

**The “Responsibility to Protect” at the End of Conflict: The  
Role of the International Community in Post-Conflict  
Peacebuilding in Sri Lanka**

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**SUMMARY**

The Responsibility to Protect (R2P) has recently drawn great attention in international society. With the end of the prolonged armed conflict, the case of Sri Lanka is often regarded as a contemporary critical case for R2P, since the government of Sri Lanka has been accused by Western sources in the international community for its alleged commitments to war crimes in the last phase of the war. This article argues that what the spirit of R2P really requires us to examine is how to protect victims in war-affected areas. R2P admits that the primary responsibility to protect citizens lies with the national government. While identifying war crimes and punishing war criminals is a necessary action for the prevention of further atrocities in the future. However, it does not help victims directly. The international community is not exercising R2P by accusing the government, while there are many possibilities which both the

international community and the government of Sri Lanka can pursue for the protection of people. The case of Sri Lanka would compel us to think more flexibly to achieve the goal of R2P.

## 1. Introduction

“Peace” was brought to Sri Lanka after the thirty years of war, which had paralyzed the entire socio-economic, cultural and political structure of the country. The efforts of the international community<sup>1</sup> have shown their intention to bring peaceful solution to the conflict through negotiations. The international community’s efforts have repeatedly failed. One of the recent significant failures was the Norwegian led and Western countries supported peace process in 2002. However, it was revealed that the international community’s negotiation efforts were challenged by the both parties of the conflict and particularly a majority of civilians in the country. This situation led to the government’s military campaign to conclude the prolong conflict. The military end of the prolonged Sri Lankan conflict has created an avenue to rethink the role of the international community in post-conflict peacebuilding. The event also stimulated conceptual discussions concerning state sovereignty and the ‘Responsibility to Protect’ (R2P) in the international arena.

This article analyses the role of the international community in post-conflict peacebuilding in accordance with the concept of R2P. In particular, the article is intended to discuss a fragile relationship between the Government of Sri Lanka (GoSL) and the international community as regards the “Sri Lankan government’s legitimate authority over its own post conflict policy initiatives versus international community’s allegation on protection of human rights of the conflict affected Sri Lankan citizens.”

The next section of the article discusses the nature and main characteristics of state sovereignty and its theoretical applicability in the contemporary peacebuilding industry. *The Responsibility to Protect* published in 2001, due to its influence in the circle of researchers and practitioners paved the way for ongoing discussions on R2P and as a result the R2Ps applicability in the case of post-conflict peacebuilding in Sri Lanka drew attention. The third section examines the GoSL’s own peacebuilding activities and its legitimate claims over responsibility to protect its own citizens as a sovereign nation against significant criticisms by the international community. The fourth section explains the “multi-structure actors” in the international community: the United Nations (UN) and other international organizations; Western States and regional powers and their influences on the GoSL’s post-conflict peacebuilding since May 2009.

The Sri Lankan case further displays that the significant disparity and density over its own sovereignty in the context of “stable state”. This article identifies diverse characteristics of Sri Lankan state sovereignty and the struggle between international community’s globally recognized human rights and norms of international humanitarian law norms in the context of post-conflict peacebuilding. Furthermore, it allows peacebuilding scholars to deepen their scope on statebuilding in the regional context of South Asia. Based on the above mentioned discussions, the article finally draws the conclusion which shows that mutual mistrust between the international community and the national government is a major source of inactivity to exercise the responsibility to protect.

## **2. Responsibility to Protect at the End of the Conflict**

For the purpose of this article, it is highly instructive to see the argument of the Report of the “International Commission on Intervention and State Sovereignty (ICISS)” commissioned by the Canadian government, which was published in December 2001 under the title of “The Responsibility to Protect.”<sup>2</sup> Its publication was a major event among academics and practitioners, although the shock of the terrorist attack on September 11 and the following “War on Terror” shadowed it immediately after its publication. Still, we should not underestimate its significance considering the gradual increase of its impact in international society.

The ICISS was co-chaired by Gareth Evanth, former Foreign Minister of Australia and incumbent President of the International Crisis Group, and Mohamed Sahnoun of Algeria, Special Advisor to the UN Secretary-General. One of the two Canadians among 12 members was Michael Ignatieff, outspoken writer on humanitarian intervention and peacebuilding related issues.<sup>3</sup>

The basic argument for the “Responsibility to Protect” is, surprisingly or not, in line with the very traditional liberal theory of sovereignty. The two “Basic Principles” of their argument is these;

A. State sovereignty implies responsibility, and the primary responsibility for the

protection of its people lies with the state itself.

B. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.

These simple two sentences represent the core value of liberalism from the time of John Locke. Sovereignty is an inalienable principle of domestic legal/political/social order as well as international legal/political/social order. But this notion of sovereignty contains the principle of responsibility between the two supreme powers; the exerciser of sovereignty is responsible for protecting the fundamental rights of individuals. Once it is proved that the power holder/government is unwilling or unable to take responsibility, the ultimate supreme power holder resumes sovereignty. The sovereign people are then allowed to “appeal to the Heaven” or even resort to a revolution. This is the theory of sovereignty in the Anglo-American tradition of liberal democracy. We can just add that in the context of contemporary international society this act of “appeal to the Heaven” could justify humanitarian intervention to help people protect themselves in case of serious abuse or negligence of governmental power. This is the theory of sovereignty in the school of the “Responsibility to Protect.”<sup>4</sup>

The ICISS continues that “The foundations of the responsibility to protect, as a guiding principle for the international community of states, lie in (1) obligation inherent in the concept of sovereignty; (2) the responsibility of the Security Council, under Article 24 of the UN Charter, for the maintenance of international peace and security; (3) specific legal obligations under human rights and human protection declarations, covenants and treaties, international humanitarian law and national law; and (4) the developing practice of states, regional organizations and the Security Council itself.”

