



Humanitarianism in Sri Lanka: Lessons Learned?

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Sri Lankan military and IDPs. Photo Simon Harris

The Feinstein International Center develops and promotes operational and policy responses to protect and strengthen the lives and livelihoods of people living in crisis-affected and marginalized communities. The Center works globally in partnership with national and international organizations to bring about institutional changes that enhance effective policy reform and promote best practice.

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1. Introduction

The Sri Lankan experience provides international humanitarian actors with a cautionary tale of the sensitivities surrounding operations in a conflict affected environment beset by opposing constructs of nationalism and a state determined to maintain control over the nature and direction of humanitarian response. Through decades of protracted conflict, a failed peace process, a massive natural disaster response, and the recent comprehensive military defeat of a proscribed terrorist organization by government forces, the past thirty years have been one long slow learning curve for humanitarian involvement in Sri Lanka. The relationship between the state and the international humanitarian community of donors and aid agencies has often been fraught with tensions and misunderstandings. These dynamics have impacted upon the space in which humanitarians have been able to operate and their access to conflict and disaster-affected communities.



This briefing paper summarizes the key issues and dynamics that have shaped the humanitarian experience in Sri Lanka and draws lessons that, if learned, may help inform humanitarian engagement in other international contexts. This paper has been prepared by an independent consultant for the Feinstein International Center (FIC). It is part of a series of country studies on humanitarianism and politics which also includes Afghanistan, Somalia, Sudan/Darfur and Pakistan. These briefings notes are kept deliberately short in order to generate debate on the policy implications of recent crises. They will be revised and expanded later in 2010 for inclusion in a book on the evolving relationship between humanitarian action and politics.

Six key themes are introduced. These are: 1) ***misunderstanding nationalism and humanitarianism***, which explores the basis of the tensions that exist between the Sri Lankan state and the international humanitarian community; 2) ***perspectives on peace***: the Western international community has long been preoccupied with supporting peace in Sri Lanka. This section explores national reactions and the implications for humanitarian actors; 3) ***diaspora dynamics***: the Sri Lankan diaspora has had a significant role in influencing foreign policy towards Sri Lanka in a number of Western countries. The concentration of Tamil expatriate communities in key marginal constituencies in countries such as the UK has been effectively deployed in using local political insecurities to leverage a disproportionate amount of foreign policy influence; 4) ***new donors***: Sri Lanka has recently witnessed a shift in international donor presence from West to East. This section explores how the role of non-traditional donors impacts upon the humanitarian sector; 5) ***NGO regulation***: since the tsunami disaster, the Sri Lankan government has increased its regulation of the humanitarian sector in Sri Lanka. This section explores the reasons behind the regulation and its impact on humanitarian activities; and 6) ***engaging the non-like-minded***, which looks at the international humanitarian community's attempts to establish a rapport with the state, media, and Buddhist clergy as the bastions of Sinhala nationalism.

In each section, a set of issues with relevance to wider humanitarian contexts is highlighted and then brought together, with associated recommendations for donors, UN agencies, and the NGO community, in the conclusion.

2. Misunderstanding nationalism and humanitarianism

The troubled relationship between the state and the international humanitarian community in Sri Lanka is underpinned by a fundamental misunderstanding on the part of both parties over what drives the other. In the case of Western donors, whether as the paymasters and promoters of aid or in a more classical foreign policy role of selling arms and backing key local actors, and international aid agencies, this has been compounded by an overestimation of their influence and leverage in Sri Lanka. These factors have in turn contributed to strategies of engagement which have frequently been misguidedly counterproductive to the process of constructive relationship building and mutual understanding.

For at least the past thirty years, and many would argue as far back as the late nineteenth century, competing ethno-nationalist identities have been a driving force of conflict in Sri Lanka. Where the dominant state-endorsed discourse of Sinhala nationalism has intersected with international humanitarian engagement in Sri Lanka, the relationship has been repeatedly fractious with suspicion, acrimony, and accusations characterizing the behavior of both parties.

On the domestic side, there are three main bastions of Sinhala nationalism. These are the government, the pro-government media, and the Buddhist clergy. Together, these groups present a mutually reinforcing (and indeed mutually benefiting, in terms of maintaining power and control) notion of Sri Lanka as essentially a historically Sinhala Buddhist country which tolerates other ethnicities, but whose national integrity has been under attack for the past three decades by the secessionist aspirations of the militant Liberation Tigers of Tamil Eelam (LTTE).

In dealing with this threat, the state's preferred approach has been to treat the conflict as a domestic "terrorism" issue to be handled internally and militarily. In securing support for this strategy, the state has, partly by design and partly by chance, stimulated three interconnecting socio-political dynamics. These are: a) a resurgence of Sinhala Buddhist ethno-nationalism around which the majority population has been able to maintain its sense of identity during a time of protracted crisis; b) an increasing alienation and demonization of the "other" in which the notion of Tamil and terrorist have become closely aligned; and c) an increasingly rigid rejection of criticism over the state's strategy or of the suggestion that terrorism is a symptom of more deep-rooted social and political problems.

In contrast, the primarily Western international humanitarian community has tended to view Sri Lanka's conflict as arising from structural inequalities which reinforce the denial of minority rights. This has informed their strategy for engagement which has, for much of the conflict period, been one that endeavored to achieve a peaceful and negotiated resolution. This position has put them in direct opposition to that of the Sri Lankan state, whose defensive response has been to negate the notion of a peaceful resolution by labelling those proposing such ideas as "supporters of terrorism" and of the LTTE's claims for a separate Tamil homeland.

