

OVERVIEW OF THE PEACE PROCESS IN SRI LANKA: 2002 - 2003

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Introduction

In his annual Heroes Day message on 29th November 1999, the leader of the LTTE Vellupullai Prabhakaran pledged “we have not abandoned the path of peace. We want to resolve the conflict through peaceful means, through civilised methods, without recourse to a bloodbath and the destruction of life”. Furthermore, Prabhakaran added that “peace talks should be held in a cordial, peaceful atmosphere of mutual trust and goodwill with...international third-party mediation”. As Prabhakaran was speaking from a position of relative strength, following a string of military successes, his remarks carried increased significance for close observers of the conflict.

The signing of an indefinite ceasefire between the Government of Sri Lanka and the separatist Liberation Tigers of Tamil Eelam (LTTE) in February 2002 ushered in the most secure and promising period in the island's troubled recent history. For the remainder of 2002, and until the time of writing, these two protagonists have been negotiating a permanent political settlement. Despite the progress to date, much remains to be done to transform this period of non-war into a sustainable peace – particularly as some of the most contested and potentially disruptive political and military issues (e.g. disarmament, minority rights and the design of appropriate political institutions) have yet to be addressed, let alone resolved.

In 2003, fifteen months show a ceasefire agreement that has held, despite several grave incidents, held per se with several hundred lives saved. But the process itself remains volatile, an unwilling pawn in partisan politics. The suspension of peace talks by the LTTE in earlier this month, following its exclusion from the Washington donor conference, shows the continued volatility of the peace process and the need for constant efforts to keep it on track. Furthermore the peculiar political configuration in Sri Lanka –for the first time since its independence, the President and the Parliament belong to rival political parties – has also undermined the stability of the peace process. This is a political power equation with profound significance for the peace process, government and governance. It will invariably, as it has in the past one year, make for political uncertainty and be punctuated with the possibility of governmental change either through dissolution and elections or through changes in the political allegiance of legislators. Available evidence in addition to the “co-habitation” relationship points to the likelihood of the current situation of No War/ No Peace holding throughout this period, with negotiations towards a final political and constitutional settlement nevertheless proceeding, but not to a definite conclusion.

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An examination of the current peace process must inevitably address the history of ethno-political conflict in Sri Lanka. In a global context, while successive regimes have tried to address and then root out the evil of terrorism, the latest efforts spearheaded by America show that many who engage with the problematics of terrorism do not really know what they are dealing with, or the implications of what they are doing to address it. Fighting against terrorism has become the facetious couture of a seemingly bi-polar world which is either with terrorists or against them. However, rhetoric and action that claim to root out terrorism often disguises the vacuity of anti-terrorism's greatest exponents, who, like weathervanes in a storm, like to self-importantly spin and rattle largely in a world of their own imagination, where the causes of terrorism are ignored in the battle against its manifestations, where arrogant self-interests define the borderlines of conflict, and where the difference between an ally or an enemy is judged by the degree of subservience to a soi-disant coalition against terror.

British colonialism is often cited by many scholars to be the root cause of conflict. However, one endeavour to eschew a monocausal explanation of the conflict, and address the dynamics of Tamil militancy within the contested and multi-faceted socio-political space of Sri Lanka after 1948.

As they did throughout their empire, the British ruled Ceylon by creating an English-speaking elite from amongst the Sinhalese and the Tamils. Their favouritism engendered an opposition which took racial and religious overtones. The majority of those who had been left out of the elite spoke Sinhalese and were Buddhists, and they began to promote a racist notion of Sinhalese superiority as an 'Aryan race'. After independence it was this Sinhalese-speaking group that gained control of the new state of Sri Lanka, and began to exclude Tamils from higher education, jobs and land mainly by making Sinhala the only official language. Not surprisingly, Tamils resented this discrimination. As the anthropologist Stanley Tambiah has argued, the island's violence is a late-twentieth-century response to colonial and postcolonial policies that relied on a hardened and artificial notion of ethnic boundaries.²

