



CENTRE FOR POLICY ALTERNATIVES
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War, Peace and Governance in Sri Lanka

Overview and Trends 2006



The Centre for Policy Alternatives (CPA) is an independent, non-partisan organization that focuses primarily on issues of governance and conflict resolution. Formed in 1996 in the firm belief that the vital contribution of civil society to the public policy debate is in need of strengthening, CPA is committed to programmes of research and advocacy through which public policy is critiqued, alternatives identified and disseminated.

The report is based on monitoring and research conducted by the five units of the CPA. The economic chapter is compiled by Dr. Muthukrishna Sarvananthan of the Point Pedro Institute for Development.

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Overview and Trends: 2006 - 2007

Introduction

The year 2006 registered a qualitative shift in the security situation on the ground from that which had prevailed since the 2002 Cease fire Agreement (CFA). An intensification of hostilities leading to a grave humanitarian crisis and serious violations of human rights made Sri Lanka one of the most dangerous places in the world for civilians caught up in a situation of armed conflict.

The intensification of hostilities sparked by armed provocation included the laying and detonation of claymore mines, suicide bombs and an aerial bombing campaign. The sharp increases in human rights violations ranged from killings, disappearances, abductions and extortion to forced child conscription. The humanitarian crisis included the use of civilians as human shields and as targets, severe restrictions on the access to civilians by humanitarian agencies as well as in the supply and distribution of food and medicine, spiraling costs of these essential items as well as internal displacement of over 200,000 persons since April 2006.

Accordingly, a post ceasefire period that had been termed one of No War / No Peace descended into one of low intensity conflict and further, into open war in the East, in particular. Whilst the CFA was not abrogated by either the Government of Sri Lanka (GOSL) or the Liberation of Tamil Tigers Eelam (LTTE), the political and military balance of power on which it was founded was decisively altered and the agreement itself therefore rendered redundant. One of the signatories, the leader of the LTTE Vellupillai Prabhakaran declared in his annual Heroes Day Speech of November 2006, that the CFA was effectively “defunct”.

The deterioration in the security situation can be attributed to the political interests of the two main protagonists - the GOSL and the LTTE. Neither side was interested in a regeneration of the peace process and talks within the framework of the 2002 CFA – their overarching interests lay in political consolidation, on the part of the Mahinda Rajapaksa presidency, and on the part of the LTTE, the creation of a ground situation that would strengthen the argument that no political settlement was possible with the Sri Lankan state since it was even more unwilling and unable under the stewardship of the Rajapaksa presidency to understand, appreciate and accommodate Tamil grievances and aspirations. Consequently, though the two parties went through the motions of peace talks for the benefit of the international community and to score political points against each other, their principal objective lay in effecting a new balance of power on the ground in all its dimensions, as the basis for future talks and a peace process in their favour.

The three rounds of talks that took place after much bargaining over the venue– Geneva I & II and in Oslo – confirmed this. That they focused on and in the end also collapsed on issues of immediate critical relevance to the cease fire and ground situation – political killings, child recruitment, paramilitaries, equality of status between the two parties and the opening of the A9 highway- as opposed to core political issues and arrangements - interim or final - constituted a gauge of the diminishing

strength and viability of the post CFA peace process. This also revealed the greater commitment of the two parties to positional bargaining than to conflict transformation.

Indeed, at the outset of all these meetings expectations were kept low with the agreement to meet in the first place and materialization of talks hailed as the key indicators of success. (Oslo was an exception to this because of the LTTE's refusal to directly engage with a GOSL delegation it had prior knowledge of and yet deemed to be of incommensurate status with its own). Geneva I was hailed as a breakthrough on account of it being the first round of peace talks between the two sides since March 2003 when the LTTE unilaterally withdrew. It resulted in a reaffirmation of the CFA, though the GOSL insisted that it resulted in as much change as it did continuity. It was the only round of talks that yielded an agreement. However, this agreement, to rein in paramilitaries and stop political killings was not implemented. Both sides seemed to be determined to effect a new balance of power on the ground in their favour as the basis of a re-designed peace process, than in breathing new life into the post CFA one and in proceeding towards a settlement on the basis of it.

An analytical elaboration of these positions with reference to developments in 2006 will also identify the trajectory of the conflict transformation process in Sri Lanka in 2007.

The Rajapaksa Presidency

The overarching objective of the Rajapaksa presidency is its consolidation in terms of a legislative majority and the establishment of its dominance over the Sri Lankan polity. These are perceived political imperatives that stem from Rajapaksa's slender victory in the 2005 Presidential election. They are in turn reinforced by the electoral alliances formed to win the presidency and the President's ideological moorings. Consequently, revitalization of a peace process through the presentation of proposals for a political settlement is not a priority. Waging a war against terrorism is. It serves as an unassailable cause around which to galvanize popular support and the key issue on which to demonstrate a clean break in policy from the previous administrations of Ranil Wickremesinghe and Chandrika Bandaranaike Kumaratunga.

However, the expression of good intent and goodwill towards a revitalization of the peace process is deemed necessary to retain the interest, support and engagement of the international community in the pursuit of a negotiated peace in Sri Lanka. At the same time this has to be done in a manner that does not detract from or upset the overall objective of balancing political forces to ensure regime consolidation. The setting up of an All Party Representatives Committee (APRC) with a Panel of Experts to come up with a political framework for a settlement which would then serve as a "southern consensus" in negotiations with the LTTE, as opposed to a clear direction from the Government as to its policy position and articulation thereof, illustrates this. The APRC mechanism serves the overarching political imperative of neither alienating or antagonizing electoral allies such as the JVP and JHU, whilst at the same time leaving open the door to more moderate forces on the ethnic conflict, from the UNP opposition.

The fate of the Majority Report of the Panel of Experts and APRC Chairperson, Minister Professor Vitharana's attempted reconciliation of it with the Minority Report, further illustrates this. The Majority Report traverses a federal course in all but name and Prof Vitharana has reaffirmed it, though in a watered down version. The fate of all of these documents is unclear; the President has distanced himself from them. The Vitharana report will be considered by the SLFP and subsequently by the APRC to which forum the UNP has submitted its proposals. It is highly likely though that the proposals that will eventually emerge will be decisively conditioned by what has happened and is intended to happen on the battlefield, following military successes in Vaharai. It is unlikely that the primacy accorded to the military dimension will be altered by policy decision. Were it to be altered at all, the most likely catalyst for this would be military setback.

Interpreting the Supreme Court decision on the NorthEast merger as determining the merger to be unconstitutional as opposed to the process through which it was effected, and ignoring the UNP offer of support for legislation to effect the merger, the President has gone ahead with institutionalizing separate and distinct political and administrative arrangements

for the Northern and Eastern provinces respectively. It is likely therefore that Provincial Council elections will be held in the East and the Karuna faction established as *primus inter pares* in the province.

This would be yet another departure from the Kumaratunga and Wickremasinghe position whereby a referendum on the future of the East was to follow a period of merger with the North. The Rajapaksa presidency has reversed this. Moreover, such action is designed to decisively puncture the LTTE pretension of sole representation of the Tamil people of the North-East and strike a mortal blow against the homeland concept that has united all Tamil political representation since at least the onset of the armed conflict in 1983.

By focusing on weakening the LTTE militarily and by effecting a de-merger of the North-East, the President has effectively stolen the JVP's "clothes" on conflict resolution. At the same time through the MOU with the UNP and the mass crossover of UNP members into his Government, he has successfully relieved himself of dependence on the JVP and the UNP for a parliamentary majority. There is no discounting the possibility of a general election on the heels of military victory in the East and before the costs of war make the cost of living too punitive and the LTTE resort to guerilla warfare in the East and a sustained bombing campaign outside of the North and East, make for unpropitious circumstances in which to win an election.

Regime consolidation in the short and medium term notwithstanding, there are a number of possible challenges to political stability that could emerge in 2007, namely the future political course of the JVP, the relationship between Colonel Karuna and the GOSL, and increasing authoritarianism on the part of the Government, in part, in response to them.

In 2006, there were signs of the populist nature of the Rajapaksa regime and its potential for authoritarianism. These tendencies were reinforced by the war against terrorism which was provided as the justification for the promulgation of new emergency regulations incorporating the PTA that had been suspended following the CFA, and the sustenance of a climate of "patriotism" targeting non governmental organizations and sections of the media – private media and Tamil media in particular. The President himself pointed out that there was no grey area in this war – one was with the Government or against it.

In addition, human rights violations involving the security forces and para-militaries ranging from civilian killings, extortion, child conscription, disappearances and abductions sharply increased and were underpinned by a culture of impunity; the defence ministry came to occupy a pivotal position within Government with repercussions for democratic governance. There was also the violation of the Seventeenth Amendment to the Constitution through non constitution of the Constitutional Council and the unilateral appointment of commissions for the police, public service and human rights, amongst others.

The weakness of the UNP opposition in parliament given its depleted ranks, may well allow space for greater Government assertiveness in response to political dissent and criticism leveled against it from outside of the legislative arena. There are already signs of JVP union activity and the threat of strikes. In this respect, the smashing up of a meeting advocating federalism and action taken against the Sri Lanka Transport Board demonstrators, both on January 9 2007, could turn out to be a harbinger of things to come.

The risks inherent in the relationship with Karuna once ensconced as Chief Minister of the Eastern Province, relate to the ability of the GOSL to contain the activities and ambitions of the Karuna faction within bounds the GOSL deems acceptable. The degree of strategic congruence between Karuna and the GOSL is likely to become clearer in 2007 and it is possible that such strategic congruence cannot be taken for granted and indefinitely.

The LTTE

Events in the course of 2006 point to strategic miscalculations on the part of the LTTE. It would seem that they calculated on a Rajapaksa presidency adopting a hard line which in turn would justify a hard line stance on their part. Having enforced the boycott of the Presidential election in the North and thereby facilitated the Rajapaksa presidency, the LTTE proceeded to

engage in armed provocation. This was initially met with restraint and subsequently, after the LTTE's unsuccessful assassination attempt on the Army Commander Lt Col Sarath Fonseka, with a sustained campaign of aerial bombing. Built into the LTTE strategic calculus was a humanitarian intervention by the international community, which it believed would be to its advantage.

Despite the grave humanitarian and human rights crisis no international intervention has been forthcoming or is likely to be in the future. By raising the stakes the LTTE has had to concede strategic assets and valuable territory in the East without inflicting commensurate damage on the GOSL forces, apart from the fighting in Muhamalai, the bus bombs in Hikkaduwa and Habarana and the sea attack in Galle. In his November 2006 Heroes Day Speech, Mr Prabhakaran concedes with reference to the closing of the A9 highway and its consequences, that the GOSL has "imprisoned" the Tamil people in their homeland.

The question arises as to the LTTE's ability to launch an offensive and set the agenda for peace or war. Their reversal in the East in particular and shortcomings in this respect in general, can be traced to their response to the Karuna defection in 2004. By using military force to deal with the defection, the LTTE cemented the defection to its detriment. The LTTE's penchant for retreating into a comfort zone of violence when challenged, as opposed to employing political means of dispute resolution, points in turn to a fundamental challenge for the organization into the future with regard to its sustainability as well as its ability to engage constructively in a conflict transformation process. In this respect, the failure of post CFA engagement with the LTTE to initiate the necessary transformation of the LTTE into a political organization, was manifested in 2006. It remains to be seen as to whether there will be a shift of strategic orientation and direction in 2007.

What may transpire though is a determination on the part of the organization to recapture the political and military initiative before it accords any consideration to a revitalization of the peace process. Whilst the GOSL seems firmly convinced that any resumption of negotiations can only be on the basis of a new balance of power in its favour; likewise the LTTE. The historical record shows that it is unlikely to negotiate from a position of weakness. Consequently, it is likely to revert to guerilla warfare in the East, more claymore mines and bombings outside the North and East and political assassination. Limited though its capabilities may be, its ability to defend in the North and in the Vanni should not be underestimated. Therefore the LTTE will look to capitalizing in full on any opportunity presented to it to inflict damage upon the security forces, along the lines of what transpired in Muhamalai.

The International Community

Developments throughout 2006 have revealed the limits of international influence and leverage on both actors. In the case of the LTTE, international influence and pressure was clearly circumscribed by increased international proscription of the LTTE as a terrorist organization. In the case of the GOSL, the situation was arguably more complex.

The GOSL retained a sensitivity to international opinion regarding the human rights and humanitarian situation and through continued reiteration of its commitment to talks and rhetorically, the CFA. The GOSL and indeed the LTTE too, in engaging in the latter, did not want to bear the responsibility for officially abrogating the CFA, although they had no reservation in flouting its provisions in spirit and in letter on a daily basis. This can be explained by the belief on both sides in the residual importance of keeping the international community engaged in a peace process in Sri Lanka.

Furthermore, GOSL sensitivity to international opinion did not in any way extend to limiting or restricting its military operations on the ground with the attendant humanitarian consequences. As in the example of the Presidential Commission to investigate 15 egregious cases of human rights violations and the establishment of an Independent International Group of Eminent Persons (IIGEP) to observe its investigations, the GOSL engaged in damage control in the wake of the murder of 17 ACF workers – the worst atrocity against humanitarian workers since the Baghdad bombing - and in doing so succeeded in buying itself time against further international censure.

There is an element of the GOSL recognizing that there are definite limits to international interest in Sri Lanka – a country of no special or vital strategic interest to the key internationals. Accordingly, the GOSL's room for manoeuvre is increased, allowing it a "lets see what we can get away with" attitude to international opinion. The option of high profile intervention is in any event restricted to India as the regional power and in this case, it is in turn conditioned by the "once bitten twice shy" effect of the IPKF experience in the late 80s. Indian interest in Sri Lanka too has changed in nature. It is being increasingly denominated in economic terms. Consequently, high profile political or in the extreme case, military intervention, carries with it the risks of upsetting and even undermining the growing economic stake.

Another dimension that has to be considered is the growing realization with evidence to buttress this conclusion on the part of the GOSL, that there is greater plurality and therefore more options in respect of the international community. The GOSL is not restricted or indeed beholden to the conventionally defined western dominated donor community – there are other players including the Chinese, the Pakistanis, Iranians and Russians who are ready and willing to come to its assistance without the encumbrance of benchmarks and conditionality.

Into 2007 it is likely that the Indian role will be pivotal as the situation on the ground results in Norwegian facilitation being effectively suspended. The centrality of the Indian role revolves around the situation in the East – the merger of the North and East being a consequence of the Indo- Lanka Accord – and the presentation of GOSL proposals for a political settlement of the conflict. As always it will also be conditioned by the imperatives or lack thereof of coalition politics and the response of political actors in Tamil Nadu.

Conclusion

The situation in Sri Lanka into 2007 is very likely to be one of protracted conflict, oscillating levels of political stability and growing authoritarianism. The GOSL will persist in the project of regime consolidation with initiatives to revitalize the peace process being of a secondary and instrumental importance. However, it is likely that any proposals presented by the GOSL will be either rejected by the LTTE who will refuse to negotiate from weakness or alternatively suffer the same fate as the August 2000 constitutional proposals which were never presented to the LTTE officially and looked upon by them as designed for the sole purpose of undercutting their bases of popular support.

Riding high on military successes in the East and with the opposition in disarray, there is the possibility that the President will opt for a general election in the first half of 2007. A delay in availing himself of the opportunity to capitalize on the prospects for electoral advantage could be very disadvantageous and result in an exacerbation of populist and authoritarian tendencies in response to extra parliamentary dissent and criticism.

In the North and East, the LTTE will be faced with the challenge of demonstrating sustained and feasible resistance to the armed forces of the Sri Lankan state and of maintaining congruence between its organizational interests and those of the civilians of the North and East. Regaining the initiative in setting the course of peace or war will be its priority and accordingly, capitalizing on the over confidence and over reach of the security forces to this end.

Whilst 2006 was a miserable year for civilians caught up in armed conflict, there is little prospect of 2007 offering them a decisive and irreversible alleviation of their situation. Political actors on the other hand could find, yet again, that there is no permanent balance of power in their favour outside of a genuine commitment to and demonstrable capability for, conflict transformation through a political settlement.

Peace Process

Introduction

Over 2006 the delicate balance of the 'No war / No peace' situation that had been ushered in by the signing of the Ceasefire Agreement (CFA) between the Government of Sri Lanka (GOSL) and the Liberation Tigers of Tamil Eelam (LTTE) became increasingly more unstable. The peace process slid into a crisis of violence and fell short of an officially declared war. The current crisis in the peace process is the result of two main factors, namely the paralysis in peace talks that prevents a revival of the peace process and the high levels of violence. Despite peace talks in 2006, the difficulties in progressing beyond the initial meetings have made the overall process more intractable. Thus, over 2006 the balance between war and peace has tilted towards the former with the two parties intensifying their military efforts and campaigns of violence to secure a strategic advantage over the other.

The success and failure of Peace Talks

The fact that peace talks which can ensure both symbolic and substantive progress in a peace process,¹ took place at all in 2006 was remarkable. Over 2005 the prospect of peace talks had dimmed with the failure to operationalise the Post-Tsunami Operational Management Structure (P-TOMS) that had been negotiated by the GoSL and the LTTE in the aftermath of the tsunami of December 2004. The increasing distrust between the parties in a climate of increasing violence made the prospects for peace making more contentious and unlikely. Furthermore, the election of Presidential candidate Mahinda Rajapaksa in November 2005 on a platform opposing the peace process in its existing framework, only served to further diminish the likelihood of talks. In December 2005 the crisis of violence further deepened with a series of attacks against the Armed Forces for which LTTE-front organisations claimed responsibility, thereby intensifying the crisis within the peace process, and yet making peace talks all the more necessary. This context of distrust, acrimony and violence continued and intensified over 2006. Yet, the parties met twice in 2006 for face-to-face negotiations: Geneva I on February 19-20 and Geneva II on October 28 and 29. That Geneva I was the first time the parties met with high-level delegations since the LTTE suspended its participation in peace talks in March 2003 is highly significant.² That both rounds of talks took place despite the high level of violence and the deterioration of relations is also noteworthy. Geneva II took place despite a significant military operation in Muhamalai-Pallai in the week preceding talks and a high level of daily violence.

The first effort at talks in 2006 was a significant success in that the parties were able to reach agreement to tackle the problems with the CFA. In effect, Geneva I amounted to 'a ceasefire within the Ceasefire' whereby the parties were able to agree to suspend violence and to address its major forms. That an agreement was reached out of a crisis of violence and in spite of disputes during the talks was all the more remarkable.³ The agreement was based more on principles without providing for specific measures and time frames, making the implementation process all the more complicated. In essence it reaffirmed the commitment of the two sides to the peace process and made clear that the parties were more interested in coming to a consensus on the peace process in general rather actually abiding by specific agreements made within it. The parties also agreed to meet in two months. Despite the dramatic drop in violence,⁴ the Geneva honeymoon was short-lived as the violations of the agreements made at Geneva I and the CFA mounted.

On the face of it, Geneva I represented a major shift in terms of the two parties' positions vis-à-vis the peace process and significant compromises by both sides. From the GOSL side it looked like a complete *volte face* for a President who had

campaigning on an electoral platform demanding fundamental changes in the framework of the peace process, made explicit in the Mahinda Chinthanaya and in pre-electoral agreements with Janatha Vimukthi Peramuna (JVP) and the Jathika Hela Urumaya (JHU). Like the gradual shifts in position regarding the venue for talks,⁵ the Government compromised on its publicly stated positions and demonstrated an ability and a willingness to engage with the LTTE. The LTTE, as indicated by LTTE Leader V. Pirabakkaran's Mahaveera Speech of November 2005, had seemingly given the new administration some space- "until next year" for the "pragmatic" President to prove himself. The intense campaign of violence over December and January against the security forces seemed to indicate otherwise. Yet, the LTTE also suspended its policy of militarism and came to an agreement in Geneva I.

In 2006, the efforts to address the paralysis in the peace process through talks essentially failed, thereby making the situation all the more intractable. The failure to implement the agreements arrived at Geneva I in particular severely undermined the prospects for further talks. "Each side is [was] expecting the other to demonstrate *bona fides* on the ground"⁶ and testing the other's commitment to the process. The LTTE in particular made its attendance at the next round of talks contingent on the implementation of Geneva I while the GOSL was more willing to go ahead with the next round. Geneva II was unable to replicate even the minimal success of Geneva I in terms of securing any agreements be it on a temporary moratorium of violence or a date for the next meeting.. The parties only agreed to avoid launching any major offensives against each other, clearly indicating the crisis in the peace process had deepened since Geneva I. The unravelling of the agreement reached in Geneva I and the failure of talks thereafter further undermined the even the minimal trust and confidence that existed between the the two parties and limited options for future negotiations.

The parties seemed increasingly unwilling to use negotiations, direct or indirect, as a means of dispute resolution. From 2002 to 2006 the focus of negotiations went full circle from the CFA to immediate normalization issues to interim issues to disaster aid management back to the CFA. By Geneva II the parties had fallen back to their traditional positions - the LTTE focussing on the immediate issues and delaying core issues, the Government preferring a broader range of issues including a consideration of core issues. That the Geneva II talks collapsed on the A-9 issue showed that the parties were reverting to positional bargaining and traditional fall-back positions.⁷ The Government continued its unilateral measures whilst the LTTE insisted on the re-opening the A-9 and refused security guarantees to vessels flying the ICRC flag.

It should also be noted that over the year, relations between the two parties became more contentious with both sides accusing each other for the violence. Acrimony over issues such as the transport of LTTE cadres was symptomatic of this and the increasing resistance to any compromise. The principle of parity of status came under repeated attack from the GOSL.⁸ There were some moments of compromise and good will, as when the Government agreed to let LTTE Media Coordinator and Spokesman Daya Master receive treatment at a hospital in Colombo and when the LTTE finally released the policeman, K.A.D. Sarath, serving with the National Child Protection Authority.⁹ There also continued to be rumours of alternate channels of communication between the Rajapaksa administration and the LTTE but there were no reports of any substantive progress.¹⁰

Peace Process under siege

The critical pillars supporting the 'No War / No Peace' situation were under increasing threat as a result of the actions of both parties. The upsurge of violence in particular called into question the viability of these pillars – the CFA, Norwegian Facilitation and the Sri Lanka Monitoring Mission (SLMM). In the period from 2002-2006 the SLMM ruled 346 violations against the GOSL and 3827 against the LTTE.¹¹

A number of changes with regard to the CFA, Norwegian facilitation and the SLMM in this period should be noted. Despite the demands for Norwegian facilitation to be suspended and initial confusion as to its continuation, the Norwegians were retained. A new Norwegian Special Envoy, Hanssen Bauer, was appointed in March. In the face of accusations against Norway of a conflict of interest a Swedish General Ulf Henricsson, was appointed as the Head of the SLMM and in addition to

its primary task of monitoring the CFA the SLMM was tasked with monitoring the implementation of agreements made at Geneva I.¹²

In the course of 2006 a number of criticisms were levelled against the SLMM. These included criticism over particular rulings and statements (be it on the LTTE's rights to the sea or the Karuna Group being active in Government-controlled areas), charges of partiality (particularly by the Government and its allies) and miscommunication, threats and even incidents of violence.¹³ The security threats to the SLMM intensified, as evidenced most notably by the LTTE's explicit threat to the SLMM's naval monitors in May¹⁴ and the Security forces firing of artillery in the vicinity of a meeting between a SLMM delegation, including SLMM Head Ulf Henricsson, and residents of Eachilampathu on July 29. The parties overall disregard for the SLMM's safety forced the SLMM to reduce its activities, including suspending its naval monitoring in May and the temporarily closure of its office in Trincomalee. A further challenge was the demand by the LTTE that SLMM personnel from European Union (EU) member states leave the North East within one month on the grounds that the neutrality of the SLMM was in question in the wake of the EU Ban of the LTTE in May. With the failure of talks in Oslo in that month to negotiate an agreement on the SLMM issue, the SLMM withdrew its Swedish, Finnish and Danish personnel over a three month period despite the Government's opposition to this move.¹⁵ In effect this change represented an amendment of an article of the CFA. As SLMM head Ulricsson asked "Do they want to terminate the CFA?... The CFA is a package, you either take it or leave it."¹⁶ The SLMM's ability to continue functioning will face increasing challenges in 2007 if the violence continues at the current rate. That the SLMM is monitoring war rather than peace may lead to the SLMM questioning its role and to its pulling back all or some of its monitors in the North and East. However, there are little indications of this happening yet.

Norwegian facilitation was under threat as well. The LTTE's refusal to engage in face to face talks in Oslo raised questions with regard to the space for Norwegian facilitation. Despite having prior knowledge of the make-up of the Government delegation before travelling to Oslo, the LTTE announced on the day of the talks that it would not participate as the Government delegation did not include a high-level of representation. As the Norwegian Development Minister, Eric Solheim, remarked, "there is at the present time no room for a Norwegian initiative in the peace process."¹⁷ It was in this context that the Norwegians in an "unprecedented move"¹⁸ issued 5 fundamental questions to the GoSL and the LTTE to clarify their stance on the CFA and the SLMM. While the GoSL responded positively to the questions in sum and the LTTE reiterated its support to the CFA and the peace process, it was clear that the peace process was at a nadir. Despite the dim prospects, the Norwegians look set to continue their role.

