

## US Engagement in Sri Lanka: A New Policy to Build Peace and Address the Causes of Conflict

April 2010

### 1. Introduction

*The end of the 25-year civil war in Sri Lanka in May 2009 has provided a vital opportunity for the United States to re-evaluate its policy toward Sri Lanka to better reflect both the policies of the Obama Administration and evolving US policy in the region. Sri Lanka begins this period of post-war reconstruction facing stark choices about the future. The Rajapaksa government can either take difficult but essential steps forward to become a stable, prosperous, inclusive democracy that can be a reliable strategic ally in an important area of the world, or they can make the choice to consolidate executive power, continue to disenfranchise Sri Lankan citizens, and leave themselves with an increasingly thin list of allies in the world.*

Following the conclusion of the war with the Liberation Tigers of Tamil Eelam (LTTE), there was reason to hope that recent history need not dictate the future of the island. But the Government of Sri Lanka has blocked the participation of the international community in post-conflict activities at every stage, and this lack of transparency must be a cause of serious concern. The government has dictated the terms of a non-inclusive peace to a weary Tamil civilian population with little ability to have any meaningful input into their own futures. Additionally, the behavior of the Rajapaksa Government since the January re-election of President Mahinda Rajapaksa to another 7-year term of office has shown that optimism for the direction of the country is premature and that now more than ever before the international community should feel an obligation to intervene in Sri Lanka to chart a more positive course forward.

The Obama Administration has continually emphasized the importance of finding new ways to engage states like Sri Lanka—on the margin but capable of being presented with options that allow more responsible choices to be made. But this has not been the practice with Sri Lanka, which thus far has not been asked to make any of the tough decisions that are absolutely essential for creating a lasting peace on the island. The United States is an important partner, symbolic and otherwise, for the Government of Sri Lanka, and should now be looking to provide the necessary leadership to build a broad coalition of international partners, including India and Japan, that can show the Rajapaksa government a more full array of options for global engagement that comes with specific terms of good governance and accountability.

The post-war situation in Sri Lanka is fragile, and without sustained attention and political will from both the United States government and Congress, a return to open conflict

seems inevitable because the causes of conflict remain unaddressed. For 20 years, Sri Lankan Tamil civilians have known little but representation through violent means. Unless they are shown that legitimate political representation can protect their rights and freedoms during this window of possibility in Sri Lanka, a crucial opportunity will be lost, possibly for good.

The ethnic tensions, inequities, poor governance, and lack of representation and access to opportunity that fed the early roots of militarism and conflict are still unaddressed. The conflict in Sri Lanka reached far beyond the boundaries of the island in ways that make it impossible to deny that peace in Sri Lanka enhances both the security of the United States and the global community. The stakes could not be higher, and systematic engagement that employs a range of options is essential.

#### **Key recommendations for a new, more constructive US policy toward Sri Lanka include:**

- The development of benchmarks against which to measure progress in Sri Lanka
- Expanded bilateral aid programs to address specific needs, including support for political reform and structural changes and support for the development of a post-conflict security and defense doctrine
- Increased US leadership with regional allies in support of a coordinated policy approach to create more leverage to influence positive outcomes
- Increased US leadership at the UN, in particularly via the UN Human Rights Council
- Consistent engagement of the Tamil Diaspora

## 2. Situation Analysis: Deteriorating Conditions for Peace

After the end of the military campaign against the LTTE in May 2009, which in its final days saw countless Tamil civilians trapped between fighting forces and eventually resulted in the death of much of the LTTE leadership, hundreds of thousands of Tamil civilians found themselves displaced from their homes and with no option but to enter government-run camps. Despite repeated calls by the international community for the Government of Sri Lanka to open the camps to international observation and aid, the government refused to do so. Eventually, the government did allow some managed access and partially lived up to its commitments to release people from the camps before the end of 2009. But tens of thousands still remain in the camps, which are largely still closed to the outside.

In November 2009, President Rajapaksa called for an early presidential election in January 2010. He ran against Sarath Fonseka, the general who had been in charge of the military campaign against the LTTE and who was eventually backed by a large portion of the Tamil vote (if somewhat reluctantly). However, there was widespread disenfranchisement of Tamil voters during the presidential election, in particular because of the large numbers of internally displaced persons (IDPs) and the lack of government-issued ID cards, as well as other technical issues. The government made little effort to ensure that Tamils and others displaced by the fighting could vote. Still, it was widely hoped that once the January election was over, the Government of Sri Lanka would be ready to move forward with reconciliation and reconstruction efforts and return to more normal means of governance.