Then, interestingly, the ICISS proclaims that “The responsibility to protect embraces three specific responsibilities.” Namely,

A. The responsibility to prevent: to address both the root causes and direct causes of internal conflict and other man-made crises putting population at risk.

B. The responsibility to react: to respond to situations of compelling human need

with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention.

C. The responsibility to rebuild: to provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert.

In short, the ICISS insists that conflict prevention, humanitarian intervention and peacebuilding are the matters of “responsibility” on the side of the international community, while the initial primary responsibility is “inherent in the concept of sovereignty.”

The argument for the “Responsibility to Protect (R2P)” was endorsed by Canada, sponsor of the ICISS and the other members of the so-called Human Security Network led by Canada, which can be regarded as a coalition of states which recognize the importance of the argument for R2P. But at first its influence seemed limited, since there appeared to be a gap between the ICISS and the mainstream international community. This has changed since the publication of the report of the Secretary-General’s High-Level Panel on Threats, Challenges and Change commissioned by the UN Secretary-General, Kofi Annan, “A More Secure World: Our Shared Responsibility” in 2004.<sup>5</sup>

While the “Responsibility to Protect” was a response to international debates on humanitarian intervention after the Kosovo crisis, “Our Shared Responsibility” is a response to international debates on new security threats after the Iraq War. What is interesting is that the “High-Level Panel” included Gareth Evans, co-chair of the ICISS, among 16 members. It is thus sensible to suppose that the title “Our Shared Responsibility” appears to have relevance to the R2P.

“Our Shared Responsibility” actually mentions the R2P. It is a key concept when the High-Level Panel discusses the issue of collective security. The Panel observes that;

The successive humanitarian disasters in Somalia, Bosnia and Herzegovina, Rwanda, Kosovo and now Darfur, Sudan, have concentrated attention not on the immunities of sovereign Governments but their responsibilities, both to their own

people and to the wider international community. There is a growing recognition that the issue is not the “right to intervene” of any State, but the “responsibility to protect” of *every* State when it comes to people suffering from avoidable catastrophe - mass murder and rape, ethnic cleansing by forcible expulsion and terror, and deliberate starvation and exposure to disease. And there is a growing acceptance that while sovereign Governments have the primary responsibility to protect their own citizens from such catastrophes, when they are unable or unwilling to do so that responsibility should be taken up by the wider international community - with it spanning a continuum involving prevention, response to violence, if necessary, and rebuilding shattered societies. The primary focus should be on assisting the cessation of violence through mediation and other tools and the protection of people through such measures as the dispatch of humanitarian, human rights and police missions. Force, if it needs to be used, should be deployed as a last resort....We endorse the emerging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent.<sup>6</sup>

This is the moment for the R2P to be included in an official UN document, while “Our Shared Responsibility” is merely a report of the independent commission organized by the Secretary-General. This clear affirmation of the logic of the R2P records a new stage of the theory of sovereignty in international society. Peacebuilding is recognized as a matter of R2P in the Panel’s report, which stipulates that “there is a growing acceptance that while sovereign Governments have the primary responsibility to protect their own citizens from such catastrophes, when they are unable or unwilling to do so that responsibility should be taken up by the wider international community - with it spanning a continuum involving prevention, response to violence, if necessary, and rebuilding shattered societies.”

In this regard, the fact that the new organ of the United Nations, Peacebuilding Commission (PBC), was recommended by this Panel is of crucial importance. The idea

of the PBC as well as the accompanying Peacebuilding Support Office (PBSO) was endorsed by Kofi Annan in his “In Larger Freedom” of 2005 with some modifications in the PBC’s scope of activities and organizational structure.<sup>7</sup> It was decided by the 2005 World Summit Outcome that the PBC was to be established.<sup>8</sup> The Resolutions simultaneously adopted by the Security Council and the General Assembly on December 20, 2005 actually decided on the establishment of the PBC as well as PBSO.<sup>9</sup> The Resolutions recognize “the primary responsibility of national and transitional Governments and authorities of countries emerging from conflict or at risk of relapsing into conflict, where they are established, in identifying their priorities and strategies for post-conflict peacebuilding, with a view to ensuring national ownership.” They also underline “the primary responsibility of the (Security) Council for the maintenance of international peace and security in accordance with the Charter.” These two responsibilities are not contradictory to each other and to the responsibility of the PBC, since an international system of responsibility is supposed to be coexistent with state sovereignty. The PBC will help governments of post-conflict states, as long as they are not sufficiently willing or capable enough to exert their sovereign powers properly. This help is theoretically understood to be in line with sovereignty, as the PBC simply helps the exercises of sovereignty. But when the government of a post-conflict state is apparently unwilling or unable to meet its responsibility, the Security Council will be asked to take its international responsibility to deal with such states.

There have been many confrontations and frictions among member states until they finally reached the contents of the resolutions to establish the PBC. It goes beyond the purpose of this article to look at details of their debates. Suffice it to say that while the group led by the United States wanted the PBC to be as effective as possible under the command of the Security Council, a majority of developing countries were cautious about such an approach and made some significant changes including the major roles of the Economic and Social Council and the General Assembly. Apart from details of respective issues, this confrontation evolved around a very large political map of divided international society. There is a group of states which wanted to see an active peacebuilding organ to respond to such crises as failed states. The opposing group suspiciously identified the character of intervention in the PBC and wanted to set up barriers to constrain its activities.



Theoretically speaking, this confrontation can be explained by the standpoint of the R2P. Those who support the R2P would like to see a strong, proactive and efficient PBC. Those who worry about the R2P would like to see a constrained PBC. The result was a compromise between the two groups. Those states which are supportive of R2P have the inclination toward the liberal theory of sovereignty, which is based upon the theory of state to emphasize the government organ's responsibility to protect individual human rights. The internationally dominant understanding of peacebuilding would be explained well by this status of the R2P and the liberal theory of sovereignty. On the other hand, however, it is also true that a considerable number of states are not fully content with such a liberal theory of sovereignty.