A crisis of violence

Violence has been a constant theme in the Sri Lankan Process.¹⁹ Following the Karuna Rebellion of March 2004 it has significantly intensified.²⁰ Some of the main patterns of violence that strongly emerged over 2005 intensified over 2006. The violence between the LTTE and the Karuna Group including attacks on each other's military camps redoubled in 2006. The increased attacks on the security forces intensified in 2006, particularly after the series of attacks by LTTE-front organisations, including the use of claymore mines on the security forces in the period December 2005 to January 2006. The year saw both parties amplifying their efforts to weaken the military capacity of the other through the elimination of high-profile military leaders and constant attacks on military camps and points.

While there was a significant expansion in the scale of the violence, there was also a qualitative shift in 2006. The introduction of particular tools and strategies of war such as aerial bombardment and the conquest of territory are some key indicators of this shift. Aerial bombardment has been used repeatedly both as an offensive and defensive measure.²¹ From the middle of 2006 the parties demonstrated an increasing willingness to launch full scale military operations. Another significant development that came in the wake of the Mavil Aru incident in late July was the expansion of military operations from commando raids or attacks aimed merely at crippling military infrastructure to full scale operations aimed at seizing territory. The capturing of Sampur by the military forces marked a critical event in the year which was followed by a small but significant gain by the armed forces in capturing the LTTE's Forward Defence Line (FDL) in Muhamalai, thereby signalling that even the

lines of control when the CFA was signed would be dramatically altered through the use of massive force.²² Battles on three fronts - Eastern Trincomalee, Jaffna and Vaharai - were accompanied by operations to capture strategic points such as Muttur in Trincomalee and Mandathivu and Kayts in Jaffna by the LTTE.

Over 2006, more violent actors have become involved they have joined the two parties to the conflict in gross violations of human rights. While the LTTE conducted forced military training for civilians in the North and East, thereby making them more vulnerable to being targeted, it also blamed some of the violence on civilian militias whom it claimed to have trained.²³ Over 2006 the Karuna Group became more active. The group has played a key role in altering the military balance in favour of the military with its commando raids on LTTE bases in Batticaloa and Amparai making the LTTE more vulnerable in the East. The group has also become more active in Government-controlled areas setting up a number of Tamileela Makkal Viduthalai Pulihal (TMVP) political offices and carrying out abductions of adults and children particularly in Batticaloa and allegedly even in Colombo. The group's involvement in killings and abductions is part of a wider shift where Tamil armed groups close to the Government including the Eelam People's Democratic Party (EPDP), as well as the Armed Forces have been accused of engaging in acts of violence against the Tamil civilian population, in particular. State-sponsored terror and that of the LTTE, is part of a wider pattern of violence against the civilian population – a dirty war that was carried out through the conflict and increasingly over the peace process, especially in 2006. Over the year there were a number of horrific incidents where civilians were targeted and brutally killed.²⁴ If military operations continue to escalate and peace talks continue to be untenable, the dirty war is likely to become dirtier.

The upsurge in violence has pushed the 'No War / No Peace' increasingly towards war. The situation on the ground in 2005 was characterized as a 'proxy war' or a low intensity conflict. Given the scale of the violence, in particular the military operations and the sheer volume of fatalities numbering over 3,000, it is clear that the overall situation has shifted from a low-intensity conflict to an undeclared war in 2006. During December 2005 and January 2006 monthly figures for fatalities hit an unprecedented three figure number. Both sides continued to declare their commitment to the CFA and stated that their military operations did not amount to war, whilst insisting the other's actions would amount to a declaration of war. The GOSL argued that the Mavil Aru operation was a "limited humanitarian operation" in order to re-open the anicut within LTTE-controlled territory. The LTTE declared that this would amount to a declaration of war. It set a precedent in rationalizing military action that both sides would repeat over 2006. The situation on the ground clearly demonstrates the parties' complete disregard for the fundamental principle of the CFA and above all their willingness to extend their use of violence under the cover of the CFA.

It is an open debate as to why the two parties are engaging in escalating campaigns of violence. The virtual end to violence during the Geneva I "honeymoon" demonstrated their ability to take control on the ground. On the other hand, the fact that violence resumed thereafter clearly showed a willingness and a determination to use violence as a means to better their respective strategic positions. The instrumentality of violence can be understood as either an attempt to push the other side to declare war and/or as a means to consolidating their military, political and overall strategic advantage. It is easy to view the violence through the prism of a security dilemma in which both sides are trapped in a cycle of violence where every victory and defeat only encourages a further widening of that cycle. At the end of the day, it is increasingly clear that the two parties are pursuing a military solution and are deliberately ignoring and subverting a negotiated settlement. There are single incidents which seem to show a deep desire to hit right at the heart of the opposing side: less than a month after Daya Master received treatment, the Deputy Secretary General of the GOSL's Peace Secretariat, Kethesh Loganathan, was assassinated on August 15, reportedly by the LTTE; a suicide bomber attempted to assassinate the Defence Secretary and brother of the President, Gothabaya Rajapaksa in December.

The shifting balance of power

The balance of power has dramatically shifted to and fro over the year as the two sides expanded their military operations. Through the campaign of violence against the security forces, the LTTE was in a position of advantage and it was able to

force the Government to concede its demands for changes in the peace process and to come to the negotiating table. The Government on the other hand was able to secure an advantage through the success of military offensives, particularly with the capturing of Sampur. In addition to protecting the strategic naval base of Trincomalee, this operation is part of a larger effort to 'liberate' the East. Efforts to wrest control of the East are likely to continue in 2007. In December 2006 the security forces initiated an offensive in Vaharai aimed at forcing the LTTE into little pockets in the East. The success of this will place the Government in an advantageous position both on the battlefield and at the negotiating table. Given the de-merger of the North and East it is also likely that the Government may also try to further transform not just the military but the political establishment in the East as well, with the assistance of the Karuna Group.

In the North the battles were intense and bloody with high casualties but only minor shifts in the lines of control. While Sampur was a relatively rapid military operation for the security forces, the arduous campaigns in Mavil Aru, Muhamalai and Vaharai show that military campaigns will not be fast and furious, low-cost victories for the Government. The LTTE was able to demonstrate the strength of their Northern defences while the security forces were also able to launch successful defensive and offensive operations. The LTTE made repeated efforts at shifting the balance of power through attacks on military centres including the deadly attack on a military transport point in Digampattana, Habaranna which claimed 99 lives and on the naval base Dakshina in Galle. These were significant gains for the LTTE. The suicide bomb attacks targeting high profile individuals were only partially successful.²⁵ As the military pressure on the LTTE mounts more attacks on soft civilian and economic targets can be expected in 2007. Other battle fronts are also likely to open up, be it the Wannai or Mannar, as the two sides try to off-set mounting attacks on existing fronts.

However, the heavy loss of manpower could arguably dampen both sides' enthusiasm for militarism. There are increasing questions as to whether the two sides can meet the manpower, hardware and logistical requirements for military operations over the long-term. The LTTE in particular faces a critical problem in maintaining lines of communication with its forces on various fronts and in ensuring that it has access to military hardware, given the navy's successes in hitting suspected LTTE cargo ships and the international constraints on funding. Though the LTTE conducted military training for Tamil civilians in LTTE- and government-controlled areas in 2005 and 2006, it has a manpower problem. The successful militarism of the Government has ensured better recruitment for the security forces, despite the losses of men and military equipment, including dvoras and tanks, which had to be replaced. While there continued to be speculation of covert military assistance and intelligence being provided to the GOSL, it is clear that the international environment is more friendly towards the Government's version of the international 'War against Terror.' Overall, it seems that the military balance definitely shifted from tilting towards the LTTE at the beginning of the year to a position of advantage for the Government. Propelled by its successes and the increasing perception of the LTTE's military difficulties, the Government is determined to push ahead.

International Community

The international community has played a significant role in sustaining the 'No War / No Peace' situation. It engaged in a high-level of crisis diplomacy - December-January and during the Mavil Aru crisis in July - while drawing attention to the emerging humanitarian crisis in Sri Lanka. Through condemnation of the violence and encouraging the parties to commit to talks the key actors, the Co-Chairs of the Peace Process also attempted to revitalize the process by taking up a more proactive role, with efforts in September to monitor implementation of a potential agreement and to send a mission to review the humanitarian situation. Neither, however, of these transpired.²⁶

Both sides are apprehensive of the international fall-out of declaring war. For the LTTE, the international context of a 'War against Terror,' especially given the EU ban of the LTTE on May 18 and by Canada on April 10 coupled with increasing efforts to curb LTTE front organization fund-raising by a number of countries which host large diaspora populations, has made a return to declared war tricky. At the same time it would seem that given the loss of legitimacy, the LTTE has little to lose. Throughout the year, the international community increased pressure on the LTTE with regarding to its transformation and engagement in human rights violations and child recruitment in particular - as highlighted by the Special Adviser to the UN

Special Representative for Children and Armed Conflict, Alan Rock on his November visit to Sri Lanka. The international action against the LTTE has strengthened the GOSL's political and military campaign in cornering the LTTE. In a statement titled the Oslo Communiqué the LTTE, in addition to critiquing the GOSL also criticised the international community's attempts at defining the parameters of the final settlement.²⁷ The LTTE has arguably taken a number of conciliatory steps. At the same time it has been combative and demonstrated that it would not be cowed, as seen with its demands regarding the SLMM personnel from EU-member countries.

Over the year, the GOSL has been both pressured and assisted by the international community. Like the LTTE, it is cautious of declaring war as it does not want to isolate key countries and risk policies that would affect its military, economy and international status. The German Government's announcement on December 24 that it would cease all new aid to Sri Lanka until the peace process in the country advances set off warning bells. The statements by leading international actors, including the UN Secretary General Kofi Annan on the human rights and humanitarian situation have put the Government on a defensive footing. The GOSL has, however proved able in deflecting and off-setting concerted international pressure, as seen at the UN Human Rights Commission in Geneva in September where Sri Lanka was referred to as an international "trouble-spot" along with Iraq, Lebanon and Sudan and faced the prospect of an EU-sponsored resolution.²⁸ Furthermore, while rhetorically the international community has called for an end to violence and a return to talks, it is unclear as to what is happening behind the scenes and whether key powers, including India and the US, are adopting more ambiguous positions with regards to putting pressure on the GOSL.²⁹ India has maintained its official policy of non-engagement despite sustained efforts by the GOSL to secure its public support. Instead, the Indian Government has opted for voicing its concern with regards to the situation of civilians, calling for a bi-partisan approach and the devolution of power within an united Sri Lanka to address the grievances of the Tamil Community and stated that it would not extend military assistance to Sri Lanka in order to both pressure the GOSL and placate its political allies in Tamil Nadu.³⁰ Sri Lanka was also able to call upon non-Western allies such as Japan and China for economic aid and Pakistan for military assistance. The bomb explosion which killed members of the Pakistan Ambassador Wali Mohammed's security convoy on August 14 for which the GOSL blamed the LTTE and the Ambassador accused Indian Intelligence, indicated, either way, an internationalisation of the violence.

Strategic advantages of a 'No official war, no peace'

It is not just the primacy and relevance of negotiations as a tool for arriving at a settlement to ethnic conflict which is in question; the divergence of the two sides' outlines for a final settlement is also becoming increasingly clear. While the LTTE questioned the international community's position that a final settlement had to be within an united Sri Lanka, the actions and rhetoric of the GOSL raised doubts as to whether a merged North and East would be an assumed starting point for negotiations.

The GOSL attempted to show its commitment to a negotiated settlement to the ethnic conflict by initiating an all party conference to arrive at a Southern consensus. Despite initial problems including the boycotts of key political parties, the process moved ahead with the appointment of a Council of Party Representatives and a Committee of Experts culminating with a majority opinion report at the end of the year. Minister Professor Tissa Vitharana produced a consensus report based on the three reports which was released. However, it has not been endorsed by the Government, clearly indicating the Government's hesitation in endorsing a power-sharing arrangement as the basis of a political settlement, especially at a time when the LTTE seems so vulnerable.

The cyclical history of war and peace shows that the swings in military advantage can be fast and far-reaching but there is always a military response resulting in a swing in the other direction. Over 2007 it will become evident as to how far the LTTE has been cornered. The LTTE over 2006 called for an end to violence and for peace talks but it found itself hemmed in by the use of force against it and the international community's moves against terrorism. The call for support for the struggle for an independent Tamil Eelam in the Mahaveera Speech of 2006 makes clear that, as far as the LTTE sees it, there is little space for the LTTE to maneuver apart from calling for a continuation of the armed struggle. Thus, both sides seem set to

confirm their respective characterization by the other –on the one hand, a centralized state which has broken every promise it has made to the Tamil people and is determinedly seeking a bloody military solution and on the other, a terrorist group seeking a separate state and unable to break out of a behaviour pattern of violence and abuse.

On balance, in 2006 the behaviour of the parties suggested that they felt trapped by the peace process, were unable to re-fashion or re-create the process and/or unwilling to seek an exit strategy. However, the parties saw it in their interests to resume talks and attend negotiations, probably on account of their preference for the strategic ambiguity of the current situation as opposed to a definitive commitment on their part to either war or peace. The situation has clearly moved beyond a low intensity conflict to a 'no official war, no peace.' It allows both parties to go through the motions of peace talks whilst exploring military options. In this respect, the most important purpose the peace talks serve is to maintain the dynamic of the 'No War / No Peace' scenario through sustaining a rhetorical commitment to the CFA and to negotiations, along with a continuing international involvement and interest through the Norwegian facilitators, the SLMM monitors and the Co-Chairs. Thus the strategic ambiguity of the 'no official war no peace' allows both parties to engage in war without having to deal with some of the more damaging consequences of war to their respective positions and interests. This situation also has its advantages for the international community; a declaration of war would complicate their policy making, especially with regards to aid.

Neither side would have a real interest in shifting out of this. Hence, this situation could well continue over 2007, with the two sides continuing the violence and even engaging in talks without any real commitment to a constructive outcome, when faced with a military stalemate. Unless the parties re-align their strategies and re-visit the options of compromise and the imperative of a negotiated political settlement, a peace is unlikely.

Political outlook

Introduction

Despite the lack of a clear parliamentary majority and his reliance on a loosely held alliance, the Government of President Mahinda Rajapaksa has over the course of the year strengthened his position and that of his Government. Given the slim margin of victory at the Presidential elections and the Government being in the minority in parliament, the President was clearly in a vulnerable position. By the end of the year, however, the minority Government was able to call upon a loosely held-alliance that included a majority of political parties in parliament and boast of a historic agreement with the main opposition party the United National Party (UNP). The President has also consolidated his position through populist policies and the centralization of power around the Presidency. Confronted by the dual challenges of a peace process and an upsurge in violence, the Government has been able to assert its position vis-à-vis the LTTE and increase its popularity in spite of the public compromises it has had to make and the setbacks it has suffered.

Strengthening of the President's position

Throughout 2006, the Rajapaksa administration has been successful in increasing its popular base and consolidating its control over the state. President Mahinda Rajapaksa was elected on November 17, 2005 with a slim majority of 28, 632 votes above the mark of 50%. The popularity of the President has soared as he has built on his image as a 'son of the soil' to create a reputation of a concerned and strong leader who holds the interest of the nation above all else. His visits to console Sinhalese victims of the violence, including those in Kebetigollewa on the day of the claymore mine blast - June 15- and to the funeral homes of armed forces personnel killed in the North and East, all helped to strengthen the public regard. Meetings with the family members of Tamil victims of abductions have also created a perception of a President who takes a personal interest in critical human issues. That his son, Yoshitha, joined the navy further strengthened public support, as an unprecedented expression of commitment to national unity and integrity..

The populism of the Mahinda Chinthanaya (MC) was put into action through economic and social policies providing significant subsidies, particularly in the fuel and fertilizer sectors, and continuing support for social infrastructure, which helped cushion the rising cost of living and the soaring defence costs. A number of programmes and projects have been initiated which have been presented as being inspired by the President, including the Jathika Saviya (JS) and the Weeravila International Airport. The JS programme aims at providing comprehensive protection in the areas of defence to essential services, for mainly Sinhala civilians in the border areas. The Weeravila International Airport however, risks becoming a white elephant project. There is no real rationale for another international airport, especially given the economic situation and the need for other more urgent and major infrastructure projects. While the long-term repercussions and sustainability of some these economic and social policies are clearly in question, they have tremendous short-term benefits for the Government.³¹

The President has also increasingly centralized his power. The President and his inner circle of his brothers, Defence Secretary Gotabaya Rajapaksa and Presidential Advisor Basil Rajapaksa, who attend all crucial decision-making meetings, have effectively reduced the position of the cabinet and other key figures including Sri Lanka Freedom Party (SLFP) and PA stalwarts, into that of implementers and advisors. Through circumventing constitutional and parliamentary safeguards including the Constitutional Council and independent commissions, the President has been able to appoint individuals he trusts and who owe their position to him. The appointment of P.A. Prematilaka as the Auditor General in October ignoring the provisions

of the 17th Amendment was the latest in a series of arbitrary appointments in 2006.³² These developments have had an adverse impact on good governance as the independence and/or the powers of critical institutions including the parliament and the Supreme Court have come under increasing threat.³³ Within the SLFP he has established control by having himself elected unanimously as Party President at the Party Convention on June 29. Former President Kumaratunga was dismissed from that position and the threat she posed to her successor thereby minimized.

Consolidation of power through peace

While the Government proved more successful on the military as opposed to peace front, it has been able to move in both areas to consolidate its position. The latter being its overarching objective, some of these moves appeared *ad hoc* and even contradictory in the context of peace or war, but taken together embody coherence in terms of balancing interests – “hawks” and “doves” – for regime consolidation.

On the peace front, President Rajapaksa did not call for a complete rejection of the peace process. He called for a dual approach of direct talks with the LTTE and of creating a Southern consensus, but did question some of the basic assumptions and the framework of the peace process as it stood, thereby creating a strong image of a more hawkish leader. For the SLFP and the PA the rejection of the P-TOMS Agreement and the stated commitment to the unitary state over establishing a federal system represented a significant and embarrassingly rapid reversal of its position on these two issues.³⁴

Over the first quarter of the Presidency, the Government took a number of policy decisions that signified a series of compromises on earlier stated positions, including calls for a revision of the CFA, a review of Norway's role as facilitator, a rejection of the Tamil Homelands concept and support for the unitary state. The shift had begun early as the Rajapaksa administration reinstated the Norwegians as facilitators after an initial delay in making a public announcement to this effect. While trying to introduce some changes in the framework of the peace process, including the failed attempt to encourage India to take a more active role, the President resorted to reinstating the existing framework and re-starting talks. Efforts at re-starting talks became more frantic with the LTTE unleashing a campaign of violence against the security forces in December 2005 and January 2006 which in turn led to the Government appealing to the old allies of the peace process – the Western countries – to put pressure on the LTTE. Arguably there was some continuity as direct talks with the LTTE were both part of the Mahinda Chinthanya (MC) and Rajapaksa's election platform. Yet, given the stated ideological position in the electoral agreements with the JVP and the JHU, as well as the MC Manifesto, it appears that the Government did a *volte face* on its public position.

The *volte face* could be understood as a pragmatic shift on the part of a President who was faced with a crisis and a continuing need to balance opposing interests regarding peace talks and the peace process. This President also seemed to take pride in being pragmatic, as the willingness to compromise over ideological attachments was made clear. During his election campaign the left parties had claimed that the JVP and JHU Agreements would become “irrelevant” once Rajapaksa becomes President due to certain “realities” such as the federal solution,³⁵ i.e. the espoused ideology was merely a tactical measure to win the elections and therefore not indicative of Rajapaksa's own position on the peace process. The President did seem to pull off a series of compromises in order to make some headway in the peace process and put it back on track while maintaining his political alliances and expanding his popular base. Commitment to the holding of peace talks – Geneva I and II and Oslo Talks – made clear the Government's willingness to explore solutions to the crisis in the peace process. The significance of Geneva I as the first time that the Government and the LTTE engaged in official peace talks since the LTTE's suspended its participation in 2003 cannot be underestimated. The Government also agreed to increased international involvement – the visit of Sinn Fein Leader Martin McGuinness to Killinohchi showing that the Government was open to internationalisation of the peace process. These moves indicated the underlying pragmatism and tactical nature of the President's approach. Consequently, apparent compromise and continuity with the past was explained by pro-Government actors through the post Geneva I face saving claim that the CFA had in fact been amended and that the signs of continuity notwithstanding, change was the order of the day.

It was clear that the Government was going to be much tougher with regards to the LTTE than either one of the previous administrations, especially in the wake of the LTTE's campaign of violence. Hence the Government, while making key compromises such as on the issue of the venue for talks, also proved recalcitrant on issues such as the transport of LTTE cadres, matching the LTTE's obduracy. Despite the increasing unpopularity of the LTTE on account of its campaign of violence, there continued to be strong support for negotiations which the Government was able to translate into confidence in the Government's peace efforts. Policy towards the peace process appears to be catalysed by context and events, but based on an underlying ideology and moulded by political pragmatism.

With regards to the second prong of the President's envisaged peace process – finding a Southern Consensus – the President was able to demonstrate his commitment to finding a settlement to the ethnic conflict and to secure political support for the Government's policies on the peace front. The President held a series of bilateral meetings with some political parties before convening a broader All Party Conference on January 9 aimed at “forging a common consensus among all political parties in the South as a prelude to commence a direct dialogue with the LTTE for arriving at a lasting solution.”³⁶ Over the successive months, the Government established an All Party Representative Committee which would formulate and submit proposals for the resolution of the ethnic conflict under a broad legal and constitutional framework within a united Sri Lanka, and a Committee of Experts to Advise the President on Constitutional reform. While there was significant scepticism from commentators on this process moving forward by December 6, the identified date, the Committee prepared its findings. That the Committee produced four different reports³⁷ attests to the range of opinions on the issue. However that a multi ethnic group of a majority of members came out in favour of power sharing and jettisoning of the unitary state is significant. The basic point of the Majority Report is power sharing. The real test in its wake is of the will of the Government in pushing ahead with the peace process on this basis. Steady progress seems unlikely as the Government spent more energy in identifying who had leaked the Majority Report rather trying to set out its response and in distancing itself from the Report.³⁸

The APRC process does represent a more inclusive process at creating a Southern consensus on a settlement to the ethnic conflict. It has yet to prove though, that it is a genuine effort at pushing forward that consensus, rather than an attempt at demonstrating the Government's commitment to peace to the international community. An important issue on which the Southern consensus and Government policy in particular has to be clear is that of the merger of the Northern and Eastern provinces. In 2006, the Supreme Court declared the merger of the North and East null and void in response to a fundamental rights case. The Court decision focused on the constitutionality of the procedure by which the merger was originally accomplished rather than on the constitutionality of merger *per se*. Accordingly it threw back the issue into the political realm. While this temporarily placed the Government in an embarrassing position as it was in the run-up to Geneva and a member of the Government delegation for Geneva I and of the APRC Experts Committee was in the legal team that made the fundamental rights application, the Government did not take any substantive measures to address the concerns of the Tamil Community on this issue, despite the merger being a fundamental aspect of Tamil nationalist political demands. Instead it has appointed separate governors for the North and East and ignored UNP Opposition offers of legislative support to effect the merger. This indicates along with military developments, that the Government will at most agree to negotiation regarding the merger and its modalities, only at talks in the future.

The political rewards of militarism

Both sides can be blamed for the failure of peace talks over 2006 and the escalation of the violence, but it is clear that the Government has become pro-militaristic and more willing to explore military solutions.³⁹ While the Government's early policies can be seen as a response to the upsurge of violence it is clear that there were significant early signs of a hard line position as seen with security appointments: the Army Commander Shantha Kottegoda perceived as being more willing to engage with the LTTE was replaced by Major General Sarath Fonseka, while hard-liners such as Major General Janaka Perera and DIG H.N.G.B. Kottakadeniya were appointed as Senior Defence Advisor and as Deputy Defence Secretary respectively.⁴⁰ Significantly the Government also increased the defence allocation in the budget presented in December 2005 from an already high figure of Rs 63 billion to Rs 97 billion, inevitably intensifying speculation that the Government was in-

vesting in a remilitarization program.⁴¹ Furthermore, while willing to make compromises at the table, the Government did not seem as committed on the ground with regards to the implementation of the Geneva I Agreement, particularly with regards to the actions of the Karuna Group.⁴² Despite a number of reports alleging ties between the security forces and the group, the Government has maintained that there are no links between the state or its armed forces and the Karuna Group. The latter however, has become more openly visible in Government-controlled areas and receives state protection for its offices.⁴³ While the Government conducted a number of public search operations to find the Karuna Group, the attacks continued, raising concerns regarding the non-implementation of the agreement.