The construction of the West's intent and pursuance of pro-peace objectives at a diplomatic level ultimately tarnished its engagement at a humanitarian level. Humanitarian action became perceived as an extension of the West's foreign policy political aims. Reinforced by the rhetoric of the government, media, and Buddhist clergy directed primarily towards a domestic Sinhala majority audience whose continued support is needed to endorse a military solution, the evidence that the humanitarians had a pro-LTTE agenda was provided by the donors and aid agencies themselves in supporting peace-related projects and by working in Tamil Tiger-controlled areas.

Although all of the different types of agencies working in LTTE-controlled areas have been labelled as pro-LTTE at some time or other, the United Nations (UN) and International Committee of the Red Cross (ICRC) have generally received less criticism than the international NGOs at an operational level, but not at a policy and advocacy level. The work of the UN and ICRC on the ground is largely tolerated by the Sri Lankan state, if not entirely accepted, because it performs a number of valued functions. For example, ICRC, which is respected for its neutrality and independence, facilitates the exchange of fallen combatants. Sri Lanka's relationship with the UN is more complex. On the one hand, the UN is respected for being an international membership organization in which Sri Lanka plays a significant international peacekeeping role.¹ Many of its agencies in Sri Lanka, such as the ILO and WHO, are also closely aligned with the government ministries (labor, vocational training, and health). On the other hand, UN attempts at investigating human rights abuses, criticism on the treatment of civilian IDPs, and advice on what the security forces should or should not do is given short shrift.

Issues brought up by this first key theme include: a) Humanitarian agencies need to ensure their mandates are clearly understood by domestic stakeholders from the very outset of an intervention; and b) humanitarian agencies need to be aware of the ways in which nationalist agendas can shape perspectives of humanitarianism. Improved analysis of nationalist dynamics is required.

3. Perspectives on peace

Many of the tensions between the state and the international humanitarian community in Sri Lanka are related to their differing notions of why the conflict arose and how it should be resolved. Whilst the Sri Lankan state maintains that it faces a domestic terrorism problem which can only be satisfactorily resolved by force, the majority of Western donor governments and the INGOs that they support have tended to view the conflict as a reaction by a Tamil minority population frustrated over their lack of representation and denial of legitimate rights and opportunities by the dominant political power of the Sinhalese majority. This analysis has given an impression in the south of Sri Lanka that the international humanitarian community is sympathetic to the LTTE's rationale for demanding a separate homeland for Sri Lankan Tamils. It is an imagined alignment which both parties to the conflict have tried to use to their advantage. Whilst the LTTE have been adept at cultivating an impression of support in the West, the Sri Lankan state and media have been equally adept at projecting the notion of pro-LTTE foreign agendas amongst their domestic and predominantly Sinhalese audiences. Stemming from this view, the West's prescription for resolving the conflict has consistently been one of negotiation and compromise around some form of devolved autonomy for Tamil areas.

The underlying assumption that Sri Lanka's conflict needed to be resolved peacefully informed donor funding objectives. Since the

mid to late 1990s, peacebuilding and conflict resolution-related activities have been increasingly regarded by Western donors and INGOs as an important and necessary component of humanitarian relief and development interventions in Sri Lanka. From about 1998 through to the beginning of the Ceasefire Agreement in 2002, the vast majority of donor calls for proposals required tendering agencies to demonstrate, to a greater or lesser extent, how the proposed intervention would strengthen inter-communal ethnic relationships, facilitate ethnic harmonization, build peace, and reduce conflict.

The development of this trend can be traced to a wider international interest in the linkages between the peace, humanitarian, and development sectors and in particular to the influence of Mary Anderson's work relating to Do No Harm and local capacities for peace on donor strategies in conflict-affected countries (Anderson, 1999). It was during the late 1990s that Sri Lanka also became one of the case study countries for Do No Harm, with the establishment of a local working group. At the same time, the country became a key focus for Ken Bush's work on peace and conflict impact assessment (Bush, 1998).

Whilst the international community was becoming increasingly interested in creating peacebuilding synergies within humanitarian relief and development programs, prior to 2002, the Sri Lankan government, Sinhala nationalist elements of media, and local critics of Western involvement were highly suspicious of this interface. The concepts of "peacebuilding" and "conflict resolution" were frequently interpreted as metaphors of Western support for the LTTE's secessionist aspirations and were therefore seen as being anti-state.

The extent of the fear and suspicion surrounding peace-related programming in Sri Lanka during this time can be evidenced through the authors' own experience of attempting to integrate a peacebuilding framework into the community development activities of Oxfam GB in the conflict-affected north and east of the country (Harris and Lewer, 2002). During the initial planning workshops to develop this program, the national staff expressed their deep concerns that any use of the term "peace" in the title of Oxfam's projects could bring unwelcome attention from the state, result in a denial of access to project areas under LTTE control, and pose a risk to the personal safety of the team members. Henceforth "peacebuilding" was referred to as "relationship building" throughout the program's literature and the conceptual rationale was framed as community strengthening rather than conflict resolution.

Following a change of government and the advent of the Ceasefire Agreement in 2002, working on "peace" was no longer a problematic activity and engagement in related activities by humanitarian and development actors was wholeheartedly embraced by the state. With the establishment of the Tokyo Donors Forum for Sri Lanka and the creation of a World Bank trust fund for peace as well as of numerous

¹ Sri Lanka has sent military and police contingents to peacekeeping missions in Chad, Sudan, East Timor, and Haiti.

bilateral funds, there was suddenly a surge of interest in supporting peacebuilding projects. Work in this field was widely regarded as essential in contributing to the post-conflict reconstruction that was widely anticipated to take off and a plethora of peace projects were implemented by new and existing local and international NGOs.