Peacebuilding or peace operations in general by international society will probably continue to evolve around this kind of confrontation between two groups with different views on sovereignty. There will be more debates and compromises in many instances as regards peacebuilding and sovereignty. We should keep attention to the confrontation between pros and cons of the R2P. Nevertheless, it is not deniable that the liberal theory of sovereignty has begun to define the foundation and the future of peacebuilding to a greater extent, if not perfectly.

What is striking in the case of Sri Lanka is that the confrontation between the liberal camp and the non-liberal camp leads to a predicament in reality as regards the responsibility to protect. R2P is an argument to urge, first, the national government, and then the international community to take the responsibility to protect citizens. But it does not particularly have a theory of cooperation between them. In reality, both sides tend to have different kinds of mistrust. It is usually very difficult to identify a clear-cut line to decide that the government is unable or unwilling to take the responsibility. In an ambiguous situation, the international community also remains ambiguous without its clear commitments to R2P as well its clear respect for the government. Then, the need for R2P remains ambiguous and keeps floating in the air.

### **3. The Government of Sri Lanka's own Post-conflict Peacebuilding**

The R2P policy and UN SG's High Level Panel on Threats, challenges and Change<sup>10</sup>

reports say that “sovereign governments have the primary responsibility to protect their own citizens from avoidable disasters such as ethnic cleansing, genocide, deprivation of basic needs and ect.<sup>11</sup> Moreover, it is acceptable that as the “sovereign government,” the GoSL has its legitimate right to protect its own citizen from all form of threats. Even according to liberal political theory, “sovereignty and citizenship are not opposites, but go together: the state after all, embodies the key rights of citizens.”<sup>12</sup> It is possible to claim that the GoSL has the right to use military means to protect its citizens which the government stated as “humanitarian mission against the clutches of terrorist”.<sup>13</sup> Oberschall states that “the legality of emergency powers derives from the derogation principle that gives a government the right to suspend international treaties and conventions in an emergency when the state itself is threatened”.<sup>14</sup> In this context, the GoSL argued its legitimate right to conduct the so-called “humanitarian mission” against the LTTE from the end of 2006. In order to ensure democratic principles and embodies the key rights of citizens, it is said that the GoSL concerned its primary objective as protecting all citizens from catastrophes of the LTTE which conducted brutal violence activities for 30 years. On the other hand, the international community continuously criticized the GoSL in the name of international norms of human rights and humanitarian laws.

It is important to highlight a series of activities which has been conducted by the GoSL as “nation owned” or “Sri Lankan indigenous peacebuilding initiatives.” As a multiple socio-economic and cultural state, the GoSL has to deal with all sectors of society in order to rebuild the state to establish a “lasting peace”. Therefore, as a legitimate stakeholder or “winning party” to the conflict, the GoSL has been implementing a series of activities in order to rebuild the conflict affected northern and eastern areas including the entire country. The activities can be generally divided into three main sections: immediate humanitarian assistance; development activities: rebuilding war shattered physical resources, infrastructure and human resources and policy oriented structural changes: reconciliation among the citizens and socio-cultural and political reforms.

The GoSL started its immediate humanitarian assistance in May 2009 and rescued more than 300,000 civilians who were used by the LTTE as a human shield during the war. Furthermore, the GOSL pointed out that it was “the world’s largest

human rescue” from the manmade disaster.<sup>15</sup> At the end of the war, there had been a massive need for immediate humanitarian response for the thousands of war affected peoples’ basic needs including medical assistance, water, food, clothes and shelter.

As Galtung<sup>16</sup> says the end of the conflict does not bring “total peace” and harmony for the affected civilians in the society until it deals with root-causes or structural issues to the conflict. This scenario is clearly displayed just after the conflict in Sri Lanka. Absence of war brought “non-violent peace” while creating a bulk of immediate humanitarian needs and psycho-social, economic, political and human rights issues particularly in conflict affected areas in Sri Lanka.

Those who were directly affected by the conflict were suffered from huge immediate humanitarian needs. According to UN sources and rights groups reports<sup>17</sup> that there were more than 300,000 IDPs during the last five months of the conflict in 2009. Apart from those civilians directly affected by the conflict, there are hundreds of thousands of civilians indirectly affected in the country. This human catastrophe and its effects to victims of the conflict were primary responsibilities of the parties of the conflict. In particular, even though there are more than 12,000 LTTE suspects, there could not be seen the GoSL’s organizational or accountable authority after May 2009.

The GoSL has been continuing its resettlement activities since September 2009. According to the United Nations High commissioner for Refugees (UNHCR), at the end of November 2010 the GoSL was able to resettle 95% of total internally displaced persons (IDPs) at their own lands in the northern and eastern areas in Sri Lanka.<sup>18</sup> However, among all IDPs 89,000 women are widowed by the conflict. Furthermore, the government-led demining activities have shown rapid progress according to the demining and re-settlement map which is in the Ministry of Defense sources.<sup>19</sup> In parallel to the resettlement activities, there have been diverse range of reconstruction activities implemented by the government, local and international civil society organizations in order to preserve the lives of the civilians. Among those implemented activities, the project of building 50,000 permanent shelters, constructing main roads and railways including bridges, fisheries and ports buildings and livelihood activities are significant. It is revealed that the national economy of Sri Lanka reached 8% growth rate during the third quarter of year 2010 and tourism has increased by 40% in the first half of year 2010. This developing nature has created a “peaceful” situation among all

the citizens of the country.

The UN, ICRC and BBC reports revealed that there are more than 12,000 ex-LTTE carders under the authority of the GoSL. If so, the demobilization of the ex-combatants into the normal society is one of the prioritized agendas in post-conflict peacebuilding in Sri Lanka. So far the GoSL has reintegrated all child soldiers and old LTTE carders into the main society after a short period of rehabilitation. Nonetheless, the majority of the ex-combatants still remain at the rehabilitation camps which are under controlled by the government forces.

