

Part V

Mediation & International Law

Paper 16

The Need for Third Party Conflict Resolution in the Island of Sri Lanka

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The Tamil national leader, Mr. Vellupillai Pirabakaran, stated in his 1998 Martyr Day speech: "We have not closed the door for peace. We are open to the civilized method of resolving conflicts through rational dialogue. Since the Sinhala leadership lacks the political will and sincerity to resolve the problem, we favor third party mediation for political negotiation."

Studies have shown that from 1980 to 1990, 60% of a total of 265 conflicts around the world were resolved through mediation. Recent resolutions such as the 1995 Dayton Peace Accord, the 1998 Northern Ireland Peace Accord and the 1998 Wye Agreement, all demonstrate the imperative for third party mediation in either conflict reduction or conflict resolution.

According to Jack Bercovitch, mediation is an extension and continuation of the parties' own conflict management effort. Susskind, another scholar, similarly points out that "mediation is an assisted negotiation."

Third party mediation contributes towards the improvement of the environment in which the conflict occurs. In a protracted conflict, there are social and psychological processes at work which exacerbate the conflict environment beyond the

basic nature and immediate circumstances of the conflict itself. On the island of Sri Lanka, in particular, the betrayals and deception perpetrated by the Sinhala political establishment have created a psychological distance between the parties which inordinately exacerbates the suspicion and mistrust between the two parties to the conflict. Moreover, this psychological distance has also been exploited by the Sri Lankan government to engage in demonization of the Tamils and the Liberation Tigers of Tamil Eelam (LTTE), which has furthered the distance.

Mediation can work on this perception. Intervention by a third party will bring the added benefit of organization to the negotiation process. It can lead to the introduction of new guidelines for communication between the parties, and thus enable each party to appreciate the other side's perspective. Properly structured communication would impose a certain reality check upon each party

Third party intervention can help to prevent the parties' demonization of the other and would prod the adversaries towards cooperation. Third party diplomatic activity alongside this process of negotiation is another dimension. The third

party can play various roles at various stages along the continuum of the process of providing facilitation, consultation services, analyses, channels and forums for discussion, helping to identify the issues and interests, clarifying the situation, developing the framework, adding resources, inventing solutions and so on.

Despite the virtues of third party assistance in the resolution of conflicts, which has been demonstrated in various parts of the world, the Sri Lankan government continues to reject the very notion of third party mediation. While the Sri Lankan government reiterates its objections to third party mediation, it has thus far failed to provide any meaningful reason for its opposition. Some spokesmen for the Sri Lankan government claim that this current armed conflict – which has resulted in the cost of thousands of lives lost – is the internal affair of the Sri Lankan government. Characterization of the current armed conflict as an internal matter is morally wrong, legally incorrect, diplomatically naïve and also indicative of the hegemonic attitude of the Sinhala government towards the Tamil nation.

To conceal the systemic persecution of a nation and its untold human suffering is morally wrong. The characterization of the situation, which causes a flood of refugees to threaten the stability of neighboring countries, and which involves war crimes and crimes against humanity, as not being properly subject to international law and international concern is legally untenable. Given the U.N. involvement in the protection of the Iraqi Kurds and the NATO involvement in Kosovo, the characterization of the situation on the island of Sri Lanka as an internal affair is diplomatically naïve. Furthermore, the Sri Lankan government's pact with India, made ostensibly for the sake of Tamils, has clearly taken the current conflict from the domain of internal

affairs. Once consent to foreign intervention in so-called internal affairs is granted, the consent places the issue in the international domain. The Permanent Court of International Justice in the Tunis-Morocco Nationality Decrees case of 1923 stated that the moment a state concludes an international agreement, the subject of the agreement is no longer a matter of exclusively internal concern, but thereafter becomes a matter of international concern. Thus, it is simply absurd to argue that the conflict in Sri Lanka should remain outside the international purview.

Could it be that the real reason for the Sri Lankan government's opposition to third party mediation in the conflict is due to its immersion in the delusion of a military solution? The Sri Lankan government may be dreaming that it can force the Tamils into capitulation and into submission. The Sri Lankan government's military failure to open a land route to Jaffna, and the Mullaitivu and Kilinochchi battles should instruct the Sri Lankan political and military establishment that negotiated settlement is the only route towards a final resolution of this protracted conflict, which has cost both parties so very dearly.