The beginnings of terrorism in Sri Lanka are inextricably entwined with the activities of the State. In the 30 years from the mid-1940s, successive governments took measures to reduce the number of Tamils in the professions and the public sector. These measures interacted in diverse and complex ways with a potent Sinhala Buddhist exclusivism which gradually became the animating ideology of the Sri Lankan state. Particularly amongst the arriviste, lower caste Sinhalese, the spread of anti-Tamil chauvinism was soon perceived as a promising means of increasing economic opportunity. As time passed, the electoral promise of pandering to this chauvinism tempted even the most cosmopolitan of Sinhalese politicians.

Arguably, the most adverse legislation for Tamils came from the language policy of S.W.R.D Bandaranaike's government. The introduction of the 1956 'Sinhala Only' Act, which replaced English with Sinhala as the language of official government business, clearly disadvantaged large numbers of Tamils. Its effect was compounded by widespread protests in Tamil areas in which school principals would not allow the teaching of Sinhala while school children refused to study the language.

The final straw for Tamils, however, was the introduction in the early 1970s of communal quotas for university entrance. This led to the exclusion of merit-worthy Tamil students and it was this that set the ethnic powder keg alight. With 'standardisation', it became clear that the Tamils had lost the education

² S.J. Tambiah, *Sri Lanka: Ethnic Fratricide and the Dismantling of Democracy*, University of Chicago Press, 1986. For a different insight into the culture of violence in Sri Lanka, see Bruce Kapferer, *Legends of People, Myths of State*, Smithsonian Institution Press, 1988.

and employment opportunities which had conditioned their commitment to a unitary Ceylon in the first place. Large numbers of young Tamils came to the conclusion that their socio-economic aspirations could only be fulfilled within a separate Tamil state.

The bloody terrorism that has ravaged Sri Lanka since 1983 is fuelled by the refusal of many Tamils to operate within a state system which denies them political power, employment and educational opportunities whilst engendering socio-economic disparity.

Distinction, however, has to be made between the terrorism of the LTTE and the aspirations of the Tamil people. The desire of the majority of Tamil people is to live with dignity and equality within a united Sri Lanka. The LTTE on the other hand believe a state of Eelam will best guarantee the equality and dignity of Tamils in the North-East. While the terrorism of the LTTE against the state is symptomatic of the chutzpah of the Sri Lankan state, which for decades ignored or undermined the aspirations of the Tamil people, it cannot be equated with the aspirations of the Tamil peoples, who whilst recognising the primacy of the LTTE in the North-East, do not support its modus operandi by rote.

State Religion and Conflict

Entwined with the political ideology and communitarian hagiography in Sri Lanka, is the problematic of Buddhism and its relations with the State. While Buddhist orthodoxy tends to promote the renunciation of all worldly concerns, there remains significant theological latitude for individual monks to engage in political activity which aims to reform society 'for the good'. Since independence, Sri Lankan Buddhist leaders have been active in the political arena whenever they felt it appropriate, particularly on issues relating to the pre-eminence of the Buddhist faith and the territorial integrity of Sri Lanka.

On these issues, and others such as language, the Buddhist clergy have exerted a particularly powerful influence in Sri Lankan political life. In 1951, resolutions of the All Ceylon Buddhist Congress to the Prime Minister included a statement that 'the ... government is legally and morally bound to protect and maintain Buddhism and Buddhist institutions'. It also demanded the restoration of Buddhism to 'the paramount position of prestige which rightfully belongs to it'. Since independence, all governments have jockeyed for the favour of Sinhala Buddhists.

It must be remembered, however, that Sri Lankan Buddhists strongly believe that they have a duty to protect and uphold their faith in Sri Lanka. From the tinnituses of political leaders who, in the name of preserving the hegemony of Buddhism in Sri Lanka have deferred to the Sangha and much as they have manipulated them, to the attitude of the Buddhist clergy, the primacy given to Buddhism has proved inimical to the interests and aspirations of Tamils in Sri Lanka. This Sinhala-Buddhist mentality, which has informed and shaped post-independence politics in Sri Lanka, has engendered intolerance in polity and society and carries a large burden of responsibility for the current ethno-politic conflict.