In response to the international community's allegations, the GoSL set up a Presidential commission called the Lesson Learned and Reconciliation Commission (LLRC) to investigate and find the main causes of the conflict. This LLRC is focusing on the entire period of the conflict rather than the last phase of the conflict according to the request of the international community. Currently the LLRC is directly or indirectly hearing and collecting information from victims of the conflict. It continues to operate until April 2011. Yet, the LLRC's legitimacy, accountability and transparency are challenged by the international community.

In order to enhance the political institutions and legitimate political institutions, the GoSL has conducted Presidential, General and Provincial elections in the northern and eastern areas of the country. As a result of the elections, it seems that some of new Tamil politicians have emerged and they have been appointed as stakeholders of their specific regions. The Chief Minister of the eastern province and some of Cabinet Ministers of the central government have been appointed from ex-combatants of the LTTE. This nature of Tamil ethnic political participation has been described as a positive factor to establish stable political institutions for stable peace.

#### **4. “Multi-structure International Actors” in Post-conflict Peacebuilding in Sri Lanka**

The international community had played its “unsuccessful stakeholder” role during the failed peace process in 2002. Since 2002, the international community had been assisting to bring negotiation solution to the conflict by conducting “shuttle diplomacy”

between the conflict parties, signing the Memorandum of Understanding (MoU) and the Ceasefire Agreement (CFA), mediating peace talks, and establishing the Sri Lanka Monitoring Mission (SLMM) and the Tokyo donor conference to rebuild the conflict affected economy in the country. The European Union (EU), United States of America (USA), Japan and Norway played main roles in the peace process.

However, a post-conflict peacebuilding scenario shows a significant change of the roles and actors of the international community. Therefore, this article particularly pays attention to “multi-structural” actors of the international community in global and regional perspective. Especially, in global perspective, as Marry Ellen O’Connell states, “R2P works at cross-purposes with promoting human rights, human rights are part of international law”,<sup>20</sup> it examines some significant actors and their activities in order to enhance human rights and international humanitarian law while some norms of other actors ignore the importance of values of human rights rather than “reconstruction” activities in the scenario of post-conflict in Sri Lanka. It is important to note here that diverse activities of the international community have basically created two main standpoints of post-conflict peacebuilding in Sri Lanka. The first standpoint is that regional actors strongly supported all activities which are designed by the GoSL, whether they have ignored the basic norms of international human rights and international humanitarian law. In contrast, the “western countries and their rights groups,” so-called global actors’ presence, shows disagreement over the GoSL’s initiatives of post-conflict peacebuilding.

#### **4.1 Regional Actors in Post-conflict Peacebuilding in Sri Lanka**

In order to discuss the international community’s range of activities, it is important to start the discussion from the region of South Asia. The stable regional relation particularly with the regional super powers of India and Pakistan is significant to establish lasting peace in Sri Lanka. India’s position is highly important in order to proceed any socio political or economic activities in the region. It is a widespread truth that in 1980s India and Sri Lanka did not maintain steady diplomatic relations; India helped the LTTE to strengthen their military stabilization.<sup>21</sup> The assassination of Indian Prime Minister, Rajiv Gandhi, by the LTTE changed the Indian diplomatic relations with Sri Lanka. Furthermore, India suspended its military and other assistance to the

LTTE and started counter operations against “South Asian terrorism.” It directly affected the LTTE and its activities in India against the GoSL. Moreover, Mumbai terror attack further influenced and accelerated India’s counter measures on the war on terror in the region. This situation created close and cordial ties between India and Sri Lanka. The importance of this positive diplomatic relations can be understood through the former failed peace process, because India did not support the Norwegian brokered peace from the beginning of 2002 with suspicion about extra regional influences to the region. Also, the former Sri Lankan government in 2002 ignored India and had close relations with extra regional powers like the USA and Norway. In this context, the GoSL was careful at the beginning of the mission and used to be advised from India in a transparent manner. This stagnated bilateral relationship began to change at the end of 2005, when the President, Mahinda Rajapaksa, in his regime prepared and handed over to the government of India “a highly insightful” situation report on the LTTE and its capacities and potential threats to India and the region. According to political analysts of the region, that document was the confidence building bridge between the two governments.

This approach was highly appreciated by India, which extended its continuous support to Sri Lanka by means of military and diplomacy.<sup>22</sup> Even so, by the end of 2008, there were significant protests against the Indian assistance to Sri Lanka in a southern Indian state called Tamilnadu where majority of inhabitants are Tamil. Nearly 300,000 Sri Lankan Tamil refugees live in Tamilnadu for more than 25 years. However, India was able to manage those reactions by winning the general election on 16th May 2009. It is reported that in the latter part of the conflict, India suspended its military assistance to Sri Lanka due to continuous protests of Tamilnadu against the central government’s military support to Sri Lanka.

South Asian regional political analysts revealed that Sri Lanka was highly beneficial in getting assistance from South Asian regional powers in the final phase of the 30 years of the conflict. Furthermore, it is said that India actively contributing and assisting to restore the conflict affected civilian lives in northern Sri Lanka by providing large scale humanitarian assistance including demining, immediate health care and providing temporary shelters.<sup>23</sup> In addition, India initiated to build 50,000 permanent shelters for displaced families and continues to restructure agricultural economy in the

north by implementing various activities since 2009 for long-term sustainability of the conflict affected civilians.<sup>24</sup>

India positively pushes the GoSL to take stable political actions to establish sustainable peace for all ethnic groups in the country. Indian higher level diplomats including Minister of External Affairs, Secretary to the Minister of External Affairs, advisors of external affairs to the Prime Minister of India and other officials visited Sri Lanka and closely monitored the GoSL activities in the northern and eastern parts of the country. Furthermore, the Indian governing party gave an opportunity for Sri Lankan President at the Commonwealth Games in 2010 as an honorable guest. This incident was severely criticized by international human rights groups and Tamil diaspora community who regarded India as a supporter of the foreign leader who had conducted genocide against another ethnic group, Tamils. As a recent development of India's relationship indicated a close development ties by opening two new regional Indian consulate offices in the northern, Jaffna and the southern, Hambanthota in order to meet local people's needs and expand the Indian "active involvements" in public.