Indeed, a modicum of thoughtful deliberation on the part of the Sri Lankan government would reveal the fact that third party mediation would, in fact, be helpful to the government itself. Although once it was perceived that President Chandrika Kumaratunge had political courage and statesmanship, she has demonstrated clear lack of such qualities initially attributed to her. One has often heard the expression that the President would like to solve the conflict, but the political system hardliners and the hawks within the military establishment will not allow her to do it. Third party mediation will furnish her with an opportunity to demonstrate

her political courage. The President can pursue bold initiatives for peace; and any political risk resulting from such action can be distanced from her by the third party assuming responsibility.

The Sri Lankan government, wittingly or unwittingly, through political rhetoric, has entrapped itself by seeking only a military solution to resolve the current conflict. This government has invested its image and political survival on a perilous route. Third party mediation would allow the government to leave its trap and, at the same time, ensure its political survival.

However, given the Sri Lankan government's opposition to third party intervention, the question before us is – what can the international community do to bring forth third party mediation? Assistant U.S. Secretary of State, Karl Inderfurth's recent offer demonstrates the international community's view that third party intervention is an essential element for a negotiated settlement aimed at bringing peace to the island of Sri Lanka.

When the Sri Lanka government perceives a hurting stalemate in the war, it will come to realize that a negotiated solution is the only solution to the conflict. However, in conflicts characterized by asymmetry, such as the armed conflict in the island of Sri Lanka, power asymmetry works against the creation of a perception of a hurting stalemate. A change of heart on the part of the larger power is usually unobtainable where asymmetrical conditions exist.

In the present armed conflict on the island of Sri Lanka there is a disparity between the Sri Lankan government and the LTTE in terms of the resources and power that they command. As a government, the Sri Lankan side enjoys the benefits of access to resources and patronage that accrue with that status. Even though the LTTE has reduced the power asymmetry re-

lation between the Sri Lankan government and the Tamils, power asymmetry still exists. This asymmetrical relationship precludes the possibility of obtaining a hurting stalemate by the Sri Lankan government. When the Sri Lankan government's military capability is reduced and/or when the Tamils' right to self-determination and the legitimacy of the LTTE are recognized, the Sri Lanka government's cost-benefit analysis will point towards the acceptance of third party mediation.

The above mentioned development can take various forms, both tangible and intangible, such as cessation of arms supplies and military training provided to the Sri Lankan government by the outside world; condemnation of the persecution of the Tamils; acknowledgment that the political arrangements mentioned in the Devolution Package fall short of the self-governance principles of the Rambouillet Interim Agreement or even, to some extent, President Milosevic's counter proposal for the Kosovars; a call for the withdrawal of troops from traditional Tamil areas similar to NATO's call for the withdrawal of Serbian troops from Kosovo; or recognition of the legitimacy and authenticity of the LTTE's representation of the Tamils.

I take this opportunity to say just a few words about the Devolution Package put forward by President Kumaratunge *vis-à-vis* the Rambouillet Interim Agreement and Milosevic's counter proposal. The Rambouillet Interim Agreement for Peace and Self Government in Kosovo, and even President Milosevic's counter proposal, recognize the equality of national communities in the former Yugoslavia. Such a recognition of the equality of communities is glaringly absent in President Kumaratunge's Devolution Proposals. The concept of concurrent mutual veto power, which is the basis of the Rambouillet

Interim Peace Agreement, is also not present in President Kumaratunge's Devolution Proposals. Most important is the international community's reaffirmation that the withdrawal of Serbian troops from Kosovo is the essential element for a political settlement in the Rambouillet Peace Agreement. There is no similar provision for the withdrawal of troops in Kumaratunge's Devolution Package. The Rambouillet Agreement implicitly recognizes the Kosovars' right to self-determination and envisions a referendum to decide the final status of Kosovo after three years, whereas President Kumaratunge's Devolution Package is blind to the Tamils' right to self-determination.

Given the above, President Kumaratunge's statements that the introduction of the Devolution Package to the Parliament is a panacea for the Tamil national question are not only deceptive, but also insult the intelligence of those whom she expects to accept her solution.

CONCLUSION

Third party mediation is a political process. It contributes to a negotiated settlement. The other option is for a military solution, in which only one party wins, and in the case of Sri Lanka will only serve to prolong the conflict since the Tamil Nation cannot be subjugated short of genocide. Third party mediation enables both parties to emerge as winners. The Sri Lankan government must seize the opportunity to put an end to the human suffering and to allow both the Tamil people and the Sinhala people to co-exist peacefully on the island of Sri Lanka.

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