

FPC Briefing: Sri Lanka's (geo)political quandary – Government, NPC and international community Gilberto Algar-Faria

With the main events of the 23rd Commonwealth Heads of Government Meeting (CHOGM) scheduled to take place in Colombo, Sri Lanka, from 15 to 17 November 2013 at the time of writing, the Government of Sri Lanka (GoSL) is under more pressure than ever before to ensure that it can maintain control within its borders. This comes in the wake of the first elections for the new Northern Provincial Council (NPC), held on 21 September 2013, which saw a somewhat unexpected success for the Tamil National Alliance (TNA), ushering in the chance for Tamils in the north to have political representation of some kind. This briefing will provide the reader with a brief synopsis of the major recent and forthcoming events in and around Sri Lanka that are likely to be affecting its behaviour. It is important that policymakers from the international community understand the angles addressed in this brief if they are to make informed decisions that will not hinder the reconciliation process, which in turn must be owned by the Sri Lankan people from all regions as much as it is by the national government.

The NPC

The TNA secured 30 seats in the Northern Provincial elections, with the government securing seven seats and the Muslim Congress only one.² As the Commonwealth observer mission noted, the elections for the NPC appeared quite fair, with a healthy turnout³ (something that the north had not been noted for in previous more general parliamentary elections such as in 2010).⁴ Also worth noting is the fact that there was less election-related violence and intimidation than might have been feared.⁵ The newly elected Chief Minister of the NPC, Canagasabapathy Viswalingam Wigneswaran, has stated that his primary objective is to pursue demilitarisation and land rights in the north as part of a broader mission of working towards democratic governance.⁶ This is a hefty challenge for the NPC at a time when the government has been trying to consolidate its grip on the north, which in turn is more than a geographical area: the fact that the north is the point of reference means that the politics surrounding the NPC is intrinsically linked to Sri Lanka's ethnic issues.

Given that the NPC contains a TNA majority, its importance spans beyond simply the representation of the interests of the northern Sri Lankan population: its ability to operate in the quasi-autonomous fashion accorded to it by the constitution will be taken as a tangible and prominent measuring stick of the GoSL's inclusion of Sri Lankan Tamil opinions into its post-war political vision. Whether it is successful in achieving this depends very much on political events occurring outside as well as inside Sri Lanka over the next year. In particular, one must consider the possible implications of the potential Sri Lankan presidential elections ahead. Meanwhile, outside influence from India and the United Nations Human Rights Council (UNHRC) are also likely to have an impact on the GoSL's willingness to allow for further regional autonomy for the north.

¹ Taskforce Secretariat for CHOGM 2013, 'Events Calendar', CHOGM 2013, no date [accessed 27 October 2013], available from: http://www.chogm2013.lk/Event Calendar.php.

² Karthick S, 'Tamil National Alliance wins northern provincial elections in Sri Lanka', *The Times of India*, 22 September 2013 [accessed 25 October 2013], available from: http://articles.timesofindia.indiatimes.com/2013-09-22/south-asia/42291920 1 tamil-national-alliance-<a href="https://articles.timesofindia.indiatimes.com/2013-09-22/south-asia/42291920 1 tamil-national-alliance-
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³ Commonwealth Observer Mission, 'Sri Lanka's Northern Provincial Council Elections 2013: Preliminary Findings', *The Commonwealth*, 23 September 2013 [accessed 25 October 2013], available from: http://thecommonwealth.org/media/news/sri-lanka%E2%80%99s-northern-provincial-council-elections-2013-preliminary-findings.

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⁴ B. Muralidhar Reddy, 'Low turnout in Sri Lankan election', *The Hindu*, 9 April 2010 [accessed 26 October 2013], available from: http://www.thehindu.com/news/international/low-turnout-in-sri-lankan-election/article392026.ece.

⁵ Meera Srinivasan, 'Sri Lanka polls see 60 p.c. turnout', *The Hindu*, 21 September 2013 [accessed 25 October 2013], available from: http://www.thehindu.com/news/international/south-asia/sri-lanka-polls-see-60-pc-turnout/article5152927.ece.

⁶ Meera Srinivasan, 'Sri Lanka Northern Council holds historic first session', *The Hindu*, 26 October 2013 [accessed 26 October 2013], available from: http://www.thehindu.com/news/international/south-asia/sri-lanka-northern-council-holds-historic-first-session/article5273775.ece.



India

India's interest in autonomy for Sri Lanka's new northern regional administration can be linked to the fact that the former has a significant ethnically Tamil population within its own territory. The Indian Ministry of External Affairs has expressed its approval at the establishment of the NPC, and has voiced its desire for the TNA and the GoSL to work constructively together. The Government of India (GoI) has even urged the GoSL to fully implement the 13th Amendment⁷ (the part of the Sri Lankan constitution addressing the subject of provincial councils). With elections expected in April or May 2014 in India, there is a possibility that the GoI will capitalise on the Tamil vote within its own territory by pushing more strongly for the NPC's autonomy within Sri Lanka. However, by that point, it is possible that the international political context regarding Sri Lanka will have changed significantly, given the recent pledges from the UN to establish an international inquiry into the Sri Lankan human rights situation if nothing is done in this regard by the GoSL by March 2014.