The Current Peace Process: An Overview

Hardly one year ago, everybody in Sri Lanka — intellectual think-tanks, the political leadership, civil society leaders, the ordinary Sri Lankan citizen and, last but not the least, the Buddhist clergy — was looking at the prospect of peace in the island with, at best, cautious optimism. The developments in

the last year have been dramatic, disturbing, hopeful and resonant with the fears and concerns of communities in the South as well as the North-East.

The history of the conflict in Sri Lanka is long running and complex. For the past twenty years the conflict has been fought in the North and the East of the country in a conventional/ guerrilla style. Meanwhile, there have been regular suicide bombings in other parts of the country. Despite two previous attempts at a ceasefire in 1989 and 1994, the war has dragged on until recently.

With a change of Government at the General Election in December 2001, a new attempt was made. By 25th December 2001, the LTTE declared a unilateral ceasefire which was followed up by the Government. The unofficial ceasefire was then followed by a Permanent Ceasefire Agreement signed on 22nd February, 2002. Within the cease-fire agreement there were a number of commitments made by both sides. This included the vacating of schools, places of worship and public buildings by the armed forces of Sri Lanka. This process is still ongoing and proceeding in line with the deadlines as laid out in the agreement.

The Government also took on a number of initiatives of their own accord. In and around Colombo and the rest of the south of the island they have removed many military checkpoints. Two key roads leading to the North (A9) and the East (A5) have now been opened after many years of being closed. Before these roads were opened, they had to be de-mined and repaired as well as a number of military roadblocks being removed.

Critical to the people living in the North and East was the restoration of food and medical aid supplies. An early commitment of the Government, this aid has increased and has been complemented by the restoring of many buildings. The Government has promised to restore full electricity service to Jaffna, the largest town in the North. Approximately 271,000 internally displaced families have returned to their homes since the signing of the Ceasefire Agreement with many more about to follow.

Formal peace talks between the Government of Sri Lanka and the LTTE began on September 16, 2002 in Thailand. Subsequent sessions have taken place on an approximately monthly basis in Asia and Europe and have helped further solidify the peace process.

The rapid forward movement of the Sri Lankan peace process up to the present time contrasts with the high level of warfare and casualties just prior to it. This may account for the considerable amount of international attention that is being shown to the Sri Lankan peace process by the international community. Foreign diplomats and visiting peace researchers have put Sri Lanka on par with the peace processes in South Africa and Northern Ireland in its ability to provide a model for peaceful conflict resolution after a protracted period of conflict.

One year of the Peace Process³

Date	Event
22 Feb. 2002	A ceasefire agreement between the Government of Sri Lanka and the LTTE is signed committing the two sides to maintain a separation of forces, refrain from offensive manoeuvres, and allow for the unimpeded flow of most items

³ The Returns of Peace in Sri Lanka: The development cart before the conflict resolution horse? by Dhananjayan Sriskandarajah, from forthcoming publication in the Journal of Peacebuilding & Development Vol. 2, June 2003.