At the opening occasion, the Indian External Minister stated that India's friendship with Sri Lanka was based on its historically ties, civilization and culture, and did not contradict the interests of other countries such as China and Pakistan. "India agreed to provide US\$1.7 billion through loans and aid over a period of three years starting 2011. Out of this total assistance some US\$416 million credit will be used to rebuild the railway system in the Northern Province and the balance will be spent on several key projects". In contrary to global actors of the international community, India fully agrees and blesses the GoSL's resettlement efforts during the last one and half year.

When India is challenged by internal political issues, the GoSL turns to Pakistan. Even though Pakistan and India has been in the situation of "South Asian Cold War" since 2005, Pakistan and Sri Lanka have been keeping friendly and cordial relationship. Friendly relationship helps to Sri Lanka to enhance its military capacities against the terrorism. Therefore, Pakistan provided military equipments and technical supports (human resource development), economic cooperation and education exchange between the two countries. In particular, the governments of Sri Lanka and Pakistan have signed two bi-lateral agreements in 2005 in order to enhance socio-economic

sectors of two countries. While India experienced its internal political challenges over assistance to Sri Lanka, Pakistan continued its military supplies to Sri Lanka. Meanwhile, India did not object to Pakistan's military support to Sri Lanka.

To establish regional stability and peace, the South Asian regional powers have "a common agenda" to eliminate menace of terrorism in the region. Raising the issue of the "common agenda" of fighting terrorism is beneficial to Sri Lanka to continue its humanitarian mission and post-conflict peacebuilding activities since May 2009.

Though China is not a member country of South Asia, the Chinese involvement in Sri Lankan conflict and post-conflict peacebuilding is significant at regional (South Asia), extra-regional (wider Asia), and global levels. As China is a historical bilateral partner to Sri Lanka, China strengthened its relations in the situation where Sri Lanka needed help from its traditional friends like China, Japan and India. Providing support of multi-million military hardware in loans as well as humanitarian assistances, China exhibited its considerable assistance during the conflict and post-conflict peacebuilding.<sup>25</sup>

Also, Sri Lanka was defended by China in the UN Security Council (UNSC) and human rights sessions against other permanent members' proposals and criticisms. Even though historically Japan is the biggest donor to Sri Lanka, during last months of the conflict and aftermath of the conflict Japan followed other Western powers by voting against Sri Lanka at the UN Human Rights Council. This situation allowed China to dominate the post-conflict scenario of Sri Lanka, because Sri Lanka's state-owned media highlighted China as a "real friend" who supported Sri Lanka in difficult times. Consequently, it seems that the majority of Sri Lankan society recognized and appreciated China's role in post-conflict peacebuilding in Sri Lanka.

This situation enabled China to become a key actor in post-conflict reconstruction in Sri Lanka. Furthermore, China provided immediate humanitarian assistance including temporary shelters and sanitation facilities and highly efficient demining equipments as soon as the war ended. China's timely assistance to Sri Lanka during and after the war has established a higher reputation of China among civil society actors and some countries. In addition, China has invested a set of large scale massive macro economic development projects in both the northern and the southern areas of Sri Lanka. Newly constructed and opened was the world's biggest in-land



harbor as a result of Chinese development assistances in post-conflict Sri Lanka. It is said that China invested US \$ 1.5bn to build the port. “The port will drive the country towards its goal of becoming one of the five global mega hubs in the world, amidst those hubs of Pacific Coast, Atlantic Coast, European and Far Eastern mega hubs”<sup>26</sup>. The port was built by the state-run- China Harbour Engineering Company and Sinohydro Corporation.

Furthermore, there is military cooperation between the two countries to strengthen their military ties in the future. The recent visit by Sri Lankan Defense Secretary and his staff was criticized by Tamil diaspora community and Sri Lankan local Tamil leaders who stated that the visit would help China to consolidate its presence and military interests in Sri Lanka.<sup>27</sup>

However, it is interesting to note that in the context of regional geopolitical setting, China and India have “a hidden competition” with each other over their growing economic interests in post-conflict peacebuilding in Sri Lanka. Recent post-conflict peacebuilding activities show that both China and India have strong interests in an area regionally and globally important for them. This advances the GoSL’s post-conflict development activities, because the government has to fulfil the needs of war affected citizens despite lack of funds from the Western countries. The present government does not depend on its “historically biggest donor,” Japan, either, although Japan still continues its “traditional” development assistance to Sri Lanka even in the phase of post-conflict peacebuilding<sup>28</sup>

#### **4.2 The United Nations, International NGOs, European Union and the United States of America as Global Actors in Post-conflict Peacebuilding in Sri Lanka**

The GoSL has been highly challenged by the United Nations (UN), International Non Governmental Organizations (INGOs), the European Union (EU), the United States of America (USA), Human Rights Groups, media and other organizations. It is interesting to note here that many of those organizations and states had supported Sri Lanka in the 2002 peace process to achieve a negotiation settlement to the conflict. Nonetheless, the failure of the 2002 peace process led to heavy military atrocities between the GoSL and the LTTE. During the failed peace process the UN role was not significant. Mass

violations of human rights including under-age recruitment, child abduction and other extra-judicial killings by the LTTE were not considered. UN agencies could not prevent the escalation of the conflict. Norway, other Western countries and Japan were active members in the process, while South Asian regional powers were inactive.