But it is now clear that the re-elected Rajapaksa government is still fighting a war instead of building a peace. Since President Rajapaksa's re-election, a pattern of behavior has emerged that should be of grave concern, including:

- The continued arrest and detention of journalists and members of civil society, as well as a new crackdown on the use of the internet, which has reinforced the government's lack of respect for free speech.
- The uncertain status of thousands of ex-combatants, for whom no process has been formally established to either see them legally charged or tried.
- The pursuit of commercial contracts by the Government of Sri Lanka for lands and resources in the North—including to foreign agricultural, industrial, and tourism conglomerates—while no mechanism is yet established for displaced persons to re-acquire their land and homes.
- The February 8<sup>th</sup> arrest and detention of defeated presidential candidate Sarath Fonseka and his subsequent ill treatment and lack of access to due process, which has

become indicative of the beginning of a new wave of crackdowns against those willing to speak out against the Rajapaksa government.

- The failure to take the steps necessary to secure further installments of the IMF loan, which would include reducing the budget, reforming taxes, or restructuring key state-owned enterprises, leaving the Government of Sri Lanka facing a mounting burden of debt.
- Despite a pending debt crisis that it is unprepared to address and clearly expects outside aid to offset, the Sri Lankan government continues to expand its military capabilities, including a new \$300 million loan from Russia to purchase new weapons systems. This raises concerns about the prioritization of peace, and exactly who the government believes it is still fighting against.

These facts establish an increasingly oppressive environment adding new stress to an already uncertain peace. Additionally, there is mounting evidence that the Government of Sri Lanka is trying to engineer substantial demographic changes in Tamil strongholds, in particular by not allowing IDPs to return to their areas of origin, the above-mentioned commercial practices (which have included a push for international tourism in the Northeast despite incomplete demining and demilitarization of the area), the resettlement of military families into these areas, and the practice of keeping large swaths of land "off-limit" to Tamils, as well as anecdotal evidence of new Buddhist temples being built across the formerly majority Hindu region.

The above factors are amplified when coupled with the early dissolution of the parliament before elections on April 8, which establishes a long window of executive-led actions and poor transparency and accountability. The Rajapaksa government seems then to be continuing on from its old playbook—establish facts on the ground as quickly as possible before others have time to object.

Regarding the April election, the Government of Sri Lanka has made no move to address any of the voting problems in advance of the parliamentary voting, including the lack of ability to register, lack of access to polling places, and lack of government-issued identification, among other issues. If the parliamentary elections are held in this climate, the Tamils and Sri Lanka's minorities will be further, and more severely, disenfranchised precisely when the difficult work that will determine their futures should begin.

In such an environment, peace-building and reconciliation cannot and will not be successful. For this reason, the United States must consider more robust policy options before this vital window of opportunity to encourage a more inclusive and more democratic Sri Lanka is lost.

### 3. Elements of a New US Policy toward Sri Lanka

While there are a broad range of measures and tactics that the US could consider when engaging the Sri Lankan government, the list below provides immediate short and medium-term options that can yield tangible results for the island as quickly as possible.

The goals of any new policy should be:

- 1) Help Sri Lanka overcome its history by encouraging the constitutional and social changes needed to build a more inclusive and tolerant society in exchange for broader cooperation and integration with a community of democratic states
- 2) Ensure that those changes allow for more political representation and local governance for the Tamil population and minority groups in Sri Lanka
- 3) Ensure that the causes of conflict, including lack of access to jobs, opportunity, education, healthcare, and other services, are addressed both by the government and by any international engagement in Sri Lanka
- 4) Encourage Sri Lanka to become a stable, democratic regional partner

To achieve these goals, there are several categories of measures that the United States government should take. These are outlined further below.

#### ***A. Re-evaluate the most effective way to address the post-conflict equation in Sri Lanka***

First and foremost, the US administration must begin to speak directly about the needs of the Tamil population and their need for collective rights, or the Government of Sri Lanka will not address these needs. There was more to the Tamils than the LTTE, but this has been lost for decades in the narrative of the conflict. It seems evident now by its actions that the Rajapaksa government believes that the “Tamil issue” was somehow resolved by the war, but the United States can and should help the Rajapaksa government understand that the war was not the end of the matter and that there will always be a “Tamil issue” until the causes of the conflict are addressed. In its most basic form, the causes of conflict are the complete disenfranchisement of the Tamil population of Sri Lanka.

