thousands of child conscripts – would have been horrific. But this should not blind us to the fact that he did the right thing for the wrong reason: not in order to bring peace to Sri Lanka, but to ensure that Prabhakaran lived to fight another day.

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