The UN

The UNHRC will report once more in March 2014 on the progress made by the GoSL in the area of human rights. Specifically, in September 2013 the UN High Commissioner for Human Rights, Navanethem Pillay, stated the following:

The High Commissioner encourages the Government [of Sri Lanka] to use the time between now and March 2014 to show a credible national process [towards reconciliation] with tangible results, including the successful prosecution of individual perpetrators, in the absence of which she believes the international community will have a duty to establish its own inquiry mechanisms.⁸

Almost inevitably, this can be expected to discourage the GoSL from the possibility of engaging in productive dialogue with the NPC. Prior to the elections, the government appeared suspicious of the TNA, especially after Wigneswaran appeared to give praise for the late Velupillai Prabhakaran (who prior to his death was the leader of the Liberation Tigers of Tamil Eelam). The GoSL's attitude towards regional devolution is unlikely to soften as the UNHRC toughens its stance: the pressure it places on the government to maintain the integrity of its national(istic) discourse is immense. However, the UNHRC, having published its intention to conduct an international enquiry if the government fails to act on the call to enter a genuine process of national reconciliation, cannot now step back. The onus is on the GoSL to review its reconciliation process, but it is also on other international actors to behave in a manner commensurate to allowing for the GoSL achieve this.

Sri Lankan presidential elections

It is possible that there will be a fresh round of presidential elections in Sri Lanka by the end of 2014. These elections are vital for the current government in many ways: naturally, the possibility of elections also reveals the possibility of the ruling politicians losing their power. In this context, it is important that the NPC is not seen as a threat to the GoSL, but rather, a channel demonstrating the possibility for the representation of Tamil views that previously went excluded and, ultimately, to achieve new forms of reconciliation. If the GoSL chooses to treat the NPC as a threat, this will only compound the former's aforementioned problems with regards to reconciliation.

⁷ Ministry of External Affairs, 'Northern Provincial Elections in Sri Lanka', *Government of India*, 24 September 2013 [accessed 26 October 2013], available from: http://mea.gov.in/press-releases.htm?dtl/22248/Northern+Provincial+Elections+in+Sri+Lanka.

⁸ United Nations High Commissioner for Human Rights, 'Oral update of the High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka', A/HRC/24/CRP.3/Rev.1, 25 September 2013 [accessed 27 October 2013], available from: http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A-HRC-24-CRP-3-Rev1 en.doc, para. 18.

⁹ A.R., 'Elections in Sri Lanka: Northern comfort', *The Economist*, 22 September 2013 [accessed 27 October 2013], available from: http://www.economist.com/blogs/banyan/2013/09/elections-sri-lanka.



Implications for international actors

The CHOGM 2013 will be highly contentious by its very nature in bringing the international spotlight firmly onto Sri Lanka and, furthermore, requiring that heads of governments from around the Commonwealth actively engage with Sri Lankan political issues. At the time of writing, so far only the Prime Minister of Canada, Stephen Harper, has announced that he intends to boycott CHOGM 2013 on account of the GoSL's lack of progress in the areas of human rights, reconciliation and accountability. Political expressions of disapproval of the GoSL's record in these departments are not without merit, however it is important for members of the Commonwealth (and the international community more broadly) to take a deeper look into the issues highlighted in this briefing in order to reach a more workable approach towards the state.

If one is to take the wellbeing of civilians within Sri Lanka as their primary objective, then making allegations against the state that compound the GoSL's instability is an unlikely strategy for the promotion of reconciliation. The international community has been accused of being hypocritical, but for the wrong reasons. Certainly, contemporary Western states criticising a regime on account of human rights will almost inevitably lay themselves open to accusations of double standards, but such ensuing charges of hypocrisy cloud the more important issue here. The real hypocrisy lies in the fact that the international community criticises the GoSL for failing to work towards reconciliation, whilst at the same time making it harder for the government to do so. This will be a difficult fact for states to accept: they can choose to take a hard line against Sri Lanka (an attractive option, given the GoSL's human rights record) and risk worsening the situation for ordinary Sri Lankans, or they can support the GoSL's reconciliation efforts, perhaps using the NPC as a starting point. But they cannot have both at once. The final section of this briefing will explore potential strategies for careful international engagement with Sri Lanka.

