

Responsibility to Rebuild: An Appraisal of the LLRC's Recommendations Pertaining to Fostering Reconciliation in War-affected Sri Lanka

Wasantha Seneviratne

Faculty of Law

Background and Objectives

Sovereignty is no more an absolute right of a State in the contemporary world. Sovereign States possess rights, as well as obligations. Due to this transformation and increased State practice, the international community expects certain behaviour from sovereign States. Accordingly, sovereign authorities are responsible for the safety and wellbeing of their citizens. When they do not provide necessary protection and assistance to affected communities in their countries, the international community increasingly makes interventions to remedy the situation. Since the legitimacy of such interventions is controversial and at times has caused further problems, the International Commission on Interventions and State Sovereignty (ICISS) introduced the 'Responsibility to Protect' concept to the world in 2001. Accordingly, sovereign States embrace three types of responsibilities for their citizens: responsibility to prevent, to react, and to rebuild. Under the notion of 'responsibility to rebuild', States are obliged to provide, particularly after an armed conflict, full assistance to their citizens with recovery, reconstruction and reconciliation, addressing the root causes of the harmful situation. If the obligations are not discharged by the State concerned, the international community gets involved to protect and assist the affected communities in such a State.

At present, Sri Lanka is transforming from war to peace. The need of the hour is to respond effectively to challenges in sustainable communities. The Government of Sri Lanka (GOSL) attempts to foster reconciliation and to rebuild the war ravaged society. Since the end of the hostilities, the Government has taken several initiatives to achieve the above purposes. The main objective of this research paper is to examine and evaluate the most striking initiative taken by the GOSL pertaining to fostering reconciliation in the war-affected country: the Report of the Lessons Learnt and Reconciliation Commission (LLRC) from a legal point of view. Accordingly, the recommendations of the LLRC's Report pertaining to reconciliation will be primarily appraised. The recommendations of the LLRC could draw the attention of a wide spectrum of audience locally and internationally. The most prominent observation has been the Resolution adopted by the United Nations Human Rights Council (UNHRC) in March 2012 pertaining to the promotion of the reconciliation and accountability in post-war Sri Lanka. The crux of the Resolution focused on the expeditious implementation of the constructive recommendations made in the LLRC's Report and to take all necessary additional steps to fulfil the relevant legal obligations of the State in order to ensure accountability and reconciliation for all Sri Lankans. Although the GOSL opposed the adoption of this Resolution, the Government stated that it has already launched appropriate steps to foster reconciliation in the country.

The research problem of this paper is whether the full implementation of the recommendations of the LLRC will foster reconciliation in war affected Sri Lanka and to guarantee the fulfillment of the obligation of the responsibility to rebuild by the Sovereign authorities of Sri Lanka. The main objective of the paper is to examine the sustainability and realisation of the LLRC's recommendations on fostering reconciliation and nation building in the light of the responsibility of the GOSL under her international obligations. Hence, this paper wishes to discuss the following issues: rationale for appointing the LLRC, reasons for the GOSL's subsequent reluctance to fully implement the recommendations of the LLRC in the backdrop of the UNHRC's Sri Lanka Resolution, impact of the LLRC's recommendations on reconciliation and nation building, obligations of the Government arising out of the LLRC's Report and the recent influences made by the international community on its full implementation.

Outcome

The contribution made by the LLRC through its findings and recommendations cannot be under estimated. The Commission has considered a number of issues that emerged in the context of reconciliation and nation building. It is of the view that resolving all such issues would obviously take time and requires significant resources and financing. The LLRC has further noted that the GOSL has demonstrated readiness and commitment to foster reconciliation and to build national harmony. However, the GOSL must adopt a more engaged and constructive policy in order to realize these objectives. Such a policy will help in meeting the challenges of reconciliation and nation building. Therefore, it is necessary to formulate a holistic vision to achieve the above stated objectives. It requires the involvement of the whole of society.

The outcome of the LLRC appears to be very striking. It has now handed over the responsibility to the State to take necessary steps. Rebuilding a ravaged society cannot be performed immediately and easily. Fostering reconciliation is also a multifaceted process. Therefore, the GOSL should examine the issues at hand diligently. The LLRC considers this as a prime opportunity to forge a consensual way forward to promote reconciliation, amity and cooperation among all communities. Nevertheless, the problem is whether the concrete implementation of the LLRC's recommendations could satisfy the demands of the international community under the pretext of 'the responsibility to rebuild'.

Conclusion

The notion of responsibility to rebuild is complex. The place for this concept in international law is still not clear. Striking a balance between the primary obligations of a sovereign State and the residual responsibility of the international community is particularly problematic. The legal framework that governs the issue at hand is confusing and uncertain. The case of Sri Lanka itself is complex in nature. The expectations of the affected communities, sincerity of the efforts of the authorities, time and space to be given to a country emerging from conflicts to discharge its obligations are to be discussed carefully. However, Sri Lanka cannot postpone her obligations towards fostering reconciliation and nation building indefinitely. Our country is now in a transitional phase. Healing the wounds marked by the war and capacity building of an affected society cannot be achieved in the short run. The author believes that a sound foundation can be laid to rebuild war torn Sri Lanka through fostering reconciliation and establishing the rule of law

in the country. In the contemporary international environment, a country cannot sustain being alone. International solidarity is of utmost importance for any country. Therefore, Sri Lanka should thrive to discharge her obligations towards affected communities and to rebuild the nation without further delay by respecting her obligations. The beginning would be the implementation of the constructive recommendations of the LLRC Report.

Keywords: State sovereignty, reconciliation, Lessons Learnt and Reconciliation Commission, Responsibility to protect and rebuild

References

Anghie, A., "Imperialism, Sovereignty and the Making of International Law", UK: Cambridge University Press, 2005.

The Report of the Lessons Learnt and Reconciliation Commission of Sri Lanka 2011.