From July 2006 onwards the Government intensified military operations. From the Mavil Aru operation onwards the Government seems to have adopted a policy of unfettered militarism in terms of the security measures adopted, including the introduction of the Prevention and Prohibition of Terrorism and Specified Terrorist Activities Regulations (PPTSTAR) and the launching of large scale offensive and defensive military operations. Undoubtedly, the LTTE's military actions played to this trend intensifying the Government's militaristic response. Such as the reinstatement of many of the terms of the PTA through PPSTAR following the attempted assassination of the President's brother and Defence Secretary. As the military operation in Muhamalai in September showed, however there are signs of military adventurism. It should be noted that the Government and military chiefs all denied knowledge of this operation even though the operation included aerial support.⁴⁴ The military victories and ironically even the set backs strengthened the position of the President and the Government. The victory of Sampur in particular renewed faith in the capabilities of the armed forces and in the political leadership. The Government's defence of the Humanitarian Operation of Mavil Aru and the aerial bombardment of the Camp in Senchola in August, killing 61 girls, made clear the Government's ability to wage a successful public relations battle.

The huge human losses at Kebetigollewa, Digapattana and Muhamalai have not created an outpouring of anger at the Government. Instead, it seems to have deepened the support for a military solution, at least temporarily, among a sizeable proportion of the Sinhala Community. The space for dissent against the war has rapidly shrunk, as seen with the efforts by Sinhala nationalists groups to prevent gatherings and demonstrations against the war, including two National Anti-War Front meetings which came under attack.⁴⁵ The campaign against NGOs through the Parliamentary Select Committee and assaults on NGO gatherings including discussions on federalism, suggest that there overall socio-political climate is becoming increasingly intolerant. The Government is doing little to actively prevent the deterioration. On the contrary it seems that the Government's adoption of more draconian legislation including PPSTAR,⁴⁶ and warnings to the media on reportage of issues linked to national security indicate that the Government is also becoming much more hard line. The President's speech in the wake of the new legislation made clear the Government's unambiguous position "I ask this of all political parties, all media, and all people's organizations. You decide whether you should be with a handful of terrorists or with the common man who is in the majority. You must clearly choose between these two sides."

A broad coalition and a weakened opposition

In pursuit of the overarching objective of regime consolidation, the President sought to secure a solid legislative majority for his Government. His legislative inheritance in November 2005 required his Government's reliance on the JVP and JHU for a slim majority of a 117. Both these parties sat on the Opposition benches. Within the year, the President succeeded in creating a politically unassailable position for himself and made considerable advances in the consolidation of his Government without having to resort to a general election. Through savvy courtship and a willingness to expand his cabinet, the President succeeded in obtaining the support of an assortment of parties. Following initial tensions between the Ceylon Workers' Congress (CWC) and the President,⁴⁷ the latter succeeded in securing the entry of the CWC and Up-Country People's Front (UPF) into the Government on August 25 in return for cabinet positions.⁴⁸ The increasing militarism made it difficult for the minority parties to join the Government hence the CWC and UPF delayed their entry. The SLMC too found it increasingly difficult, given its criticism of the Government's treatment of the Muslim Community. The SLMC position on the violence and displacement of the Muslims of Muttur and of Pottuvil appears to have had a direct bearing on the withdrawal of SLMC Leader Rauf Hakeem's personal security.⁴⁹ In addition to courting political parties, the Government has welcomed the cross

over of individual MP's into the cabinet. This has put pressure on political parties, forcing them to choose between losing their parliamentary representation or their independence. This is a stark choice the SLMC will face in 2007.

One of the critical political successes of the Government was the historic SLFP-UNP Agreement which promised a consensus between the two main political parties in Sri Lanka on key issues facing the country and even the possibility of a national Government. Together they account for over 60% of the electorate and, given their history of acting as a spoiler when in opposition to any agreement between the Government and the political leadership of the Tamils, a UNP-SLFP consensus is seen as a vital component for any sustainable peace agreement. The MOU, however, seems to have resulted less out of a desire for addressing national issues than one of maintaining power. For UNP Leader Ranil Wickremesinghe the MOU was a means of blocking a mass cross over of Reformist M.P's who were challenging his leadership and threatening to join the Government. The UNP had already lost five parliamentarians, including the present Minister for Human Rights and Disaster Preparedness, Mahinda Samarasinghe and Defence Spokesperson and Non-Cabinet Minister for Policy Development and Implementation, Keheliya Rambukwella,⁵⁰ and a number of local council members. The MOU gave the Government vital support in parliament as in the case of UNP support for the Budget and lent more credibility to the APRC process. A bi-partisan approach to the peace process is a key demand of the international community, especially India. With neither party showing any urgency on this score, it is questionable as to whether the MOU will survive, especially with the possibility of a mass cross over of UNP M.Ps and the unwillingness of Wickremesinghe to engage in internal reform within the UNP.

The Government's success has been due to its ability to maintain multiple alliances. In particular, its alliance with the JVP has survived despite multiple threats. The President failed to secure the JVP's entry into the Government, but he was able to offset this with the support of the UNP. Negotiations with the parties took place in parallel. The President even managed to maintain the JVP's support despite the *volte face* with regards to the peace process, the Geneva Agreement, the SLFP-UNP MOU and even after JVP MP Nandana Gunathilleke left the party in mid-September amidst speculation that he would join the Government. Despite their public pronouncements against the Government and charges that the President was violating their pre-electoral agreements and the MC, neither the JVP nor the JHU were willing to take to the streets. Part of the reasons for this may be due to the consultative approach the Government appears to take, as seen in the Geneva I process, where the JVP and JHU sat through the planning meetings and part of the consultations at Temple Trees during the negotiations. Furthermore, these two parties, like the UNP, are apprehensive of forcing a general election, as they fear a dramatic loss of seats if they have to go it alone, as their poor showing at the Local Government Elections indicated. At the Local Government Elections in April, the UPFA won resoundingly, without the support of the JVP and the JHU, 222 of the 266 local Government bodies in the first round of elections. With the increasing militarism the two parties are able to claim that the Government is following their agenda but at the same time they realise that it is taking the wind out of their sails. The JVP has been able to block some of the proposed measures, including the re-structuring of the CEB and efforts to make strikes by unions involved in essential services illegal under the Emergency Regulations. It is unclear for how long the JVP will be able to prevent the Government from adopting policies that it opposes.

There seems to be a significant shift in the overall political climate under the cover of militarism and the protection of the country that is making it increasingly difficult for any political actor to challenge the President. Hence the opposition is likely to become more muted. There have been efforts to challenge the current climate of militarism with political representatives from the main political parties including the SLFP, UNP and the Left (bar the JVP) joining the Anti-War Front Campaigns and the creation of a Civil Monitoring Committee to monitor abductions and disappearances in Colombo and its environs. Yet, the attacks on the Anti-War Front Rallies and the assassination of the one member of the Committee have made clear the high levels of insecurity. There is clearly a need for a more active opposition to raise the multiple issues of human rights, economic and social policies and governance issues, especially the Constitutional Council.

In the North and East, the political climate has rapidly changed with the deterioration of the security situation. The LTTE that tried to mobilize support through Popular Resurgence Meetings and a boycott of the Presidential elections in 2005 found the increasing violence, especially the targeting of Tamil civilians by the armed forces and its allies coupled with the multiple impacts of violence, advantageous to increasing its control. The deteriorating conditions and the Government's increasingly

hawkish approach as seen with the poor implementation of the Geneva Agreement, the de-merger of the North and East, the Mavil Aru military operation and those that followed, were also factors.

However, against the backdrop of increased civilian suffering, forcible military training by the LTTE across the North and East to shore up its man-power has impacted adversely on the LTTE relationship with the civilian population. The dominance of and intimidation by military actors, coupled with the assassination of a second TNA M.P in less than a year,⁵¹ N. Raviraj in Colombo, attests to the continuing vulnerability of the Tamil polity to violence. This has also placed pressures on the LTTE - an ironic reversal of roles for an organization that has been the key perpetrator of violence in the Tamil polity. Their military losses in the East coupled with the increasing presence of the Karuna Group including the establishment of its TMVP political offices there, have had significant political repercussions for the LTTE's political position in the area. Assisted by the Government's military operations against the LTTE and its tacit support for them, the Karuna Group is well placed to establish its hegemony over Batticaloa and Amparai. Following the Government's appointment of governors for the de-merged North and East, this is likely to be formalized through provincial elections in the East. As to how far the Karuna Group can translate their increased presence into a popular vote base is an open question. The Tamil civilian population are thus caught between the competing strategies of the main military-politico actors. They have little if any space for dissent with killings and abductions being the order of the day.

The Muslims in the North and East continue to be in a vulnerable position caught between the rival military and political agendas of the various armed groups. Their representation within Government has not acted as a safeguard for crisis prevention. This has proved to be more useful in addressing the humanitarian consequences of violations arising out of crises. On the ground, the community will have to devise a *modus vivendi* with the various armed actors in order to safeguard their lives and livelihoods while their political leadership continues to negotiate with, and appeal to the Government and the international community for protection.

Governance

Introduction

Several developments in 2006 raised serious concerns about the Government's commitment to principles of good governance and the rule of law. The crisis of democratic governance through the course of 2006 was highlighted by the failure to re-constitute the Constitutional Council and other 17th Amendment-mandated independent commissions. In addition to this, the crisis of democratic governance and rule of law in the country was further evident by the increasingly overt politicization of the judiciary and, particularly, the Supreme Court, the re-invocation of draconian legislations which challenged human rights in the country, the attacks against NGOs and INGOs as well as passage of legislation signifying the lack of accountability and transparency in the law-making process. These, in turn, had implications for the peace process, the protection of human rights and the growing culture of impunity witnessed during the year.

The crisis around the Constitutional Council and the 17th Amendment to the Constitution

The failure to reconstitute the Constitutional Council and other 17th Amendment-mandated independent commissions exemplifies the crisis of rule of law and democratic governance in the country.⁵² President Rajapaksa did little to resolve a relatively minor dispute relating to which parties in Parliament were entitled to nominate a member to the 10 member body. Furthermore he unilaterally appointed members to the National Police Commission and National Public Services Commission and the Human Rights Commission in violation of constitutional provisions. Several appointments to the appellate judiciary and other positions including the Inspector General of Police were made in a manner inconsistent with the procedure set out in the Constitution.

The crisis in governance and rule of law caused by the Constitutional Council/17th Amendment controversy was further exacerbated with the sudden and unexpected resignations of two senior Supreme Court Judges from the three-member Judicial Services Commission (JSC), chaired by the Chief Justice, in early February 2006.⁵³ The subsequent unilateral nomination by the Chief Justice and appointment by the President of two other Supreme Court judges to fill the vacancies on the JSC, in circumvention of the constitutional process and the requirement that any such appointments be approved by the currently non-operational Constitutional Council, as he had done with respect to the National Police Commission and the Public Services Commission, again called into question the Government's commitment to the rule of law, democratic governance and an independent judiciary.

Furthermore, the circumstances under which the two Supreme Court Judges resigned from the JSC further highlighted the erosion in the independence of the judiciary. The Judges reportedly indicated that they resigned on grounds that they were "unable to work according to their conscience"⁵⁴ and reportedly indicated their willingness to fully state their reasons for resigning only before a parliamentary select committee established to inquire into the JSC crisis.⁵⁵ However, no such investigatory committee has been established to date. The response by the Chief Justice,⁵⁶ moreover, raised serious questions itself about his conduct and reflected the present challenge of dealing with a highly politicized judiciary.

The Government also cited flaws in the 17th Amendment and proposed the establishment of a Select Committee of Parliament to propose amendments to the 17th Amendment. The existence of such flaws was used also as an excuse for the non-implementation of the 17th Amendment. The Centre for Policy Alternatives and several other organizations argued that shortcomings in constitutional provisions is no excuse for non-implementation and that reform or improvement of a constitution/law was a separate issue.

In the face of seemingly deliberate attempts to undermine key institutions of democratic governance, several petitions were filed in courts throughout 2006 challenging President Rajapaksa's conduct in circumventing the 17th Amendment and the Constitutional Council and unilaterally appointing individuals to serve on the independent commissions. The Centre for Policy Alternatives filed a writ petition before the Court of Appeal requesting the court to order the Sri Lankan Government to re-constitute the Constitutional Council as per the provisions of the 17th Amendment of the Constitution.⁵⁷ In May, the Supreme Court refused leave to proceed in a fundamental rights petition challenging the nomination of members to the Public Service Commission.⁵⁸ In rejecting the petition, the Supreme Court stated that it seemed this application was filed for frivolous and vexatious considerations, and directed the Attorney General to consider whether any action was warranted against the petitioners for wasting the time of the Court and for abuse of process.⁵⁹

Similarly, in early June, a petition was filed challenging the President's unilateral appointments to the Human Rights Commission of Sri Lanka. The Court of Appeal issued notice on the respondents, the newly appointed chairman and members of the Human Rights Commission (HRC), requesting them to explain the constitutionality of their appointments. Notice was issued in respect of an application for a writ of quo warranto filed by the Centre for Policy Alternatives, questioning the legal and statutory authority of the appointments. In their application to the Court, the petitioners argued that the 17th Amendment clearly specifies that no appointments to the HRC are to be made by the President except on the recommendation of the Constitutional Council. As the appointments were made solely by order of the President without the approval of the presently-non-functioning Constitutional Council, the petitioners contended that the respondents were therefore not entitled to hold office in the HRC.

Politicization of the Supreme Court and Deterioration of Independence of Judiciary

The singular factor marking the deterioration of the rule of law and democratic governance in Sri Lanka during 2006 was the increasingly overt politicization of the judiciary and, particularly, the Supreme Court. In January 2006, for example, the Supreme Court revisited and finally resolved the Helping Hambantota case favorably for President Rajapaksa in his fundamental rights petition against the CID investigation of alleged fraudulent transfers of tsunami funds into his private bank account, by ordering the police officials conducting the investigation to personally pay a sum of money to the President as damages for their individual liability in violating his fundamental rights.⁶⁰ The course of this case – the issuance of the stay order blocking the investigation until after the November 2005 Presidential election, the subsequent retraction of the investigation by the CID, and finally the judgment in the fundamental rights claim imposing personal liability against the police officials – raised serious questions as to the degree to which political expediency influenced the case.

Also in January 2006, a high court trial-at-bar convicted five Sri Lanka Army soldiers while acquitting the former Deputy Defense Minister Anurudha Ratwatte and his two sons, along with eight other soldiers, in the Udathalawinne case. In the face of apparent overwhelming witness testimony, the verdict absolving all but five members of the military raised profound questions regarding the credibility of the Sri Lankan judicial system to provide justice and to restore the confidence of minorities in the State.

In September 2006, the Supreme Court dealt a further blow to human rights and rule of law in the country with its ruling in the Sinharasa case.⁶¹ On 16th September a five Judge Bench of the Supreme Court headed by the Chief Justice ruled that the Sri Lankan Government's accession to the Optional Protocol of the International Covenant on Civil and Political Rights

was inconsistent with the Constitution of Sri Lanka. The Supreme Court, controversially and in a departure from its usual practice pronounced on the constitutionality of the accession though this was not canvassed in the case by either of the two parties. The petitioner merely sought a revision of the previous decision of the Supreme Court in the light of the opinion of the Human Rights Committee. The Attorney General's Department objected to the revision. The judgment could be foreseen to further undermine public confidence, particularly among minorities, in the commitment to rule of law and human rights by the judiciary as well as the rest of the Government.

The Supreme Court on 16th October 2006 in a landmark judgment ruled that the merger of the North and East provinces, which was part of the 1987 Indo-Lanka Accord, was null and void *ab initio* (from its inception).⁶² In doing so, the judgment declared illegal a political arrangement that had become a de facto reality over the past 17 years.

From a technical legalistic perspective, the Supreme Court's ruling arguably remedied an illegality in the sense that the manner in which the merger was effected was not in accordance with the Constitution and not open and transparent. From a broader political and conflict resolution perspective, however, this judgment could be foreseen to have serious detrimental implications on the peace process insofar as, as expressed by political and legal analysts, Moreover, the timing of the court challenge, 17 years after the merger's effect and at the height of renewed war, signaled a deliberate attempt to drive a political wedge into the ethnic issue during a particularly sensitive time. Finally, the conduct of the Supreme Court, and particularly that of the Chief Justice, during the proceeding again raised questions as to its independence and non-bias, as reports surfaced that intervenient petitioners against the de-merger were snubbed from putting forth their arguments. It could be argued also that the judgment went further than required in declaring the merger null and void *ab initio*, rather than tailoring a narrower ruling which could have acknowledged the ground realities of the past 17 years as well as the practical implications for the resolution of the ethnic conflict.

Increased Legal Challenges to Human Rights

The Emergency Regulations that went into effect nationwide immediately after the assassination of Foreign Minister Kadirgamar have remained in force through the present. The regulations have raised and will continue to raise concerns surrounding their discriminatory impact inasmuch as they give the police and state security apparatus expansive powers of search, arrest, detention, and seizure of property, while simultaneously suspending various concomitant due procedural safeguards designed to protect individual rights and liberties. The re-introduction of particular provisions such as the disposal of bodies without public notification in the current set of Emergency Regulations is particularly troubling as these particular provisions had been removed from the previous set of regulations on May 3, 2000.⁶³ The regulations relating to the disposal of bodies of persons who died while in police custody raise the potential for uncontrolled discretion by the DIG to cremate dead bodies and thereby destroy potentially important medical evidence before a proper inquest proceeding can be completed. This would be particularly problematic in cases of alleged torture of the deceased while in custody. The continued enforcement of the Emergency Regulations will continue to place a strain on public sentiment among the community at the receiving end – the Tamils. The Emergency Regulations have been summarily renewed and extended through 2006 and remain in force. It is foreseeable, also, that the emergency regulations will continue to be renewed and extended unaltered by the Parliament indefinitely.

In December 2006, both President Rajapaksa and Prime Minister Wickremesinghe announced that the Prevention of Terrorism Act was to be revived. The legislation had since its introduction in 1979 been viewed as draconian and gave rise to numerous human rights abuses while it was operational prior to the Cease-Fire Agreement (CFA). The CFA provided that certain parts of the PTA would be suspended. Therefore though it was never repealed, it was de facto moribund during the period after the signing of the CFA. Its recent reintroduction does not bode well for human rights in Sri Lanka. There was some confusion however as to whether the PTA was indeed reactivated as around the same time the President promulgated a series of new Emergency Regulations titled the Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulation No 7 of 2006.

The main dangers of these regulations were as follows-

- The wide, over-broad language of several of the regulations, which could curtail legitimate democratic activity, dissent and the autonomy of civil society groups.
- The sweeping discretionary power of the Competent Authority over the activities, inter alia of civil society organizations including those committed to human rights, national reconciliation and also over the media.
- The composition and legal standing of the Appeals Tribunal, which is a blatant violation of the principle of separation of powers and is an unconstitutional encroachment into the judicial sphere of Government.
- Given the past record and the current context of a culture of impunity, the wide immunity clause (Regulation 15) that could be used to protect members of the police, armed forces and other persons who take action in good faith in terms of the proposed regulations in the discharge of their duties.

Attacks on INGOs/NGOs

This quarter has also witnessed an encroachment by the Sri Lankan State on the “democratic space” in the country, in the form of accusations and attacks against NGOs and INGOs operating in the North and East, including the assassination of 17 staffers of Action Contre Faim (ACF) in August 2006, the threatened expulsion of six NGOs affiliated with Medecins Sans Frontier (MSF) in October 2006 and accusations against ZOA staff and offices as recently as January 2007. These developments must be viewed with the concerted attacks in the state media and the appointment of a Select Committee of Parliament to investigate NGOs. The terms of reference of the Select Committee suggest that the main target of these investigations was NGOs involved in attempts to promote peace and a political solution to the island’s ethnic conflict. The last year has seen an unhealthy trend developing within the military and Government to systematically close the space available for human rights and humanitarian workers to operate in the conflict affected areas.

Under increasing pressure from the international community and civil society to address the growing culture of impunity and deterioration in rule of law, the GOSL finally agreed to establish a Presidential Commission of Inquiry and the International Independent Group of Eminent Persons (IIGEP) to investigate the recent upsurge of abductions and assassinations in the country. Given the constraints placed on them by their implementing terms of reference, however, the ability of these investigatory bodies to successfully carry out their mandate and the genuine *bona fides* of the GOSL in its commitment to address their findings remains to be seen.

The Lack of Accountability and Transparency in the Law-Making Process

The year 2006 witnessed the unveiling of the bill establishing RADA, raising concerns regarding the broad powers vested with the President and RADA, including powers over land acquisition, controlling and monitoring foreign and local non-Governmental organizations as well as designating areas to be classified as being affected by natural or man made disasters.⁶⁴ Concern on the law making process of Sri Lanka was raised with the Bill due to secrecy in the formulation of the Bill, and the ambiguity on process followed in drafting and sharing the document with other stakeholders. Lack of transparency and consultation on drafting of the bill was demonstrated when many in the Government as well as RADA itself were not aware of the existence of the bill and were only aware when it was raised by various civil society. Such a trend of keeping key decisions within certain actors without involving other relevant actors is nothing new to the law making process in Sri Lanka and it seems that the practice is here to stay. Lack of consultation, transparency and inclusivity were raised yet again when there were reports of the existence of yet another bill establishing the Resettlement Authority. While the Bill establishing such a body is yet to be shared with actors including civil society, it too raises the issue of due process in the law making process in Sri Lanka, with concern as to the mandate of such an authority and content of the bill.

Conclusion

The cumulative effect of the cavalier disregard for the Constitution, the consequent politicization of key democratic institutions, the continuing politicization of the judiciary – in most constitutional democracies, the last refuge against an authoritarian Government and an ineffective legislature – the concerted attacks on civil society and voices of dissent, and the growing culture of impunity raises serious concerns about the protection of basic norms of Constitutionalism and democracy in 2007. The weak and fractured opposition and the rise in the influence of the armed forces as they inflict military defeats on the LTTE, introduce two additional factors that could also contribute to the shrinking of democratic space for alternative opinions and dissent. Concerned citizens and the international actors who attach importance to principles of democracy and good governance should address these disturbing trends and recognize the linkages between the concerns of governance and human rights and the pursuit of peace.

Human Security

Introduction

As the violence escalated over the course of 2006 into an undeclared war in the North and East, the humanitarian and human rights situation steadily deteriorated. The number of killings, disappearances, and abductions increased, with the annual body count amounting to almost the same as the war years. This situation of civilians being targeted and killed, including instances of particular brutality, has increasingly come to resemble a full-blown war. The repeated and mounting violations also demonstrate a widening culture of impunity. The violence and its impact have led to large numbers of people becoming internally displaced persons (IDPs) and refugees. There were increasing signs of a humanitarian crisis with waves of displacement, particular areas of the North and East facing severe shortages of basic services, including reports of rising malnutrition, and new restrictions on access for humanitarian actors. Over the year there were a series of humanitarian violations, including attacks on IDPs and welfare camps, and on humanitarian workers and agencies. The noticeable shrinking of humanitarian space resulted in delays and curtailment of rehabilitation and reconstruction initiatives in the North East, affecting the overall development in the region and compounding the humanitarian crisis. The overall situation in Sri Lanka deteriorated to such an extent that it was compared to that of Dafur and the Middle East.

Targeting of Civilians

Over 2006 large-scale human rights violations targeting civilians were committed. The numbers of civilians attacked, the types of violations and the brutality of the attacks all indicated a clear pattern. All the military actors including the security forces, the LTTE, the Karuna Group and other armed groups such as the EPDP, stepped up their activities which included the targeting of civilians. A key trend over the year was the increased blurring of the distinction between combatants and civilians, largely due to the willingness of armed actors to intimidate and brutalise the civilian population through multiple means including the LTTE's forced military training for civilians and the use of a variety of tools of war against locations with significant civilian populations. Given the context of a guerilla war and the confusion as to who constituted a member of an armed group, all sides were determined to use the situation to their advantage. Throughout the year the term "human shield" was repeatedly used with allegations that the LTTE was using civilians to protect their military positions and that it was launching attacks from civilian centers so as to encourage attacks on civilians. The Security Forces have been also accused of repeatedly targeting and intimidating civilians, though they claim that those targeted are LTTE agents and that they were acting in self-defence. The incident in Trincomalee on January 3 where 5 youth were killed in cold blood, the massacre in Allaipiddy where 13 people were killed on May 13 and the killing of 6 youth in Vavuniya on November 18 are some of the key incidents where those killed were civilians. They were not engaged in any military activity and were made the victims of retaliatory violence. Civilians also increasingly found themselves caught in the middle of the violence. For instance, in attacks on the security forces, civilians are sometimes the victims of grenade attacks or claymore mine explosions.