Although these developments occurred during the backdrop of an overarching international debate concerning the efficacy and dangers of interlinking peacebuilding and humanitarian activities, they received little serious discussion in Sri Lanka. There were few, if any, agencies that did not engage, or at least claim to engage, in some form of peacebuilding activity during the first two years of the Ceasefire Agreement.

However, despite the large amount of peacebuilding activity that took place at a community and civil society level, there was little corresponding progress towards a lasting resolution between the conflicting parties themselves. The co-chairs of the Tokyo Donor Forum-brokered joint mechanism (SIHRN)² that had been established between the government and LTTE to provide post-conflict reconstruction funding into the Tamil Tiger-controlled areas was increasingly perceived by the south to confer too much state-like legitimacy on what it deemed a terrorist organization and became unworkable. The subsequent change in government saw a return to the rhetoric of the previous decade, where the promotion of peace was seen by the state as appeasement or as the expression of pro-LTTE sentiments.

Although donor support for peacebuilding-related activities continued in a limited way, it was largely overshadowed in terms of humanitarian agency engagement and prioritization from the beginning of 2005 onwards by the tsunami disaster response and a re-emphasis on recovery and reconstruction. The international donor community, however, rediscovered its flagging interest in investing in peacebuilding with the notion that the conflicting parties' shared experience of disaster could somehow stimulate a negotiated settlement. Despite these intentions, the resulting internationally-supported post-tsunami funding mechanism (PTOMS)³ designed to channel funding into the affected LTTE-controlled areas met a similar fate to its Ceasefire Agreement predecessor and for quite similar reasons.

In 2006, as the conflict entered into a new phase of proactive military intervention by Sri Lankan government forces, ostensibly on humanitarian grounds of liberating citizens from the authoritarian control of the LTTE, overt civil society peacebuilding activities declined dramatically. There were a number of high-profile expulsions of peace and humanitarian actors during this time⁴ and the murder of seventeen national employees of Action Contre la Faim caught between retreating LTTE cadres and advancing security forces in the east marked the country's first major incident involving

aid workers. The donor community itself began to adopt a much lower profile on the subject of linking assistance to peacebuilding, perhaps recognizing both that such a position was necessary to remain engaged in the country and also that the end of the LTTEs was in sight.

It wasn't until the final months of the conflict in the north that the international community began voicing suggestions for a truce and negotiated settlement in order to avoid what was perceived to be an impending humanitarian tragedy, with hundreds of thousands of civilians being held by the LTTE in the face of advancing government forces. These calls were immediately rejected by the Sri Lankan state as attempts by LTTE sympathizers to save the Tigers from imminent defeat.

The conflict was ultimately resolved through the use of overwhelming force by the Sri Lankan state. Does this then vindicate the state's long-held position that they were dealing with a terrorist threat that needed to be dealt with militarily? Whilst many observers claim that the defeat of the LTTE will be short-lived if it is not followed by substantial development, human rights improvements, and political reform for Sri Lanka's Tamil minority, the current government enjoys a strengthened mandate for its policies.

Issues include: a) peacebuilding has been a recurring problematic notion for the Sri Lankan state and sections of the Sinhalese society, which have consistently regarded such activities as pro-LTTE; b) the interlinking of peacebuilding and humanitarian work has blurred the distinctions between the two fields and has restricted the spaces of both in which to operate effectively; c) repeated international donor insistence on peacebuilding and conflict resolution has reinforced perceptions of pro-LTTE agendas and has weakened donor credibility and influence in Sri Lanka; and d) INGOs, the UN, and ICRC have also faced a reduction in access, operational space, and security, although the UN and ICRC have fared somewhat better on the whole than INGOs.

4. Diaspora dynamics

Sri Lanka's diaspora, especially the Tamil community, has had a significant role in sustaining the conflict and influencing foreign policy towards Sri Lanka in a number of Western donor countries, most notably the United Kingdom, Canada, Australia, and Norway. Each of these countries has accrued a sizable Sri Lankan population, with the Tamil community, whose outward migration flow increased dramatically following the Colombo's ethnic riots of July 1983, tending to concentrate in particular urban suburbs of London, Toronto, and Melbourne.

A review of the literature on Sri Lanka's Sinhalese and Tamil diasporas and a trawl of the websites belonging to the numerous

² Sub-Committee on Immediate Humanitarian and Rehabilitation Needs for the North and East (SIHRN).

³ Post-Tsunami Operational Management Structure (PTOMS).

⁴ Norbert Ropers (Berghoff Foundation) and Rama Mani (International Centre for Ethnic Studies).

civil society organizations they have formed reveals that they share some strikingly similar characteristics. Foremost is a passionately-felt ethno-nationalistic sentiment about their country of origin, which appears to be more intensely experienced by the younger generations, who were born and brought up in the West.

The international Tamil community's sentiment has been largely shaped by their experience of a migration which they regard as "forced" and a quarter century of detached exposure to Sri Lanka's conflict through the filtered lens of the LTTE's well-organized fundraising and propaganda network amongst the diaspora in the West. This network has successfully inculcated a widespread acceptance of the LTTE's secessionist objective for an independent Tamil homeland in the north and east of Sri Lanka. Nationalist sentiments amongst the Sinhalese diaspora have largely developed as a reaction to the war itself, Sri Lankan political and media rhetoric, and fears over the growing organization, sophistication, and influence of the much larger Tamil diaspora.

