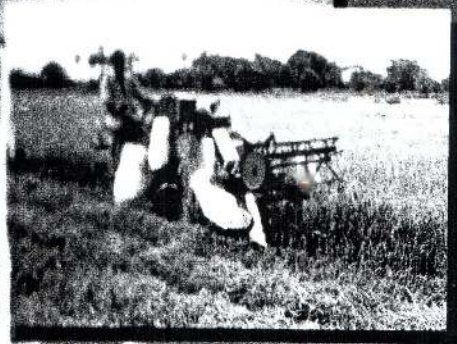
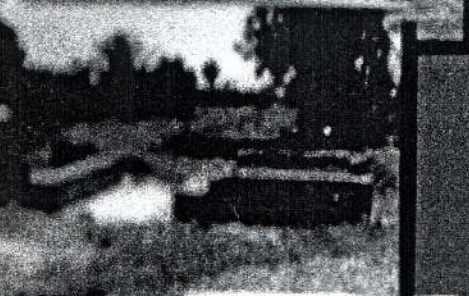
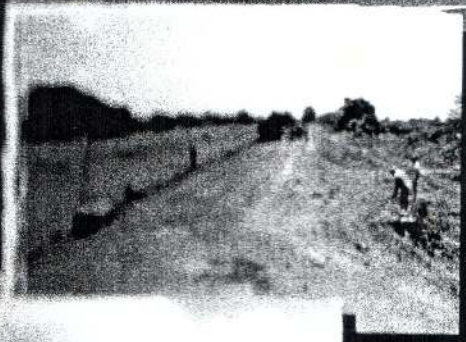


THE POLITICS OF RECONSTRUCTION IN THE NORTH AND EAST



**A REVIEW AND ANALYSIS OF POLICY
2004 - 2005**



Published by the International Centre for Policy Studies
By **Harim Peiris**



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By Harim Peiris

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About the Author

Harim Peiris has served as an advisor and official spokesman for the president of Sri Lanka. He has also functioned as the chairman of the Sri Lanka Rupavahini Corporation and as the director general of the Ministry of Relief, Rehabilitation and Reconciliation, in which capacity he was responsible for the overall reconstruction efforts in the conflict-affected North and East.

A graduate in finance from the University of Houston – Clear Lake, he has an MBA in International Business from the University of Texas at Arlington. With prior professional experience in investment banking and corporate restructuring, he currently works as an independent consultant attached to the Council for Public Policy.

Acronyms

CFA	-	Ceasefire Agreement
EPDP	-	Eelam People's Democratic Party
GA	-	Government Agent
GOSL	-	Government of Sri Lanka
ISGA	-	Interim Self Governing Authority (proposal of the LTTE)
JHU	-	Jathika Hela Urumaya (National Heritage Party)
JVP	-	Janatha Vimukthi Peramuna (People's Liberation Front)
LTTE	-	Liberation Tigers of Tamil Eelam
M/RRR	-	Ministry of Relief, Rehabilitation and Reconciliation
MDG	-	Millennium Development Goals
MoD	-	Ministry of Defense
NEPC	-	North-East Provincial Council
NACPR	-	National Consultation on Peace and Reconciliation
PA	-	People's Alliance
PTOMS	-	Post Tsunami Operational Management Structure (an Agreement between GOSL and LTTE , signed in mid-2005, but currently inoperative)
SHIRN	-	GOSL/LTTE reconstruction and development sub-committee
SLA	-	Sri Lanka Army
SLFP	-	Sri Lanka Freedom Party
SLMM	-	Sri Lanka Monitoring Mission
TNA	-	Tamil National Alliance
TULF	-	Tamil United Liberation Front
UDA	-	Urban Development Authority
UNP	-	United National Party
UPFA	-	United Peoples Freedom Alliance

EXECUTIVE SUMMARY

Introduction

In April 2004 the Kumaratunga administration reviewed and reworked the policy of rehabilitation and reconstruction in the North and East. The reconstruction efforts, referred to as “Triple R” for relief, rehabilitation and reconciliation, were accelerated, and implementation at a fast pace was decided upon.

In February 2002 a ceasefire agreement (CFA) was entered into between the government of Sri Lanka (GOSL) and the LTTE. By April 2003 the two parties had ceased to participate in direct negotiations. This lack of progress in the political aspects of the peace process had created an urgent requirement of seeking areas of engagement, between the government and the LTTE, to enable the continuation of a “no war / no peace” scenario. There was a requirement to build a degree of confidence and trust which would enable the parties to resume direct negotiations. This review of policy seeks to examine if the government’s engagement of the LTTE in the rehabilitation and reconstruction efforts provided a channel of communication, as well as an avenue of progress that in short term might have been an alternative to war and in the longer term may have been complementary to the overall process of reconciliation and peaceful conflict transformation.

2004 and 2005, selected reconstruction of the conflict-affected North and East as an area of engagement with the LTTE. After the December 2004 Asian Tsunami devastated three-fourths of Sri Lanka’s coastline, including much of the coast of the North and East, the Sri Lankan government extended an invitation to the LTTE to be a partner in the post-Tsunami reconstruction effort. The LTTE’s response to the proposal was favourable. Subsequent to discussions between the GOSL and LTTE Peace Secretariats, the government and the LTTE entered into the Post Tsunami Operational Management Structure (PTOMS). The rationale and dynamics of the LTTE agreeing to work with the GOSL in a structured framework on reconstruction provide useful insights that can contribute to policy formulation and the development of options for future program design. Also to explore reconstruction as a contributory factor towards reconciliation and conflict transformation.