There was a clear ethnic divide with regard to the violence against civilians. Young Tamil males are clearly the most vulnerable group subject to harassment and violence, including arrests, abductions, disappearances and killings. There were also increased fears that the violence and its impact would result in ethnic cleansing, be it specific incidents such as the claymore mine attack in Kebetigollewa which killed over 60 Sinhalese civilians, or the battle for Muttur in early August, or the patterns of killings and violence resulting in mass displacement of the Tamil Community in Trincomalee in the wake of the April 12 market bomb, the communal riots and the subsequent events that followed. This has had a knock-on effect in terms of eth-

nic polarization between communities engaged in day-to-day activities and interactions, making these increasingly difficult and giving way to tension and violence. Each of these attacks also creates another layer of tension and ethnic polarization as each community views these attacks as attempts to drive them out.⁶⁵

Abductions and Disappearances

A large number of disappearances and abductions took place, not just in the North and East but also with increasing frequency in the Western Province. There were reports of 65 civilians missing from January to August, 50 in August alone while other reports stated that 41 were missing.⁶⁶ There were also reports of increasing numbers of Tamil businessmen being targeted for abduction and ransom.⁶⁷ Disappearances and abductions exponentially increased in areas such as Jaffna, Batticaloa, Trincomalee and Vavuniya. A further development in 2006 was the phenomenon of white van abductions of adults and children in Jaffna, and the East. There were also reports of bodies appearing in some of these areas. The abductions were perceived as punitive measures and as a lesson for the rest of the population to terrorize them into submission.⁶⁸ Male youth were a frequent target of this pattern of violence.⁶⁹ The suspected involvement of the security forces in such abductions and killings have raised serious questions regarding state impunity, complicity and participation in the abuse of fundamental human rights. One human rights group claimed “elements in the armed forces that favour vigilante actions to promote Sinhalese claims appear to be in a stronger position in the state apparatus since the election.”⁷⁰ With bodies appearing in the South⁷¹, the nature of the killing where some of the bodies were naked and their hands tied behind their backs, brought back “memories of the ‘reign of terror’ of the late 1980s.”⁷²

The increase in the number and nature of attacks on academics was also a development in 2006, with threats to Professor Ratnajeevan Hoole who was appointed Vice Chancellor of the Jaffna University and the attack on Professor Hussein Ismail of the South Eastern University. The abduction of Eastern University Vice Chancellor, Professor S. Raveendranath, in a high security area in Colombo, following the abduction and release of Dean of the Arts Faculty, Eastern University Bala Sugumara, raised concern on the ability of academic institutions to function in the North East and in particular in Professor Raveendranath’s case, state complicity in such abductions. The wave of disappearances in Colombo resulted in the formation of the Civil Monitoring Committee comprising both Tamil and Sinhalese politicians and the appointment of a Special Presidential Commission to probe disappearances headed by retired High Court Judge Mahanama Tillakaratna.⁷³ Though such measures were taken, abductions continued with similar intensity, with little reported progress in investigations.

Violence against children was a significant issue in 2006. The security of Tamil children in particular deteriorated. In addition to increased levels of killings and attacks, they faced the renewed threat of abductions as both the LTTE and Karuna faction stepped up their child recruitment campaigns. In the middle of June the Karuna Group conducted a 2-day rapid abduction campaign in areas around Batticaloa Town and Valichennai, which have become high risk areas for male children above 15. It is reported that up to 120 children were taken away in white vans.⁷⁴ Significant international attention was drawn to the issue of child conscription with the visit of Ambassador Alan Rock in November 2006. Comments made by the Ambassador highlighting the Government forces complicity in the abductions in the East by the Karuna Group, resulted in verbal attacks on Ambassador Rock and UN Under-Secretary-General, Special Representative of the Secretary General for Children and Armed Conflict Dr. Radhika Coomaraswamy. The Government’s inability to provide concrete evidence to the contrary was also highlighted. This has raised serious questions regarding the state’s commitment to take action to prevent child recruitment or to secure the release of the abductees. Both the LTTE and the Karuna Group continue to deny that they are recruiting, while figures demonstrate ongoing child recruitment.⁷⁵ The abductions have had multiple effects including the loss of education for children afraid to attend school due to the fear of being abducted and the psychological and economic strain on the parents of abductees who try to secure their release.

The vulnerability and targeting of children in an armed conflict was blatantly exposed in the killing of around 50 girls and the injury of a further 120 when the Air Force bombed a camp in Senchola, Mullaitivu on August 14. While the Government insisted that the children were receiving military training and the LTTE claimed that they were providing medical training for the

children, it clearly demonstrated the complete disregard for the rights of children. The Government insisted that age did not matter and the LTTE continuing its training and use of children for violence.

Arrests and detention also increased with Tamil youth becoming frequent targets especially in the wake of particular incidents. For instance, in the wake of the suicide attack against the Army Commander, 97 Tamils were arrested in Colombo. There are also reports of Tamil youth disappearing after being detained or stopped for questioning by the armed forces. For instance, 5 Tamil youth who came to Kantale from Muttur were stopped and questioned by the armed forces according to local villagers in Poddankadu on April 22. The bodies of two of these youth were found with gunshot wounds the next day.⁷⁶ In certain cases, protective custody was seen by civilians as the only safe option. For example in the Jaffna Peninsula, given the high risks and the lack of any other option, increasing numbers of civilians requested the Human Rights Commission (HRC) Jaffna branch to place them in the safety of prisons.⁷⁷

A Human Rights Crisis and Responses to it

In 2006 the human rights situation deteriorated to such an extent that it became a crisis, not just in terms of the scale of violence but also in terms of its intensity. Civilians could be brutally tortured and killed as in the case of a family of four in Vankalai in May, face the barrage of multi-barrel rockets like the communities of Muttur, Sampur and Vaharai, be massacred like the 61 civilians killed in a claymore attack on a bus in Kebetigollewa in May and be slain like the 11 labourers in Pottuvil in September. There were flagrant and repeated violations of international humanitarian law (IHL) enshrined in the provisions of the Geneva Convention Governing Armed Conflict, in particular Protocol II (1977) namely- the non- observance of the distinction between civilians and combatants (Article 4.1, Protocol II); Attacks on places of worship (Article 16, Protocol II);⁷⁸ Attacks within or near to hospitals (Article 10 and 11, Protocol II);⁷⁹ Failing to treat captured and/or injured combatants as prisoners of war (Article 5, Protocol II);⁸⁰ Failing to provide facilities critical to the survival of a community (Article 14, Protocol II).⁸¹ The continued violations of internationally accepted norms and standards further demonstrate the priority given to military gains over human suffering and the respect for international norms. With the delays in investigations and criminal proceedings, and the politicization of inquiries as seen with many of the cases in 2006, there was a rapid escalation in the culture of impunity. The situation was aptly summed up by Philip Alston, Special Rapporteur for Extra-Judicial Killings who stated that the overall efficiency of the policing system, the ambiguity of the role of the military, Karuna and the LTTE were all contributing towards creating a 'zone of impunity,' which in turn was resulting in major human rights violations.⁸²

There was increasing international pressure on the Government to improve its human rights record and to investigate civilian killings and other human rights violations. Pressure mounted at the September sitting of the UN Human Rights Council where Sri Lanka found itself on the top of the agenda along with the Middle East and Sudan. Several initiatives were introduced in the course of 2006 to address the deteriorating rights situation including the re-issuing of the 1995 Presidential Directives and the establishment of an Inter-Ministerial Committee on Human Rights.⁸³ The most notable development in addressing human rights violations was the President's pledge to establish an independent international commission. This was subsequently watered down to a national Commission of Inquiry (Col) and an Independent International Expert Group of Persons (IIGEP) to investigate and inquire into 15 cases of violations in 2005/2006. With delays in nominating members to the IIGEP and establishing a secretariat, the Col and IIGEP is set to commence only in February 2007, raising concerns, yet again with regard to delays in investigations and inquiries, transparency, access to all persons and areas, implementation and follow up of recommendations, and politicization of investigations and inquiries.⁸⁴ Though the above measures were taken, they did not act as a deterrent to new offences and violations. The latter increased. A notable point in 2006 was the seeming willingness to compromise on rights and an increasing tolerance for the infringement of these rights for the sake of security. Against this backdrop, calls by various actors for the creation of an international human rights monitoring body continue.

New Displacement

The increase in violence and attacks on civilians and the heightened military attacks, resulted in an upsurge in the number of civilians and communities displaced across the North and East, some to the West Coast and outside the country. According to UNHCR figures there are 215,421 displaced since April 2006, which does not include figures on IDPs displaced prior to April 2006. The fluctuating numbers of IDPs further demonstrate the dynamic nature of displacement, with the highest IDPs number being 242,700 in September. The true nature of displacement and number of IDPs is difficult to ascertain due to the dynamic nature of displacement, with many IDPs living with family and friends as well as 'the night time IDPs'. The year 2006 also witnessed increasing numbers fleeing to South India, a dangerous journey resulting in several civilian casualties. At present there are around 16,771 refugees who made the journey in 2006 alone. This is on top of 312,712 conflict-related IDPs and 68,000 refugees from the old caseloads.

Attention needs to be paid to the distinct forms of displacement, regional differences, and the reasons behind the displacement. For example, fear has led to surges in displacement, usually in the wake of specific attacks as seen in Kebetigollewa where there was a mass exodus of Sinhala villagers from the outlying villages to Kebetigollewa Town⁸⁵ and more than 1,500 civilians fleeing Allapiddy and its environs following the massacre and the refusal of the security forces to grant protection, citing the lack of manpower.⁸⁶ An indication of the level of fear and insecurity is that a single killing could set off a mass exodus: the killing of a Muslim bread vendor in a Tamil village Bharathipuram, Muttur led to over 3,000 Muslims from Jinna Nagar and Azad Nagar fleeing to nearby schools.⁸⁷

According to UNHCR figures, at present there are 75,024 IDPs in Batticaloa with large numbers moving in from Vaharai and Verugal. A large number of these IDPs were from Trincomalee. They were displaced in August to Vaharai in the wake of the heavy fighting that resulted in the military capture of Sampur. Some of them had already been displaced within Trincomalee following the upsurge of violence from April. This was a recurring trend in 2006 in that civilians were subject to multiple displacements during the course of the year.

In addition to the use of force and fear in causing displacement, a significant concern in 2006 was the use of coercion and intimidation to prevent displacement. Both the GOSL and the LTTE have been accused of using coercion to prevent communities from seeking flight: the LTTE in Vaharai and Vergual and the GOSL in Kinniya.⁸⁸ There were also concerns over the use of coercion by the GOSL to resettle IDPs as seen with the Muslim IDPs displaced from Muttur who sought temporarily refuge in Kantalai. Questions on whether the return was based on informed choice and whether it was voluntary in nature were raised, coupled with those on the lack of security guarantees and adequate infrastructure for safe return to Muttur.⁸⁹ Such a stand by the authorities, a key actor in the protection of the rights of all civilians in Sri Lanka, demonstrates the tough stand taken by the Government and the seeming disregard for human rights and humanitarian norms. Coupled with the ethnicisation of violence there are real fears of similar patterns in the policies of resettlement, which could lead to significant changes in demographics and further polarize the ethnic communities.

Beyond the direct suffering caused by violence and displacement, communities and families are affected in multiple ways. With the escalation in violence, the day-to-day existence of communities has been severely affected, including the economic and social lives of many communities in the North and East largely caused by violence, hartals and increased restrictions. The lack of mobility, the restriction of services, the shortages and increase in prices of goods, and loss of employment opportunities have all had far-reaching effects across the North, the East and border areas. For instance the Navy imposed restrictions on fishing in Jaffna and Mannar during 2006, which affected not only fishermen but also others whose livelihoods depended on the fishing industry.⁹⁰

An Emerging Humanitarian Crisis

A significant development towards the latter part of 2006 was the shortages of food, water and medicine in certain areas in the North and East, resulting in malnutrition, possible starvation of people, and deaths of civilians due to the lack of essential

medicines. For instance, the closure of the A9 in August 2006, and the restriction of movement to other parts of the LTTE controlled areas, has resulted in shortages of essential items and money in banks and rapid increases in prices of goods. In turn, civilians in the area face difficulties in affording such items, raising concern about malnutrition and starvation. The prices of certain goods in Jaffna are shown below.⁹¹

Item	Prices before closing of A9 (SLR)	Present prices (SLR)
Rice (1Kg)	35	180
Flour (1kg)	40	150
Sugar (1kg)	60	400
Dhal (1kg)	80	200
Milk powder (400g)	145	400
1 Coconut	15	90
Coconut oil (1litre)	75	450
1 Egg	6	55
Tea (1kg)	300	800

With hostilities increasing, and neither the LTTE nor the Government willing to give into humanitarian concerns, there does not seem to be an indication that the A9 will be opened in the immediate future or that there will be a relaxation of restrictions regarding other LTTE controlled areas. In such a context, the trend seems to be a military victory at whatever cost, regardless of the humanitarian implications. Both parties, especially the State, have a clear responsibility in tackling the humanitarian consequences of their violence.

With the new wave of displacement, there was increasing concern regarding the lack of preparedness on the part of the Government officials and other agencies, as several incidents demonstrated delays and lack of coordination in providing assistance to IDPs and affected communities as seen in Trincomalee, Pesalai and Kantalai.⁹² This raises questions on the vast amounts of money that were spent and countless programmes initiated on building capacity of Government and non Government actors dealing with relief and related work post tsunami. With the large number of IDPs and affected communities there were notable signs of a lack in coordination among relevant actors, gaps in terms of timely and accurate information leading to a contestation of figures and delays in providing relief, highlighting the lack of preparedness among the relevant stakeholders. There were also concerns of the role of the State, which was increasingly turning over basic relief services to INGOs and NGOs, preferring to play the role of coordinator.

In the context of assistance to IDPs and affected communities, 2006 also witnessed increasing ethnicisation and politicization of assistance. This factor was highlighted in relation to Muslim IDPs from Muttur who arrived in Kantalai and Serunuwara in August 2006 where many Muslim groups came together to provide assistance to the IDPs, with the Government seen as taking a back seat and not fully involved in the relief work. The lack of facilities and organization that the Muslim IDPs faced in August 2006 needs to be compared with the assistance provided to Sinhala IDPs displaced to Kantalai from Serunuwara in December 2006, where a systematic provision of assistance was witnessed. Incidents in areas such as Kebettigollawa, Pesalai and Trincomalee demonstrate the speed with which assistance is provided, with noticeable speed of delivery in relation to Sinhala IDPs. The involvement of political groups in the assistance programs, most notably the JVP in Trincomalee⁹³ coupled with the appointment of a military officer as the Government Agent, only intensified concerns over the political agendas in humanitarianism, with long term implications for the role of the State in the provision of relief services, as well as the further polarizing of communities.

Welfare camps and other places of refuge came under increasing attack including the attack on a UNHCR refugee camp in Selvanayagampura killing one person,⁹⁴ the shooting of a police constable providing security at the Poonthotam camp in Vavuniya,⁹⁵ the attack on a welfare camp in Vaharai⁹⁶ and the artillery bombardment of schools in Muttur and Topur.⁹⁷ Similarly, the attack in Pesalai on the Church of Our Lady of Victories where about 3,000 people were seeking refuge, raised concerns regarding the respect for humanitarian spaces.

A significant development in 2006 was the shrinking of humanitarian space, by way of security threats and restrictions imposed by the Government which impacted programmes and projects undertaken by agencies in the North and East. The brutal killing of 17 local personnel of *Action Contre Le Faim* (ACF) in Muttur was one of many incidents where humanitarian actors were attacked, raising concerns on the continuation of programmes in a climate of violence.⁹⁸ Security and other restriction faced by humanitarian actors as well as Government regulations pertaining to the obtaining of work permits, travel restrictions within the North and East and limited travel to LTTE controlled areas, are some of the reasons for the curtailment of rehabilitation and reconstruction efforts in certain parts in the NorthEast by several actors. Such restrictions, as well as delays and difficulties in obtaining work permits for expatriate staff working with agencies, affected projects and programmes already underway and slowed rehabilitation and reconstruction efforts. A further development in 2006 was increasing attacks on medical facilities, equipment and personnel, raising concern over the safety and security of medical personnel and their patients. In addition, there have also been attacks when humanitarian convoys have been given access, such as the air strikes in Vaharai while UN and ICRC convoys were present in Vaharai.⁹⁹ Such developments and threats to both humanitarian and medical actors, raises a fundamental issue on how actors who are perceived to be neutral are able to operate in an ever increasing violent and insecure environment. There were also increasing tensions between Government and humanitarian actors, which intensified as the situation became internationalized. The Government continued to criticize the behaviour of humanitarian agencies and to impose severe restrictions on them especially with regards to access to LTTE-controlled areas. At the same time it demanded that the international actors step up their role.

With rising concerns over increased displacement, the speed of assistance and the quality of goods provided, there were also apprehensions regarding the differential treatment of tsunami and conflict affected IDPs and communities.¹⁰⁰ This was also illustrated in the compensation provided to affected families. The Government initially provided only Rs15,000 to Muttur residents compared to the compensation of Rs100,000 provided by Minister Fowzie to affected families in Potuvil. This created acrimony among the Muttur residents, resulting in the Government topping up the compensation in Muttur and other areas.

Continuing Slow Progress in Tsunami Reconstruction

In 2006 there were several developments in relation to tsunami reconstruction, namely the withdrawal of the buffer zone regulations, the introduction of a housing policy and the introduction and subsequent withdrawal of the Bill to establish the Reconstruction and Development Authority (RADA). On the second anniversary of the tsunami, commemorated on December 26, only 56% of the houses required had been completed, demonstrating the slow progress in tsunami reconstruction.¹⁰¹ According to RADA statistics, out of the total estimated 114,069 houses required only 63,469 were constructed with 47,859 (42%) under construction. Existing problems plaguing the housing construction programme, including land unavailability, disputed beneficiary lists and lack of clarity on the implementation of the buffer zone continued to delay progress. With relief and reconstruction work in the North and East, the situation there is significantly worse. RADA has yet to release a breakdown of houses constructed in terms of the provinces but it seems that the housing situation in districts like Ampara are particularly poor, especially when compared with Hambantota where more houses were constructed than there were victims who claimed to have lost their houses.¹⁰² With the deteriorating security situation hampering reconstruction efforts, international actors have questioned the Government's commitment to completing permanent housing for tsunami victims,¹⁰³ implying that the ground situation could have detrimental effects on funding and reconstruction efforts. In the wake of delays in housing construction, there was increasing frustration among beneficiaries which was translated into at-

tacks on I/NGOs by the Government as attested to in comments made by the head of RADA and the Parliamentary Select Committee set to look into NGO activities.

Added to the housing problem were claims that poor construction had led to completed houses collapsing ¹⁰⁴ in Uppuwelli, Trincomalee and Hunugama, Hambantotoa.¹⁰⁵ Criticism of the lack of planning, consultation and participation of tsunami affected communities, as well as sharing of information also plagued reconstruction efforts, bringing sharp criticism of the relevant authorities.¹⁰⁶ The limited consultation and participation of tsunami affected communities, a highly centralized top-down bureaucracy which has limited or ignored input from local actors, the lack of transparency in the planning process and the weaknesses in information-sharing were highlighted in the Government's introduction of a Buffer Zone in coastal areas.¹⁰⁷ The above examples demonstrate the total disregard by authorities towards good governance principles and the rights of the people. Speedy reconstruction with no regard for quality and the views of the affected people, appears to have been the order of the day. Sadly, RADA's own phrase 'Building back better' is a far cry from the Government's attitude towards reconstruction, governance and rights issues.

Conclusion

In 2006 there were large-scale human rights and humanitarian violations, with the nature and brutality of attacks being unprecedented and intensifying fears of what the immediate future holds. Threats to the security of civilians, IDPs, relief and medical staff as well as prominent individuals were commonplace, raising concern about state complicity in some of the attacks. With the ethnic targeting of civilians and various events leading to further polarization of communities, there is fear that the violence will rise to dangerous levels, fueled and backed by nationalist elements. This could lead to an increased threat to the rights and livelihoods of minorities and communities in the North and East with ripple affects in other parts of the country. With the violence set to continue, the above listed problems from rights violations to the brutal impact of violence, mass displacement to the inadequate response by the state and restrictions on the work of humanitarian actors, will persist into 2007.

With the delays in investigations and inquiries, and the increasing bureaucratization and politicization of such processes, there was a growing trend of impunity among Government forces and armed actors, raising concern as to whether any effective deterrent and redress of human rights violations was possible and above all, as to whether a will to address them existed. In 2006 the Government demonstrated seeming disregard for human rights and humanitarian norms, with priority for military victory at whatever human cost. Likewise the LTTE. Lastly, the continuing bungling of the tsunami reconstruction and the lack of disaster preparedness, merely demonstrates the inertia and ineptness within the Government structures, which in all probability will continue throughout 2007.

State of the Economy

Introduction

The macro-economic indicators in 2006 showed strong signs of growth and resilience with a rising GDP growth rate, declining unemployment rate, and strong stock market performance. However, the Sri Lankan economy is showing signs of strain in terms of rising inflation, negative real interest rate, rising budget deficit, sharp increase in broad money supply, depreciation of the rupee, and increasing current account deficit and fast depleting overall balance in the external balance-of-payments. When analysing the state of the economy it is important to look at the trend over a period of time rather than at any particular point of time. Therefore, this review is based on the trends of crucial macroeconomic indicators, such as economic growth, money supply, unemployment, inflation, budget deficit and external balance-of-payments, from 2000 to 2006 (7 year period). These indicators could gauge the health of the economy. The trends of these indicators are shown in Graphs 1–6.

Sri Lanka has been facing the twin problem of the ethnic conflict and the economy in the past quarter century, which have had their ups and downs in this period. In order to deal with dual challenge successive executive presidents since 1989 have retained the defence and finance ministerial portfolios, barring 2002–2005, including the incumbent. In recent times the two-way relationship between the conflict and the economy was evident since about the year 2000. Economic woes in recent times began with severe drought, rising world oil price, and several military reversals in the Northern battlefield in and around year 2000.

Growth

The economy recorded 6% growth in 2005 and is expected to grow by about 7% in 2006. However, quarterly economic growth was on declining path during the first three quarters of 2006 (8.3%, 7.6% & 7.5% respectively) (see Graph 1).¹⁰⁸ Besides, the fourth quarter 2006 growth is anticipated to be lower; around 6.5%, due to drop in agricultural production, declining exports, and drop in tourist arrival during the peak tourist season as a result of adverse travel advisories issued by many European countries to its citizens in the aftermath of terror attacks in Habarana and Galle¹⁰⁹ (two prime tourist spots). In this background of decelerating quarterly growth rate, 2007 would be a challenging year for economic growth especially because of resurgence of the armed conflict and deteriorating security situation in the country and a potential balance-of-payments crisis.

There is a danger of growth rates returning to that of the pre-tsunami period. GDP that posted a reasonable growth rate of 6% (in real terms) in 2000 nose-dived to (-) 1.5% in 2001, the first-ever negative growth rate since independence, due to a combination of political, economic and other factors¹¹⁰ creating a balance-of-payments crisis with fast depleting foreign exchange reserve. With the change of Government in December 2001 led by the United National Party (UNP), the economy started to pick up posting 4% growth rate in 2002 and 6% in 2003, but dropped to 5.4% in the wake of a change in Government and political and economic uncertainty.¹¹¹ A further deceleration of economic growth was arrested by the tsunami of December 2004. The economy rebounded in 2005 and 2006 fuelled by the one-year debt moratorium granted by major donors boosting the external balance-of-payments and the massive reconstruction activities.

Money Supply

Despite several negative economic indicators in the recent past it is surprising that the annual GDP growth rate (in real terms) has been on the rise thus far, notwithstanding the deceleration in the quarterly growth rates during 2006. Gradual increase in the GDP growth rate in the past three years (2004-2006) can be partially accounted for by the steep rise in money supply during the same period. For example, money supply increased steeply to 18.5% in 2004 from 13.8% in 2003. Since then it increased further by 19.6% in 2005 and 21.5% in 2006. Since 2002, the growth in broad money supply (M2) has been greater than the growth in nominal GDP (see Graph 2). However, it is noteworthy that the gap between the growth in money supply and nominal GDP has been widening since the change in Government in 2004. Policies of monetary expansionism have increasingly become a salient feature of SLFP-led administrations.

The fact that growth in money supply is greater than the nominal GDP growth would indicate that the former fuels the latter. Thus, the monetary expansion has induced growth in GDP in the past few years, which is unsustainable in the medium run. Upheavals in the financial market (significant depreciation of the rupee and steep rise in inflation) during the last four months of 2006 are a reflection of the un-sustainability of monetary expansionism. Monetary expansionism is, in turn, necessitated by fiscal expansionism during the last three years (2004-2006). Printing of new money is the main mechanism of increasing money supply in the market. The belated release of the new Rs.2,000 currency note into the money market in 2006 (which was printed in 2004 but the release was deferred) is one such instance.

Unemployment

With rising growth rates employment rates rise as suggested by the gradual decline in unemployment rates from 8.4% in 2003, 7.7% in 2005, and 6.2% in 2006 (see Graph 3). This is the main positive economic indicator of the country at the moment. However, since the North & East were excluded in 2006 the unemployment rate of 6.2% would be an underestimation due to widespread and significant job losses as a result of resumption of full scale hostilities, particularly in the latter half of the year.¹¹² For the period 2000-2006 there was a strong correlation between a rise or fall in unemployment rates and growth rates, barring 2002. The unemployment rate, which was 7.6% in 2000, increased to 7.9% in 2001 and 8.8% in 2002. Year 2002 was anomalous because of rising growth rate was coupled with rising unemployment rate. This may be because the labour force survey data included the North & East for the first time since around 1990. Thus, the unemployment rate for 2006 does not accurately reflect the national statistics. It is also important to note that unemployment rate has been lower during SLFP-led regimes, because of expansion in public sector employment, which fuels fiscal expansionism.