The Government of Sri Lanka has set the narrative on the war as a counter-terrorism exercise, but in order to formulate more constructive policy options on Sri Lanka post-war, the US should apply tools typically used to address post-civil war peace-building, and the Government of Sri Lanka should be encouraged to do the same. This should not be viewed as a re-evaluation of history, but instead a realignment of policy that provides for a greater range of tools that can help bridge the rift in Sri Lankan society. These could include the application of traditional disarmament, demobilization, and

reintegration (DDR) mechanisms and more concrete guarantees of the rights of the civilian population effected by the war. The Government of Sri Lanka has de facto acted as an occupying power in its own territory, and they must now be reminded that they have the responsibility to provide good governance, security, and development in accordance with the aspirations of the traditional local population and the obligations of a governing body.

#### ***B. Develop and apply a coordinated, consistent policy approach on Sri Lanka across the interagency process***

Before outlining the elements of a new policy, it should be noted that all agencies within the US government that interact with Government of Sri Lanka—including the Department of State, the National Security Council, the White House, the Department of Defense, the various intelligence agencies, the Treasury Department, the Department of Commerce, and the Department of Justice—must begin to operate with a coordinated and consistent approach. The Sri Lankan government has in the past managed to use effective lobbying to exploit more favorable policies in some of these agencies to its advantage, but in the post-war environment they must see a unified front within the US administration.

To implement a new policy effectively, the US must also evaluate in advance all the possible tools at its disposal for different situations that may arise down the road. For example, immediate mechanisms that can be used to persuade the Government of Sri Lanka that their intransigence in the post-war period is not without cost should be considered. These would include warning the government that should this pattern of behavior continue, tightened visa restrictions—up to and including the revocation of green cards or U.S. citizenship for any persons who are shown to have committed war crimes in Sri Lanka—should be expected.

#### **Elements of a new US policy should include:**

*The development of benchmarks against which to measure progress in Sri Lanka:* Consistent with policies being applied by the Obama Administration to other areas of conflict, the framework of any engagement with the Government of Sri Lanka should be based on a set of verifiable performance-based benchmarks that will have to be met. While it is rumored that such benchmarks were previously discussed privately, the establishment of these benchmarks publicly will be an important symbol for the people of Sri Lanka, and will also help build good governance practices via increased accountability and transparency, both of which are essential to post-conflict success in Sri Lanka. (more on benchmarks below)

*Expanded bilateral aid programs to address targeted needs.* While the Government of Sri Lanka claims to

have a master plan for the rehabilitation of the North and East, great caution should be used in applying aid to the post-conflict environment in the absence of a transparent redevelopment and reconciliation plan established via a broad-based consultative process. In the absence of such a plan, aid must be carefully monitored and yet is essential to influencing the peace-building process. The United States should look to expand bilateral aid programs where such programs can be directed at addressing needs identified as essential by the US in the post-conflict period. For example, the US has a history of supporting police programs in Sri Lanka, and there could be no more crucial need than civilian law enforcement this in the post-war phase. However, any additional investments in this area should work to ensure that development of a diverse and inclusive police force with comprehensive human rights training that can communicate with and is accountable to the communities they are policing. Further examples of engagement are outlined in the next section.

*The deployment of emergency aid in support of the April elections.* In order to support the development of a more democratic Sri Lanka at a vital juncture, the United States should look to support preparations for the April parliamentary election that will ensure a more inclusive, more fair, and more representative vote. Properly addressed, the Tamils can begin their transformation into a critical voting block in Sri Lanka with legitimate needs and aspirations that have long been unaddressed by the political establishment. But if this opportunity is missed, it will be another long horizon during which the Tamils will have little representation at the national level.

*A “freeze” on all other aid not understood within the post-conflict framework.* This would include any further aid from 1206 account for military/defense support, which going forward should be reviewed for conflict sensitivity.

*Support for political reform and structural changes to the ‘nature of the state.’* This is without a doubt the toughest post-war priority, but the one that is the most essential for diffusing potential future returns to violence and conflict. An important component of any reconciliation plan must include a mediated consultative process for determining political, legal, structural, and constitutional reforms that will lay the underpinnings for the institutions that will support a more democratic Sri Lanka. The United States can provide technical and other support for this process.

*Support the development of a post-conflict security and defense doctrine.* This will allow for the

transparent development of capabilities and acquisition of materials by defense forces in the post-conflict phase, and look for key ways in which the US can support doctrinal realignment and defense transformation through bilateral programs and engagement with an important regional ally.