The UN was significantly influenced by the EU, the USA and human rights groups to take drastic actions against the GoSL. The Secretary General (SG) of the UN has taken several steps to prevent the GoSL from its military efforts against the LTTE. However, the GoSL skips the UN recommendations and suggestions by pointing out the destructive consequences of the LTTE and its primary responsibility to act against the menace of terrorism. As a result, the UN has taken some actions against the GoSL at the UN Human Rights Council (UNHRC). The GoSL lost her seat at the council and Western countries and Japan voted against Sri Lanka due to its continuous violations of human rights during the conflict.<sup>29</sup>

The existing nature of Sri Lanka was further questioned by the UN by saying the GoSL's post-conflict initiatives do not show its accountability over violated human rights and committed war crimes<sup>30</sup> and "lack of progress."<sup>31</sup> The UN and other human rights groups suggested the GoSL to conduct "external" investigation mechanism with the support of the UN.<sup>32</sup> On the other hand, it seems that there are some suggestions to the UN to enhance its leverage in the General Assembly to challenge Security Council member's veto.<sup>33</sup> Furthermore, Human Rights Watch (HRW) states the GoSL's LLRC is expected to do nothing based on previous Commission's experiences.<sup>34</sup> Those rights groups sought the UN to take its legitimate actions against the GoSL for its conducts against universal human rights norms. On the contrary, the GoSL argues why the international community has not taken any appropriate actions against the massive human rights violations in Iraq from 2003 to 2007 as war crimes.<sup>35</sup>

However, the GoSL strategically used the failed peace process and declared its so-called humanitarian mission against the LTTE in 2006. By doing so the GoSL was able to counter the LTTE. The Western countries' "new policy" of the War on Terror created "an international golden key" to the GoSL to counter the LTTE. For instance, 9/11 was one of the main setbacks to the LTTE and major European countries (Canada, EU countries and USA). Australia banned the LTTE as a terrorist organization.

Throughout the GoSL's humanitarian mission against the menace of terror, "war on terror policy" oriented Western global powers severely criticized the conducts of the Sri Lankan military forces in the context of international humanitarian law and human rights. In particular, at the beginning of the war the EU alerted the GoSL on economic sanctions including special tax free privilege called GST+. Furthermore, International Monetary Fund (IMF) temporarily suspended its financial assistance to Sri Lanka by asking the GoSL to withdraw from the war and the violation of human rights. The United States has a significant interest in the policy of conducting the War on Terror. Following that, the USA has banded and named the LTTE as the deadliest terrorist group in the World. However, when compared to Bush administration, the Obama administration has a different diplomatic tone. The officials associated with Obama administration, ranging from State Secretary Hilary Clinton to present US ambassador to Sri Lanka, Patricia A. Butenis, played an influential role to accuse the GoSL of alleged war crimes echoed in the US Congress and the State Department.

In this context, this article argues that the "lack of international agreement about the war on terror"<sup>36</sup> and in particular the US leaders' statements on "good and bad terrorists" negatively influenced the GoSL and its people as regards their suspicion about the international community's involvements in post-conflict peacebuilding in Sri Lanka. It is proved by the leaked "confidential State Department information."<sup>37</sup> It is alleged that GoSL leaders have committed "war crimes" and have to be prosecuted. Furthermore, the report of State Department<sup>38</sup> reveals that the US standpoint on the GoSL's humanitarian assistance policies and their implementation. The US State Department suggested an international mechanism to investigate the GoSL's war crimes. As a result, in June 2010, the UNSG appointed a three-member international team to probe and advice him on conducts in the last phase of the war in Sri Lanka.<sup>39</sup>

The GoSL's alternative foreign policy strategies to non conventional countries reveal the GoSL's standpoint over global actors of the international community. It further leads to the GoSL to bypass the conventional global powers and their demands to the GoSL. In particular, as a former colony of Great Britain, Sri Lanka used to follow British policy approaches and suggestions towards any socio-economic and political issues of the country. On the contrary, President Rajapaksa's government ignored British advice on the conflict. This was clearly shown during the visit of former British

Secretary for Foreign Affairs. Countries like France and even Scandinavian countries are not exceptional. Sweden withdrew her embassy in Sri Lanka in March 2010.

This alternative foreign policy implementations made new global friends including Argentina, Iran, Libya, Myanmar Ukraine and Vietnam. The GoSL was sure to keep its historical relationship with Russia which supported Sri Lanka, when UN Human Rights Council discussed Sri Lankan human rights violations in 2008 and 2009.

## **5. The Challenges to the International Community in Post-conflict Peacebuilding in Sri Lanka**

According to the R2P, the international community has its own responsibility to protect people from mass atrocities, when the national government is unable or unwilling to do so. In the context of post-conflict Sri Lanka, the international community has to establish a legal body to deal with those alleged human rights violations. In particular, human rights groups urged UN Secretary-General Ban Ki-moon to establish “an independent international investigation to establish the truth of what happened in Sri Lanka, an essential step toward accountability for the serious crimes committed there.”<sup>40</sup> This raised questions why some of international actors cooperated with the GoSL while some of them were not cooperative.