The concentration of particularly the Tamil expatriate community in often marginal electoral constituencies has been effectively deployed in using local political insecurities to leverage a disproportionate amount of influence on their country of residence's foreign policy towards Sri Lanka. Although this is particularly evident in British politics, similar dynamics may operate in other countries and would make an interesting study for further research.

The UK experience reveals a Tamil diaspora adept at identifying entry points in the British political landscape for advancing a Tamil nationalist and primarily LTTE-dominated agenda. Strategies have included cultivating cross-party champions within parliament to raise questions during debates and to represent their interests on committees and inviting senior ministers to appear at Tamil conferences and rallies. According to a personal interview by the author with a senior British MP and former cabinet minister in early 2009, the motivation behind the UK government's controversial appointment of a Special Envoy to Sri Lanka in 2009 (and whom the Sri Lankan government subsequently refused entry) was largely informed by the persistence of a small number of parliamentary back-benchers whose constituencies had high concentrations of Tamil diaspora.⁵

Rohan Gunaratna (Head, The International Centre for Political Violence and Terrorism Research, S. Rajaratnam School of International Studies) and Shanaka Jayasekara (Associate Lecturer at Macquarie University, Australia) go further by claiming that LTTE-backed Tamil lobbyists offered the Labour government some 40,000 votes in the 2010 parliamentary elections in return for their support on Tamil demands in Sri Lanka.⁶

Obtaining the support of both the Tamil and Sinhala diaspora for peace and stability in Sri Lanka is widely recognized as an important objective by both the Sri Lankan government and Western donors. There are also fears that any future resurgence of militancy in Tamil nationalism in Sri Lanka will inevitably originate from within the ranks of the diaspora's pro-LTTE members.

Whilst the Sri Lankan government has attempted to attract investment from the diaspora with various incentives, there have been a number of donor-funded NGO initiatives—most notably in Australia—aimed at reconciliation between the diaspora communities. Engaging with the diaspora is, however, an extremely fraught and sensitive undertaking. Recent attempts by an international NGO to bring diaspora community representatives together in Melbourne ended in increased acrimony and allegations of donor bias, which led one Australian diplomat in Colombo to express reservations concerning future engagement with the diaspora.⁷

Sri Lankan government and media sources frequently cite examples of Tamil diaspora engagement with Western governments as evidence of donor support for LTTE objectives. This in turn undermines these government's attempts to engage on humanitarian, peace, governance, and human rights issues with the Sri Lankan government. As in other countries such as Somalia and Nepal, Sri Lanka's experience shows that diasporas are playing an increasingly significant role in both peacebuilding and nationbuilding. Consequently, political dynamics within diaspora communities can have an impact on both host and home country government policies towards humanitarian assistance. Aid agencies therefore need to improve their understanding of diaspora communities and to engage constructively with them in communicating the meaning and intent of organizational mandates and the humanitarian imperative.

Issues include: a) the capacity of a diaspora's lobbyists to influence foreign policy through their demographic influence in marginal political constituencies; b) the importance of the diaspora in contributing to peace and conflict in their home country; c) the difficulties and political sensitivities of engaging with competing diasporas; and d) the effect of power differentials amongst competing diasporas and their comparative influence on host country policy—where there is a significant inequality, one group's perspective may have disproportionate currency with the host government, which may consequently affect that government's relations with that of the conflict-affected country and the humanitarian aid programs they support.

⁵ Personal conversation (2009) with a serving British Member of Parliament and former senior Cabinet Minister, March 2009.

⁶ R. Gunaratna, and S. Jayasekara, presentation at a round table discussion on *Future Security and Implications of the PTA/ER's in Post-War Sri Lanka* (International Centre for Ethnic Studies (ICES), Colombo, 9 March 2010).

⁷ Personal conversation (2008) with an Australian diplomat, November 2008.

5. New donors

Since 2007 and the re-commencement of military efforts to recapture the northern and eastern territories under LTTE control, the Sri Lankan government markedly increased its foreign relations ties with a number of Middle Eastern and Asian countries such as Pakistan, India, China, and Iran. These bi-lateral relationships were not confined to the diplomatic level, but developed to include military, political, and economic assistance.

Military assistance from Pakistan and political support from India for Sri Lanka's domestic war on terror was perhaps unsurprising as these linkages built upon already-established military as well as trade relationships and recognized the crucial role and influence of the regional superpower in enabling the defeat of the LTTE. However, the huge economic investments made by China and Iran in particular have marked a significant departure from Sri Lanka's previous reliance on the more traditional donors of Japan, the West, and the multilateral international lending institutions.

Following the Ceasefire Agreement of 2002 and the Indian Ocean tsunami disaster of 2004, it was largely the traditional donors who were extending their support to Sri Lanka. The co-chairs of the Tokyo Donor conference convened in June 2003 to provide reconstruction and development assistance in support of the peace process comprised the U.S., European Union, Japan, and Norway. Similarly, assistance for Sri Lanka's post-tsunami recovery showed a predominance of traditional donors such as the World Bank, Asian Development, Japan's JICA and JBIC,⁸ the International Federation of the Red Cross, the European Union, UN, and a large number of primarily western bi-laterals.

Although China committed recovery funds for harbor and fisheries infrastructure redevelopment in the aftermath of the tsunami disaster, the level of its annual assistance has reportedly increased from a few million dollars in 2005 to over a billion dollars in 2009.⁹ This increase has made China the single largest donor in Sri Lanka, surpassing Japan as previous largest.