Inflation

Inflation has had an inverse relationship with real economic growth between 2000 and 2004. That is, dip in real economic growth has pushed up inflation and vice versa. Inflation, in terms of Colombo Consumer Price Index (CCPI), more than doubled from 6.2% in 2000 (GDP 6%) to 14.2% in 2001 (-1.5% GDP). However, inflation declined consecutively to 9.6% in 2002 and 6.3% in 2003 amidst rising GDP growth rates of 4% and 6% respectively. Then in 2004 while the GDP growth rate declined to 5.4% inflation increased to 7.6%. But 2005 and 2006 has had peculiar experience of rising growth coupled with rising inflation. That is, GDP grew by 6% in 2005 while inflation increased to 11.6%. Further, while the GDP is expected to grow by around 7% in 2006 inflation is almost 14% in 2006 (see Graph 4). Thus, rate of inflation was double that of the real economic growth rate (i.e. nominal GDP growth minus inflation) in 2005 and 2006. This anomalous trend of rising economic growth coupled with rising inflation was primarily the result of monetary expansionism-induced growth alluded to above.¹¹³

Since inflation has been higher than interest rate, the real interest rate has been negative in the past two years or so. Negative real interest rate is causing excessive borrowings by both the Government and the private sector. Such excessive borrowings lead to demand-induced inflation. The Central Bank appears to be reluctant to raise the interest rate due to fears that it may hamper investment and therefore economic growth. Hence, it appears that the Government has opted to boost

economic growth rather than contain inflation. Imposition of additional taxes and increasing the rates of existing taxes to finance the expansionary fiscal outlays fuels inflation because businesses pass on the extra tax burden to consumers byway of increasing the prices of goods and services. Recently, often quoted reason by the Government for galloping inflation is the rise in world crude oil price. However, the import price of crude oil to the Ceylon Petroleum Corporation (CPC) that peaked to USD.72 per barrel (cost & freight) in July & August 2006 dropped drastically to USD.55.5 in November 2006, during which month the point-to-point rate of change in inflation nearly hit 20%, the highest ever recorded in the past seven years (2000-2006)¹¹⁴. This example again vindicates our argument that fiscal and monetary expansionism is the primary cause of inflation in the past six months.

Public Finances

Fiscal profligacy is a critical problem the Government faces and has become a hallmark of SLFP-led governments since 2000. The overall budget deficit (total Government revenue minus total Government expenditure) shot up by 50% in 2000 and by 22% in 2001. However, the overall budget deficit was arrested by the UNP-led regime in 2002 and 2003 through prudent fiscal management, expanding by only 7% in 2002 and a negligible 0.03% in 2003. Since then, the overall budget deficit shot up by 17% in 2004, 24% in 2005, and 30% in 2006 (see Graph 5).¹¹⁵

Since 1988 total Government revenue (tax plus non tax income) has been inadequate to finance even the recurrent expenditures of the Government (total Government expenditure is split between recurrent and capital expenditures). The current account deficit in the budget shot up since 1994, especially from 2000 onwards. Moreover, the budget deficit as a proportion of GDP peaked to almost 11% in 2001, and dropped consecutively in 2002 (9%) and 2003 (8%), but had started to rise again since 2004 to 8.2%, 8.7% & 9.2% in between 2004-2006 (see Graph 5). Budget deficit is anticipated to keep on rising due to fiscal profligacy of the incumbent Government as reflected in the budget 2007. In terms of the Fiscal Management (Responsibility) Act [FM(R)A] the Government was obliged to reduce the budget deficit to 5% of the GDP and the total outstanding public debt to 85% of the GDP in 2006. Both of these commitments have not been met and the realisation of these targets has been postponed to 2009. The budget deficit is expected to be around 9% and the total outstanding public debt is expected to be about 94% of the GDP in 2006.¹¹⁶

Domestic resource mobilisation is undertaken through the sale of treasury bills and bonds, which are sold at artificially low interest rates (well below market rates) to primarily state-owned banks such as the National Savings Bank (NSB), People's Bank, and the Bank of Ceylon (BoC). Another major captive source of deficit financing to the Government is the Employees' Provident Fund (EPF) and Employees' Trust Fund (ETF), which are the pension funds of private & semi-Government sector employees in the custody of the Central Bank. The fact that EPF and ETF almost entirely invest in Government securities (treasury bills & bonds) at below market rates erodes the real value of EPF and ETF contributions by private & semi-Government sector employees. That is, the accumulated pensions of these employees would have negative real value (nominal value minus the inflation over the period of time) at the time of their retirement.

Domestic resource mobilisation is costlier than external bilateral and multilateral aid, because the latter is provided at very low concessionary interest rates along with a long repayment period (over 10 years) and a grace period for beginning repayment. In order to generate more public funding the Government is planning to sell foreign (convertible) currency denominated treasury bills and bonds from this year in order to mobilise foreign exchange from private and individual sources from abroad.¹¹⁷

External Balance-of-Payments

The external balance-of-payments (BoP) has proved a critical problem for all administrations between 2000 and 2006. The BoP reached a crisis state by end 2000 when both the current account and the overall balance (current plus capital account)

were in the red. That is, the current account balance was (-) USD.1,066 million and the overall balance was (-) USD.522 million in 2000 (see Graph 5). This crisis led to the free float of the rupee in January 2001 and borrowing from the IMF in May 2001 under the enhanced structural adjustment facility. With the IMF lifeline the BoP improved a lot during 2001-2003, i.e. declining deficit in the current account coupled with rising surplus in the overall account. Thus, while the current account deficit was curtailed to (-) USD.71 million the overall balance shot up to USD.502 million in 2003 (see Graph 5).

However, 2004 was once again marked by significant deficits in both the current account (-USD.648 million) and overall account (-USD.205 million) of the BoP. In 2005, while the current account deficit remained the same level as in 2004 the overall balance recorded a surplus of USD.501 million thanks to the debt moratorium granted by major donors (roughly worth USD.500 million) and significant relief, rehabilitation, and reconstruction grants from abroad in the aftermath of the tsunami. In 2006 (up to end-November) the current account deficit shot up by almost 70% to (-) USD.1,100 million and the overall balance dipped drastically by 66% to USD.172 million.¹¹⁸ If no remedial action is taken it is highly likely that the overall balance in the BoP would record a deficit in 2007.

Although the total export value in the first eleven months of 2006 has increased by 8% (compared to the corresponding period in 2005) the total import value in the same period has increased by almost 16%. Hence, the trade deficit in the first eleven months of 2006 shot up by 34% in comparison to the same period in 2005. Trade deficit was a staggering (-) USD.3,207 million in absolute terms in the first eleven months of 2006. However, foreign exchange earnings from tourists shot up by 39% in the first eleven months of 2006 (USD.410 million) compared to 2005 and net private remittances from abroad increased by 22% in the first eleven months (USD.1,883).¹¹⁹ It should be noted that 2005 was not a normal year for tourism industry due to the tsunami and therefore the rise in tourism revenue in 2006 is from a low base. In fact, tourism industry was badly affected in 2006 as a result of resurgent conflict, which has multiplier effects in terms of losses to allied industries such as the travel, hotel and other related service sectors. Besides, foreign currency inflows to the Government increased by 12% to USD.905 million in the first eleven months of 2006 in comparison to the corresponding period in 2005.

Hence, the cumulative total of USD.3,198 million foreign exchange earnings from private remittances, official flows, and tourism during the first eleven months of 2006 was insufficient to offset the trade deficit of (-) USD.3,207 million. It is also important to note that the official flows in the first eleven months of 2006 noted above include proceeds from the sale of foreign (convertible) currency denominated development bonds to Sri Lankans living abroad (reportedly to the tune of USD.500 million) and about USD.100 million borrowed by the Government in international capital markets in November.¹²⁰ That is, the official development assistance by the donor community is far less than the external inflows to Government noted above.

Recently, the Citi Bank arranged a meeting of private international lenders in Singapore to facilitate credit to the Government of Sri Lanka in order to mobilise USD 500 million. However, it is learnt that only 8 potential lenders turned up for the meeting out of 300 invitees and the Government was able to mobilize only less than USD.100 million. This indicates that private international lenders are reluctant to lend to the Government because of the deteriorating security situation in the country and stalled economic reforms. The Government is attempting to woo foreign investors by selling US dollar denominated treasury bills & bonds in the new year.

Moreover, Sri Lanka received a setback in international money markets because of the closure of the IMF office in Sri Lanka effective from January 01, 2007. Since the suspension of the poverty reduction and growth facility (PRGF) in late 2003, because of political instability and subsequent change in Government in April 2004, the IMF has had no lending programme in Sri Lanka. Besides, the present Government is reluctant to accept technical assistance from international financial institutions because of accompanied conditionalities. In these circumstances IMF has pulled out from the country after 30 years of residence and would oversee from its office in India.

Besides, Germany has announced that it would not provide any new aid to Sri Lanka due to the fast deteriorating security situation. However, given the fact that Germany accounted for only 3.6% of the total receipt of foreign assistance (grants plus loans) in 2005, it is not a considerable loss to Sri Lanka. Moreover, all the European countries put together account for less than 10% of the annual total foreign assistance received by Sri Lanka¹²¹, and therefore Europe has very little leverage to

influence the Government. Having said that, several European countries (including Germany) fund lot of non-governmental organisations (both international & national) that are largely unaccounted for in the foregoing figures, and are a major source of foreign exchange to the country.

Stock Market

In spite of deteriorating security situation in the North & East and adjoining areas as well as in the Western Province (the economic hub of Sri Lanka contributing half the total national output) the stock market has performed well throughout 2006. This is primarily due to negative real interest rates in the market, which makes investment in stocks and shares more profitable. Moreover, the stock market in Sri Lanka does not adequately represent the economy, because only 242 companies are listed in it with a market capitalisation of LKR.145 billion (USD.1.3 billion).¹²² The market capitalisation of the listed companies in the stock market is only about 5% of the Gross Domestic Product in current market prices in 2006. Furthermore, some of the biggest contributors to the national economy, such as the export garments industry, are not listed in the stock market. Capital market development in Sri Lanka is still in its infancy and hence the performance of stock market could not be regarded as a reflection of the health of the overall economy..

Economic Governance and Restructuring

The SLFP-led government that came to power in 2004 not only stalled, even reversed the 'progressive' economic reforms of privatization undertaken by the preceding UNP-led government of 2002 and 2003, which has intensified with the election of the new President in November 2005. The reestablishment of the perpetually loss-making state-owned enterprises such as the Sri Lanka Transport Board (SLTB) and the Cooperative Wholesale Establishment (CWE) (partial restoration), cancellation of the contributory pension scheme for new public sector employees, the proposed resurrection of the failed Pramuka Bank (a private specialised bank) are some of the reversed economic restructuring programmes. The critical need to restructure the Ceylon Electricity Board (CEB) remains stalled due to stiff opposition from some trade unions. The ADB credit line for the restructuring of the CEB remains unutilized. Privatisation is off the vocabulary of the new President.

The role of the Central Bank in the resurrection of the failed Pramuka Bank has raised questions as to whether the resurrection of a failed private bank falls under the purview of one of the core functions, viz. financial sector stability, of the Central Bank, which has had repercussions in terms of the message the Central Bank is giving to the financial sector. Further, there was a restructuring programme of the Central Bank during 2002-2003 in order to go back to core functions such as maintaining financial market stability and price stability (containing inflation through prudent monetary policy). However, under the new President and Governor, the Central Bank seems to be moving towards becoming a provider of development finance and a lender of the last resort to the Government in addition to its core functions mentioned earlier. There were also concerns regarding corruption in the country at large as indicated by the dip in Sri Lanka's rank in the Corruption Perception from 78 in 2005 to 84 in 2006.¹²³ There are concerns that the Government is not taking adequate steps to address the problem, especially in national institutions.

Budget 2007

In brief, the budget 2007 presented to parliament in November 2006¹²⁴ is an expansionary one.¹²⁵ The overall public expenditure increased by 41% and the defence budget increased by 46% compared to 2006. Therefore, increase in defence budget did not result in budgetary cuts in the economic (infrastructure) and social (education, health, RRR, etc) sectors. In fact, economic and social sectors have also received steep rise in budgetary allocation. Over 40% rise in public expenditure in the context of only around 20% rise in nominal GDP is fiscal profligacy. This unprecedented rise in public expenditure is

going to be largely funded by domestic borrowings, which would crowd out investment funds available for the private sector. Huge domestic borrowing by the Government would hamper the development of the capital market. These enhanced public expenditures would enormously add to the public debt portfolio and thereby fuel inflation.

Mahinda Chintanaya

The main thrust of the Mahinda Chintanaya (MC)¹²⁶ a ten-year development framework 2006-2016, presented in parliament along with the budget 2007 in November 2006, is physical infrastructure development (highways, seaports & airports) inspired growth strategy, which is expected to link the local markets with national and international markets and thereby reduce poverty.¹²⁷ This strategy is not different in content from the Poverty Reduction and Growth Strategy (PRGS) developed by the SLFP-led Government of 2000-2001 and the Regaining Sri Lanka (RSL) strategy developed by the UNP-led Government of 2002-2003.

However, the difference between the MC and the PRGS/RSL is in the source of funding of the proposed ambitious infrastructure development projects. While the RSL envisaged heavy reliance on external financing (largely from donor partners but also from private foreign investors), the MC envisages reliance on domestic financing, because the avowed policy of the new President is not to succumb to policy advices accompanying external donor funding. It is indeed a big difference given the context of precarious public finances alluded to above. To the best of knowledge of the author largely domestically financed massive infrastructure development projects are not financially viable and economically sustainable.

In the past decade, the erstwhile ten-year (subsequently five-year) rolling public investment programme (PIP) has been trimmed down because of the parlous state of the public finances in the country mainly because of heightened defence expenditures. The MC is a resurrection of the erstwhile PIP. There is nothing inherently wrong with a public investment induced growth strategy. However, in the Sri Lankan context, public investment decisions are not made on rigorous financial, economic, environmental, and social viability criteria. In contrast, public investment decisions are largely made on parochial political considerations. The proposed construction of the second international airport of the country in Weerawila (Hambantota district, the home of the incumbent President) some 200 km from Colombo at an estimated total cost of LKR.17,500 million (USD. 159 million) and the proposed new state-owned international airline at an estimated initial cost of LKR.1,500 million (USD.14 million) are just two examples of the politically motivated public investment decisions. The viability of the airport and rationality over its location is clearly in question. There is already a domestic airport in Koggala in the adjoining Matara District (home of the then Minister of Aviation), which has not become commercially viable.¹²⁸ There is absolutely no doubt that Hambantota district is one of the backward districts in the country and therefore priority should be given to the development of that historically marginalised district. However, building an international airport is not an appropriate public investment to be undertaken in an impoverished district. On the positive side, bold decision by the new President to go ahead with the Norachcholai coal power plant, which has been in the pipeline since the late-1970s but was blocked due to protests by environmental and religious lobbies, would go a long way in mitigating the impending power crisis.

The proposed new state-owned airline in the name of Mihin Air (a budget airline initially serving the region – South and West Asia) which will be the key airline serving Weerawila will ostensibly provide cheaper air passage to Sri Lankan expatriate workers is another example of politically motivated public investment decision. The estimated initial cost of LKR.1,500 million for the new airline is to be met by the budget 2007, employees' provident and trust funds, and the Ministry of Finance. In the present economic conditions setting up of an airline should not be a priority of the Government. Both projects seem to be examples of reckless and questionable public investment decision-making in Sri Lanka and do not bode well for the proposed public investment inspired growth strategy envisaged in the Mahinda Chintanaya.

There is very little (6 pages out of a total of about 240 pages) in the Mahinda Chintanaya about the development of the conflict-affected areas. Nevertheless, MC envisages total public investment worth LKR. President460,896 million (USD.4,609

million) during the next ten year period (2007-2016) in the North & East (*Mahinda Chintanaya: Vision for A New Sri Lanka*, pp224). The primary focus would be on physical, economic, and social infrastructure development like in rest of the country.

There is very little explicit commitment to meet the Millennium Development Goals (MDGs) in the Mahinda Chintanaya. Infrastructure-led development strategy may crowd out public investments in human and social capital. The present Government appears to have replaced the commitment to the MDGs with its own “Mahinda Chintanaya Goals” (MCGs).¹²⁹

Economy in the Conflict Region

The economy in the conflict region was slowly but surely sliding back to the pre-ceasefire times during 2006, particularly in the latter half. It is worth remembering that the conflict affected Eastern, Northern and the adjoining North central provinces recorded the highest regional growth rates in 2002&2003 compared to the previous five years. That is, during 2002&2003 the Northern province recorded 12.6% average annual growth, followed by Eastern province 10.1% and North central province 8.2%, while the western province recorded only 6.2% growth¹³⁰.

However, past year has witnessed the killing of around 3,500 people (majority of them civilians), displacement of nearly 250,000 people, and hundreds of thousands of livelihood losses due to frequent and prolonged curfews, hartals, restrictions on fishing, power shedding, transport restrictions, unofficial economic embargo¹³¹. These have revived the economy of shortages and black markets as in pre-ceasefire times, particularly in the North and LTTE-controlled areas¹³². Cost of living has skyrocketed in the Jaffna peninsula and the Vanni region in the aftermath of the closure of the A9 highway. In Jaffna the price of rice and wheat tripled over 2006.

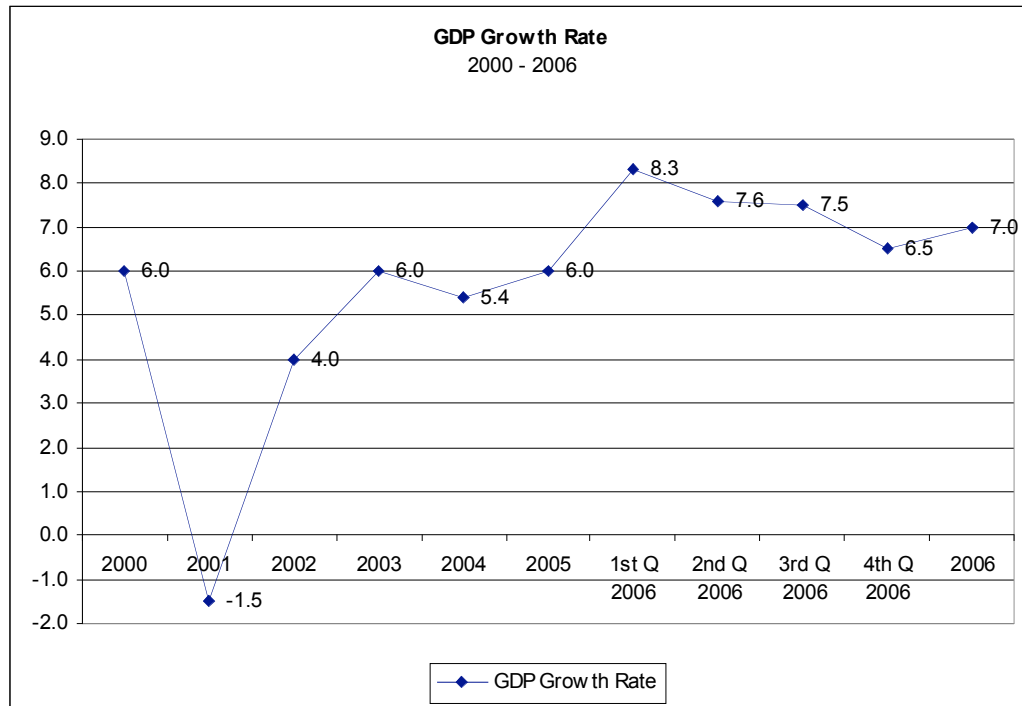
Conclusions and way forward

At the outset of this review we highlighted the twin problem of economy and ethnic conflict confronted by Sri Lanka in its recent history. While the UNP-led governments have historically managed the macro-economy better than the SLFP-led regimes,¹³³ with regards to being successful at war SLFP-led governments have arguably had more success. Usually, SLFP-led governments subscribe to Keynesian economic view that public expenditure will propel growth and strong public sector is vital for the welfare of the people. Hence, fiscal profligacy is the norm of SLFP-led regimes. Thus, extravagant public expenditure outlays and commensurate additional and enhanced taxation are typical of budgets presented. In contrast UNP-led governments usually practice fiscal prudence whereby public expenditure is curtailed or minimised. Simultaneously, taxes are shelved and pruned. However, both these budgetary strategies have become unsustainable. While the rise in public expenditure coupled with rise in taxes have fuelled inflation and stifled entrepreneurship, cuts in public expenditure as well as taxes have increased unemployment and resulted in fiscal un-sustainability (because of drastic drop in Government revenue). Therefore, a middle path of limited public expenditure coupled with reasonable taxation has to be pursued towards a sustainable fiscal policy.

Unfortunately for Sri Lanka, the two major political parties that have been alternatively ruling the country since independence have proved to be incapable of managing both the economy and the ethnic conflict successfully in the past two decades. While the present Government has made significant gains in the battlefield over the past year (albeit at a huge cost in terms human suffering and rights violations)¹³⁴ the economic woes seem to be piling up as noted above due to outdated and dogmatic policies. The present Government is faced with the similar dilemma faced by the UNP-led Government of 1989-1994 which successfully and brutally crushed the JVP-rebellion at a huge human cost and embarked on a successful economic reform programme that salvaged the credibility and legitimacy of the Government among the local masses and the international community.

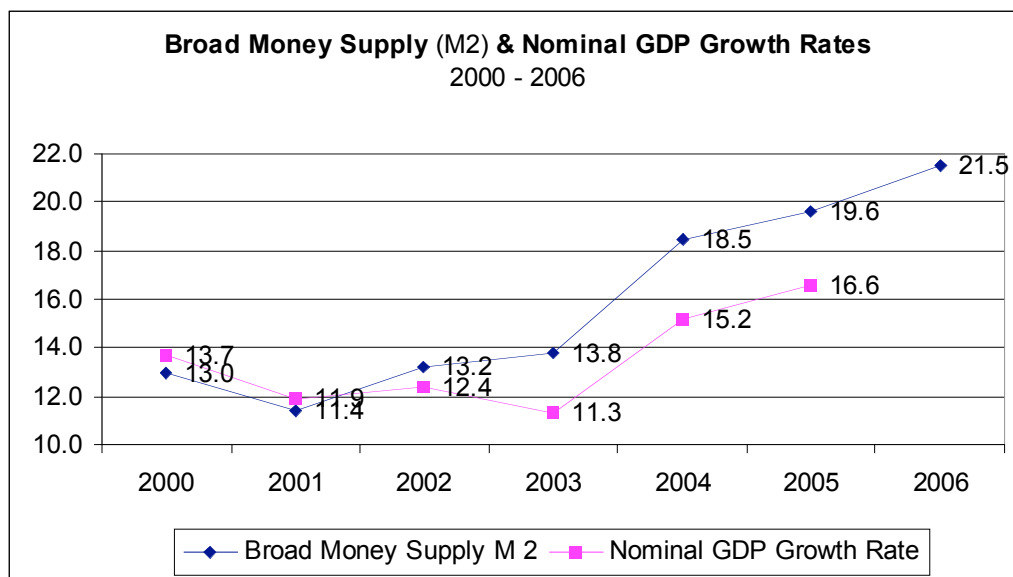
Similarly, the present Government needs to bury economic fundamentalism and undertake far reaching economic reforms to rekindle the economy, if it wishes to consolidate and sustain the successes in the battle against terror. Already galloping cost of living, the point-to-point change in the cost of living index in terms of the CCPI hitting almost 20% in November & December 2006 compared to the same period in 2005 (primarily due to fiscal and monetary expansionism), has instigated trade union agitations. A faltering economy will create political unrest in the South and could become the decisive factor deciding the continuation of military operations, as in 2001. The economic windfall of 2005 has run its course and the economic prospects for 2007 are somewhat bleak. In the Sri Lankan political landscape economic reforms are undertaken only at times of economic crisis such as 1990-1993 and 2002-2003 periods. Hence, the only consolation at this time of economic gloom is that the impending crisis may pave way for further economic reforms, which has been stalled and even reversed since 2004.