The post-Tsunami outpouring of international assistance and the channelling of funds to the country had a positive impact on the peace process in Sri Lanka. In addition the government’s policies toward rehabilitation and reconstruction directly impacted economic activity in the conflict-affected areas. It was also instrumental to the effort of normalizing the lives of the civilian population. Housing policy, resettlement, private sector activities and private capital flows are the other critical factors of economic development in the North and East.

President Chandrika Kumaratunga, who personally managed the peace process in

Postscript Issues

A continuation of the reconstruction and development work in the North and East, including in the uncleared areas, resettlement of the internally displaced population, establishing the small-scale infrastructure essential for community life, and ensuring sustainable development and economic activity in the conflict affected areas remain the important humanitarian goals for the immediate future. The importance of security to enable such work to proceed would mean that the CFA should be well implemented. Of relevance would be the armed opposition of the "Karuna faction" against its erstwhile comrades of the LTTE. The humanitarian aspects of the High Security Zones issue would also be relevant, namely the scarcity of land in the Jaffna peninsular, the demarcation of some of the best private agricultural land in Jaffna as the HSZ and the resultant displaced civilian population.

Research Methodology

The research and analysis methodology drew largely on the author's own professional experiences as the director general / Relief, Rehabilitation and Reconciliation (RRR) during 2004 and 2005, as well as an advisor to the president until November 2005. The policy review also drew on extensive discussions during this period with political leaders, senior government officials at both the centre and in the provinces, the LTTE, the Tamil Rehabilitation Organisation (TRO), representatives of development partners, multilateral institutions, UN agencies, the NGO sector, civil society, media personnel and civilians in the North and East, as well as relevant documents, information sources and publications of this period.

Objective

The objective of this report is to document the policies, their underlying political rationale, and implementation decisions regarding relief, reconstruction and reconciliation (RRR) issues within the overall context of the wider peace process during 2004 and 2005. It is hoped that the lessons learned and the experiences gained during this period would advance our understanding of the issues and thereby contribute positively toward relevant policy design in the future.

A REVIEW OF RECONSTRUCTION POLICY 2004 - 2005

Context

The context of public policy in the North and East in 2004 and 2005 should be viewed in the light of two contextual factors of the period under review. The first and most important was the CFA entered into between the GOSL and the LTTE in February 2002. Despite certain weaknesses inherent in its implementation, the CFA had succeeded in its primary objective of keeping the Sri Lankan security forces and the LTTE from engaging in direct armed conflict. The second important contextual factor was that political negotiations and engagement between the GOSL and the LTTE had ceased in April 2003. By early 2004 even the several GOSL/LTTE subcommittees created through the peace talks, namely SHIRN (for reconstruction and development) and the De-escalation Committee (for ground level easing of tensions), had ceased to function.

This lack of engagement between the GOSL and the LTTE only exacerbated existing tensions between the two parties. Without an engagement of any kind it was impossible to create the confidence-building measures so necessary to move forward from a situation of “no war and no peace,” exemplified by a ceasefire, to a more durable and lasting resolution of the underlying or core causes of the conflict. Even for the ceasefire to be effective and durable, the military or armed engagement

between the two parties had to be transformed into a political or dialogue-based engagement. A political and policy vacuum with regard to the ethnic conflict was not deemed tenable.

The ground situation after the CFA, relevant and prevalent in 2004, was the dire needs of the conflict-affected civilian population of the North and East. The nature of the conflict between the Sri Lanka Army (SLA) and the LTTE since 2000 was very much in the nature of conventional battles which included the use of heavy artillery, land mines, aerial bombings, naval bombardments, battle tanks and armoured vehicles, all of which contributed to significant collateral damage and destruction to civilian life, private property, public utilities and basic economic and community infrastructure.

Also, two decades of conflict had resulted in little or no allocation of state resources toward the maintenance and upgrading of public property or infrastructure resulting in a significant deterioration and obsolescence of such assets. Furthermore, basic public services, namely education and health care, were maintained at a bare minimum level.

A large number of vacancies in the provincial health and education services were a chief contributory factor. After the CFA, the multilateral development partners produced a “needs assessment” document completed in mid-2002, which documented and catalogued the significant reconstruction and rehabilitation needs in the conflict-affected North and East. This needs assessment formed the basic

empirical data source for the formulation of the government's RRR policy in 2004 and 2005.

Background

The Kumaratunga administration in 2004 recognized three distinct areas of the conflict transformation process. Firstly, the military and security aspects of the conflict, in which the GOSL and the LTTE had diametrically opposing interests. Secondly, the political aspects of the conflict in which competing interests between the GOSL and the LTTE required give and take by both parties and hence progress was expected to be slow. Thirdly, the reconstruction and development aspects of the conflict in which the GOSL and the LTTE had a common or shared interest in rebuilding the North and East.

Sri Lanka had fought a civil war in some of its least-developed districts such as Kilinochchi and Mullaittivu and possibly delayed their development by decades in terms of the standard and quality of living in those districts. The war had also been fought in some of the most developed parts of Sri Lanka, namely Jaffna town and its environs resulting in destroying and devastating that whole region and its community.

