

IDES OF MARCH ARE OMINOUS

Jayantha Dhanapala previews the forthcoming human rights deliberations in Geneva

The Ides of March were ominous in the calendar of the ancient Romans. It appears to be equally so for the international image of Sri Lanka since its decisive 2009 military victory over the separatist terrorist group the Liberation Tigers of Tamil Eelam (LTTE). The apex 47-state inter-governmental United Nations (UN) forum for debate and action on human rights issues – the Human Rights Council (HRC) – holds one of its annual sessions in March every year.

PRIOR STATEMENTS At the sessions in 2012 and 2013, resolutions on Sri Lanka were adopted in the teeth of opposition from Sri Lanka and its supporters, even though they were deceptively innocuous in asking inter alia for the implementation of the recommendations of the Lessons Learnt and Reconciliation Commission (LLRC).

The wording of the 2013 resolution, the press conference at the end of UN High Commissioner for Human Rights Navanethem Pillay's visit last year, and subsequent statements by key Western leaders like the UK Prime Minister David Cameron's undiplomatic salvo (inappropriately fired during his recent CHOGM visit), have made it abundantly clear that another resolution can be expected next month.

We are still to learn of US plans after the visit of Ambassador-at-Large for War



Crimes Issues Stephen Rapp from the Office of Global Criminal Justice. The new Assistant Secretary of State for South and Central Asian Affairs in the US Department of State Nisha Desai Biswal is also due to visit Sri Lanka.

LOBBYING INTENSIFIES In India, Tamil Nadu's aggressive supporters of the Sri Lankan Tamil minority's cause have also made it clear that they are unsatisfied by Prime Minister Dr. Manmohan Singh's absence from CHOGM, and that they

expect further action at the 2014 HRC which comes just before the crucial Indian parliamentary elections.

Likewise, the militant Western-based lobby groups of extremist Sri Lankan Tamil expatriates – such as the Global

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AFP PHOTO/SHARA SKODIKARA

POLICE PROTECTION The police stand guard outside the UN office in Colombo, in August last year, during a demonstration by Power of Ravana Buddhist monks denouncing UN human rights chief Navanethem Pillay on the first full day of her visit to Sri Lanka. The UN's top human rights official began her visit to Sri Lanka on 25 August, by brushing aside criticism that she overstepped her brief.

Tamil Forum and the Transnational Government of Tamil Eelam – have also signalled their intentions of furthering their demands for accountability for alleged human rights violations by the Government of Sri Lanka before, during and after the 2009 military defeat of the LTTE.

Their demand for an international probe into alleged war crimes, crimes against humanity and genocide is unlikely to be adopted, but some variation of it may emerge in a draft resolution.

GOVERNMENT REACTION
The Government has shown an intelligent awareness that March will be a challenge in

Geneva, but it has reacted in a variety of ways. Some members of the UPFA continue to rail against HRC resolutions as interference in our internal affairs and a violation of our sovereignty, unmindful of our international legal obligations in terms of the treaties and conventions we have signed. Deprived of the right to

information of the facts we are entitled to have as citizens of a democratic country, we can only rely on snippets obtained obliquely from visitors like Yasushi Akashi of Japan. He revealed at his press conference that the Secretary to the President would lobby for us in Geneva.

Whether this official goes ahead of the HRC session or is included in the delegation for the HRC, we have missed the point. It is not who represents Sri Lanka, but what Sri Lanka has to tell the HRC that will matter. It is the song, and not the singer.

In the past, we have had an unseemly scrambling for the top spot in the Geneva delegation between ministers Prof. G. L. Peiris and Mahinda Samarasinghe, and a succession of other minor minions have also got on the hugely expensive bandwagon for the trip. Vying for kudos is a common trait of insecure politicians, especially with an authoritarian president to please.

To the foreign delegations at the HRC and staff of the UN, what is important is the message the Sri Lankan delegation has to convey, and the diplomatic strategies it adopts to convey this message and have it accepted by the international community. We have a perfectly capable Sri Lanka Foreign Service professional as Permanent Representative and Ambassador in Geneva who is competent to handle the HRC, if he is appropriately briefed.