GRAPH 1



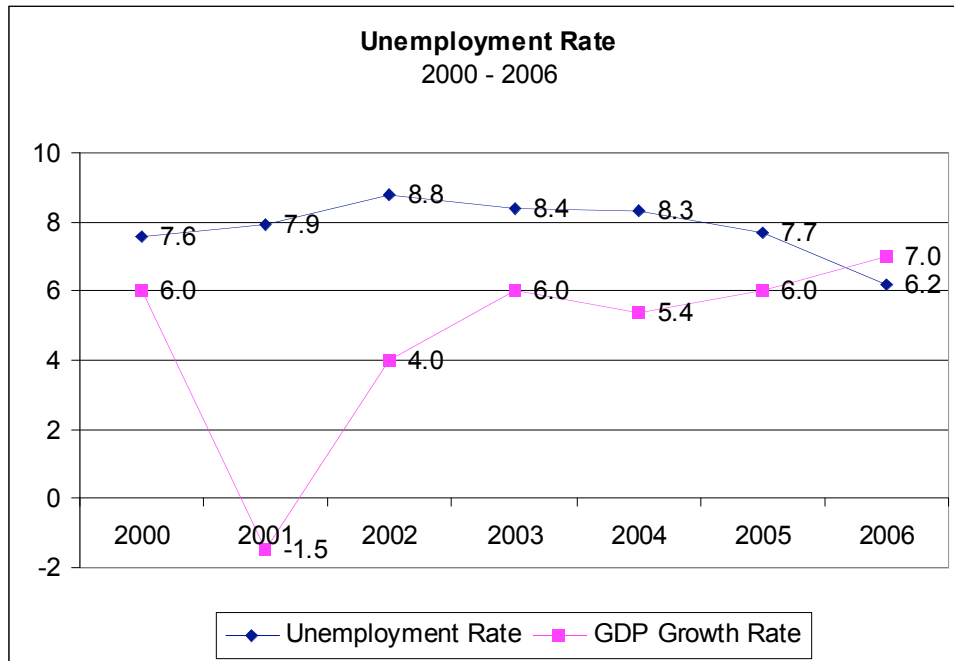
Source: Central Bank of Sri Lanka, Annual Report 2005, Special Statistical Appendix Table 2 <http://www.cbsl.lk/cbsl/AR2005data/Spappendix.pdf> & http://www.cbsl.lk/cbsl/socio_econ_ind.html (for 2006 data).

GRAPH 2



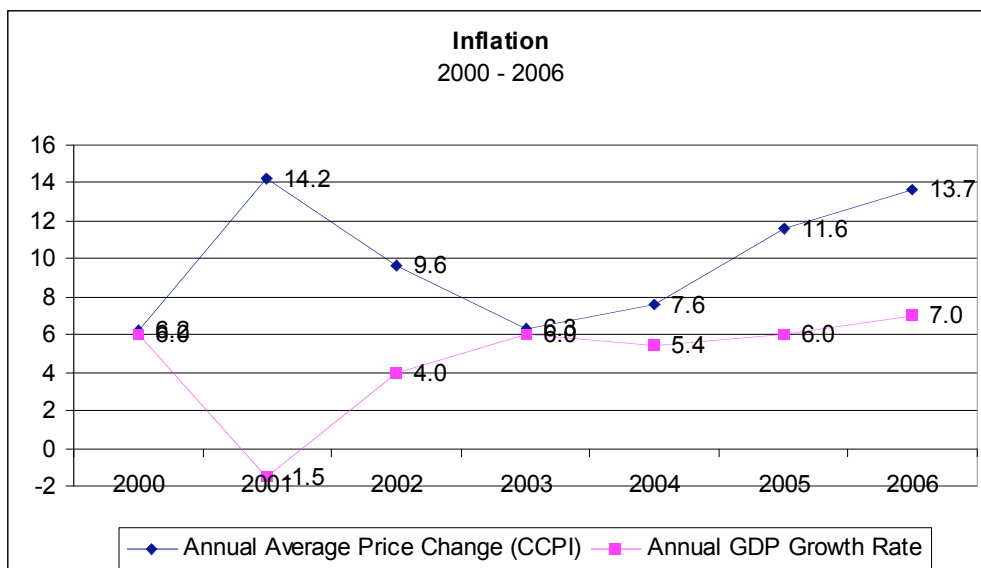
Source: Central Bank of Sri Lanka, Annual Report 2005, Special Statistical Appendix Tables 2 & 7 <http://www.cbsl.lk/cbsl/AR2005data/Spappendix.pdf> & http://www.cbsl.lk/cbsl/socio_econ_ind.html (for 2006 data).

GRAPH 3



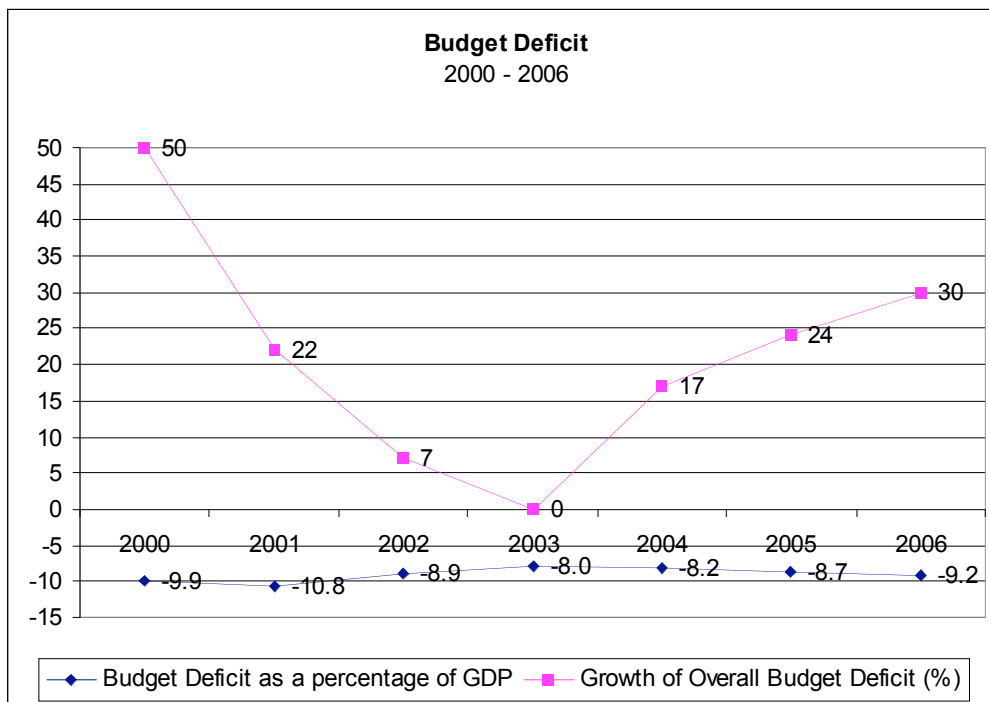
Source: Central Bank of Sri Lanka, Annual Report 2005, Special Statistical Appendix Table 1
<http://www.cbsl.lk/cbsl/AR2005data/Spappendix.pdf> & http://www.cbsl.lk/cbsl/socio_econ_ind.html (for 2006 data).

GRAPH 4



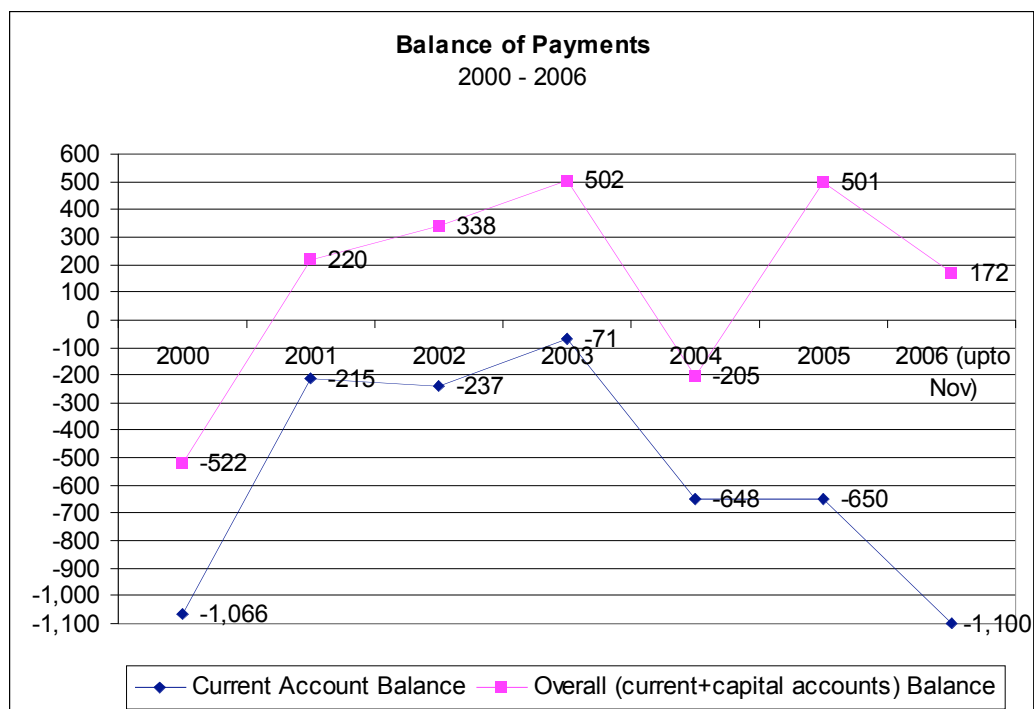
Source: Central Bank of Sri Lanka, Annual Report 2005, Special Statistical Appendix Table 2
<http://www.cbsl.lk/cbsl/AR2005data/Spappendix.pdf> & http://www.cbsl.lk/cbsl/socio_econ_ind.html (for 2006 data).

GRAPH 5



Source: Central Bank of Sri Lanka, Annual Report 2005, Special Statistical Appendix Table 5
<http://www.cbsl.lk/cbsl/AR2005data/Spappendix.pdf> & http://www.cbsl.lk/cbsl/socio_econ_ind.html (for 2006 data).

GRAPH 6



Source: Central Bank of Sri Lanka, Annual Report 2005, Special Statistical Appendix Table 3
<http://www.cbsl.lk/cbsl/AR2005data/Spappendix.pdf> & http://www.cbsl.lk/cbsl/socio_econ_ind.html (for 2006 data).

Public Opinion

Introduction

The Peace Confidence Index (PCI), a quarterly survey of the peace process provided a comprehensive overview of the patterns of public perception during 2006. Public perceptions of the peace process were assessed according to responses to questions regarding the best solution to the ethnic conflict, confidence in the commitment of each protagonist to a negotiated settlement, perceptions of third party facilitation, the role of Norway and the SLMM, and political developments in 2006. The PCI of 2006 was not conducted in the North and East due to the escalation of violence in those areas. The ground situation made it difficult to survey the Tamil community even in the South. Therefore, since May 2006, the PCI was restricted to assessing the opinion of the Sinhala, Muslim and Up country Tamil communities only. In 2006 the PCI was conducted during the months of February, May, July and November.

The major trend in 2006 was that support for negotiations amongst the Sinhala Community declined whilst support for a military solution increased. Yet, given a range of options presented to respondents, including negotiations simultaneous with military operations, a significant majority opted for negotiations alone, suggesting that there continues to be underlying support for a negotiated settlement. Similarly it should be noted that while support levels amongst the Sinhala Community for the Norwegians, the SLMM and the CFA continued to decline, this did not necessarily translate into a demand to abrogate the CFA. Support for the peace process and negotiations was notably high among the minority communities.

Support is declining yet negotiations still the best option

Despite the many failures of previous efforts at negotiations, the CFA of 2002 and the peace talks that followed received overwhelming support amongst all ethnic communities for negotiations at the outset¹³⁵. By September 2005, the original question was changed so that people could choose between negotiations or a military solution, or whether they preferred the continuation of the prevailing “No War / No Peace” situation. A large majority, 87% of Sri Lankans believed the prevailing “No war/ No Peace” situation is bad and that a solution should be pursued through negotiations. It should be noted that all ethnic groups shared this opinion. The support of the minority communities was over 95%. Only 6% of Sri Lankans preferred a military solution.

In the wake of the election of Mahinda Rajapaksa as President and an upsurge in violence by the LTTE, support for negotiations amongst the Sinhala community increased by 10 points to 95% while in the Tamil community support for negotiations declined by 29 percentage points to 67%. During late February, 12% of the Tamil communities who reside outside of North and East believed that “No war / No Peace” is better, while 17% did not even answer. This could be a reflection of Tamil cynicism regarding the possibility of a meaningful negotiation process in the context of an escalation of violence and the stronger influence of nationalist forces on the Government.

By May the situation on the ground had dramatically changed with more violence, including an attempted assassination by a suspected LTTE suicide bomber and increasing signs that peace talks would not resume. Nevertheless, despite some significant military victories, a continuation of violence that also targeted Sinhala civilians and heavy military propaganda by the Government and the ultra nationalist forces, at the end of 2006 60% of the Sinhala community firmly believed that negotiations were the best solution to the country's ethnic conflict.

Support for a military solution re-emerged this year. When asked whether the Government should expand military operations to defeat the LTTE 54.5% of Sinhalese approved. Furthermore the percentage of Sinhalese who support a military option has increased from 7.1 % in September 2005 to 13 % in July 2006. Yet, it is significant that when given a range of options an overwhelming majority of the Sinhala community, 60.9 % still opt for negotiations rather than a military solution or negotiations with military operations, 25.4% and 8.2 % respectively. What this seems to suggest is that although there is support for military operations there is a clear preference for negotiations when people are given a choice. The survey findings show that despite many disturbances, the minority communities stand firm with negotiations as the best way of ending the two and half decade old conflict.

Parties are losing public confidence

Confidence in the Government and the LTTE and their commitment to a negotiated settlement is an important indicator in understanding the nature of public confidence in the peace process. However, the pattern over the years from 2002 is that despite fluctuations, the majority believe that the Government is committed to peace through negotiations and the total opposite in the case of the LTTE. A majority of the Tamil community however retain confidence in the LTTE's commitment to peace through negotiations.

The Government: As the PCI findings indicate, the victory of President Rajapaksa at the Presidential elections on November 17 2005, not only boosted his image but also increased the public's confidence in the government's commitment to handling the peace process. An overwhelming majority of the Sinhala community believed that the Government was committed to the peace process, representing an increase of 28 percentage points to 80% after the President's election victory. This was also registered among the minority communities, though at a lower figure. Interestingly however, survey findings did not suggest that faith in the Government's capacity to handle negotiations improved in the first quarter of 2006. Following the February 2006, Geneva talks, this confidence of the Sinhala community neither increased nor dramatically decreased. This could be the result of the Government's decision to stick to the CFA despite numerous provocations and serious attacks. As far as the Muslim community was concerned, although the majority had confidence in the Government's commitment to peace through talks, the confidence level was always lower than the Sinhalese. There has been no dramatic rise in the confidence of the Up country Tamil community, in the Government, in this respect during 2006.

The LTTE: Sinhala and Tamil community opinions are polarized with regard to the LTTE's commitment to peace through negotiations. While the Sinhala community overwhelmingly disagrees, a significant majority of the Tamil community believe that the LTTE is committed to peace through negotiations. The disagreement amongst Sri Lankans over the LTTE's commitment, reached its peak in September 2005, ironically replicating the pattern of September 2001. Interestingly, at the beginning of 2006, Sinhala opinion that the LTTE is not committed to a negotiated settlement reduced drastically compared to the previous year. Instead of expressing their confidence in the LTTE or their lack thereof, the Sinhala Community stated that they were unable to judge whether it is committed to a negotiated settlement or not. The Tamil community's faith in the LTTE commitment also dropped at the beginning of the 2006 by 16 percentage points to 50%. However, the belief that the LTTE is committed to peace through talks increased amongst the Muslim and Up-Country Tamil communities during late February.

The improved confidence in the LTTE's commitment towards a negotiated settlement did not survive long. The PCI surveys conducted in May, July and November reveals that Sinhala opinion moved from a position of doubt to a lack of faith in the LTTE commitment to a negotiated settlement. This trend intensified to reach its previous high, against a backdrop LTTE violations and high profile political killings. The Muslim community was divided and swung between a lack of faith in the LTTE's commitment to a negotiated settlement and uncertainty as to whether the LTTE was committed or not. A majority of the Up-Country Tamil community however, believes that the LTTE is committed to a negotiated settlement. These levels of support prevailed throughout the year except during the month of July. According to the July PCI findings, 44% say they are not sure while 42% of the Up-Country community feels that the LTTE is committed to a negotiated settlement.

Mixed perceptions over the benefits of the CFA but no strong support to abrogate it

When people were asked in February whether the parties should adhere to the CFA in its current form an overwhelming majority of all the communities wanted the CFA to be continued. However, perceptions of whether they benefited or not from the CFA varied across different ethnic communities. Among all the ethnic communities it was the Sinhala community that believed the least in the benefits of the CFA to them. However, 67% of them still believe that it is beneficial. People cited the ending of killings, freedom of movement and the ending of destruction as the most important benefits of the CFA. The undeclared war situation, unprecedented violence across the island and growing impunity has led to people changing their opinion on the benefits of the CFA to them. This negative opinion of the CFA's benefits has grown gradually over the year amongst all the communities. However, the opinion of the Sinhala community dramatically shifted. In February 67% of the Sinhala Community stated that the CFA was beneficial to them and by November a majority, 52% believed that it was not beneficial.

While reiterating their commitment to the CFA, both parties are blatantly waging campaigns of violence against each other. Interestingly, according to the November PCI findings, except the Muslim community, a majority of the other communities do not believe that the CFA stands anymore. The Sinhala and Muslim communities primarily point their finger at the LTTE for the CFA violations that took place throughout the year. However, the Up-Country Tamil community accuses the Government more than the LTTE of a lack of commitment to the CFA.

With regard to the JVP's demand to abrogate the CFA, a majority of the Sinhala (43.8%) community had no opinion. Nevertheless, 29.2% oppose while 27% support this demand of the JVP. However, a majority of the Up-Country Tamil (59.5%) and the Muslim (69.7%) communities are opposed to the idea of abrogating the CFA. This also shows that despite the efforts of the JVP, JHU and other Sinhala nationalist elements there has not been a dramatic and corresponding shift in Sinhala public opinion.

Strong support for Foreign Involvement

Even though the Presidential election was fought on key issues of the peace process including the role of Norway and international intervention in Sri Lanka, a significant majority of the Sri Lankans feel the need for international third party facilitation to solve the ethnic conflict. However, as the CFA violations increased, the Sinhala community lost faith in international third party facilitation as an essential factor to solve the country's ethnic conflict. Nevertheless, it should be noted that throughout the year, over 50% of the Sinhala community believed that international third party facilitation is essential. In contrast to the Sinhala community's opinion, the Muslim and Up-Country Tamil communities registered high levels of support for international facilitation even against the backdrop of a deteriorating security and human rights situation.

The Norwegian role has been criticized from a number of quarters, including Sinhala nationalist groups such as the JVP and the JHU, with accusations of partiality towards the LTTE. Norway has been very unpopular amongst the Sinhala community. Over 2006 the low level of approval for Norway which stood at less than one third of the Sinhala community, dropped to 20% by the end of the year. However, it should be noted that satisfaction with the Norwegian role as facilitator was always significantly high amongst the minority communities.

In the context of the increasing unpopularity of Norway, a majority of Sinhalese expressed a preference for India over Norway. When asked about the need for India's involvement in the Sri Lanka's peace process, a majority of Sri Lankans believe that either it is essential or at least will have a positive impact on the peace process. However, according to the February PCI findings, India's popularity amongst the Tamil Community is not as high as with the other communities.

At the beginning of 2006, a significant proportion of Sri Lankans felt that the SLMM is essential for the CFA to succeed. Nevertheless, there was a divergence of opinion between the majority Sinhala community and the minority communities on the impartiality of SLMM monitoring. In the context of growing CFA violations and an undeclared war, this gulf further widened. By November the Sinhala community showed a divided opinion on the need for the SLMM while notably, 60% of them believed that the SLMM is partial as well as ineffective.

Increased ethnic polarization over human rights issues

In addition to the above indicators of public confidence in the peace process, the PCI survey series also assessed public opinion on issues that emerged as politically sensitive during the year. The public reaction to these issues revealed a growing insecurity amongst the people and signs of widening ethnic polarization. In the case of human rights, a majority in the minority communities believe that the Government is responsible for protecting human rights. The Sinhala community believes that the Government has done enough to protect human rights while the Up-Country Tamil community does not. For instance with regard to the reported abductions of Tamil civilians in Colombo, a majority of the Sinhala community holds the LTTE responsible while the Up-Country Tamils holds the Government forces responsible. However, the Muslim community has a mixed opinion. Similarly with regard to the recent killing of ten Muslims in Pottuvil, a majority of the Sinhala community believe that it is the LTTE who is responsible while the Up-Country Tamil community believe it is the Government forces. Amongst the Muslim community, 25.3% say that it is the Government forces while 18.7% say that it is the LTTE, with the majority expressing no opinion. Survey findings also suggest that the minority communities are more likely to express ignorance with regard to stating who they believe is responsible for committing particular human rights violations, especially where the identity of the killers is contested and the forces of the state are alleged to be involved. This stated ignorance may also reflect fear in expressing their opinion.

State of the Media

Introduction

The severe erosion of media freedom in 2006 makes it one of the worst years on record in terms of both the physical assaults and intimidation of the media. The media in Sri Lanka confront a challenging situation – journalists find it increasingly difficult to conduct their work, there is scant regard for media freedom and the freedom of expression on the ground and despite assurances by various armed groups, including the Sri Lankan Army, threats, harassment and intimidation against the media increase daily. Civil society organisations such as the Free Media Movement, INFORM and the Centre for Policy Alternatives have repeatedly issued statements, often to no avail, flagging serious concerns about the increasing intolerance and hatred against journalists and media, including physical and verbal abuse, killings, abductions, acts of arson and death threats. Furthermore, accurate, impartial and responsible journalism is under severe pressure from the coercive and deeply disturbing censorship and other constraints, direct and indirect, imposed by the Government, the LTTE and the Karuna faction.

The suppression of media freedom needs to be understood as a part of a wider context of violence and abuse of fundamental rights and the diminishing prospects for democracy, peace and governance in Sri Lanka in 2006. A growing cynicism with respect to the Rule of Law also contributes in large part to the increasing impunity in the country. The shrinking space for civil society coupled with the imposition of emergency regulations and new anti-terrorism regulations have contributed to a context wherein the freedom of expression and media freedom are severely curtailed. Articulating any opinion beyond or in opposition to that which is considered to be patriotic and in the interest of national security, as parochially defined by the State, carries grave consequences under these new regulations.

The media suffers the brunt of the collapse of democratic governance, unable to investigate allegations of corruption, nepotism and systemic breakdowns in governance, or act as watchdogs of democracy, for fear of Government reprisals. Although the international community (IC) issued a number of statements expressing concern and condemnation of the erosion of human rights, and international missions to Sri Lanka as well as global press freedom and advocacy organisations flagging Sri Lanka as one of the most dangerous countries in the world to work as a journalist, there is no demonstrable change in the mindset of the Government, the LTTE and the Karuna faction to secure and strengthen media freedom. Despite public pronouncements made by each party, the combined effect of the new legislation & old regulations such as the Official Secrets Act (OSA), the lack of a Right to Information framework, and the open hostility against conflict sensitive media that fosters peace and reconciliation is a heady mix that overwhelmed efforts to secure media freedom in 2006.

Overview of statements and reports on media freedom

The media in Sri Lanka has repeatedly been challenged, especially over the last twenty years, in maintaining its independence and acting as a watchdog. However, 2006 was an exceedingly difficult year to engage in such activities. A number of key local and international organisations that monitor and speak on behalf of media freedom pointed to the deterioration of media freedom in Sri Lanka over the course of the year.¹³⁶ As noted by the International Federation of Journalists Asia-Pacific in *Journalism in troubled times: The struggle for press freedom in South Asia 2005-2006*:

The overarching loss of security, coupled with the anxiety of another outbreak of war and pressure from the Government not to report critically on their approach to the peace process has resulted in media self-censorship.

*Though the past year was pivotal in energising provincial media to support holistic media reform, it was nevertheless also one in which the continuing erosion of media freedoms on account of violence and conflict severely mitigated any progress.*¹³⁷

Concurring with this observation, the report prepared for the Second Session of the UN Human Rights Council by FMM & INFORM avers;

*In the past year or so, as the ethnic conflict has escalated and as the proponents of a military solution have gained ascendancy in political arenas and in the media, an unprecedented level of hate speech has been generated and broadcast against the media and against journalists who cover the ethnic conflict in a balanced and unbiased manner. The space for dissent, or for holding diverse opinions, has shrunk and the spirit of constructive criticism of politics and politicians has almost disappeared. The high levels of polarisation in the society is reflected in the polarisation within the media and among journalists as well.*¹³⁸

Particularly disturbing was that within this larger erosion of media freedom and human rights, Tamil journalists in particular suffered the brunt of attacks against the media.¹³⁹ Over two dozen Tamil media workers have been abducted, directly threatened, severely assaulted or killed over the course of the year. On January 24, 2006, Subramaniyam Sugirdharajan, a Trincomalee port employee as well as a journalist was shot dead as he waited for a bus to go to work in the morning. He had published photographs and news reports critical of the army and of paramilitary groups active in Trincomalee, in the newspaper Sudaroli Oli. His photographs of the 5 students killed in Trincomalee on January 2 helped contest the original reports that they had been killed by grenades.¹⁴⁰ His murder set off warning bells to other journalists to be cautious in investigative journalism and human rights reporting. We stress that the Government must conduct complete, transparent and timely investigations into the murder of media workers and death threats issued against media workers and their families, with an end to impunity for these acts.

There have also been attacks on their houses, newspaper offices and printing presses.