China's flagship assistance project in Sri Lanka is the construction of a new power plant, oil refinery, and bunkering, ship, and container repair facilities in the tsunami-affected port of Hambantota on the southeast coast. Military and business analysts view this development as a part of China's foreign policy agenda to secure a strategic string of port facilities across the Indian Ocean between China and its oil and mineral extraction interests in the Horn of Africa and the Middle East. Besides infrastructure development, it is also claimed that China provided massive military assistance to Sri Lanka.

Why then did Sri Lanka turn to these non-traditional donors? The co-chairs of the Tokyo Donor Forum and other traditional donors had hoped that a stalling peace process between the Sri Lankan government and the LTTE could be resurrected by their shared experience of the tsunami disaster. However, as these hopes failed to be realized, the conflict recommenced and the government pledged to eradicate terrorism, while the traditional donors continued to press for a negotiated, rather than a military, resolution.

The government of Sri Lanka became increasingly disenchanted with a donor community who criticized its commitment to militarily resolve its domestic terrorism problems and yet themselves supported wars on terror in both Iraq and Afghanistan. As the post-tsunami recovery and rehabilitation period of assistance drew to a close, Sri Lanka became increasingly frustrated by those donors attempting to leverage a negotiated solution by dangling aid and investment-linked incentives and disincentives for compliance (such as the renewal of the European Union's GSP Plus¹⁰ concession on import tariffs and trade quotas).

This relationship worsened during the final months of the conflict in Sri Lanka as traditional donors called for a cessation of hostilities to enable assistance to hundreds of thousands of civilians trapped by a beleaguered LTTE surrounded by government forces and facing an imminent defeat. Tensions then continued after the war, with the traditional donor community criticizing the government's treatment of the internally displaced and alleging human rights abuses and war crimes.

In such a context, it is hardly surprising that Sri Lanka opted to obtain assistance from non-traditional donors such as China, who were only too willing to provide support as it would ultimately advance their own foreign policy objectives. The key implications for humanitarianism in Sri Lanka is that now the government is heavily reliant upon non-traditional donors with a firmly hands-off policy regarding the country's domestic affairs whilst, at the same time, the influence of those donors who are concerned about humanitarian issues has waned considerably. This trend is not unique to Sri Lanka. Our studies in Sudan, for example, also show how a nationalist agenda can be effectively used to entice non-traditional donors to provide support in times of crisis, thus bolstering the sovereignty and self-assurance of the state as well as creating a less-favorable operational climate for humanitarian agencies.

Issues include: a) donor (and UN) pressure to allow humanitarian access and space to a country is unlikely to be effective if alternative donors are readily available; b) alternative non-traditional donors

⁸ Japan International Cooperation Agency (JICA); Japan Bank for International Cooperation (JBIC).

⁹ "Chinese billions in Sri Lanka fund battle against Tamil Tigers," *Times Online*, 2 May 2009, <http://www.timesonline.co.uk/tol/news/world/asia/article6207487.ece>.

¹⁰ Generalised System of Preferences—GSP Plus refers to the vulnerable beneficiary countries that have been selected by the EU to receive additional preferences for the period 2009-2011.

are also likely to be more attractive because of their lack of conditionality and interest in domestic affairs; and c) once lost, donor and UN/aid agency influence may be extremely difficult to regain and consequently many of the avenues for effective engagement with humanitarian issues will also have been lost.

6. NGO regulation

During the past five years, 2006-2010, the Sri Lankan government has increased its scrutiny and regulation of the international humanitarian sector. It established a Parliamentary Select Committee and Presidential Task Force to inquire into the activities of nongovernmental organizations and introduced new registration, humanitarian access, financial reporting, and visa requirements. This section examines why this increased regulation has taken place, the impact it has had on the humanitarian sector, and its future implications.

The stimuli for this attention were two massive and rapid influxes of international assistance during the past ten years. The first was in 2002, following the signing of a landmark ceasefire agreement between the government of Sri Lanka and the Tamil Tigers. This influx was primarily of agencies interested in post-conflict infrastructure, development, and peacebuilding. The second came after the tsunami disaster of December 2004, with a huge international humanitarian response focusing on emergency relief and recovery. Existing NGO legislation and regulatory provisions were unable to cope with this scale of humanitarian response, which was described in the press as “a second tsunami.”

The scaling-up of an international humanitarian presence in Sri Lanka raised a number of domestic political and security concerns. Foremost amongst them was a concern that foreign agencies, especially those espousing a negotiated resolution of Sri Lanka’s conflict and those working in the LTTE-controlled areas of the north and east, were helping to support the Tamil Tigers and undermining the nation’s sovereignty. In both the latter post-ceasefire agreement and post-tsunami periods, the perceived dual humanitarian and peacebuilding agendas of many international organizations were suspiciously viewed as extensions of the foreign policy agendas of Western donor governments that were regarded as being pro-LTTE.

Associated concerns included the need to have more oversight and control over international humanitarian agency activities in order to achieve greater alignment with national reconstruction and rehabilitation objectives. There was also a sense that the state had not been maximizing its revenue-earning potential by failing to tax inflows of foreign funding for domestic NGOs.