Subsequent to the CFA in 2002, the GOSL and the development partners were faced with a ground situation which demarcated Sri Lanka Army-controlled "cleared areas" and the LTTE-controlled "un-cleared areas." The lines demarcating these areas

were clear in the North, with barricades, check points and crossing points clearly marked out, while this is very much less clear in the East, where the SLA might hold and control a town, while the LTTE is in control of the villages away from the town, with the demarcation between the two, by virtue of the very situation and the terrain, being somewhat obscure.

The LTTE has as a matter of its political position made clear that it considered "the urgent existential needs of the Tamil people" to be a priority issue in the peace process. Mr. Anton Balasingham of the LTTE, expounding this position, has explained that the dire situation in which the Tamil civilians found themselves necessitated that engagement or talks between the LTTE and the GOSL focus firstly on normalizing the lives of the Tamil population of the North and East and thereafter progress to more deep-seated political problems.

For the LTTE, their interest in the reconstruction in the North and East was easy enough to understand. Having required sacrifice from the civilian populace during the fighting, a peace dividend from the CFA was required. Moreover, a considerable degree of political legitimacy would accrue to them from the civilians, if a peace dividend and the concerns and welfare of the civilians were negotiated and obtained from the government. It was interesting that during discussions on reconstruction and development issues, the LTTE acted much like a political party that was seeking to deliver developmental resources to its constituency.

It was also abundantly clear that the LTTE considered its own organizational needs as the highest priority. As an organization, the LTTE was expanding its scope of interest, after the CFA from purely military and security issues to public policy and governance. This required new skills and additional resources, including human resources. An increased level of economic activity in the North and East meant increased "extortion / tax" revenue that was important to fund and resource their growing organizational needs.

During informal dialogue with very senior LTTE leaders, it also became clear that they believed that active ethnic discrimination against Tamils contributed to keeping Tamil areas, including the un-cleared areas, in poverty and deprivation. This was a view partly shared by political leaders in the South as well, among those sympathetic to Tamil issues. Accordingly, parity of development with the Sinhala South was also an equity issue for the LTTE. They often contended that the "South" enjoyed its peace dividends immediately after the CFA, while the Tamils of the North and East were still waiting for theirs.

Moreover, it is interesting that in all of the political engagements between the GOSL and the LTTE during the past decade, in 1994/95 with the People's Alliance (PA) regime, in 2002-03 with the UNP government and in 2004-05 with the Kumaratunga administration, the LTTE has consistently raised reconstruction and developmental issues as a priority. These demands should be viewed in the context of the economic deprivation and discrimination arguments that have formed part of the core grievances articulated by

the Tamil polity in the history of the ethnic conflict. It has also been alleged that the LTTE has often used the "normalization of civilian life" as an excuse to gain tactical military advantages, such as by requesting withdrawal of High Security Zones and unrestricted fishing which provides a cover for the Sea Tigers.

For the government of Sri Lanka, the imperatives for development in the North and East were also fairly clear. By 2004, two years into the CFA, the need to deliver a peace dividend to the North and East was obvious. Some area of common interest and engagement with the LTTE was required. A reaching out to the Tamil community by the GOSL was also required. Reconstruction and rehabilitation provided the means to achieve these objectives.

The Peace Process

The Sri Lankan peace process can be defined as the process of transforming the Sri Lankan state to enable it to embody the full diversity of its society and transforming the LTTE from a purely military machine to a political organization engaged in democratic politics. It has been contended that the LTTE leadership was very resistant to change and primarily or solely focused on their military needs. However, the LTTE as an organization and its rank and file cadres were quite prepared to deal with changing situations. The challenges of peace including dealing with civilian issues, the RRR issues, were a new experience. Accordingly, a whole section of LTTE cadres, previously armed fighters, became engaged in the tasks of

rehabilitation and reconstruction. This non-military engagement with the Sri Lankan state, government officials, the civilian public, NGO's, civic leaders from the South and media personnel certainly contributed toward a widening of horizons and a broadening of perspectives for the LTTE and its cadres.

More activities in the North and East by the Sri Lankan state meant a GOSL development or a resource allocation strategy that moved away from the political constituencies of the GOSL towards the politically orphaned civilians of the North. The decades-long rejection by the TULF/TNA towards accepting government positions has resulted in a political inability to direct state resources to the North. The lack of Tamil political representation in government, with the exception of the single seat EPDP, has meant that the Tamils have no effective political representation in government to their detriment in resource allocation. In contrast, the Muslim community of the East and the Up Country Tamil community have been represented in successive Sri Lankan governments of every hue resulting in practical benefits to the respective communities. The North has to depend on civil servants and an administrative process.

Reconciliation

The area of reconciliation could be broadly defined as the process or means by which societies polarized through conflict deal with the residual symptoms or manifestations of the polarizing issues, devise processes of healing and implement

methods of learning to live together with tolerance and unity.

Interim Reconciliation Measures

The challenge of reconciliation in the Sri Lankan context and in other conflicts in which the core causes of the conflict have not been addressed or the peace process concluded is that all reconciliation measures tend to be divisive over the fault lines of the conflict. Accordingly, the need in such situations is for "interim reconciliation measures," a cutting edge area in the field of conflict transformation. Essentially it is the search for reconciliation measures that may be taken and are effective in a situation where the political arguments underlying a conflict remain unresolved.