- On May 3, as journalists gathered in Colombo to celebrate Press Freedom Day, a group of unidentified men attacked the office of the Uthayan newspaper in the Northern city of Jaffna. Suresh Kumar, the Marketing Manager and Ranjith Kumar, working in the Circulation Department, were killed. 5 others were injured and the office damaged.¹⁴¹
- The circulation of some Tamil newspapers has been unofficially banned in parts of the North East. In October 2006 and again in January 2007 the Karuna Group 'banned' the circulation of Thinakural, Virakesari and Sudar Oli in Batticaloa-Amparai¹⁴². Also in October 2006, the Karuna group burnt 10,000 copies of the Tamil daily newspaper "Virakesari"¹⁴³.
- In Jaffna there were increasing death threats against the distributors of Tamil-language newspapers. On August 1, newspaper vendor Mariathas Manojanraj was killed by a mine that was set off as he was going to Jaffna on 27 July to collect newspapers for distribution. The attack came as death threats are being made against the distributors of Tamil-language newspapers.
- On August 16, Sathasivam Baskaran, 44, was gunned down in his Uthayan delivery vehicle after taking advantage of the temporary lifting of an army curfew to deliver copies of the newspaper. He was shot while driving his clearly-marked vehicle in an area controlled by the Sri Lankan armed forces.¹⁴⁴
- This was followed by the murder of Sinnathamby Sivamaharajah, managing director of the Jaffna based Tamil-language Namathu Eelanadu newspaper, who was shot dead on August 21, in Vellippalai. Subsequent to the murder newspaper Namathu Eelanadu publication was closed.

- Sections of the Sri Lankan Army, notably the 512 Brigade based in Jaffna, summoned the Editors of 3 Jaffna dailies on 6th November 2006 and warned them against publishing any news critical of the military in Jaffna¹⁴⁵. There were also other efforts at intimidation.
- On September 7 2006, 6 armed men entered the premises of Uthayan and threatened its editorial committee with “severe reprisals” if they did not publish a statement urging Jaffna students to call off their strike.¹⁴⁶

Media under fire

The assault on the Tamil media over 2006 was clear:

After the murder of Rohana Kumara, editor of Satana, in 2001 and till the killing of Sampath Lakmal in July 2006, every single journalist and media person murdered in Sri Lanka has been a Tamil. The majority of media persons who have been subject to intimidation in one way or the other are also Tamil. The media institutions that have been bombed, set on fire and attacked are also almost all those engaged in publishing and broadcasting in Tamil. In this environment, when presenting the various views and opinions in Tamil society becomes imperative in the search for a just and sustainable peace in Sri Lanka, the silencing of the alternate voices in Tamil society represents a slide down the path to sustained discrimination and hostility between the communities.¹⁴⁷

Accordingly, there is an urgent need to remove all unofficial and military restrictions imposed on Tamil language media and ensure the safety of the Tamil journalists. However, as the murder of Sinhalese journalist Lakmal Sampath De Silva made clear, the suppression of the media was not restricted just to the Tamil media. On July 2, freelance journalist Sampath Lakmal de Silva was shot dead by an unknown group on 2nd July 2006. He was abducted at 5:00 a.m. from his parents' home in Borallasgamuwa, south of Colombo. He was found shot dead three kilometres from his home. His mother said he went out to meet some military operatives, known to him for some time¹⁴⁸. That these efforts were successful in intimidating journalists, who out of fear for their lives and safety, were essentially gagged from reporting accurately, impartially and responsibly, is a chilling reminder of the gravity of the situation facing free media in Sri Lanka. There were reports that journalists and editors would receive calls to question why particular stories were covered in the way that they were. In September 2006, the Media Centre for National Security (MCNS) stated that any news gathered by your institution through your own sources with regard to national Security and defense should be subjected to clarification and confirmation from the MCNS in order to ensure that correct information is published, Telecast or Broadcast. Condemning this move, the FMM requested the MCNS to reconsider their decision to impose a regime of censorship on media and instead allow for the dissemination of information in a free and open manner¹⁴⁹. In his address to the nation on 6th December 2006, the President provocatively asked all media to decide as to whether they were going to support “a handful of terrorists or with the common man who is in the majority”, stating that one could not do both¹⁵⁰. On the 20th December 2006, two senior journalists – Ranga Jayasurya (News Editor, The Sunday Observer) and Lionel Yodasinghe (Associate Editor, The Sunday Observer) - were summoned to the HQ of Criminal Investigation Division (CID) of the police and questioned under the newly enacted anti-terrorism regulations.¹⁵¹ The President's speech, the stance of the MCNS and the actions of the CID point to the new Emergency and anti-terrorism regulations were all extremely negative developments for freedom of expression rights in Sri Lanka. These regulations have become unofficial censorship and attempts have been made to arrest and indict journalists under these regulations. The Government should make a categorical statement that these new regulations will not be used to curb FOE rights and against journalists.

Diminishing Freedom of Expression

It should be noted that the freedom of expression does not exist in a vacuum and that to flourish it needs enabling environment of a healthy democracy. Given the anxiety, fear and severe threats to journalists, there is a need to secure fundamental rights for all citizens, and journalists in particular. However, as noted by the IFJ, it was not only violence, intimidation and harassment that impacted on media freedom in 2006 but also Sri Lanka's domestic laws and recent Supreme Court decisions. The Court's decision with regard to the constitutionality of Sri Lanka's accession to the Optional Protocol of the ICCPR and the existence of, among other laws, the Official Secrets Act of 1995, Press Council Law of 1973 and the 6th Amendment to the Constitution needs to be noted. Many more recommendations to bring Sri Lanka's domestic laws in line with our commitments under the ICCPR can be found in a report released by Frederick-Ebert-Stiftung (FES) in 2005¹⁵².

It is not only media freedom that suffered in 2006. Freedom of expression and cultural production also took heavy blows with the Government's banning of the Hollywood movie *The Da Vinci Code*, the imposition of unreasonably high taxes on foreign TV programming imported by local broadcasters and the sealing of two local pay-TV (satellite) channels for alleged threats to national security (both resumed services late-2006 after a protracted legal battle that refuted allegations against them, and ironically, faced intimidations and threats even after the final verdict of the Supreme Court)¹⁵³. Furthermore, the Cultural Ministry withdrew the initial censor board approval granted for public screening of *Aksharaya* (Letter of Fire), the latest feature film by internationally acclaimed film-maker Asoka Handagama, purportedly for reasons of sexual impropriety. As noted by Nalaka Gunawardene

*In each of these cases, bureaucratic action was preceded by a short-lived smear campaign by a small group of angry individuals or business rivals. There was no due process, and some affected individuals and companies were forced to turn to the courts - which can take months or years to hear cases - for legal redress. And bans, once imposed, are not easily withdrawn, unless ordered by courts.*¹⁵⁴

The lack of due process and the authoritarian bent of the Government were also evident in the banning of the Raja FM radio station, under archaic Societal Good Conduct Act No. 37 of 1966, for "anti-social and extremely repulsive and vulgar material that could corrupt the society, specially [sic] the younger generation."¹⁵⁵ Elements of this cultural censorship in 2006, the result of a parochial interest to reign in media to toe the line with the Government's nationalist, majoritarian perspectives, bedeviled efforts to strengthen free media and severely undermined the Government's avowed commitment to the freedom of the press¹⁵⁶.

A litany of problems

As the IFJ report points out, (i) the declining safety of journalists (ii) the partisan bias of State media and the resulting lack of professionalism (iii) the lack of public service orientation in State media in particular (iv) the lack of true, independent, community radio are, amongst others, overall indicators of the lack of any progressive, reformist media agenda of the incumbent Government. This in turn fed into the vortex of challenges to media brought about by the increasing levels of violence. Reporting conflict and peace professionally was rendered near impossible in 2006. The projection of this situation continuing into 2007 is cause for serious alarm and calls for urgent measures to secure media freedom in Sri Lanka.

It seems that based on existing trends the media will face increasing challenges over 2007. There is a clear need for steps to be taken to ensure that media personnel can function in an environment free of harassment and targeted violence; restrictions on the media and media freedom are reversed; including unhindered access; the state controlled media becomes a public service media and the Freedom to Information is recognized with a review of Sri Lanka's existing legislation and procedures.¹⁵⁷

Observations and Recommendations

The central challenge in Sri Lanka is to foster professional media, acting impartially & reporting accurately and responsibly, with a focus on public interest and peacebuilding; and to train and equip people for carrying out this task with sensitivity and regard for facts without endangering their personal safety and security. The following observations and recommendations are noted in this regard, recalling those made by the initial report of the International Fact-Finding and Advocacy Mission to Sri Lanka¹⁵⁸, a synthesis report by CPA on media reform¹⁵⁹ and the FMM / INFORM report for the Second Session of the UN Human Rights Council:

Practical steps

- A full impact assessment (for instance, content analysis over time) needs to be done collectively by donors who have supported media reform initiatives. There also needs to be more donor-coordination, in part towards the development of a comprehensive strategic roadmap for media reform in Sri Lanka in collaboration media ministry, various media houses/ institutions, associations and NGOs.
- Allow all media full and unhindered access to any area of the country from which they may wish to report
- Ensure that those who attack media workers and outlets are arrested and prosecuted and undertake complete, transparent and timely investigations into the murder of media workers and death threats issued against media workers and their families, with an end to impunity for these acts.
- Support the development and strengthening of communications strategies of NGOs & CSOs to effectively address the challenges of peacebuilding
- Realise the potential of new media and citizen journalism in addition to a continued emphasis on mainstream media, as mechanisms that galvanise public support and awareness of human rights, democracy and peace.

Policy measures

- Review Sri Lanka's present legislation, regulations, and powers and amend or revoke these in line with international standards on press freedom and freedom of expression
- Recognise that freedom of information is a fundamental right for everyone in society and to enact a Freedom of Information law that meets all international standards
- Take all necessary steps to turn state-controlled media into broad-based public service media, including community media
- Reverse action already undertaken that restricts press freedom and freedom of expression and refrain from any moves to introduce any form of direct or indirect censorship

These recommendations are made in light of their crosscutting nature & importance across multiple sectors & actors. Seen together, they are best positioned to support a context in 2007 wherein increasing attacks against civil society and the media will pose significant challenges to peacebuilding and media reform. Overarching considerations, such as the existence of emergency regulations and anti-terrorism regulations that essentially gag free speech and media, are important to take note of in drawing up risk assessments and evaluating the impact of initiatives undertaken to support media and civil society in 2007. Noting the central importance of media to a process of peacebuilding, and aware of its role in fostering reconciliation, strengthening democracy and safeguarding human rights, the challenge of 2007 for donors is to fully support NGOs and media institutions engaged in rights based advocacy, training and awareness raising, through innovative, long-term, pro-

grammatic funding aimed at securing professional media, stronger civil society voices and a more vibrant democracy in Sri Lanka.

Endnotes

¹ Substantive in addressing and reaching understandings on how to deal with critical and contentious issues and thereby creating the grounds for further agreements and Symbolic in creating momentum for sustaining the dynamics of a peace process on the other.

² There were mid-level face-to-face negotiations between the GOSL and the LTTE in the wake of the tsunami but both sides insisted that the negotiations were not peace talks

³ The parties argued over a number of issues in Geneva including the size of each delegation, protocol regarding who should speak first.

⁴ The parties also engaged in other confidence building measures such as the exchange of prisoners and agreeing to modalities for the transport of LTTE cadres for talks.

⁵ The Government's shift in position in the venue for talks in February from a location in Sri Lanka to Asia to a non-European location to Geneva

⁶ P. Saravanamuttu in Sunday Island, Namini Wijedasa, "Post-mortem of talks: Analysts look at outcome," February 26 2006, page 1

⁷ (Daily Mirror, Jehan Perera, "Geneva failure calls for new negotiation approach," October 31 2006, page 8) The parties had a clear responsibility to deal with the humanitarian consequences of the A-9 which the Government had shut from August 11 as a result of the growing security situation.

⁸ There was however a clear shift in this Government's position for the two previous administrations under Ranil Wickremesinghe and Chandrika Bandaranaike Kumaratunga. Like the previous Kumaratunga administration President Rajapakse re-affirmed the importance of sovereignty and national security but was more obdurate. An indication of this was the frequent reference to the issue of parity of status which the Government increasingly questioned, demanding that the LTTE as a terrorist and non-state actor could not be treated en par with the state. There were also other indications of deteriorating relations; the Government for instance searched the luggage of the LTTE delegation after they returned from Geneva and Oslo in March.

⁹ Daya Master received treatment at Apollo Hospital on July 12.

Sarath had been abducted by the LTTE in Kokkupadayan, Mannar on September 9 2005 along with two others in search of a paedophile. The other two were subsequently released in exchange for LTTE cadres apprehended by the police in Jaffna.

¹⁰ There was speculation that the visit of Sinn Fein Leader Martin McGuinness was a part of a larger effort to create a new channel between the LTTE and the GOSL

¹¹ These figures are from February 22 2002 to December 31 2006. The SLMM does not currently release annual figures. This is a significant shift from its practice in 2002-5 when it would provide monthly figures.

¹² The Government reportedly refused to attend the Oslo Talks if the report was released and threatened to walk out of talks if the report was submitted during the talks. (The Sunday Times, "No Way to Treat Oslo", June 11 2006, page 10)

¹³ There was an attack on the SLMM parked vehicles in Batticaloa where three jeeps were destroyed on January 13

¹⁴ The LTTE sent a letter to the SLMM on the morning of May 11th warning them not to board navy vessels "We urge you for the last time not to be on board Sri Lankan Naval Vessels until further notice from us. If you chose to ignore our warning and request, we are responsible for the consequences. Please take this as the last warning to you to not board Sri Lankan Naval vessels." SLMM Naval Monitors were on board Pearl Cruiser II, a ferry carrying security personnel from Trincomalee to Jaffna that came under attack. Through the intervention of the Norwegian facilitators an attack on the SLMM was averted (Sunday Leader, D.B.S. Jeyaraj, "Indian help secures safety of Sri Lanka's 'Pearl Cruiser,' May 12 2006)

¹⁵ 37 of the 57 monitors were withdrawn, a number of whom were replaced by Norwegian and Icelandic personnel who had served in the SLMM previously.

¹⁶ Sunday Times, Shimali Senanayake, "SLMM chief asks whether LTTE wants to terminate CFA," July 9, p.4

¹⁷ The Daily Mirror, "An Angry Solheim fires at govt, eu, and the tigers", June 10 2006, page 1

¹⁸ The Daily Mirror, "Norway Gives Ultimatum", June 10 2006, page 1

¹⁹ During the period of peace talks between 2002-3 there were a series of incidents of violence including sporadic confrontations between the Armed Forces and the LTTE, Tamil-Muslim Communal Violence and political killings of anti-LTTE Tamils including members of EPDP and EPRLF (V) and army intelligence personnel, and abductions of children for recruitment and of adults for non-payment of 'taxes' and other 'crimes' by the LTTE.

²⁰ Following the break up of the LTTE in Batticaloa in 2004 there were a series of incidents of violence in Batticaloa including a military clash between the LTTE and the breakaway faction led by 'Colonel Karuna' and killings and abductions of individuals associated with one group or another.

²¹ Sampur and the LTTE's airbase near Iranamaduru Tank were repeatedly bombed from April 2006

²² There were accusation in the CFA period before 2006 of small shifts in the lines of control with the LTTE for instance accused of moving its FDL into no man's land in Nagarkovil and there was also controversy over LTTE bases in Sampur

²³ The claymore attacks in December 2005 and January 2006 were claimed by groups such as Makkal Padai and Sennan Padai. The LTTE claimed that it had provided training to these groups

²⁴ See Chapter on Human Security

²⁵ Both Army Commander Fonseka and Defence Secretary Rajapaksa escaped. Major General Parami Kulatunga (June 26) and Senior SSP STF Upul Seneviratne (August 7) were both killed by LTTE suicide bombers in .

²⁶ The talks in Geneva in October failed so there was no agreement to monitor.

²⁷ The statement was released on June 9. It traced the history of the ethnic conflict and the policies of the current administration.

²⁸ The resolution was not voted on due to the decision by the Council to delay a vote on all resolutions until the next session. Sri Lanka had received wide support from the non-European countries, especially the Asian and OIC block.

²⁹ The US for instance expressed reluctance in openly endorsing the EU sponsored resolution in Geneva preferring to take a more diplomatic approach of dealing directly with the Government.

³⁰ Indian National Congress President Sonia Gandhi made a statement in May 2006 to this effect

³¹ See Chapter on Economic Issues for more detail.

³² There were also concerns raised over the appointment as Prematilaka previously held the post of Director General of Public Finance in the Treasury.

³³ See Chapter on Governance for more detail

³⁴ It led to a direct intervention by President Kumaratunga who wrote a letter to the then Prime Minister Rajapaksa on September 8 on the repudiation of the P-TOMS Agreement which further highlighted continuing disquiet within the leadership of the SLFP. Further, President Kumaratunga in the discussion that followed her speech to the Asia Society in New York on Sept 14, said that the agreements signed by Presidential nominee Mahinda Rajapaksa with the JHU and JVP were not worth the paper they were written on and that the policy of the SLFP was to resolve the conflict through federalism and not by preserving the unitary character of the State.

³⁵ Dew Gunasekera in an interview with the Sunday Leader stated: "We certainly have reservation on the MOUs signed by these parties, but made our choice looking at the overall political situation of the country." He added "those who come into power should fall in line with the reality which is a federal solution" and noted that Rajapaksa's was engaging in making unitary state proclamation "to collect votes." He also said that "Definitely, the JHU, JVP agreements would become irrelevant after the election." (Sunday Leader, Wilson Gnanadass, "PM's MOU irrelevant after election," October 16, page 20

³⁶ Government Media Release. Those attending included representatives from the UNP (Mahinda Samarasinghe, Chief Opposition Whip), Dinesh Gunawardene (MEP), Tissa Vitharana (LSSP), Douglas Devananada (EPDP), Chandrasekharan (UPF), Ferial Ashraff (NUA) etc.

³⁷ A majority opinion report, a minority opinion report and two separate dissenting reports.

³⁸ On December 11 Media Minister Anura Priyadarshana Yapa described as outrageous and a devious attempt by certain media organisations and groups “in portraying a draft report to assist the All Party Representative Committee (APRC), as a “proposal emanating from the Government to resolve the North-East question.”

³⁹ As to whether the subsequent military escalation on the part of the Government resulted out of the intractability of the situation and the LTTE's campaign of violence or of an ideological leaning towards a hawkish approach is debatable. See Chapter on Peace Process for more detailed discussion.

⁴⁰ There were also unconfirmed reports that the President had formed a ‘War Cabinet’ (Sunday Leader, “Mahinda plans war cabinet,” January 22 2006, page 1)

⁴¹ As the TNA M.P. M.K. Eelivendran pointed out in parliament “How can you prepare for war and talk peace?” (Daily Mirror, Kelum Bandara and Yohan Perera, “Increased defence allocation irks TNA,” December 13 2005, page 3

⁴² The LTTE committed some violations in the Geneva Honeymoon period but a significant number of violations were also attributed to the Karuna Group.

⁴³ The most recent being the Human Rights Watch Report, “Complicit in Crime: State Collusion in Abductions and Child Recruitment by the Karuna Group,” January 2006

⁴⁴ According to Defence Columnist Iqbal Athas: The joint operations HQ, which is the unified apparatus of the army, navy, the airforce and the police, tasked to carry out counter terrorist operations and its head, Chief of Defense Staff air Chief Marshal; Donald Perera were unaware. Even, the National Security Council Chaired by President Mahinda Rajapaksa claimed it was in the dark regarding the operation (The Sunday Times, Iqbal Athas, Situation Report, October 16 2006).

⁴⁴ See the Chapter on Governance for a more detailed discussion of the issue

Even, the National Security Council Chaired by President Mahinda Rajapaksa claimed it was in the dark regarding the operation (The Sunday Times, Iqbal Athas, Situation Report, October 16 2006).

⁴⁵ The NAWF meeting in Colombo was attacked by a group of Buddhist monks on August 17 and the meeting in Kandy was interrupted by protestors who threw eggs and tomatoes on October 19

⁴⁶ See the Chapter on Governance for a more detailed discussion of the issue

⁴⁷ In December 2005 there were indications that a Grand Tamil National Alliance would be created bringing together the TNA, CWC, UPF and WPF. Reports of CWC Leader's Arumugam Thondaman's security being withdrawn, the police searching one of his homes and attempts at encouraging CWC M.P's to cross over intensified this tension.

⁴⁸ Arumugam Thondaman, Leader of the CWC was appointed Minister for Youth Empowerment and Socio-Economic Development, P Chandrasekaran leader of the UPF was appointed as Minister for Building Community Development and Social Inequity Eradication, while Muthu Sivalingam of the CWC was appointed as Deputy Minister of Education.

⁴⁹ Hakeem had been provided by the Special Police Paramilitary Force, the STF. Hakeem had publicly stated that the Muslims of Pottuvil believed that the STF had assisted in some form the massacre of 11 Muslim Youth in Radella Wewa, Potuvil on September 10. His security was withdrawn on 21st September.

⁵⁰ The other three cross-over UNP M.P's are Rohitha Bogollagama appointed as Minister of Enterprise Development and Investment Promotion and WB Ekanayake and Neomal Perera appointed as Deputy Ministers

⁵¹ TNA M.P J. Pararajasingham was killed in Batticaloa in December 2005

⁵² The 17th Amendment mandates the creation of several independent commissions vested with various oversight functions vital to the governance of the country. Foremost among these is the Constitutional Council, which is vested with the responsibility of approving appointments to the Supreme Court, the Court of Appeal and the Judicial Services Commission, and of recommending appointments for the other independent commissions established under the 17th Amendment, most notably the Elections Commission, National Police Commission, the Human Rights Commission and the Public Services Commission which are meant to ensure the impartiality and accountability in these particular fields. The previous Constitutional Council's three year term expired in March 2005 and it has yet to be re-constituted. Similarly, the National Police Commission and the Public Services Commission expired in 2005 and have yet to be reconstituted, as their respective appointments are contingent on the recommendations of the Constitutional Council. In effect, the failure to re-constitute the Constitutional Council has had the domino effect of delaying the constitution of the other important independent commissions mandated under the 17th Amendment to the Constitution.

⁵³ The Judicial Services Commission is a 17th Amendment-created independent commission comprised of the Chief Justice, as chairperson, and the two most senior sitting judges of the Supreme Court, and is vested with powers of appointment, transfer and disciplinary authority over the minor judiciary and in some cases the Supreme Court as well.

⁵⁴ Daily Mirror, "SC Judges may testify before Select Committee: Civic action groups call parliament to probe crisis in JSC", 9 February 2006; TamilNet, "Abuse of political power led to Judges resignations, says State Bar", 9 February 2006.

⁵⁵ Daily Mirror, "SC Judges may testify before Select Committee: Civic action groups call parliament to probe crisis in JSC", 9 February 2006.

⁵⁶ The Chief Justice responded by issuing a press statement of his own, in which he made various negative personal attacks against the two Judges (See Daily News, "JSC will continue to serve despite Judges' resignations", 6 February 2006.)

⁵⁷ Respondents to the petition included the Prime Minister, Leader of the Opposition, Speaker of the Parliament, Secretary to the President, Attorney-General, Inspector General of Police, Advisor to the Ministry of Defence, as well as several Members of Parliament representing various parties. The basis of the petition was that, as a constitutional lynchpin of governance, the failure to constitute the Constitutional Council would result in a breakdown of constitutional governance and will have the domino effect on the constitutional validity of numerous other independent commissions which require the approval or recommendation of the Constitutional Council.

⁵⁸ The petitioners said the appointments made by the President bypassing the Constitutional Council were irregular and unconstitutional and therefore their fundamental rights guaranteed by the Constitution had been infringed.

⁵⁹ The Sunday Times, "Court rejects petition, calls for action against petitioners", by Teles Anandappa, July 2, 2006.

⁶⁰ The Supreme Court had initially issued a stay order blocking the investigation until after the Presidential election in November 2005. When the case returned before the Supreme Court in January 2006, the Deputy Solicitor General announced to the Court that no further investigation would be necessary in light of the fact that the President's counsel had submitted to the Attorney General certain bank statements which apparently sufficiently detailed the allocation of the funds in question. While admonishing the respondent parties for conducting an improper and mala fide investigation, the Supreme Court reserved final judgment on the fundamental rights claim until a later date. "No further probe into Helping H'tota necessary – DSG", by Chitra Weeraratne, The Island, January 18, 2006. "Court reserves order in 'Helping Hambantota' rights petition", by S.S. Selvanayagam, Daily Mirror, January 30, 2006.