Although the enactment of new NGO legislation in Sri Lanka is still a work in progress, the package of measures that has been introduced, albeit in a somewhat piecemeal manner over the period since the tsunami, amounts to a significant increase of the state’s monitoring and control of humanitarian activities. Many provisions have been long overdue and were clearly necessary, such as stringent vetting procedures for aid agency registration, pro-Sri Lankan employment policies for positions other than aid agency heads of mission and

their deputies, and greater transparency in NGO finances and reporting of activities. However, others, such as a restrictions in access to the former LTTE-controlled areas of the north, the limiting of foreign aid worker visas to a combined maximum of three years (apparently—as there is still ambiguity over the precise terms of the provisions—irrespective of any breaks in between), and the expulsion of certain aid organizations and individuals accused of supporting the LTTE or engaging in anti-state activities, have invited much criticism from the agencies involved and their Western donor governments. This criticism was particularly vociferous during the six months leading up to and after the defeat of the LTTE in May 2009.

International aid agencies have been concerned that the increased level of state control has limited their effectiveness. They point to the example of visa restrictions, which they say are forcing agencies to recruit foreign staff with little or no prior Sri Lankan experience. The restriction of international staff visas is often perceived as a government strategy designed to force the recruitment of nationals as heads of mission (not in itself a bad objective and there are certainly plenty of capable local candidates available for such positions). International aid agency commentators frequently claim that this would render their programs more compliant to state control and less able to lobby for changes in government policies and practices on humanitarian issues.

Whether the government’s motives have been political and security considerations or the recognition that regulation of the humanitarian aid sector was long overdue, the net result has been a deterioration of the relationship between the two parties, manifested by lack of communication and mutual mistrust. Whether or not this has impacted upon the quality of humanitarian services available to displaced people in the north and east of Sri Lanka would make an interesting study.

In the short term, the chagrin of the international humanitarian community is likely to remain whilst the government consolidates its enactment of legislation for this sector. However, in the medium to longer term, improvements in the relationship should occur as the aid agencies learn to accept and operate within the new regulatory framework and engage with a state confident that it has established the necessary controls to ensure that it no longer needs to regard the aid sector as a threat.

Issues include: a) a sovereign state has the right to direct humanitarian efforts in its own territory and many conflict/disaster-affected states do have the capacity to do this despite international misgivings; b) in countries affected by conflict involving contested territorial claims, the rapid influx of international humanitarian actors can unsettle notions of national sovereignty; c) the impartiality of aid may be called into question by recipient governments where the national governments of the international agencies home countries are regarded as having a foreign policy interest overly influenced by one or other party to the conflict in the affected country; d) is an effective emergency response best served by a massive influx of multiple humanitarian actors?; e) does the international community need to do more to regulate the activities of humanitarian actors in

emergencies to reduce the burden and negative impacts on disaster-affected countries?; and f) many disaster-affected countries already possess adequate human resource capacities in emergency response skills without additional international inputs.

7. Engaging the non-like-minded

Although the Paris Declaration on aid effectiveness calls for the harmonization and alignment of international assistance with national policies and priorities, in the case of Sri Lanka, this has been frustrated by a polarization between the donor community and the recipient state over how to resolve the conflict. Increasingly, the Western donors have viewed this dilemma as stemming from their inability to effectively engage with those who hold a different perspective on peace—namely the state/government, the media, and the Buddhist clergy as perhaps the three most influential groups in Sri Lankan society.

This realization, conceptualized and concretized in a consolidated set of analyses and policy recommendations, funded by a “like-minded” group of international actors comprising the governments of the Netherlands, Sweden, and Great Britain in collaboration with the World Bank and the Asia Foundation, arrived rather too late to significantly affect donor-humanitarian agency-host relationships in Sri Lanka (Goodhand et al., 2005). A key overarching recommendation of this study was the need for more effective donor/aid agency engagement with the non-like-minded.

Although there was a recognition that the international community needed to build better relationships with groups such as local government officers, civil servants, journalists, the clergy, and the more fervently nationalist political parties whose support and lobbying was seen to have a significant influence on government policy, there was a paucity of ideas on how this could be operationalized. Furthermore, engagement also seemed to be premised upon how the non-like-minded could be induced to soften their stance on achieving peace through a negotiated settlement rather than on establishing an open dialogue seeking to aid a better understanding of each others’ positions, needs, and interests and to explore spaces for common ground.

Although a number of engagement strategies were ultimately implemented through donor funding, they were somewhat subsumed by a preoccupation by the international community on tsunami-focused recovery and reconstruction. They also assumed the continuation of a protracted conflict situation in which the LTTE retained control of large tracts of territory in the north and east. As late as 2007, no-one predicted the black swan event that would

see the all of the Tiger-controlled areas recaptured and their military force totally destroyed within two years.

It was these strategic gains for the Sri Lankan state on the battlefields of the north and east that seem to have ultimately highlighted the limitations of humanitarianism where it diverges from national security interests. The Sri Lankan state was able to appropriate the rhetoric of humanitarian military intervention (Harris, 2007) to reinforce internationally the legitimacy of an action it had already justified domestically as a requirement of maintaining its national integrity as a single state. When faced with the prospects of a choice between averting a likely humanitarian catastrophe (as the international aid and diplomatic community claimed there would be as the LTTE and the civilians under its control became trapped within a narrow strip of land on the northeast coast) or securing a decisive victory to end the war, the government of Sri Lanka took over all humanitarian operations in the conflict zone from the UN, ICRC, and INGOs. In doing so, the state was able to conduct “humanitarian” activities (such as the declaration and demarcation of a civilian safety zone and humanitarian corridor for escapees from LTTE-controlled areas) on its own terms and in direct support of their overarching security objectives.