	between areas under their respective control.
March 2002	The Sri Lanka Monitoring Mission (SLMM), staffed by representatives of Scandinavian countries, begins operations. Travel restrictions between government- and LTTE- controlled areas are lifted.
April 2002	The A9 highway that links the Jaffna Peninsula to the South is reopened, allowing for relatively free movement of people and goods, with both sides maintaining checkpoints at officially designated border points.
June/July 2002	Representatives of the two sides hold several meetings to discuss, among other things, arrangements for direct negotiations.
August 2002	Dates for the first round of talks are set and arrangements made for lifting the proscription of the LTTE in Sri Lanka ahead of talks.
16-8 Sep. 2002	The first session of direct talks, held in Thailand, is considered a resounding success. The parties agree to set up a Joint Task Force for Humanitarian and Reconstruction Activities (JTF) and schedule three more meetings.
31 Oct. – 3 Nov. 2002	At a second session of talks, also held in Thailand, the two sides decide to set up three subcommittees (Subcommittee on Immediate Human and Rehabilitation Needs in the North and East (SIHRN); Subcommittee on De-escalation and Normalisation (SDN); and Subcommittee on Political Matters) in place of the JTF.
mid-Nov. 2002	The first meetings of the SDN and the SIHRN are held in the Northeast.
25 Nov. 2002	The Norwegian Government hosts a one-day Peace Support meeting at which donors discuss and pledge support for supplementary reconstruction needs in the Northeast. Around US\$70 million is allocated, primarily to a Northeast Reconstruction Fund (NERF).
2-5 Dec. 2002	At a third session of negotiations, held this time in Norway, both sides agree to examine federal structures in their search for a political framework. A fourth subcommittee, on Gender Issues, is also announced.
mid-Dec. 2002	The second meetings of the SDN and the SIHRN are held in the Northeast.
6-9 Jan. 2003	At a fourth session of talks, held again in Thailand, the LTTE refuses to participate in further meetings of the SDN. Despite this and other sticking points emerging, the two sides agree on further sessions in February, March, and May. The two parties agree to request the World Bank to administer NERF funds in trust for the SIHRN to disburse. There is also agreement to implement an Action Plan for an Accelerated Resettlement Programme for the Jaffna District.
15-6 Jan. 2003	A two-day meeting of the SIHRN is held at the subcommittee's new secretariat in Killinochchi to select projects to be funded by the NERF. Further dates for SIHRN meetings are set for February and March.
8-9 Feb. 2003	A fifth and shortened session of talks is held in Berlin. Human rights matters are discussed at length.

The LTTE has recently been at pains to explain that the decision to suspend the peace talks was neither a withdrawal from the peace process nor a hastily implemented action. According to the LTTE, the exclusion of the organisation from the recent international donor meeting in Washington DC, attended by the Sri Lankan government, was only one among several reasons that had prompted the withdrawal from the peace talks. The primary motivating factor, the LTTE has stated, is the absence of significant progress in alleviating the hardships of the people caused by the war.

This view is in contrast to the general belief that the LTTE's decision was motivated only by disappointment at being excluded from the Washington aid conference held on 14 and 15 April. Indeed, the LTTE may have been hoping that by honouring the cease-fire agreement for 14 months it deserved a place at that conference. Colombo has been a successful fundraiser of late, securing USD 800 million from the World Bank and International Monetary Fund. The LTTE's exclusion from the Washington meeting has demonstrated that the path to international legitimacy, in a US-dominated world in which terrorism is anathema, is going to be a difficult task.

With its refusal as yet to renounce violence, as the Irish Republican Army has in Northern Ireland, and its continuing practices of child recruitment and targeted assassinations of Tamil political opponents, the LTTE was destined to fail the US test. But the LTTE's position is not irredeemable, and there is much that it and the government can do together in partnership to ensure that the LTTE gains the legitimacy it seeks.

At present, however, the problem is that the LTTE's withdrawal is unlikely to be viewed favourably by the international community. Already, the United States and France have urged the LTTE to return to the negotiating table. The Indian government has also expressed its wish that the peace process continue without delay. Despite its protestations that its decision to suspend participation resulted from deliberations over a long period of time, the LTTE's abrupt withdrawal has cost it international credibility. The imperative must therefore be for the LTTE to re-engage with the peace talks. If solving people's hardships is the goal, there is no alternative to the negotiating table.

In a recent meeting with civil society leaders⁴, the Head of the Political Wing of the LTTE, S.P. Tamilchelvan referred to three types of broken promises. The first concerned the resettlement of displaced persons and the constraints that the army's presence in inhabited areas posed to such resettlement. The second was the lack of financial support for resettlement and reconstruction. The third was the undermining of the partnership between the government and LTTE due to the one-sided participation at the Washington aid conference.