The Kumaratunga administration in 2004 and 2005 instituted various reconciliation measures. The most important of these was probably the "national apology for ethnic violence" by President Kumaratunga in July 2004, on the 21st anniversary of the July 83 pogroms. Additionally, the M/RRR more than tripled the allocation for compensation to victims of the conflict from Rs.90 million in 2004 to Rs.350 million in 2005. The GOSL also constituted a Presidential Truth Commission, under the chairmanship of former Chief Justice Sharvananda, into ethnic violence in the 1980's and paid out a further sum of Rs.70 million as compensation in 2005. Furthermore, a Committee of Inquiry was constituted to inquire into ethnic violence of the 1990's, and recommendations for payment of compensation were concluded by the end of 2005.

In an effort to make the peace process more inclusive, President Kumaratunga in 2004 initiated the National Consultation on Peace and Reconciliation (NACPR). The objective of the NACPR was to consult a wide cross section of civil and political society, keeping them informed regarding the progress and issues of the peace process, and thereby seek to develop an inclusive and consensual conflict transformation and national reconciliation process.

Initiatives which progressed during the period of 2004 and 2005, but required further resources and work involved the issue of disappeared persons in the North and East, largely believed to have suffered from extra judicial executions by the security forces. There were also various initiatives of the GOSL with regard to implementing the official bilingual, Sinhala and Tamil, state language policy.

Despite the measures described above, much more work must be done regarding reconciliation and transforming the Sri Lankan state to reflect its full diversity, making restitution to persons who have suffered loss due to the conflict and learning to live together in unity as a society of diverse communities of peoples.

Cleared and Uncleared areas

A dilemma faced by policy makers in 2004 resulted from the ground reality of the cleared and uncleared areas. While reconstruction had proceeded apace in the cleared or SLA-controlled areas of the

North and East, the uncleared areas saw much less. In early 2004 a significant difference existed between the GOSL-controlled Jaffna peninsular and the LTTE-controlled Vanni region, mainly the districts of Kilinochchi, Mullaitivu and significant parts of Mannar. This disparity was a deliberate policy choice of preceding years. The policy was reviewed and reversed in 2004 and 2005.

The Kumaratunga administration early on decided on rehabilitation as an area of engagement with the LTTE. The concerns regarding reconstruction in the uncleared areas were largely military and defense strategy considerations. The build up of infrastructure, such as roads and bridges, provide a logistical and communications advantage to the LTTE. Contractors and commercial activities in the uncleared areas were taxed by the LTTE. Therefore, increased activities increased LTTE revenues, while material goods necessary for rebuilding such as fuel, cement, etc. could be used by the LTTE for their own purposes. Conventional wisdom in counter-insurgency would dictate an embargo to enable starving out of rebel held regions and hence eventually the rebels. The need for change in this strategy after the CFA was only slowly recognized by the Sri Lankan security authorities and then not uniformly so. However, after the general elections of 2004, the GOSL through the Ministry of RRR announced an accelerated development of the uncleared areas to ensure that the humanitarian endeavours of the government were not restricted due to the ground reality of armed control. Accordingly, it was consciously decided that the asymmetric development of the North and East, where uncleared areas remained backward, would be reversed and

that both the cleared and uncleared areas would be uniformly developed.

The GOSL proposed that the issues of development, that of rebuilding the lives, livelihoods and properties of the people of the North and East, be taken out of the political dispute of the conflict and treated as an apolitical humanitarian endeavor. The politics of reconstruction was that of seeking to create confidence in the peace process both among the civilians of the North and East and the LTTE. The commonality of interest of the parties regarding this issue was also recognized and engagement was decided upon. By calling the engagement between the GOSL and the LTTE humanitarian and not political, a space was created for both the GOSL and the LTTE to engage each other unconditionally. The engagement itself resulted in formal LTTE participation in the North East Provincial Council (NEPC) regarding the rehabilitation projects and consultations with government agencies and senior officials in the Vanni. This creation of a back door channel of communication allowed for consultations and some confidence and trust building measures, as well as ventilating issues and resolving minor irritants.

The LTTE and the ISGA

The LTTE had in 2003, however, introduced its own version of an interim political settlement to the ethnic conflict, namely the Interim Self Governing Authority (ISGA) and was insisting on political talks on the ISGA. As a key rationale for the urgency of implementing

the ISGA, the LTTE publicly claimed and politically adopted the position of an urgent humanitarian crisis among the Tamils of the North and East. They claimed that the GOSL conducted grossly inadequate relief, rehabilitation and reconstruction work in the North and East. The LTTE also maintained this "humanitarian crisis" for the purpose of its fundraising overseas amongst the Tamil Diaspora, during a prolonged period of no war.

The LTTE also had a clear intent of securing political credit for themselves through RRR work. They contended that should the GOSL be unwilling to provide them any political credit among their core constituency of the Tamil civilians of the North and East, there was unlikely to be a political solution.

Accommodating this required the GOSL to be discrete regarding its work. It also required increasing RRR work in the uncleared areas. The Kumaratunga administration chose to provide some political credit to the LTTE for the RRR work, citing RRR as driven by the LTTE policy position that the "urgent existential needs of the Tamil people" should precede and receive priority to resolving the contentious and long standing political issues of the conflict.

The LTTE's own approach to RRR work is hardly altruistic or idealistic. As a military organization with strategic and militaristic goals and objectives, its own internal operations, organization and strategic goals and objectives are a significant priority and take clear precedence over reconstruction work.