Difficult engagements

Analysing and drawing conclusions from complex situations today is rarely a simple task. One has only to look to this author's previous briefings on North Korea's desire for peace with regional actors around the Korean Peninsula, and the necessity for fruitful negotiations to take place between the Taliban and Western states intervening in Afghanistan, to see that binary actions based on facevalue judgements of complex situations rarely lead to peace and reconciliation. The international community's position towards Sri Lanka is difficult. In pushing too hard for the GoSL to address human rights abuses, it risks driving the government into a defensive position that could potentially worsen the current human and civil rights situation within Sri Lanka. Arguably, if the GoSL feels threatened then it is more likely to tighten controls within its borders, which may reverse the progress made towards reconciliation with the election of the NPC. With the interests of bettering the immediate lived experience of Sri Lanka's citizens in mind, then, the international community must find novel ways of improving the situation on the ground whilst not shying away from its obligation to raise human rights concerns.

Engaging Sri Lanka in a surgical manner

This briefing has established some basic points on situation in Sri Lanka and the various pressures facing the government. In order to address this situation in a surgical manner, a further piece of knowledge is required: namely, how to engage the GoSL in a way that does not challenge its

¹⁰ Stephen Harper, 'Statement by the Prime Minister of Canada', *Prime Minister of Canada*, 7 October 2013 [accessed 27 October 2013], available from: http://www.pm.gc.ca/eng/news/2013/10/07/statement-prime-minister-canada.

¹¹ Gilberto Algar-Faria, 'North Korea wants peace, and it should be given peace', *Foreign Policy Centre*, June 2013 [accessed 28 October 2013], available from: http://fpc.org.uk/articles/617.

¹² Gilberto Algar-Faria, 'Understanding the conditions necessary for fruitful negotiations in Afghanistan', Foreign Policy Centre, September 2013 [accessed 28 October 2013], available from: http://fpc.org.uk/articles/633.

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sovereignty. One should keep in mind the nature of the current government in power. The West previously found that it was able to conduct peace interventions in Sri Lanka. In particular, Sri Lanka's Prime Minister from 2001 to 2004, Ranil Wickremasinghe had a good rapport with the West and was keen to encourage market liberalisation and peace negotiations with the LTTE. However, the current President, Mahinda Rajapaksa, is vehemently nationalistic, with a large component of this nationalism hinging on his rejection of the influence of Western states. Persuading the Rajapaksa regime to address human rights concerns through Western institutions, therefore, is likely to fail. Rajapaksa wants to hold on to power, as any politician does, and he is unlikely to compromise his image as Sri Lanka's strongman standing up to the West in the face of adversity. Patriotism is now 'a key ideology of the state'. 14

Memories of liberal peacebuilding within Sri Lanka are not positive for the GoSL. The 2002 peace process, involving a phenomenal international effort to reach a peace accord between the GoSL and the LTTE, saw foreign aid being 'used to promote a certain set of political institutions and postwar political order'. The main problem, then, with Western intervention is that it carries with it a number of values that may be pushed on the society that the peacebuilders arrive in. Bearing in mind the centrality of patriotism to the stability of Sri Lanka's current political order, it is hardly surprising that the prospect of the society becoming infused with Western values is unattractive. Furthermore, this option is equally untenable for Western states themselves, which have been showing a pronounced tendency towards disengagement with Sri Lanka in terms of their peacebuilding missions. What, then, might be a solution?

India has been neglected in the strategic decisions made by Western policymakers. Although not absolutely confirmed at the time of writing, it appears that the Indian Prime Minister, Manmohan Singh is likely to attend the CHOGM 2013 meeting in Sri Lanka. If he does, he will be going against the wishes of many of his electorate in the Indian state of Tamil Nadu. However, there is the potential that by remaining engaged with the Rajapaksa government, Singh will ensure that Indian influence can still be exerted over or within Sri Lanka. As a powerful regional actor that does not represent an imperialist past to Sri Lanka, India arguably holds more credibility than Western powers do to push for change for Tamils in Sri Lanka and to support the efforts of the NPC. Western states would do well to take note of this and should support India in this task, an action which would also leave states such as the UK and Canada free to call for steps towards reconciliation, chief amongst which should be the implementation of the recommendations of Sri Lanka's own Lessons Learned and Reconciliation Committee.

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¹³ Kristine Höglund and Camilla Orjuela, 'Hybrid Peace Governance and Illiberal Peacebuilding in Sri Lanka', *Global Governance: A Review of Multilateralism and International Organizations* (Vol.18, No.1, 2012), pp. 89-104: 93.

¹⁴ *Ibid.*

¹⁵ *Ibid.*: 94.

¹⁶ Times of India, 'PM likely to attend Commonwealth meeting in Sri Lanka', *The Times of India*, 31 October 2013 [accessed 1 November 2013], available from: http://articles.timesofindia.indiatimes.com/2013-10-31/india/43559153 1 chogm-indian-ocean-commonwealth-heads.