

Issue Brief

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Cohort 1: Inclusive Dialogue

How can dialogue support reconciliation and transitional justice in post- conflict contexts?

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Introduction

This issue brief examines dialogue processes in complex political contexts and their usefulness in advancing reconciliation and transitional justice. It draws on the case of Sri Lanka, where the recent political transition offers a historic opportunity to address long-standing grievances in order to secure sustainable peace. The brief sketches out key features of dialogue processes during times of political transition. It then disaggregates the government-led national dialogues in Sri Lanka, designed to address issues of transitional justice and constitutional reforms after the end of a long and bloody civil war in which ethno-religious tensions were a key factor. It also sets out the UN's coordinated and comprehensive approach to supporting government efforts, guided by the Human Rights Council's resolution.¹ The brief concludes by identifying key challenges and recommendations.

Dialogue Processes during Political Transitions

National dialogue processes offer unique potential for supporting the advancement of reconciliation and building consensus in post-conflict countries. Dialogue processes acquire various dimensions during political transitions, which offer an historic opportunity to address vexing justice issues that nations face in the aftermath of conflict. Typically, inclusive national dialogues that create formal space in which political and social actors can forge a common vision may be difficult to achieve amid a polarized society. In Sri Lanka, after the August 2015 parliamentary elections, the two largest political parties (the left-leaning Sri Lanka Freedom Party (SLFP) and right-leaning United National Party (UNP)) formed a unity Government to promote good governance, strengthen democracy and achieve reconciliation. But a long history of distrust and ideological differences between the coalition partners has led to increasing tensions. Overlapping ministerial mandates, complex coordination mechanisms, and a lack of capacity and expertise in transitional justice have produced uneven progress. Although the Government

remains committed to implementing its reform agenda, short-term confidence-building measures addressing core grievances of minorities and fulfilling economic and anti-corruption pledges have been slow to materialise.

As an early confidence-building measure, inclusive processes must be initiated when the situation is ripe.² Concurrently, it is imperative that dialogues are informed by evidence in order to enhance their ability to influence the policy direction for peace building. The generation of evidence may take the form of perception surveys, which can inform dialogue processes as they unfold and ensure that stakeholders take into account national perspectives based on empirical evidence. Surveys can also serve to monitor perceptions of key stakeholders in society, including potential spoilers, to assess the impact of national dialogue processes.

For reconciliation to be sustainable, it is imperative that dialogues are nationally owned and are backed by a multilayered dialogue strategy. That strategy will ensure that dialogues are held at national and local levels with multiple stakeholder groups when the moment is right for progress toward sustainable peace. It is also critical that structured national dialogues are incorporated into governments' plans and sequenced in such a way that their findings inform government policy and legislative processes. Government efforts to lead dialogues need to be premised on technically sound and politically feasible designs and to be implemented with inclusive processes. Such processes are best supported by a coordinated UN strategy, which brings agencies, funds and programmes together to support government efforts effectively.

Reconciliation is a delicate process involving long-standing grievances and complex issues of truth-seeking and justice largely related to the past. Adding to the complexity of building a shared vision for the future, majority and minority

communities view these issues differently and must consider dialogues under such circumstances legitimate. National governments adopt various strategies for this purpose. In Sri Lanka, the government's Secretariat for Coordinating Reconciliation Mechanisms (SCRM) advises the President and Prime Minister as it facilitates the process to develop the building blocks of legislation. The SCRM also supports the Consultation Task Force in leading a national dialogue process on transitional justice, and it engages with stakeholders to understand their positions while communicating the government's approach to securing peace.

Citizens should have the opportunity not only to inform government discussions about securing a long-term political solution but also to deal with past grievances. Civil society has an important role to play in such circumstances, to keep pressure on government to adopt inclusive, victim-centered processes. However, in deeply divided countries civil society tends to reflect divisions and therefore may not represent every constituency. This in turn can widen divisions and further complicate the dialogue process.