**In return, the Government of Sri Lanka should be required to make verifiable progress toward the following:**

*Establish and be held accountable to measurable, reportable, and verifiable benchmarks on key areas of reform and post-conflict reconciliation/reconstruction.*

*Allow the UN High Commission on Refugees (UNHCR) to take over the remaining IDP camps and have oversight of the resettlement process.*

*Guarantee the freedom of the media and the freedom of speech, including unfettered internet freedoms. This should include the release of detained journalists and civil society advocates.*

*End politically-motivated persecution, including via the release of General Fonseka.*

*Establish clear procedures on detained ex-combatants, including how they will be charged, tried, and defended and how their families can have access to information about their status, location, and cases. This should include those who continue to be held under the Prevention of Terrorism Act (PTA).*

*Address concerns on voting in advance of the parliamentary elections, including by inviting international monitors to observe the pre-election and election day climate and support the pre-election period.*

*Increase the separation of the military and the civilian government.*

*Establish more stringent anti-corruption protocols to ensure that post-conflict resources are being used to the right ends and that the government is being held accountable for transparent budgetary practices.*

*Establish a consultative framework and notional timeline for pursuing constitutional changes.*

*Halt the pursuit of commercial contracts and the establishment of new military bases/territories in traditional Tamil areas until such a time as there is a local leadership structure that can be consulted.*

*Work with the UN to establish a non-binding truth and reconciliation commission framework that can begin to catalogue the stories of the conflict.*

### ***C. Increased US engagement with the Government of Sri Lanka to make the benefits of positive progress clear***

The Government of Sri Lanka has made it clear that they believe they deserved more acclaim for doing what everyone told them was impossible: they defeated a terrorist movement through military means. They fail to understand that the overwhelming brutality in the final days of the war spurred this lack of acknowledgement, and that many governments around the world fear allowing this to become the precedent for settling other global conflicts. But this has created new space between the Government of Sri Lanka and their democratic allies, and this gap must be closed in order for the post-conflict period to be productive.

As discussed briefly above, the United States should make clear the tangible benefits of good governance via a special “democracy dividend” program for Sri Lanka. Programmatic cooperation should be pursued where it can be used to positively shape the way forward. Many of these potential programs are referred to in the December 2009 bipartisan Senate Foreign Relations Committee report on Sri Lanka, but they include:

- Support for continued demining activities as an essential component of resettlement planning
- The development of a resettlement strategy for Tamil-speakers to the North and East in 2010 (for which funding is available in FY2010 Appropriations allocations)
- Ensuring that all aid, including the \$2.02 million for Food Aid in the FY11 budget, is directed at those most in need, in particular the Tamils still in the camps and waiting to be resettled
- Expanding the USAID/Department of Justice police training program to continue the transformation of the police force from a counter-insurgency tool into a civilian law enforcement agency accountable to local leadership

In return for positive cooperation on these essential initial items, a range of incentives can be offered to the Government of Sri Lanka, including expanded trade preferences with the US, which remains one of Sri Lanka’s largest trade partners. The US could also help subsidize and encourage investment assistance to enable infrastructure improvements that will elevate the quality of life for all Sri Lankan citizens.

### ***D. Increased US leadership with regional allies in support of a coordinated policy approach***

Sri Lanka has been proactive in leveraging the reluctance of its better allies off the indifference of its less democratic ones. But while much has been made of “China in Sri Lanka”—particularly by the Sri Lankan government—the

threat that Sri Lanka will turn away from the West is somewhat overblown. The highest levels of leadership of the Rajapaksa government have concrete ties to the United States, including children in school, property, citizenship and greencards, and they have no intention of permanently severing these ties or becoming a permanent member of the list of self-isolated nations.

However, the piecemeal approach of Sri Lanka’s democratic allies since the end of the war has created the perception that the “China option” comes with the most incentives. But, if the United States could coordinate a common front and policy among the democratic allies, including India, Japan, and Australia, this alliance will present a viable “second option” to the debt-ridden Government of Sri Lanka.

Coordinating this alliance, particularly when it comes to a more unified approach at the UN, will take considerable effort. Historically, the Japanese government has not put political conditionality on humanitarian aid, but it views its strong humanitarian intervention profile as a core component of its global outreach and identity. This has also been true in Sri Lanka, where considerable Japanese aid has been used to meet essential humanitarian needs. But there is a new government in Japan that has repeatedly made it clear that they will not be bound by history when it comes to its position in the region and its relationship with the United States. Even as the US struggles to address this shift in other areas, it should use this to its advantage in order to convince their most reliable regional ally that a coordinated approach to Sri Lanka will both increase regional security and better position Japan as a regional leader.

The same is true of India, which—despite having a considerable stake in the game consisting of an enormous Indian Tamil population, refugee camps housing thousands of Sri Lankan Tamils, and having previously been targeted with political violence and assassination by Tamil extremists—has been remarkably silent on neighboring Sri Lanka since the end of the war. But the priority of Sri Lanka must be considered within the broad spectrum of bilateral cooperation between the United States and India, which includes the civilian nuclear cooperation agreement.