However, it is clear that during a long interim “no war, no peace” period, the LTTE was willing to explore reconstruction and rehabilitation as an alternative occupation to waging a war of attrition.

The Karuna Faction

In early 2004 the LTTE commander for the entire Eastern Province, “Colonel Karuna,” broke away from the LTTE and declared an entity styled as “Eastern LTTE.” With about six thousand of the LTTE’s cadres under his command, Col. Karuna accounted for and commanded approximately a third or more of the total LTTE fighting strength. His breakaway from the LTTE culminated a long-running battle for the deputy leadership within the LTTE between Karuna and the head of the LTTE intelligence wing “Pottu Amman.”

Immediately upon his breakaway Karuna swore to abide by the CFA and in fact called upon the GOSL to enter into a ceasefire agreement with him. His breakaway coincided with the general elections in April 2004, which resulted in the formation of the UPFA administration.

However, in April 2004, utilizing the brief lacuna created with the transition of democratic political power in Colombo, the LTTE launched a lightning raid on its breakaway Eastern faction, crossing SLA lines and government-held territory in an attempt to wrest back control in the east. Despite initial skirmishes on the outer perimeters of the defense lines of the Eastern LTTE, Col. Karuna demobilized

his troops, destroyed his weapons and left Sri Lanka, to live to fight another day. Subsequently, the “Karuna faction” registered a political party in Sri Lanka with the Commissioner of Elections.

However, armed clashes between cadres of the Karuna faction and the LTTE have occurred at periodic intervals during 2004 and 2005, mainly in the nature of hit and run attacks against LTTE cadres both in the LTTE-held uncleared areas and in SLA-held cleared areas in the Eastern Province.

The GOSL in 2004 and 2005 dealt with the Karuna faction as a security issue and had tacitly concurred with the LTTE’s position, since changed, that the Karuna factor was an internal dispute within the LTTE, in which the government would not get involved. However, the inability of the LTTE to crush the Karuna faction has resulted in the LTTE demand in 2006 that all other armed groups in the East should be disarmed by the Sri Lanka Army. Accusations that government military intelligence was assisting and protecting the Karuna faction have been repeatedly made by the LTTE.

RRR policies of the GOSL were not directly impacted by the existence of the Karuna faction, the exception being the resulting increased focus on the Northern districts, including uncleared areas and a lesser focus on the Eastern Province, where the security situation was more tenuous with the possibility of Karuna faction attacks.

GOVERNMENT (RRR) POLICY IN THE NORTH AND EAST

Media Policy in Relation to RRR

The GOSL faced the dilemma of an LTTE need to claim that no work was happening in the North and East. Accordingly, it was decided by the GOSL to do the work in the North and East quietly and without publicity. A media policy of little or no publicity was adopted with regard to the work of the North and East. This policy required balancing the need of donors for some public dissemination of their projects and endeavours. This was accomplished with keeping key stakeholders informed through more targeted media such as newsletters and even web-based publicity minimizing mass publicity in the print and electronic media.

Local and Provincial Administration

The well-kept secret in Sri Lanka's ethnic conflict has been the relatively smooth functioning of the GOSL's civil administrative structure in the entirety of the North and East including within the LTTE-controlled areas, especially in the post-ceasefire period. The LTTE had developed a constructive working relationship with the senior Tamil officials working in the various Government Agent (GA) offices and in the NEPC. The officials themselves were generally mindful of their commitments and obligations as senior government officials. It was interesting for

instance that within the GA office in Kilinochchi and Mullaittivu, while the Sri Lankan flag was no longer flying or the traditional pictures of the president was missing, neither were there any LTTE flags or pictures of the LTTE leader, a stand insisted upon by the GOSL officials manning those offices.

The Kumaratunga administration recognized, what perhaps development partners already had, that the local and provincial officials provided a good implementing agency for reconstruction and rehabilitation. Their local knowledge was an added benefit. Accordingly, it was decided that the NEPC and the GA offices be continued as the main locus of Triple R activities in the North and East. This policy was continued in the post-Tsunami relief effort as well. Central government agencies only moved in for the more medium term reconstruction phase of programs, while still continuing the GA's as the locus point for operations. One serious drawback for a greater efficiency of the GA offices and the NEPC was a relative lack of staff for the delivery of basic government services. This was especially true of the NEPC, where particularly the areas of health care and education were subjects devolved to the provincial administration. However, an acute shortage of teachers, doctors, nurses, midwives and other paramedical personnel, technical officers, agriculture officers and engineers seriously retarded education, health care and other government services in the North and East. A key policy priority should be the provision of adequate education and health service personnel to the NEPC.

Central Government Agencies Engagement with the LTTE.