Notwithstanding these concerns, the LTTE must recognise that there is a political price that it is paying for its suspension of the peace talks just prior to the much planned Tokyo donor conference in June. It could lead to a weakening of the LTTE's political credibility and a widening of its lack of political parity with the government. The Japanese government, which has invested its international credibility in the peacemaking sphere, is not likely to be pleased.

As such, the LTTE pull-out of the peace talks is a problem that needs to be jointly addressed by the government and LTTE in partnership with the international community, before the peace process is itself fatally weakened.

⁴ See http://www.himalmag.com/2003/may/commentary_sl.htm

While much is written on the positive aspects of the peace process, serious problems remain. One can begin with the ceasefire agreement itself, which sought to bring an end to armed hostilities and engender an atmosphere conducive for negotiations. There is little reference to Human Rights in the ceasefire agreement⁵ - a loop hole which has given leeway for both parties to indulge in human rights violations throughout the past fifteen months. There is no reference in the ceasefire agreement to the recruitment of underage soldiers – child conscription was also raised in the 5th Round of Peace Talks in Berlin.

At the first round of peace talks, in Sattahip, Thailand, it was evident that the process would consist of piecemeal solutions with no clear roadmap to peace. One could argue however, that in these early stages of the process, both sides were hesitant to commit more than what was absolutely necessary to maintain the process.

The official Royal Norwegian Government statement at the end of the 4th round in Thailand had a surprise:

Responding to a proposal by the leadership of the LTTE, the parties agreed to explore a solution founded on the principle of internal self-determination in areas of historical habitation of the Tamil-speaking peoples, based on a federal structure within a united Sri Lanka. The parties acknowledged that the solution has to be acceptable to all communities.⁶

The wording here is interesting. The impetus for a federal structure comes from a response to a proposal by the leadership of the LTTE. No mention of the Sri Lankan Government. While some have argued that this provides a convenient escape route for the government since it has not committed itself to a federal solution, others see it as an indication of an attempt to enhance the legitimacy of the LTTE. Either way, it is evident that official statements are reflective of the scepticism with which both parties to the conflict view the contours of a final political-constitutional settlement.

Adding to this scepticism is the fact that the Sub-Committee on Political Matters has never met. Unofficial meetings between the Chief Negotiators of the Government and the LTTE have taken place, but there has not been any serious discussion on addressing the root causes of the conflict. Before every round of peace talks, there has also been a crisis on the ground. The incident of the trawler being blown up on the eve of the peace talks in Berlin threatened to undermine the spirit of cordiality and progress at the peace talks. As a result of these ceasefire violations on the ground, peace talks have rarely ventured beyond the immediate necessities on the ground. The lack of a guiding vision that animates the peace process is to some observers a stark premonition of their ultimate breakdown.

Helping both parties work out a federal solution is the Forum of Federations, a Canadian group of experts who have been part of the peace process since the 3rd Round in Oslo. The Forum has facilitated LTTE study tours to many countries in Europe and the West in order to expose them to federal ideas. However, members of the LTTE who have been part of these study tours have been deeply nationalistic in meetings with the Tamil diaspora. No tangible mention of the federal idea has featured in any one of these meetings. The question begs to be asked whether the LTTE itself is sincere about its commitment to a federal solution.

⁵ See also next section The debate on Human Rights in the Peace Process. For full text of ceasefire agreement, go to www.peaceinsrilanka.org

⁶ Go to www.peaceinsrilanka.org for full text of statement.

Coterminous with this scepticism is the commitment of the Government itself to the federal idea. It is unclear whether there exists a polarisation within the ruling United National Front (UNF) government with regards to federalism.

The peace process has also given birth to a multitude of frameworks, agencies, line ministries, institutions and sub-committees. It is fairly unclear to those in these institutions, let alone those outside them, on how to streamline procedures. Co-ordination between these multiple structures is almost a utopian dream – and issues such as transparency and accountability have gone unaddressed.