WINDOW DRESSING The contents of the brief of the Sri Lankan delegation are, therefore, critically important. After the last HRC resolution

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was greeted by the Government and its supporters with the predictable xenophobic anti-Western and anti-Indian abuse (even though some Non-Aligned countries also voted against us, or abstained), very little was done to rectify the deficiencies we were accused of in areas such as human rights, governance, the rule of law and so on.

Only on the eve of the major spectacle of CHOGM were some steps taken as all-too-obvious window dressing.

BUILDING BRIDGES The egregiously delayed election for the Northern Provincial Council was finally held, despite pressure from the right-wing chauvinists for the repeal of the 13th Amendment. The result has enhanced the stature of Sri Lanka as a multi-ethnic democracy.

If Chief Minister C. V. Vigneswaran and the Government can maintain a cooperative and constructive relationship, this would help in the run-up to Geneva and thereafter. The eventual appointment of a civilian governor is necessary, while a reduction of the military profile in the north would also help.

It is clear that the Parliamentary Select Committee is not going to produce results on a political solution, unless statesman-like leadership by the President results in the Government and the TNA

arriving at some basic agreement as a foundation. Devoid of these developments, the home-grown political solution and credible investigative mechanism, which alone will keep Sri Lanka off the HRC agenda, remain elusive.

After CHOGM and the visit of South Africa's President Jacob Zuma, the panacea of a Truth and Reconciliation Commission was revived with the argument that restorative justice was preferable to punitive justice in the spirit of reconciliation that must prevail after a brutal conflict. The appointment of a commission on missing persons and other steps have also been rushed through so obviously as part of the preparations for the HRC that the lines of T. S. Eliot come to mind: "The last temptation is the greatest treason; to do the right thing for the wrong reasons."

It is now 66 years after the Universal Declaration of Human Rights, which belongs to the people of the world. Its observance is deeply entrenched in the UN system, and in our Constitution, and judicial and administrative structures. Its implementation in Sri Lanka will be to the benefit of all citizens, irrespective of ethnicity, creed, class or caste. That task cannot be accelerated on the eve of the HRC sessions in order to defeat critical resolutions on Sri Lanka. It has to be sustained and carried out

with sincere commitment, not as a political gimmick.

CHEQUERED RECORD The score card (www.llrcaction.gov.lk) for the implementation of the LLRC recommendations under the National Action Plan indicates a chequered record. It shows that the Government has done well in rehabilitation, resettlement, and providing livelihoods and infrastructure for conflict-affected areas.

But in respect to compliance with International Humanitarian Law and Human Rights, incomplete procedures or conclusions lacking in credibility are too often the case. For example, the first part of the Army Court of Inquiry exonerated the Army of any blame for summary executions and deaths of civilians by attributing these to the LTTE, while the second part is ongoing with no date mentioned for completion.

The census of deaths and injuries during the conflict was due to be completed in December, and the results are awaited. On human rights, complaints are still being investigated or reopened, most notably in the case of the Trincomalee Five and the Muttur Seventeen. The Commission on Disappearances, appointed in August 2013, has been given six months to report to the President – i.e. on the eve of the HRC's March sessions!

This is clearly not a

convincing record to ensure that a HRC resolution will be decided in our favour, despite the intensive canvassing by our missions abroad and by External Affairs Minister Prof. G. L. Peiris. Much will depend on Pillay's report as the HRC begins, and the policy positions of key countries like India, the US, Britain, France, Japan and others.

The advent of China, Cuba and Russia to the HRC this year is seen by the Government as a welcome development. But it is countries like South Africa, Indonesia and Brazil who should be called upon to mediate and dilute any harsh aspects of a Western-sponsored resolution, acknowledging what the Government has done. It should be encouraged to do more within its domestic jurisdiction, respecting its own laws protecting and promoting human rights.

GENUINE DEVOLUTION

Getting out of the dock in the HRC permanently, rather than buying time through achieving temporary reprieves, must be our diplomatic objective. The key is credible action on accountability, human rights and international humanitarian law issues recommended by the LLRC, together with a visible and sustained dialogue empowering the Northern Provincial Council and creating the space for genuine devolution.