This article argues that the case of Sri Lanka creates a necessity to examine whether the international community is ready to accept the states’ primary responsibility to protect its citizens in appropriate times. If the international community recognizes the GoSL as the primary legitimate authority to its citizens’ rights, the international community has to act as a close “co- partner” to the government by assisting, advising and monitoring the GoSL’s initiated peacebuilding activities. The international community has to keep its close concerns to correct the implementing track of the GoSL because there are some arguments against its post-conflict rehabilitation activities, majority of which are Sinhala oriented. “It is now the duty and responsibility of the international community to find out ways and means of how to supersede the treacherous lock of Sinhala sovereignty, at least now, in Tamil rehabilitation. The international community should take note that the entire apex set-up and the officialdom

created for rehabilitation by Colombo consisting Sinhala military officials and Sinhala civil servants”.<sup>41</sup> Hence, the paper argues that the international community has to “operate boldly, transcending Sri Lankan state and its ethno-centric sovereignty. If the international community continues to abet the Sri Lankan state, its efforts will lay foundations only for another but more disastrous war in the island.”<sup>42</sup>

Furthermore, so far it seems that the GoSL has not shown its total responsibility and capacity over some significant peacebuilding activities such as post-conflict policy instruments changes, supporting political process and reconciliation and national healing. Therefore, the international community has potential responsibility to engage in these issues in a cooperative way. By establishing cooperation and solidarity with the GoSL, the international community has to show its genuine efforts and transparency which were totally damaged during the 2002 peace process. It is important to note that the majority of the general public did not trust the international community’s role during the peace process, because they felt that the international community’s efforts were rather beneficial to the LTTE than the majority of conflict affected civilians in the country.

Without any international peace agreement or mandate the GoSL has to implement its own activities to establish durable peace in the country where multi-ethnic communities are expecting to enjoy equal rights and opportunities in the society. If a country experiences potential threats from other powers, it is possible to enforce an emergency laws and prevention acts. This creates “a high risk of abuse by the executive branch, the military and the security forces because it restricts accountability and transparency to the public, the news media, the legislature and the judiciary.”<sup>43</sup> In this context, the GoSL has to endure international human rights norms and principles as cross-cutting elements of its peacebuilding activities. Furthermore, the GoSL has to win the hearts of all ethnic groups of the country to establish durable peace. Therefore, the article argues that it is one of the main challenges of the international community to establish a close relationship with the GoSL in order to assist, advocate and monitor its implementation of peacebuilding activities.

“Building the structural apparatus of the state in a post-conflict situation, therefore, must also be balanced by efforts directed towards the building of trust and accountability between governments and their constituents.”<sup>44</sup> This article argues that

building confidence with the main legitimate actor in post-conflict peacebuilding in Sri Lanka is an important challenge to the international community to enhance its contribution. If the international community could not enhance its confidence among the Sri Lankan civilians, the international community and international norms of human rights and humanitarian laws would be regarded as inactive instruments in South Asia. There might be a possibility to follow the Sri Lankan case in some other South Asian countries like Pakistan and Afghanistan, as was clearly revealed by the President of Pakistan's statement at the press conference in Colombo during his official visit to Sri Lanka on November 2010. Trust is the key to regional stability and peace in South Asia, as it is so in Sri Lanka.

The international community's limited attention and contribution to post-conflict peace efforts is another challenge in the context of liberal peacebuilding. If the international community is further reluctant to engage in rebuilding, which is of course not a good news for Sri Lanka. Therefore, massive development projects launched by the GoSL sponsored by China, India and other international organizations have to promote the GoSL's serious attention on "the dimensions of the psychiatric crisis in the nation of Tamils as a result of the trauma inflicted on them by the war".<sup>45</sup> Therefore, the presence of international actors is required in the area where the post-conflict activities are being implemented. Then, actors in the international community have to increase their assistances to the people who were really affected by the conflict in order to restore their human rights.

Another important challenge faced by the international community is how to deal with alleged human rights violations and war crimes of the Sri Lankan conflict. It is true that, so far there are no established mechanisms to investigate, prosecute and punish those who are committed to war crimes. It is further challenged by the credibility of the information. It has been revealed that some international media and their agencies created some visual information in the last phase of the war with sympathy toward one of the parties to the conflict.<sup>46</sup>

When initiating the international community's post-conflict activities, the international community needs to be careful on how to make effects of its activities on the people who were affected by the conflict. Furthermore, the international community has to keep its eye on local socio-economic and political diversities and their influences

on the conflict. If not, the international community's activities might pour "oil" to resume the conflict. Therefore, the international community would play a flexible role in the context of post-conflict peacebuilding in Sri Lanka.

In this context, inability of the GoSL to restore the normalcy, particularly in severely conflict affected northern area where the infrastructure and civilian life were totally damaged gave an open challenge to the international community to show their responsibility to the citizens of Sri Lanka. More than 90% of civilians' properties were destroyed and other public facilities such as roads, hospitals, schools, irrigation system and other livelihood institutions were completely malfunctioned in conflict-ridden areas. Re-settlement of all IDPs and demobilization and reintegration of ex-LTTE carders into the main stream society are main obstacles to restore normalcy.<sup>47</sup> BBC reports that "displaced people are not happy that there are no livelihood programmes. They lost everything, particularly in the mainland Wannu region."<sup>48</sup> It is further argued that the GoSL's post-conflict development activities do not show a coherent link to enhance "Tamils active participation" in decision-making. "De-linking development from decision-making political sovereignty of Tamils is advantageous to sectarian Sinhala polity, it is convenient to the international polity of the corporates, but how it is beneficial to the affected, is the question."<sup>49</sup>

## **6. Conclusion**

Liberal theory of peacebuilding recognizes state sovereignty as responsibility. In this context this article concludes that as the immediate legitimate actor and winner of the conflict, the GoSL's legitimate authority is significant in order to rebuild the country in post-conflict peacebuilding. It seems that the majority of civil society's support has created a great confidence in the GoSL and therefore, the most of Sri Lankan post-conflict activities are nationalized to reconcile all citizens in Sri Lanka. It is however also true that some of the GoSL's strategies and implementations have shown its limited capacity to deal with deep-rooted conflict causes rather than its "nationally populated political interests." Therefore, the role of the international community in post-conflict peacebuilding is ideally needed in line with the GoSL's activities. This

article thus argues that building trust between the government and the international community ought to be included in the discussions concerning how to take “responsibility to protect.”

If the international community’s ultimate goal is to establish sustainable peace in Sri Lanka, it is needed to positively and critically contribute to the government initiated reconciliation and rebuilding activities including both policy oriented political processes and reconciliation to prevent recurrence of conflicts. Also the international community has to cooperate with regional actors to overcome “majority Sinhala dominates mono-policies” in post-conflict situation. It is what the spirit of R2P really demands.