While the LTTE had developed a reasonable working arrangement with the local and provincial administrations, central government agencies and Colombo-based senior officials were unfamiliar with dealing with the LTTE. This was despite their agencies functioning in the North and East. Accordingly, senior officials and management of institutions such as the Ceylon Electricity Board, Sri Lanka Telecom, Urban Development Authority (UDA) and Treasury etc. had little or no idea of the ground conditions or reality of the North and East, especially of the uncleared areas. They had no technical level engagement with the LTTE, leaving this task to their subordinates, who had little impact on policy. The private sector was much more advanced in this respect and business leaders, especially of the Small and Medium Enterprise sector, had been personally travelling and in touch with the LTTE with regard to business opportunities and operating environments for their businesses in the North and East. Also state institutions under resourced the North and East in terms of their internal development plans. Post-CFA reconstruction from their own funds was not a priority. Through 2004 and 2005 there were attempts to change this situation. Senior management of state institutions and senior officials of central government ministries were encouraged to actually visit the North and East and, where appropriate and necessary, to meet and dialogue with the LTTE. The LTTE was also encouraged to seek and contribute to such engagement, and by end 2005 institutions such as the UDA and the Ministry of Education were also, in addition to the Ministry of RRR, engaged

in some level of dialogue with the LTTE at a technical level.

The LTTE's political requirement of maintaining a claim to "parity of status" as parties to conflict makes it difficult for the LTTE to deal openly with the GOSL. Further, during a period of "no talks" such as 2004 and 2005, the LTTE perceived that it could ill afford to be seen as dealing with the GOSL.

However, the GOSL in 2004 articulated the view that politics and the humanitarian endeavours of Triple R are not related and the legal backing for this position made it a tenable argument with the LTTE. Moreover, the LTTE does not like to engage without perceived benefits and rewards. It was interesting that in consultations with M/RRR in particular, meetings started with very low-ranking provincial level LTTE representatives and slowly graduated through to the TRO and then on to senior level LTTE operatives in their Administration Branch.

Role of the Treasury and the Finance Commission

It is a common perception among the Tamil political establishment and amongst sections of Tamil civil servants that dealings with the central Treasury or the Ministry of Finance have at times been difficult. Through the Finance Act and enabling circulars, the Ministry of Finance plays a crucial role in the allocation of funds, preparation of budgets and approval of expenditures of all state institutions including those operating in the North and

East. Generally speaking, senior civil servants and officials in Colombo had little appreciation of the situation in the North and East or of the need or even the government's desire to rebuild and reconstruct. It should be examined whether the government's regular bureaucratic machinery and system is adequate to deal with the current challenges of post-conflict and indeed post-Tsunami reconstruction.

MILITARY AND SECURITY DIMENSIONS OF RRR WORK

The Sri Lankan security forces, especially the Sri Lanka Army are the most visible and functioning institution of the Sri Lankan state in the North and East, especially in the North. The existence of military checkpoints, especially the "entry/exit" points to LTTE-controlled areas in the North, has meant that in practice the military are key stakeholders in the reconstruction process. For this reason the M/RRR introduced a military liaison officer amongst its senior management team, and in certain projects, such as the humanitarian demining program, included military officials within the steering committee.

The Sri Lankan security establishment has a general history and preference for the conventional military wisdom of denying economic opportunity to areas controlled by a rebel group, and its approach to reconstruction and rehabilitation in the North and East must be viewed in this context. During the time of open conflict, an economic embargo of the uncleared areas was in operation to supposedly pressure the LTTE. But the civilian population would of course have to feel the

economic pressure prior to that. The LTTE has always maintained that if the rebellion had no ethnic dimensions and was only a political one, such as those by the JVP in the South in 1971 and 1987-1989, the use of heavy artillery, economic embargo and aerial bombardment would not have been resorted to by the security forces.

Ministry of Defense clearance for the entry of all types of goods into the uncleared areas through the Omanthai checkpoint has meant that many businesses and commercial operations in the North claim that they have innumerable difficulties in obtaining this clearance for the flow of goods through the Army check point at Omanthai.

A continuous review should occur of the possibilities for further relaxation of goods going into the Vanni. In mid-2004 a decision was made to seek to extend the hours of opening of the checkpoints at Omanthai to enable the free flow of traffic and not create an artificial bottleneck due to opening and closing times. However, despite the decision being made at the highest political level, by the end of 2005 this was still not accomplished. It is unlikely that the security establishment is keen on a further extension of the opening hours. In the immediate aftermath of the Tsunami, however, the check point was open 24 hours to allow the critically injured and others evacuation on humanitarian grounds and for the entry of relief supplies and personnel, especially from the NGO and INGO sector.

Humanitarian Demining

The need and existence of a humanitarian demining program in the North and East is an important aspect of the reconstruction work. The two decade long conflict has resulted in the terrain of the East and especially the North being strewn with anti personnel landmines, which due to its very nature continue to be both a danger to civilians moving about their daily work and to the reconstruction work. The government and the LTTE both claim to be satisfied with the pace and state of the demining program. However, given the scale of the requirement, whether more funds should be allocated to the creation of local capacity to clear mines should be further examined. Sri Lanka's ascension to the Ottawa Treaty and a declaration of its stockpiles under the CCW Treaty need to be constantly under consideration to ensure continued funding for the de-mining program.

High Security Zones

The Jaffna District has a significant area of private property adjacent to the main military bases, designated as High Security Zones, from which property owners and all civilians were evicted by the security forces. A resolution to their displacement has been a significant humanitarian issue with critical military / security implications.

The LTTE position with regard to the HSZ is that the SLA should hand over the property to the civilians. The SLA position has been that a non-civilian occupied buffer zone and out perimeter defensive line was crucial to the security and safety of their military installations. Early on in the CFA,

the Sri Lanka Monitoring Mission (SLMM) agreed with the Sri Lanka Army that the maintenance of the balance of forces crucial for the ceasefire would be seriously compromised by a pull back from or a relaxation of the HSZ. An expert report from Indian General S. Namibia also exists buttressing the claim for a continuation of the status quo regarding the HSZ.