Together, the United States, India, and Japan, in cooperation with Australia and the UK, could negotiate a joint aid package along the lines outlined above, or present a more united front by agreeing to common practices and policies of engagement, divvying up responsibilities, and approaching Sri Lanka as one voice. This package of relationships is very important to Sri Lanka, and collectively the leverage of these nations is greater than other options. This provides the United States and other allies in this process with far more ability to influence positive outcomes in Sri Lanka.

## ***E. Increased US leadership at the UN, in particularly via the UN Human Rights Council***

### ***a. UN Human Rights Council***

Since the Obama Administration made the decision to take a seat on the UN Human Rights Council (UNHRC), very little has been done with this opportunity beyond the broad symbolic value of showing up at the table. In order to emphasize to Sri Lanka the importance of its decisions, actions, and forward trajectory, the United States should call for a special session on Sri Lanka in order to evaluate the situation in Sri Lanka during the end of the fighting and since the war, in particular for IDPs and Tamil civilians. The UN High Commission on Refugees and the International Organization of Migration should be called to give testimony on their experiences in Sri Lanka.

### ***b. Enforcement, Monitoring, and Accountability Mechanism***

The post-conflict environment in Sri Lanka would be significantly more stable if an international monitoring mission were deployed under the auspices of the UN to observe the situation on the ground. For the particular needs of Sri Lanka, a model like that used for the European Union Monitoring Mission (EUMM) in Georgia (in which an unarmed civilian monitoring force is used to promote stabilization, normalization, and confidence-building measures) might be most effective.

### ***c. Solutions framework***

The UN may also be the right venue in which to establish a solutions framework that can help negotiate a plan for a path forward for Sri Lanka. The war has left pronounced political, ethnic, and religious divides in Sri Lanka, and in such a polarized environment third-party mediators may be necessary to enable productive discussions on the big questions facing Sri Lanka—including the necessary constitutional and structural changes.

## ***F. Engagement of the Tamil Diaspora, particularly Tamil Americans***

There has been much discussion about the role of the global Tamil diaspora over the last 20 years, but going forward it is impossible to deny that they will be a component of any successful post-war Sri Lankan project. While the interests of the Tamils that remain in Sri Lanka must be the priority, the diaspora will be an essential factor in any peaceful reconciliation and should be engaged as a partner in the

dialogue on the future of the Sri Lanka. The State Department has been proactive in engaging Tamil Americans, but the diaspora must be allowed to participate in the overall stabilization process.

The United States could also aid this process by helping to establish mechanisms, via its new technology initiatives, for better communication between the diaspora and Tamils in Sri Lanka.

## **4. Conclusion**

Since the end of the fighting in Sri Lanka, all eyes have been on the Rajapaksa government. But the policy of the United States has been reactionary and decisions about future policy seem hinged on waiting for the Government of Sri Lanka to act. And yet, if there is one country in which the nascent “Obama Doctrine” has a chance of providing positive and timely results, it is Sri Lanka. Engagement, properly crafted and coordinated, can help address the underlying causes of the conflict in Sri Lanka and build a lasting peace.

But peace will not come to Sri Lanka just because there is a civilian population weary of war and a government with a penchant for centralizing power. The United States must be proactively engaged in driving forward the process of stabilization and reconciliation during this crucial window of opportunity.

As President Obama said in congratulating Sri Lanka’s head of state on his re-election, today is an “historic opportunity for Sri Lanka to heal the divisions of conflict, and build a society that offers equality and opportunity for all...in a country that is rooted in tolerance, respect for human rights, accountability, the rule of law, and freedom of the press—all elements essential for national reconciliation.”

President Rajapaksa is clearly failing on this path so far. The strengths needed to win a civil war are not necessarily those needed to win the peace, particularly when the war was defined on both sides by extremist nationalist tendencies. A middle ground must be cultivated, and in its initial stages, the attention of an outside caretaker will be an essential ingredient. Intransigent nations have a way of creating problems for everyone else, and as the United States struggles to address the emerging threats from Iran and North Korea, it does not need additional nations to be added to this list. Now is the time to pull Sri Lanka, one of the oldest Asian democracies, back into the community of democratic nations via systematic engagement that can help the Sri Lanka government address the many challenges it faces.

### *About TAPI*

The **Tamil American Peace Initiative** (TAPI) was formed by a group of Tamil Americans to help bring lasting peace, justice, democracy, and economic development to Sri Lanka; to focus attention on the destruction of Tamil communities and culture caused by 30 years of war; and to demand an end to the continuing oppression of Tamils on the island.

For more information, please see [www.tamilamerican.org](http://www.tamilamerican.org)