High levels of state control of humanitarian services continued beyond the final battle and extended to the establishment and management of IDP camps in the north. How the international community responded to restrictions of access clearly demonstrates the continuing crisis of engagement between the Sri Lankan state and humanitarians. The first international response saw many governments expressing concern over lack of UN access, and INGOs and human rights observers referring to the condition of the IDPs as “internment” and arguing that this was a violation of human rights and illegal under international law. The state responded that the



Jathika Hela Urumaya poster, Colombo April 2009. (JHU) is a Sri Lankan Sinhala nationalist political party whose leadership and candidates are mainly Buddhist monks.

internment of Sri Lanka's IDPs was a legitimate national security measure, entirely defensible under international humanitarian law and a necessary, albeit unpleasant, condition of post-conflict transition.

Under international humanitarian law, any state has the right to impose internment on a section of their civilian population as a legitimate security measure during periods of armed conflict.¹¹ Walter Kälin, the UN representative on the human rights of internally displaced persons, reiterated this point during his visit to Sri Lanka in September 2009, but emphasized that there also needed to be a proper balance between security concerns and IDP rights. The question of legality then needs to consider whether Sri Lanka's internment of Tamil civilians was a justifiable response to a genuine security threat and whether in doing so, the state was able to adequately safeguard the rights of those interned.

Following the military defeat of the Liberation Tigers of Tamil Eelam (LTTE) in May 2009, the Sri Lanka security forces were faced with the immediate challenge of looking after a displaced and beleaguered population numbering in excess of 250,000. At the same time, they were required to secure a territory which had been in the control of an internationally proscribed¹² terrorist organization for the past twenty-five years. Given their experience of liberating other terrorist-controlled areas in the east of the country, the Sri Lankan government was alert to the high probability that members of the LTTE would attempt to evade capture by posing as IDPs. Identifying such persons was complicated by the LTTE's strategy of blurring the distinction between combatant and non-combatant through the forced recruitment of civilians. Having just regained control over its entire domain for the first time in a quarter of a century, the Sri Lankan government was determined not to risk letting large numbers of LTTEers escape in order to regroup. Faced with a time-critical period in which to act decisively, the mass internment of IDPs was probably the only effective and efficient strategy open to the Sri Lankan government in responding to a very real security threat which, if left unchecked, could have resulted in the prolonging of an already protracted violent conflict.

Having failed to secure significant access, the international community then focused on the poor quality of IDP services that the Sri Lankan state had established. Whilst the legal act of internment necessarily deprives those interned from a number of rights and freedoms, international humanitarian law stipulates that internees should be treated with dignity and respect and have the right to expect a certain standard of care which includes the provision of, educational, medical and recreational facilities, food allowances, and communications with outside family members. They should also be interned for no longer than the security threat remains present.

The adequate provision of these requirements in the context of northern Sri Lanka has been complicated and delayed by the speed of displacement, the sheer numbers involved, and the government's desire to minimize the perceived security risks of international involvement whilst processing civilians to determine the presence of LTTEers amongst them (the government has long harbored the suspicion that some in the international humanitarian community have been sympathetic and supportive to the LTTE). On the international community's side, there has been deep suspicion that the government's access restrictions were designed to prevent foreigners from talking to the IDP community and gathering evidence for alleged war crimes by the Sri Lankan security services. This has culminated in calls for an international commission of inquiry to be established.

Whilst there is no doubting the deprivations and severe hardships facing those in Sri Lanka's IDP camps, the government has always maintained that their internment was only a temporary measure and despite the continued criticism and calls for human rights investigations IDP conditions have improved. The UN, Red Cross, and many local and international aid agencies are now being permitted to operate in the camps, the infrastructure has improved and civilians are being resettled, albeit slowly. Strict controls over access does still exist, but aid agencies are finding ways of working constructively with the government, which has established a project approval mechanism for organizations seeking to work in the north. Although there are complaints that this does not yet afford enough access to the village-level communities, organizations are nevertheless able to implement regulated assistance programs.

Issues include: a) early engagement with the “non-like-minded” from the outset of a humanitarian intervention; b) the challenge of being open to alternative view-points; c) How can perceptions of Western hypocrisy be countered? One of Sri Lanka's main counters to international criticism of their “war on terror” was the observation that they were doing the same in safeguarding their security interests as the Western powers had done and continue to do in Afghanistan and Iraq; and d) If mixing human rights and peacebuilding in the face of national security priorities leads to a restriction of humanitarian access, would a purely “Dunantist”¹³ approach have yielded greater access?

8. Conclusions/Epilogue

As the final edits for this briefing note were being prepared during May 2010, humanitarianism in Sri Lanka found itself faced yet again with another set of challenges. In the same week that marked the first anniversary of the end of the war and the defeat of the LTTE, the government announced it was setting up a new inquiry into how both national and international nongovernmental organizations

¹¹ L. Brav, F. Bouchet-Saulnier, and C. Olivier, *The Practical Guide to Humanitarian Law*, 2nd ed. revised. (Maryland: Rowman and Littlefield Publishers Inc, 2007).

¹² By USA, UK and other governments.

¹³ That is, an approach based on the respect of traditional humanitarian principles of impartiality, neutrality and independence.

operate. It also told the United Nations not to interfere in its internal affairs and advised the Secretary General to abandon his proposed probe into allegations of war crimes committed by the Sri Lankan security forces and LTTE during the final stages of the war. These announcements took place during a week in which Sri Lanka had experienced some of its worst rainfall in years, with widespread flooding resulting in scores of deaths, the destruction of hundreds of homes, and the displacement of thousands of people. The government's response to the flooding was criticized by the main opposition, the United National Party, as being inadequate and ineffective, whilst local and international humanitarian aid agencies mobilized to provide urgent assistance to the affected areas.