Guiding Principles: Consultation Task Force

- Consultations will be victim-centered and the deliberations of the Task Force will be representative of diverse victims and other stakeholders.
- Consultations will be conducted in a manner that respects the dignity of those consulted and provides confidence to those wishing to make submissions.
- While deliberations of the Task Force will meet the requirements of transparency, it will be balanced by the right of confidentiality of the victims.
- The process will be accessible to all citizens and efforts will be taken to that effect, especially in terms of language needs for those making submissions.
- The consultations process will follow a robust methodology that is internally coherent and sensitive to the context and needs of stakeholders.
- Consultations will draw from global and national best practices.
- Ensure commitment from the government (in consultation with the Task Force) to provide protection and an enabling environment for participants throughout the consultation process and thereafter.

Dialogues to Advance Reconciliation and Transitional Justice

In Sri Lanka the government has invested in two national dialogue processes. The first was led by a twenty-member Public Representations Committee on Constitutional Reforms (PRCCR), which was empaneled to make recommendations to the Cabinet Sub Committee on Constitutional Reforms. The committee observed that despite divergent views cutting across ethno-religious communities on various issues, there was unanimous support for deepening democracy, peace and reconciliation.³ Most people envision a united Sri Lanka

and support power-sharing, though there is considerable division over other issues. The differences in ethno-religious communities' positions are replicated across the political spectrum. It is imperative for political parties to engage their constituencies and generate intra-party consensus while negotiating a shared national position.

The second dialogue process was led by an eleven-member Consultation Task Force supported by the Secretariat for Coordinating Reconciliation Mechanisms (SCRM). The Task Force focuses on understanding stakeholders' opinions on institutions and processes for transitional justice. Its consultations will also serve to inform the design of transitional justice mechanisms to deal with issues involving disappearances, truth seeking, justice and reparations. This dialogue was preceded by a public awareness campaign articulating the objectives of the process. These consultations are therefore considered an integral part of the accountability and reconciliation process.

Both national dialogues were led by eminent persons appointed by the Prime Minister. They were structured to reach out to all districts and ethno-religious communities and are supplemented by public submissions and focus group discussions with key stakeholders nationally and in post-conflict provinces of the North and East. The report of the PRCCR was presented to the Prime Minister in May 2016, while the report of the Consultation Task Force was formally presented to the Madam Kumaratunga in January 2017.

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The UN's engagement in these processes is defined by the Human Rights Council resolution, which has proved critical in developing a comprehensive approach to supporting government efforts. The UN stepped in to provide discreet technical assistance to support conceptualization of the national dialogue to inform the design of transitional justice mechanisms and invest in building capacities at the national and sub-national level. To ensure credibility of the national process, the UN adopted a low profile and restricted its engagement to working with nationally appointed representatives. This was imperative, given that many Sri Lankans perceive the UN as a barrier to reconciliation.⁵

The Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence engaged the Sri Lankan Government on transitional justice and reconciliation processes. The Special Rapporteur emphasized the need for a victim-centered approach while drawing on transitional justice lessons from other post-conflict countries. The UN also sought to create institutional space for civil society to engage with the government. It also widened its own engage

UN's Engagement Strategy in Sri Lanka

The HRC resolution “Promoting reconciliation, accountability and human rights in Sri Lanka” (A/HRC/30/1) was jointly sponsored by the government. The UN has adopted an all-of-system approach to ensure coordinated messaging. The UN Country Team has worked in close coordination with the Department of Political Affairs, the Peacebuilding Support Office and the Office of the U.N. High Commissioner for Human Rights in developing a comprehensive strategy to support implementation of the resolution. Consistent high-level dialogue with the political leadership has laid the groundwork for the UN's comprehensive engagement. Concurrently, the UN has undertaken discreet technical assistance to support national dialogue processes. These processes are guided by high level technical expertise to inform government efforts to put in place the building blocks of legislation for transitional justice mechanisms and constitutional reforms.

<http://www.scrm.gov.lk/consultations>

ment with civil society to ensure that the UN was pursuing an informed dialogue with the government. In this context, the process of developing the peacebuilding priority plan and the immediate response facility of the peacebuilding fund made available rapid and flexible funding to advance peacebuilding priorities.

Challenges

Evidence indicates that willingness to foster open discussion of the country's problems through national dialogues has given Sri Lankans a renewed respect for the national government as a potential problem solver. This openness also brings risks – increased awareness and debate of problems intensifies the pressure for measurable progress, both domestically and from outside stakeholders. National dialogues also create tensions by bringing the differences between communities into the open and thereby possibly deepening ethno-religious fault lines in society.