The GOSL in 2004 also recognized that, in the event of a fresh outbreak of hostilities between the LTTE and the GOSL, Jaffna would be a primary strategic target, and it was not prepared for unilateral action regarding the HSZ, without reciprocal measures from the LTTE. The reciprocity expected was to place the LTTE's long-range weapons in the Vanni under international monitoring, ensuring that they cannot be deployed against the bases without warning.

The humanitarian and RRR approach to the problem was to seek to work with the displaced population. Resettlement in alternative lands was the preferred option. Measures were adopted to seek to ensure that the living conditions and the displaced centre populations were reduced with a gradual program of resettlement under the guidance of the Government Agent. The scarcity of state land in the Jaffna District constrained the ability to replace the rich agricultural land that had been expropriated for the security zones. There had also not been any serious attempt to examine solutions such as compensation or other property rights measures toward the land owners. Also, however, the LTTE required the HSZ residents to remain displaced as a continuing humanitarian problem to sustain the pressure on the issue of the HSZ. A planned resettlement scheme, where carefully documented and monitored civilian access was provided within the

HSZ, had been commenced by the SLA in Jaffna as a local initiative, but a ramping up of that program did not get the required support from security authorities in Colombo and remained as a small-scale pilot project. An expansion of the scheme, plus greater access for agricultural purposes together with more suburban resettlement of non-farming households with compensation, would be some measures that could be examined.

The importance of the HSZ issue is demonstrated yet again by its inclusion as the main agenda item for discussion during the second round of peace discussions scheduled for April 2006.

THE PTOMS

The devastating Tsunami of December 2004 presented an opportunity or the space for both the GOSL and the LTTE to compromise or move away from some entrenched positions to seek engagement and accommodation that would make progress in the peace process. We witnessed a similar occurrence in other Tsunami-devastated regions as well, most notably in Aceh, where GAM and the Indonesian government were able to reach a peace agreement with Finnish facilitation.

The first three quarters of the calendar year 2005 witnessed the GOSL seeking to negotiate and implement the PTOMS agreement with the LTTE in the North and East, while the fourth quarter 2005 was taken up with the presidential elections and consequently with a new administration empowered with a fresh mandate to

implement its program. The PTOMS languishes as a dead letter, its key components struck down by the courts and a new administration that has indicated its lack of interest in the PTOMS.

The principals behind the PTOMS agreement are important, and they are the same as the SHIRN or even the NEPC which essentially devolve the powers of rehabilitation and development down to the region. PTOMS and SHIRN were attempts at creating a structure to accommodate LTTE involvement.

The LTTE has long suspected and cast doubt over its ability to peacefully secure a meaningful political or public policy role in the North and East. Its militant nature, violent tactics and the intolerance of democratic processes or dissent have also made it difficult to craft such a role in a manner that is legally permissible or politically possible for a pluralist and democratic Sri Lankan government. However, the PTOMS, and even SHIRN before that, were examples of the LTTE engaging in the issues of rehabilitation and development within a structure that potentially could have worked and provided an area of engagement, namely Triple R and development that was arguably humanitarian in nature, less politically divisive and a potential strategic alternative to armed conflict.

The non-implementation of the PTOMS, which had the status of a signed agreement between the GOSL and the LTTE, could create the implication that there is no real political space or credit would be given to the LTTE. Often in private discussions with the LTTE, they would state that if they can't

even get a role in Triple R and development, prospects for a political solution or role were fairly nonexistent.

The LTTE would also at the appropriate time take a public position that the PTOMS was a signed agreement entered into in good faith with the GOSL. With the GOSL in its view unilaterally abrogating the same, the LTTE has indicated privately that it would have serious reservations regarding negotiating with the GOSL.

Four years after the ceasefire, the CFA with its limitations has succeeded in keeping the Sri Lanka Army and the LTTE apart from direct armed confrontations. The next step then would be for the Sri Lankan state to seek a political engagement with the LTTE as opposed to a military confrontation.

The PTOMS was quite different from SHIRN. Politically and structurally, SHIRN was about trying to include the LTTE at the centre. PTOMS was an effort to involve them at all levels, national, regional and district. Further, the PTOMS had a distinct, unique and useful role for the Muslims.

The PTOMS was a post-Tsunami endeavour. Accordingly, failure to implement it denotes a failure to be inclusive of the LTTE, even after a massive natural disaster.

The JVP Factor in the PTOMS

The People's Liberation Front or JVP, a Marxist political movement begun as a revolutionary organization, in both 1971 and 1987-1989 launched an armed revolt to overthrow the government and capture state power. Since the 1990's it has entered the democratic political mainstream, and in the April 2004 general election it mustered a parliamentary representation of 39 MP's in the 225 member legislature and became a part of the UPFA government.

The JVP has adopted a rigid policy with regard to the ethnic conflict, opposing devolution of power, the role of Norway as peace process facilitator and claiming that the ethnic conflict is solely a problem of terrorism which only requires a military / security response.

The JVP and the Sri Lanka Freedom Party (SLFP), the main partners of the UPFA coalition had agreed to disagree on policies toward the ethnic conflict and the approach to conflict transformation. However, the policy of reconstructing the North and East and normalizing the lives of civilians was a policy with which even the JVP had no major problem.