⁶¹ In the Sinharasa case, a Tamil suspected LTTE member was arrested in 1993 and sentenced in 2000 to thirty-five years imprisonment under the Prevention of Terrorism Act (PTA), in spite of substantial evidence that the confession upon which the court solely relied in its ruling was coerced through physical and psychological torture. The UNHRC found that the circumstances of the case and court proceedings amounted to a series of violations under the ICCPR.⁶¹ In the case in question, the Petitioner, Nallaratnam Sinharasa, had made an application to the Supreme Court to effectuate, on the basis of the Court's "inherent powers", the findings of the United Nations Human Rights Committee at Geneva which found the Sri Lankan State responsible for violations of Sinharasa's human rights in the conduct of his initial arrest, prosecution and conviction in 1995. In its judgment the Supreme Court held that the accession to the Optional Protocol and the subsequent declaration by the President of Sri Lanka in 1997 that the Government had acceded to the Optional Protocol was unconstitutional and invalid, on the grounds that the treaty conferred a public law right which was a purported exercise of the legislative power and therefore was within the realm of Parliament and the people at a referendum. The Court further held that the Optional Protocol also amounted to a purported conferment of 'judicial power' on the Committee in violation of Articles 3 and 4 of the Constitution, which reposed 'judicial sovereignty' in the people. The Court ruled that, as a dualist legal system, international treaties entered into by the President or the Government of Sri Lanka had to be implemented by domestic legislation in order to have internal effect.

⁶² The merger of the North and East provinces that have functioned as two separate provinces since independence came about with the signing of the Indo Lanka peace accord in 1987 and the establishment of provincial councils under the 13th Amendment to the Constitution. The temporary merger of the two provinces to create a single NorthEastern entity was to be validated with a referendum within a year. However the continuing ethnic conflict in the island has resulted in deferring the referendum indefinitely. Since 1988 successive Presidents have extended the merger through special gazette notifications as they were unable to carry out the referendum on the merger which was to decide the amalgamation of the two provinces by the vote of the people of the two provinces separately.

The Petitioners in the instant case, Jayantha Wijesekera, Mohamed Buhary and Wasantha Piyatissa, all of whom were residents of the Eastern Province, alleged infringement of their fundamental rights to the equal protection of the law, guaranteed by Article 12(1) of the Constitution, as a result of the merger. Ruling in favor of the Petitioners, the Supreme Court held that the merger constituted a violation of Article 154A(3) of the Constitution, which empowers only Parliament to provide by law for merger of the provinces, as well as section 37(1) (b) of the Provincial Councils Act 1987.

⁶³ Regulation 56 of the Emergency (Miscellaneous Provisions and Powers) Regulations No.1 of 2005 published in Gazette Extraordinary 1405/14 of 13 August 2005 states: "(1) The Magistrate shall, upon receipt of the report of the facts by the Inspector-General of Police, or the Deputy Inspector-General of Police as the case may be under regulation 55; (a) direct the Government Medical Officer to forthwith hold a post-mortem examination of such body and may direct that the dead body if it has already been buried, be disinterred; and (b) make an order that at the conclusion of the post-mortem examination that the dead body be handed over to the Deputy Inspector-General of Police for disposal. (2) The Deputy Inspector-General of Police to whom the body is handed over the dead body [sic] to any relations who may claim the dead body, subject to such conditions or restrictions as he may deem necessary in the interest of national security of [sic] for the maintenance or preservation of public order; Provided, however, that the Deputy Inspector-General of Police may in the interest of national security or for the maintenance or preservation of public order, authorize the taking possession of and effecting the burial or cremation of the dead body in accordance with such steps as he may deem necessary in the circumstances."

⁶⁴ As actions by the President carries with it Presidential immunity in accordance with the Constitution, there are no checks and balances in place to ensure that the relevant actors do not abuse such broad powers, such as the appointment of the directors to RADA. An interesting feature of RADA is that the bill provides vast powers to the President to appoint persons that he may deem fit as Directors of RADA, creating space for appointments based not on merit but on personal favoritism and connections, and further raising concerns of transparency and accountability. Further, concerns have been raised as to the modalities within which RADA will work with existing actors. There is no mention on this aspect and it is hoped that RADA will allow local actors a greater role in reconstruction and development efforts, involving them in the formulation of plans and giving greater responsibility in implementation of projects. The bill at no point mentions the role of Parliament, and whether RADA will be answerable to Parliament or any other actor. It is of grave concern, as the bill is perceived to be increasing and strengthening the powers of the President, with no oversight mechanism in place and thereby raising questions of accountability and transparency.

⁶⁵ the attacks and lack of security guarantees by the Armed Forces is seen as part of a larger state project of land colonization and Sinhalaization; the massacres and killings of Sinhala border villagers are seen as an attempt at expanding Tamil Eelam; attacks on Muslims are in turn seen to be part of the LTTE's ethnic cleansing program to create a mono-ethnic Tamil Eelam. The notice on May 29th by a group called the Thamil Eela Thaiyahan Meetpu Padai calling for the Muslim Community of Muttur to vacate the areas within 72 hours reinforced existing fears

⁶⁶ Statement of Deputy Minister P. Radhakrishnan (UPF (The Nation, Vindya Amaranayake, "Fifty Tamils abducted in August," September 3 2006, page 3); Letter from Mano Ganeshan (WPF) and S.B. Dissanayake (UNP) citing abductions and state failure to Norwegian Embassy (The Nation, Wilson Gnanadass, "Amazing disappearance of businessmen in Colombo," September 10 2006, page 10). The Sunday Times, Chris Kamalendran, "Abductions unlimited," September 24 2006, page 4

⁶⁷ The Sunday Times, Chris Kamalendran, "Abductions unlimited," September 24 2006, page 4

⁶⁸ two bodies were found in Vavuniya with multiple gun and knife injuries and a note warning those giving information to the LTTE. Thinakural, april 21 2006

⁶⁹ In Jaffna on April 19 3 bodies were found in a three wheeler in Atchuvveli and another 5 bodies were found by the army camp at Tharavai.

⁷⁰ University Teachers for Human Rights (Jaffna), "Terrorism, counterterrorism and Challenges to Human Rights Advocacy," Special Report No: 20, April 2 2006

⁷¹ a body of an unidentified youth in Preethipura, Wattala on April 5, 3 beheaded bodies on the Thunmodara Puwakpitiya Road and 2 more near Warakatenna Estate, Dehiowita on April 11; a headless nude body of a young man in Mulleriyawa on April 28

⁷² INFORM, Situation Report: April 2006, page 4

⁷³ The Sunday Times, Chris Kamalendran, "Abductions unlimited," September 24 2006, page 4

⁷⁴ There were reports of recruitment preceding the June spate of abductions, like the boy abducted on his way to school in Batticaloa Town on May 22nd by a group of men in a double cab (Daily Mirror, Senaka de Silva, May 23, p.2)

⁷⁵ According to UNICEF figures, there are 194 cases of child recruitment by Karuna as at November 2006. Further, According to latest estimates by UNICEF, 1,642 children, of which 667 are still under 18, within the ranks of the LTTE. www.child-soldiers.org

⁷⁶ Tamilnet, Three Tamil youth killed in Trinco, April 23 2006

⁷⁷ Presently there are 42 youth in protective custody. TamilNet, 24th January 2007

⁷⁸ On June 19th and July 9th (a poya day) Somawathiya Chaitya came under attack, with the army blaming the LTTE and the LTTE denying the charge.⁷⁸ Places of worship are also treated as refuges for civilians during times of conflict and are recognized as such by international law. During the clashes at sea off Pesalalai many of the residents sought refuge in the Church. Armed assailants fired at the church hurled a grenade through the open window killing one woman.

⁷⁹ Suresh Kumar was killed and G.P. Selvakumar was injured when a suspected LTTE attacked them in Batticaloa Hospital on May 15th. Both were suspected Karuna Cadres who had been injured in an attack in Welikanda two weeks before. Further, bombing in Killinochchi on the 2nd November killing 5 civilians and damaging the Killinochchi District Hospital and resulting in many patients fleeing. TamilNet 3rd November 2006

⁸⁰ Two soldiers, Senaratnage Ranjith Priyanatha Herath and Wijeratnage Ajith Asokaratne were reported missing on June 18th when conducting a clearing operation in Welioya. A few days later the LTTE handed over two bodies of soldiers to the ICRC who in turn handed them over to the Vavuniya Magistrate. The two bodies were mutilated suggesting that they had been tortured. Island, Dinasena Ratugamage, "LTTE hands over mutilated bodies of two soldiers to ICRC," June 2, p.2; Daily Mirror, Kurulu Kariyakarawana, "Bodies of two soldiers hand over to Vavuniya police," June 22, p.3

⁸¹ The closure of the anicut at Mavil Aru was an example of a violation of this norm.

⁸² Daily Mirror, Dharisha Bastians, "LTTE should condemn attacks: denials only," December 8 2005

⁸³ Chaired by the Minister of Human Rights Mahinda Samarasinghe, and comprising senior officials of the Ministries of Human Rights, Foreign Affairs, Defense, Justice, Constitutional Affairs, the Attorney-General's Department, the Armed Forces, the Police Department and the Secretariat for Co-coordinating the Peace Process(SCOPP). This Committee is expected to meet on a regular basis, especially with regard to implementing the decisions relating to human rights and have a continuing monitoring and overseeing function on human rights matters.

⁸⁴ The killing of 17 local staff members of Action Contre le Faim (ACF) in Muttur in early August highlighted major flaws in the justice system. The measures taken by the Government on carrying out the post mortem when media personal in the vicinity of the Trincomalee hospital were threatened, transferring of the inquest from Trincomalee to Anuradhapura, and subsequently retransferring it to Kantalai by the Secretary to the Ministry of Justice, appointing the magistrate of Anuradhapura to hear the inquest raises concern on the impartiality and neutrality of the case. Though the Government requested the assistance of Australian forensic experts, due bureaucratic delays which extended to November and the Australian experts returning to Australia, the bodies were exhumed only in mid October. In addition, the refusal of visa to an international observer of the International Commission of Jurists (ICJ) further raises concern on the measures taken by the Government to interfere with the case.

⁸⁵ In addition to the claymore attack there were other attacks and the presence of armed groups prompted these villagers to flee their homes or seek refuge during the nights in safer areas. For instance it was claimed that there were armed group in Etanbasgaskada bordering Medawachchiya who had ordered the villagers to leave by 23/6. In other villages there were reports of armed groups operating in villages at night Also an armed group had stopped a bus between Vavuniya and Mahamailankulama and checked passengers. (Island, Dinasena Rathugamage, "Armed group orders villagers to leave," June 21, p.4)

⁸⁶ More than 1,500 fled Allaipiddy and the surrounding area and arrived in the Gurunagar area and settled in temporary sheds. The move reportedly followed the Kayts Magistrate Jeyaram Trotsky being told by the security forces on May 19th that they were not able to provide security due to manpower. The Rear Admiral Upali Ranaweera, Commander of the Navy's Northern Region stated that the residents had left Kayts due their fear of the LTTE not of the security personnel. Residents from Jaffna claimed that some of the displaced were heading to Jaffna others to the Wanni (Sunday Times, "Kayts civilians fleeing to LTTE areas," May 19, p.1; Sunday Times, "Kayts civilians fleeing to LTTE areas," May 19, p.1; Daily News, "Civilians left Kayts due to LTTE threats" May 24, p.3; Daily Mirror, Easwaran Rutnam, "Allaipiddy residents trickle in after Govt. assurances," June 23, p.3)

⁸⁷ Daily Mirror, Yohan Perera, "Over 3000 Muslims flee their homes," May 16, p.4

⁸⁸ Protests over police eviction of Muslims' Daily Mirror, 28th September 2006. With the circulation of a leaflet on 22nd September asking all Muslims to leave Muttur, resulted in 600 families fleeing and seeking refuge in Kinniya and others moving to Kantalai. Though some were able to leave Muttur, others were unable to do so with roads being blocked by Government forces, buses with Muttur residents being turned back and boat licenses being withdrawn to stop people taking flight by sea.

⁸⁹ 'Government's IDP relief not enough' - Daily Mirror, 4th September 2006

⁹⁰ Further, the escalating violence has delayed harvesting in Akkaraipattu where reports state that both Tamil and Muslim farmers are worried over losses due to this delay.

⁹¹ "Jaffna people hit by ever-soaring prices and raging debates over A" Sunday Times, 26th November 2006

⁹² For example, the camp in Varothiyanagar Bharati Vidiyalayam consisting of 299 men and 287 female (155 families) who were displaced since the 14th of April, had received no Government assistance even three days later. While they had received limited assistance from international agencies, it was a few local organisations that were most active in providing immediate health and food assistance. Further, Tamil people displaced from LTTE held areas in Muttur following aerial attacks, now residing in Eachchilampathu have yet not received assistance. They have not even been provided with temporary shelters nor sanitation and other facilities. In addition, there was no continuity of assistance as seen in Pesalai where IDPs living at the Church of Our Lady of Victories were only receiving sporadic assistance with dry rations and food 11 days after the attack on the church. In August, with the influx of Muslim IDPs to Kantalai, questions of disaster preparedness was raised over the delay in addressing the needs of the IDPs, the Government slow in providing shelter and essential items and largely relying in International and National Organisations (I/NGOs) to provide essential services. This was the case even though high-level committees were set up headed by ministers as well as a Special Relief Centre being created jointly headed by the Ministry of Disaster Relief and the Ministry of Resettlement. Day to day activities were coordinated by the Divisional Secretary.

⁹³ The Red Star, a humanitarian arm of the JVP, a Sinhala nationalist political party, provided assistance to displaced Muslims in Serunuwara, raising with concern on political entities targeting vulnerable individuals and communities.

⁹⁴ Daily Situation Report- Foundation for Co-Existence, 17th May 2006

⁹⁵ Daily Situation Report- Foundation for Co-existence, 19th June 2006. There have been similar attacks of this nature, shots fired at the refugee camp in Devalanda, Padaviy allegedly by the LTTE. 27th June 2006, LankaTruth.

⁹⁶ "Sonobo Children's Home in Vaharai attacked, 12 children injured – TRO"- TamilNet, 8th November 2006

⁹⁷ Fact finding report to Kantalai and Serunuwara, www.cpalanka.org

⁹⁸ Other incidents included the grenade attack against the Non Violent Peace Force office in Muttur injuring an international staff member and two local staff⁹⁸, the grenade attack on the TRO office in Jaffna on the 15th of July⁹⁸, death of a ZOA staff member in a mine explosion⁹⁸ and the abduction of a TRO staff member in Valaichchenai. There was also targeted efforts by various actors to restrict the work of women employed with international and national organisations involved in humanitarian work in the North East, demonstrated by the distribution of hand bills in Batticaloa, Ampara and Trincomalee.

⁹⁹ UNHCR protection report, October 2006

¹⁰⁰ For example, questions were raised as to why Tamil people displaced in Trincomalee town have been side lined and not received assistance compared to the influx of assistance for the displaced in Kebethigollewa. This was evident when the displaced in Kebethigollewa received temporary shelter within a month, when many in the North East including areas such as Trincomalee and Pessalai are still residing in schools and religious buildings. Additionally, there has been a continued effort to provide assistance to the IDPs in Kebethigollawa, with the Government deciding to continue the supply of monthly dry rations in addition to the bag of food items provided by the World Food Programme. This should be compared with the plight of the displaced in Pesalai where there was no continued effort to address the needs of the IDPs nor provide dry rations. Further, the housing given to the tsunami and the conflict affected raises concerns of equity, as many conflict affected IDPs are still living in temporary shelters more than a decade after being displaced such as in areas of Puttalam where as the tsunami affected are already residing in permanent houses. There are also concern within the tsunami affected as questions have been raised by the tsunami affected as why Hambantota district has received better assistance.

¹⁰¹ "Tsunami shocker 30% household say kids are school-less", Sunday Times, 24th December 2006

¹⁰² DPSG report November 05-Janaury 06, www.cpalanka.org

¹⁰³ Interview with Mr. Alessandro Pio, Country Director ADB, Sunday Leader 11th June 2006

¹⁰⁴ RADA meeting, 24th May 2006.

¹⁰⁵ For example, in Uppuveli in Trincomalee, the tsunami houses are built on a hill and already, the poorly constructed retaining boundary walls have collapsed on to another house at the bottom of the hill. CHA meeting, 11th May 2006. Similarly, people had to move back into tents because the permanent housing given to them are poorly constructed and are collapsing in Hunugama in Hambantota. It is of interest that plans drawn up soon after the tsunami intended areas such as Hunugama in the massive Siribopura Housing Scheme to be a model for other areas, with large scale housing construction and infrastructure development. What is evident now is that due to cheap material and the speed at which they were built, houses are collapsing with the tsunami affected having to move back into tents. As reported, many in Hunugama are refusing to move in to the badly built houses, with authorities having decided to hand over more than 30 houses to the Hambantota police. This is an interesting twist as the construction of houses were meant for the tsunami affected not for police, demonstrating ways of political maneuvering that is being used at the plight of the tsunami affected. "Hungama, a tragedy multiplied", Sunday Leader 2nd July 2006

¹⁰⁶ Cluster Reports; Report of the Consultation with Tsunami Affected Persons from Galle, Matara and Hambantota Districts, 2nd July 2006, INFORM

¹⁰⁷ After much debate the Government did away with the Buffer Zone and opted for the set back zones specified in the Coastal Zone Management Plan (CZMP) 1997

¹⁰⁸ http://www.cbsl.lk/cbsl/socio_econ_ind.html

¹⁰⁹ There was a 20% drop in tourist arrivals during the last quarter of 2006 (115,600) compared to the corresponding quarter in 2005 (143,700).

¹¹⁰ The factors included severe drought hampering agricultural production, rising world oil price, and procurement of arms & ammunitions from abroad (caused by military setbacks in the North particularly the overrunning of Elephant Pass military camp in April 2000 and the attack on Colombo international airport in July 2001)

¹¹¹ With the change of Government in April 2004 led by the Sri Lanka Freedom Party (SLFP), the political instability, stalling and reversing the economic reform programme of the previous Government, and lack of clear economic policy framework by the new Government may have all contributed to the drop in growth.

¹¹² The unemployment data in the graph includes North & East province for 2002-2005 only, because the quarterly labour force survey could not be undertaken in the strife torn province before 2002 as well as after 2005.

¹¹³ Once again, the relationship between the political party in power and the state of key indicators becomes evident.

¹¹⁴ http://www.cbsl.lk/cbsl/socio_econ_ind.html

¹¹⁵ Central bank of Sri Lanka, Annual Report 2005, Special Statistical Appendix Table 5, <http://www.cbsl.lk/cbsl/AR2005data/Spappendix.pdf>

¹¹⁶ <http://www.treasury.gov.lk/BOM/nbd/pdfdocs/nationalsum2007/mediumtermbudgetaryframework2006-2009.pdf>

¹¹⁷ <http://www.cbsl.lk/cbsl/press-190107a.doc>

¹¹⁸ http://www.cbsl.lk/cbsl/press_100107.doc

¹¹⁹ http://www.cbsl.lk/cbsl/socio_econ_ind.html

¹²⁰ http://www.cbsl.lk/cbsl/Press_261206.doc

¹²¹ Central Bank of Sri Lanka, Annual Report 2005, Statistical Appendix Table 112, <http://www.cbsl.lk/cbsl/AR2005data/t112-05.pdf>

¹²² <http://www.cse.lk/>

¹²³ Compiled by Transparency International, Corruption Perception Index 2006

¹²⁴ <http://www.treasury.gov.lk/FPPFM/fpd/pdfdocs/budget2007/BUDGETSPEECH2007.pdf>

¹²⁵ It has to be mentioned at the outset that a thorough analysis of the budget 2007 is beyond the scope of this review due to brevity of space.

¹²⁶ <http://www.treasury.gov.lk/EPPRM/npd/pdfdocs/budget2007/MahindaChintanaTenYearDevelopmentPlan.pdf>

¹²⁷ A deeper analysis of the Mahinda Chintanaya is beyond the scope of this review because of lack of space.

¹²⁸ The expectation was that the airport would primarily serve the Koggala free trade area but it has not yet taken off and the site is being converted into a star-class hotel.

¹²⁹ Mahinda Chintanaya: Vision for A New Sri Lanka, viii

¹³⁰ http://www.peaceinsrilanka.org/peace2005/Insidepage/PressRelease/WebRel/July/WebRel180705_1.asp

¹³¹ <http://www.unhcr.org:80/publ/RSDLEGAL/4590f12a4.pdf>

¹³² More details about economic decline and cost of living rise can be obtained from Quarterly Review of the Economy of Sri Lanka <http://pointpedro.org/category/quarterly-economic-reports/>

¹³³ In 1956 and 1971 the GDP growth rate was almost zero percent. Further, in 2001 the country recorded negative growth (-1.5) for the first time. In all the foregoing years it was the SLFP-led governments that was in power.

¹³⁴ <http://www.unhcr.org:80/publ/RSDLEGAL/4590f12a4.pdf>

¹³⁵ Journalism in troubled times: The struggle for press freedom in South Asia 2005-2006, International Federation of Journalists, <http://www.ifj-asia.org/page/worldpressfreedomday060503.html>

¹³⁶ Media Freedom and Freedom of Expression: Heading for a crisis in Sri Lanka, Note Prepared for the Second Session of the UN Human Rights Council by the Free Media Movement (FMM), Sri Lanka with the support of INFORM Human Rights Documentation Centre, http://freemediasrilanka.org/index.php?action=con_all_full&id=25§ion=news_reports

¹³⁷ The individual cases discussed below were included by Christopher Warren, President of the IFJ, in a written submission to Hon. Keheliya Rambukwella, the Defence Spokesperson of the Government, pursuant to an international mission to Sri Lanka that looked at media freedom in October 2006. A fuller and more detailed account of attacks against the media is found in the report prepared for the Second Session of the UN Human Rights Council by FMM & INFORM (Mission Statement of International Fact-Finding and Advocacy Mission to Sri Lanka, 11 October 2006, http://www.rsf.org/article.php3?id_article=19142)

¹³⁸ Mission Statement of International Fact-Finding and Advocacy Mission to Sri Lanka, 11 October 2006, http://www.rsf.org/article.php3?id_article=19142

¹³⁹ Mission Statement of International Fact-Finding and Advocacy Mission to Sri Lanka, 11 October 2006, http://www.rsf.org/article.php3?id_article=19142

¹⁴⁰ <http://www.tamilnet.com/art.html?catid=13&artid=20878>

¹⁴¹ <http://www.ifex.org/da/content/view/full/78617>

¹⁴² Mission Statement of International Fact-Finding and Advocacy Mission to Sri Lanka, 11 October 2006, http://www.rsf.org/article.php3?id_article=19142

¹⁴³ <http://www.tamilnet.com/art.html?catid=13&artid=20202>

¹⁴⁴ Ibid, http://freemediasrilanka.org/index.php?action=con_all_full&id=25§ion=news_reports

¹⁴⁵ Ibid

¹⁴⁶ Sinhala journalist shot dead in Colombo, http://www.freemediasrilanka.org/index.php?action=con_news_full&id=232§ion=news

¹⁴⁷ http://www.freemediasrilanka.org/index.php?action=con_news_full&id=328§ion=news

¹⁴⁸ http://presidentsl.org/data/html/speeches/2006/address_to_the_nation.htm

¹⁴⁹ Senior Journalists questioned by Police under new Anti-Terrorism Regulations, FMM, http://freemediasrilanka.org/index.php?action=con_news_full&id=401§ion=news

¹⁵⁰ Full report of the Media Reform Forum, FES Sri Lanka, <http://www.fessrilanka.org/pdf/mediareport.pdf>

¹⁵¹ An Investigation into the Closure of CBNSat and Implications for Sri Lankan Broadcast Media, Ruha Devanesan, Centre for Policy Alternatives, http://www.cpalanka.org/research_papers/CBN_report.pdf

¹⁵² The Sri Lankan government's broadcast stranglehold by Nalaka Gunawardene, published on AsiaMedia, <http://www.asiamedia.ucla.edu/columns.asp?parentid=57939>

¹⁵³ Suspension of Raja FM radio channel of Colombo Communication Pvt Ltd with immediate effect http://www.news.lk/index.php?option=com_content&task=view&id=1112&Itemid=51ANIT

¹⁵⁴ Government deplores attempts to curb media freedom in the North and East http://www.news.lk/index.php?option=com_content&task=view&id=1032&Itemid=51

¹⁵⁵ The observations and recommendations are noted in this regard, recalling those made by the initial report of the International Fact-Finding and Advocacy Mission to Sri Lanka, a synthesis report by CPA on media reform and the FMM / INFORM report for the Second Session of the UN Human Rights Council Government deplores attempts to curb media freedom in the North and East http://www.news.lk/index.php?option=com_content&task=view&id=1032&Itemid=51; Work in progress – Preliminary observations for synthesis media report, Sanjana Hattotuwa and Radhika Hettiarachchi, Centre for Policy Alternatives, http://www.cpalanka.org/research_papers/Media_Synthesis_Study.pdf

¹⁵⁶ Ibid

¹⁵⁷ Work in progress – Preliminary observations for synthesis media report, Sanjana Hattotuwa and Radhika Hettiarachchi, Centre for Policy Alternatives, http://www.cpalanka.org/research_papers/Media_Synthesis_Study.pdf

¹⁵⁸ Ibid

¹⁵⁹ Work in progress – Preliminary observations for synthesis media report, Sanjana Hattotuwa and Radhika Hettiarachchi, Centre for Policy Alternatives, http://www.cpalanka.org/research_papers/Media_Synthesis_Study.pdf