The juxtaposition of these different events neatly encapsulates the continued dichotomous fragility of the humanitarian presence in Sri Lanka despite the recent ending of the country's conflict and key crisis of the past three decades. It is a humanitarian presence that is, within Sri Lanka, at once rejected and embraced at arm's length, feared for its potential for grass roots-level scrutiny and awareness, manipulated by the dynamics of domestic political rivalries, and ever-needed as a backstop to the limitations of the state's emergency response capacities.

Internationally, humanitarianism in Sri Lanka has been subjected to Western foreign policy priorities shaped, in part, by the influence of the Sri Lankan diaspora communities. It has become overly integrated with human rights and peace agendas and, even where agencies have attempted to maintain a response based upon humanitarian principles, political associations have been imagined and implied.

Has this then meant a defeat for humanitarianism and neutrality by the forces of nationalism in Sri Lanka? Not necessarily. If viewed from the perspective of Western donors, the UN, and INGOs, then perhaps they will regard the Sri Lanka experience as one in which the humanitarian autonomy they long enjoyed has been reined in. However, from a Sri Lankan state perspective, it could be regarded as humanitarianism reclaimed and made subservient to the national interests rather than running counter to them. For the Sri Lankan state, this experience has also been the stemming of a potentially destabilizing influence that threatened to erode national sovereignty and which required greater control in order to both minimize its negative effects and maximize the good it can do.

What does the Sri Lankan experience communicate to the future of humanitarianism internationally? Firstly, Sri Lanka tells us that nationalism and sovereignty are going to become much more important variables in defining the trajectories of humanitarian assistance than they have been in the past. Humanitarian actors will need to be able to better contend with the dynamics of nationalism in order to ensure that they can maintain a space in which to operate effectively. In order to achieve this, humanitarians will need to re-evaluate the ways in which they work as well as the assumptions and attitudes they bring to conflict- and disaster-affected countries. Sri Lanka has shown that humanitarianism that smacks of neo-imperialism or Western arrogance will no longer be tolerated. Humanitarians will need to be cautious in ensuring that their

operations are not compromised by additional incompatible agendas that are unacceptable to host governments, simply because a donor's funding criteria demand their inclusion. Those aid agencies who do accept the utility of integrating humanitarian assistance with peacebuilding, witnessing, and human rights work need to understand the risks in terms of access for their core business and security for their personnel, partners, and beneficiaries.

9. Recommendations to donors, UN agencies, and NGOs

For donors:

- Examine the impact and effectiveness of integrating peacebuilding and human rights dimensions into humanitarian assistance funding.
- Explore whether maintaining sectoral divisions between humanitarian, peacebuilding, and human rights activities is ultimately more effective, sustainable, and even mutually supportive than integrated approaches.
- Map diaspora interests, networks, and influences. Evaluate their impact on key foreign policy areas. Explore options to reduce negative impacts of diaspora influence and maximize positive ones. This could include: a) balancing inequalities in political access; supporting humanitarian and peace efforts from countries with low levels of diaspora; b) exploring the demographics of immigration settlement patterns and establishing policies designed to reduce tendencies towards geographic concentration; and c) including diaspora studies in citizenship education from the primary level, with a special emphasis on multicultural harmonization for particularly sensitive inter-ethnic relations.
- Avoid excessive conditionality on aid where non-traditional donors present a viable and willing alternative to Western donor assistance and attempt to strengthen other areas of collaboration, i.e. trade and investment.
- Actively pursue early engagement with potential non-traditional donors at all levels.

- Explore strategies to incorporate non-traditional donors into donor consortia, multilateral trust funds, etc. to limit risks of bilateral engagement that fails to attempt to address humanitarian, peace, and human rights issues.

For UN agencies and INGOs:

- Develop humanitarian communications strategies from the very outset of an intervention. The design of such strategies should take into account the contextual dynamics and the way in which humanitarianism is perceived and manipulated by host country interests.
- Exercise caution when attempting to merge peacebuilding/human rights and humanitarian assistance and assess the implications for core humanitarian objectives.

For all:

- Provide support for regulation, standards, and professionalization in humanitarian action that takes into account the concerns, perspectives, and experiences of aid recipient countries.

- Conduct further research into the utility and impact of multi-agency large-scale responses. The post-ceasefire agreement and post-tsunami influx of large numbers of aid agencies into Sri Lanka heightened national concerns over sovereignty and prompted moves towards greater state scrutiny and control of INGO activities. At the same time, the coordination, efficiency, and effectiveness of large-scale responses by a plethora of often disparate international actors has been questioned within the humanitarian community itself.

- Work constructively with governments in disaster- and conflict-affected countries to develop fair humanitarian regulatory and employment systems.

- Ensure early engagement with local stakeholders, especially those defined as spoilers, gate-keepers, or non-like-minded.

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Acronyms

GSP	Generalised System of Preferences
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
ILO	International Labour Organization
JBIC	Japan Bank for International Cooperation
JICA	Japan International Cooperation Agency
LTTE	Liberation Tigers of Tamil Eelam
PTOMS	Post-Tsunami Operational Management Structure
SIHRN	Sub-Committee on Immediate Humanitarian and Rehabilitation Needs for the North and East
WHO	World Health Organization

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