So far, the role of the international community in post-conflict peacebuilding in Sri Lanka shows “the failure of Western dominated” efforts in face of the “strong” legitimate state actor of the GoSL backed by the regional powers. The Sri Lankan case suggests that the international community should recall and redesign its various activities by deepening trust with national actors in order to materialize what R2P aims for.

## Notes

<sup>1</sup> In this article, the international community is understood to consist of multiple actors in international relations including United Nations and its organs (UN), other international organizations, states, international non-governmental organizations (NGOs), think tanks, media, diaspora communities and individual experts. However, this article particularly pays attention to Western countries, UN and other organizations, and regional powers and their direct influence to post-conflict peacebuilding in Sri Lanka in order to identify the relevance of the perspectives of Responsibility to Protect (R2P) mainly propounded by Western sources in the field of peacebuilding.

<sup>2</sup> Report on the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001). See also Gareth Evans, *The Responsibility to Protect : Ending Mass Atrocity Crimes Once and for All* (Washington, D.C.: Brookings Institution Press, 2008); and Alex J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities* (Cambridge: Polity Press, 2009).

<sup>3</sup> See Michael Ignatieff, *The Warrior’s Honor: Ethnic War and the Modern Conscience* (Chatto and Windus, 1998); Michael Ignatieff, *Virtual War: Kosovo and Beyond* (Chatto and Windus, 2000); Michael Ignatieff, *Empire Lite: Nation-building in Bosnia, Kosovo, Afghanistan* (Vintage, 2003).

<sup>4</sup> “Thinking of sovereignty as responsibility, in a way that is being increasingly recognized in state practice, has threefold significance. First, it implies that the state authorities are responsible for the functions of protecting the safety and lives of citizens and promotion of their welfare. Secondly, it suggests that the national political authorities are responsible to the citizens internally and the international community through the UN. And thirdly, it means that the agents of state are responsible for their actions; that is to say, they are accountable for their acts of commission and omission. The case for thinking of sovereignty in these terms is strengthened by the ever-increasing



impact of international human rights norms, and the increasing impact in international discourse of the concept of human security.” ICISS, *The Responsibility to Protect*, p. 13.

<sup>5</sup> Secretary-General’s High-Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility* (New York: United Nations, 2004).

<sup>6</sup> *Ibid.*, pp. 65-66.

<sup>7</sup> “Integrated and Coordinated Implementation of and Follow-up to the Outcomes of the Major United Nations Conferences and Summits in the Economic, Social and Related Fields: Follow-up to the Outcome of the Millennium Summit: In Larger Freedom: Towards Development, Security and Human Rights for All,” Report of the Secretary-General, UN Document A/59/2005, 21 March 2005.

<sup>8</sup> Resolution adopted by the General Assembly, 60/1. 2005 World Summit Outcome, UN Document A/60/1, 24 October 2005.

<sup>9</sup> Security Council Resolution 1645(2005), UN Document S/RES/1645(2005), 20 December 2005 and General Assembly Resolution 60/180 The Peacebuilding Commission, UN Document A/RES/60/180, 30 December 2005.

<sup>10</sup> Secretary General’s high Level Panel on Threats, Challenges and Change, 2004. *A More Secure World: Our Shared Responsibility*, United Nations, New York.

<sup>11</sup> *Ibid* para. 201.

<sup>12</sup> Mamdani, M., *Responsibility to Protect or Right to Punish*, *Journal of Intervention and Statebuilding*, Vol. 4, No.1, 2010, p.54.

<sup>13</sup> The phrase of “clutches of terrorists” had been used by the GoSL’s official media to disseminate its conflict during the conflict. Especially the phrase had been used by the official web site of Ministry of Defence ([www.defence.lk](http://www.defence.lk)).

<sup>14</sup> Oberschall, A., *Conflict and Peace Building in Divided Societies: Responses to Ethnic Violence* (London: Routledge, 2007), p.46.

<sup>15</sup> Sri Lanka Rupavahini Cooperation, May 16 2010 *World Largest Human Rescue*, SLRC, Colombo.

<sup>16</sup> Galtung, J., “Violence, Peace and Peace Research”, in *Journal of Peace Research*, vol.6, 1967.

<sup>17</sup> Human Rights Watch, May 20 2010 *Q&A on Accountability for Violations of international Humanitarian Law in Sri Lanka*

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<sup>18</sup> Haviland, C., 7 December 2010. *Sri Lanka’s displaced: Numbers dwindling, says UN*, BBC News, Colombo (<http://www.bbc.co.uk/news/world-south-asia-11937882> Accessed on December 08, 2010).

<sup>19</sup> Defencelk, December 2010. *De-mining and resettlement Map*, Ministry of Defence (<http://www.defence.lk/Demine/> Accessed on December 5 2010).

<sup>20</sup> O’connell, M.E., “Responsibility to Peace: A Critique of R2P,” *Journal of Intervention and Statebuilding*, vol. 4, 2010, p.39.

<sup>21</sup> Bose, A.G. and Harmell E.E.H. “Improving Post-Conflict Coordination between Prosecutors, UN Panels of Experts and Truth Commissions,” *Journal of Peacebuilding and Development*, Vol.5, No.2, 2010.

<sup>22</sup> TamilNet, Friday, 03 September 2010. *SLA commander invites Indian Army commander to visit Sri Lanka* (<http://www.tamilnet.com/art.html?catid=13&artid=32538> Accessed on 13 Sep. 2010).

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<sup>44</sup> Lotze, W. and Coning, C. De “Looking back When Looking Forward: Peacebuilding Policy Approaches and Process in Africa,” *Journal of Peacebuilding and Development*, Vol. 5, No. 2, 2010, p.111.

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