Even though the concept of reconciliation and transitional justice remains unfamiliar, Sri Lankans increasingly support ideas, policies and actions that underpin and promote some of these models. This is especially so of proposals to support victims, emphasize truth-telling and promote long-term peace. However, Sri Lankans are more divided on issues of guilt, punishment, amnesty and reparations. Although there is support for investigating human rights violations, and people agree that perpetrators should be punished, a judicial approach remains a point of contention with intense opposition within the majority community.

National dialogues create expectations that the results will be considered and acted upon by the government. Public resentment may ensue if such processes do not lead to visible results. Continuous two-way communication and engagement is necessary throughout the process of transition. This

will widen the ownership and ensure broad public endorsement of the transitional justice mechanisms and constitutional reforms secured at the political level. Equally important is the effort to encourage elements of the resistant majority community to invest in peacebuilding while reining in the nationalist voices cutting across the minority communities.

National Perception Survey on Peacebuilding

According to the national survey on peacebuilding, the concept of reconciliation is poorly understood. Only about half of Sri Lankans (53%) believe they understand the term, and just 11% assert they understand it very well. Meanwhile, 42% admit they do not understand it, including 22% who do not understand it at all. Transitional justice is even less familiar. Only a quarter of Sri Lankans feel they understand this concept, while two-thirds (66%) do not understand it (41% not at all). Sri Lankans support many ideas connected to transitional justice even if they do not understand the term. 82% of Sri Lankans agree with establishing a Truth Commission to investigate human rights violations, which is a 13-point increase in support since 2014. Similarly, 81% agree with memorializing lives lost in the conflict, which is a 22-point increase in support over 2014.

Conclusion

It is too early in the political transition to measure the impact of the national dialogues and their contribution to advancing reconciliation and transitional justice in Sri Lanka. Dialogues tend to progress unevenly. Agencies such as SCRM are well placed to find opportune moments in the political process to embed legislation to advance transitional justice. During such political transitions, the UN's engagement will need to remain nimble and flexible to enable it to respond to political dynamics as they unfold. This will call for a fine calibration of the UN's pace and sequencing of technical assistance.

Notes

1. The resolution (A/HRC/30/1) entitled “Promoting reconciliation, accountability and human rights in Sri Lanka” is co-sponsored by the Government of Sri Lanka http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/30/1
2. Zartman W.I., 2001. The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments, *The Global Review of Ethnopolitics*, 1, 1, 2001, 8-18.
3. Report on Public Representations on Constitutional Reforms, May 2016 (<http://www.yourconstitution.lk/>)
4. The report of the Consultation Task Force was presented on 3 January and can be accessed from the weblink: <http://www.scrm.gov.lk/documents-reports>.
5. Strategic Context Assessment, Sri Lanka, 2014
6. National Perception Survey on Peacebuilding, 2016.

About the PDA Fellowship:

UNDP's Oslo Governance Center in partnership with the Joint UNDP-DPA Programme has established a PDA Fellowship Programme in 2016 consisting of several cohorts, each involving between 4-6 PDA's and/or PDA like conflict prevention specialists over a period of two weeks. The Fellowship Programme involves guided reflections to help draw out the Fellows' experience on pre-identified conflict prevention and peacebuilding issues.

About the author:

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UNDP Oslo Governance Centre:

The Oslo Governance Centre (OGC) is one of six UNDP Global Policy Centres, established in 2002 and working since May 2015 with a renewed mandate. It is part of the UNDP Governance and Peacebuilding Cluster in the Bureau for Policy and Programme Support (BPPS) and works closely with its New York based Headquarters and other relevant UN and UNDP units strengthening the overall analytical and learning ability in the area of Governance and Peacebuilding. It supports policy development and applied research with an overarching focus on democratic governance and peacebuilding in crisis, conflict and transitional contexts.

Joint UNDP-DPA Programme on Building National Capacities for Conflict Prevention

Since 2004, the United Nations Development Programme and the UN Department of Political Affairs have partnered to strengthen support to the UN's work in building national capacities for conflict prevention. Often times, such support is extended through the deployment of Peace and Development Advisors (or PDAs), a growing cadre of UN staff who support Resident Coordinators and UN Country Teams adapt and respond to complex political situations and to develop and implement strategic conflict prevention initiatives and programmes.