After the December 2004 Tsunami and amid progress in technical level talks between the GOSL and the LTTE toward the establishment of the PTOMS, the JVP adopted a position of seeking to prevent a structured basis for engaging the LTTE in the reconstruction work.

However, once the LTTE had agreed to the PTOMS, President Kumaratunga took the decision to enter into and proceed with the PTOMS, notwithstanding the JVP threat to leave the government. The JVP's subsequent departure made the UPFA a minority government.

The extreme ethno-Sinhala nationalist policies of the JVP and indeed the JHU party are a political reality that policy makers need to incorporate into the peace process. Whether in government or in opposition, the views and interests of the extreme nationalists would need to be incorporated into an inclusive conflict transformation process.

President Kumaratunga believed during 2004-05 that a political engagement with the LTTE, as opposed to a military confrontation, had a sufficient public consensus to enable proceeding with the PTOMS within the overall peace process.

ECONOMIC POLICY IN THE NORTH AND EAST

The other issue to consider in evaluating the RRR policy in the North and East during 2004 and 2005 relates to the overall economic policy of the North and East. Several factors arise.

Implementing the Millennium Development Goals (MDG) in the Midst of Conflict

The government of Sri Lanka is in agreement with the internationally accepted aims of implementing the MDGs in Sri Lanka. However, implementing the MDG in the midst of civil conflict, political instability and the resultant weak implementation agencies poses special challenges. However, the issues should be examined and the policy framework and commitments clear to all actors in the North and East, mainly the GOSL, the LTTE and the multilateral group. The implementation of the MDG should take into account the asymmetric nature of the poverty and development needs in the country and especially the more widespread prevalence of poverty and the destruction of basic economic and community infrastructure facilities.

Equity of Development of the North and East Within Sri Lanka

The issue of resource allocation to the North and East exists within the public sector and the public sector investment program in Sri Lanka. While programs of the development partners are targeted towards the North and East, inclusive of the rest of the country, the benefits of this investment profile is mitigated against by the relative lack of investment or paucity of investment, both recurrent and capital expenditure, by other state and semi-state sectors, in the delivery of basic government services and in the rehabilitation and development work. Accordingly, if central

government ministries such as the ministries of health and education, as well as semi-state institutions such as the SLT, spend part of their own budgets on work in the North and East, it will supplement the multilateral agency funded projects. The significant cadre vacancies in the NEPC in terms of staff and technical grade personnel (such as doctors, nurses, midwives and agricultural officers) hamper government service delivery. The expansion of the government's Samurdhi scheme to the North and East to bring uniformity is also important, while the payment of compensation for losses suffered due to the conflict would act as a catalyst for private investment in personal resources such as housing and livelihoods, putting money in the hands of residents of the North and East.

Resource Mobilization

Supplementing state and official resources with private resources and funds flows. Four years after the CFA, it may be opportune to examine the issues of supplementing state or official fund flows with private sector and private funds. This would increase the overall levels of investment in the North and East. Nascent institutions for this purpose exist. The Board of Investment has a North East Division with offices in Trincomalee and all the state banks, including the Bank of Ceylon, People's Bank and the National Savings Bank, operate in both the cleared and uncleared areas of the North and East. The principle of encouraging Tamil Diaspora investment in the North and East is an issue that needs to be dialogued with both the LTTE and the GOSL, though both these parties to the conflict believe it is

premature. However, the issue of the public's access to bank credit in the North and East is another issue that needs to be examined to enable residents of the North and East to access bank credit for both trading purposes and especially private investment in housing. The potential to attract private funds is indicated by the extent of foreign remittances into Jaffna in particular.

POSTSCRIPT, CHALLENGES AND ISSUES

As this report is being finalized in February of 2006, there are several policy and program implementation challenges that will confront the GOSL, the LTTE and the multilateral development partners. These would include the continuation of existing programs of work, maintaining and developing a humanitarian emphasis and ensuring human rights and security and the rebuilding of small-scale infrastructure, roads, bridges, irrigation canals, electricity, telephones, education and basic health care.

The proposed CFA review talks in Geneva between the GOSL and the LTTE, scheduled for the 22nd and 23rd of February 2006, provide an excellent opportunity for direct engagement between the parties to the conflict. A potential drift back to war could possibly be averted, though the commencement of talks by itself is no guarantee unless the very contentious issues between the parties can be addressed. High on the list of LTTE concerns would be the armed attacks on its cadres and political operatives, mostly in the East, and its increasing international isolation

indicated by the European Union multilateral travel ban and the lack of engagement by the multilateral agencies. The HSZ and issues related to a peace dividend would also be priority issues for the LTTE. The LTTE does believe that armed action is a method of achieving its goals and that renewed fighting would force GOSL and international community engagement with them. However, it is also clear, that it values its physical assets and has been reluctant to commence a full-scale conventional battle in the North.

Efforts at de-escalation and ensuring strict compliance with international humanitarian laws and the protection of the civilian population are important. The future of development programs in the context of the current low-intensity conflict or even renewed hostilities should be

seriously considered. The CFA's continuation provides the multi laterals with an ongoing engagement with the LTTE and an area of common interest between the GOSL and the LTTE.

The areas of reconstruction and development of the North and East may be a politically low-cost one to explore the possibilities for further progress in the direct talks between the GOSL and the LTTE.

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