Coupled with this imbroglio is the lack of a political consensus in the South. Zero-sum politics on a national level have set up a culture of confrontation and antagonism in the regions, leading to a complete breakdown of good governance and the division of communities and regions along party affiliations. It is clear that the LTTE should also engage with the people in the North-East. People in these regions are still afraid of openly criticising the LTTE. Thus, it is hypocritical that an organisation which claims to stand for the rights and dignity of Tamil peoples in the North-East nevertheless thwarts their ability to speak freely.

There is also the concern that the entire peace process is limited to the LTTE and the government. There is little public awareness of decision taken at the Track One level (between the Government and the LTTE). As a result, misconceptions about issues like Federalism have in time had the cumulative effect of hardening opposition to the peace process. This has resulted in a growing mass of people in the South who are increasingly against the current peace process, because they feel it will lead to the 'division' of the country. Since no steps have been taken to allay these fears, and address these concerns, the schism between the critical mass needed to legitimise and underpin a successful peace process, and 'spoilers' – those who are against the peace process – is widening. Disturbingly, people who voice opposition to the peace process are being actively targeted by chauvinistic forces in the South, which might lead to the further destabilisation of politics in the future, with dire consequences for the peace process.

At the end of the third round of talks in Oslo in December, all the parties involved agreed to set up a women's committee to look at gender issues in the peace process. The formation of this committee is the consequence of consistent lobbying by women's groups in Sri Lanka ever since the peace process began. To push their case, they organised an International Women's Commission that toured the war ravaged northeast of the country last October. The team's report is a blueprint that could be used in any peace process practically anywhere in the world. It foregrounds the impact of war on women, and spells out in specific detail what this means. It also recommends concrete steps that need to be taken as part of the process of negotiating a lasting peace. The report states:

"We recognise that women in particular have been victimised by war and conflict in Sri Lanka, that they have been subject to the worst forms of violence, been displaced and made into refugees, compelled to live as war widows. Women have seen family members disappear and or join fighting forces. They have suffered physical disabilities and psychosocial trauma because of war. Therefore women's experiences and women's voices must be an essential part of the peace process in Sri Lanka."

If the women's committee is allowed to function freely, and if its recommendations are incorporated into the peace process, Sri Lanka will have pioneered a significantly different and relevant approach to resolving conflict and crafting peace. Yet it is still unclear how seriously the Government and the LTTE will respond to these concerns or recommendations. Thus, a short-sighted concentration on the

addressal of immediate violations of the ceasefire, problems to reconstruction and rehabilitation in the North-East and a process of re-imagining the State without incorporating gender concerns seems more likely, given the political configuration of the stakeholders and their past actions.

An area where the two sides have agreed and cooperated thus far – with the active support of international donors and the business sector – is the reconstruction of war-affected areas and island-wide economic development.⁷ Not only is the development imperative a shared priority, it has emerged as a first priority in conflict resolution; underpinning negotiations to date and, it is hoped, paving the way for a permanent political settlement. Though many issues remain uncertain and the outcome of the whole process by no means guaranteed, it is interesting that peace-building through development is an on-going experiment in Sri Lanka.

TIME: What's the key issue in the talks?

Prime Minister: Development. Only through that can we consolidate the peace process. People in both the north and south want a peace dividend. They want reconstruction, schools, employment. I do not think a legal document [drawn up at the peace negotiations] is going to be enough to satisfy the people. At the moment we have no resources; we're bankrupt.

Interview with Prime Minister Ranil Wickremesinghe by Alex Perry (16/9//2002) in Time Magazine⁸

Several institutions have been setup to manage this developmental process – SIHRN (Sub-Committee on Immediate Humanitarian and Rehabilitation Needs) and NERF (North-East Reconstruction Fund) are two key institutions in this regard. Underpinning the work these institutions will be the funds that will be channelled via the Tokyo Donors Conference in June 2003, and the money that has already been pledged for development in Sri Lanka by bi-lateral and multi-lateral donors. However, the lessons from other instances of ethno-political conflict have bearing in the Sri Lankan context:

“...economic aid on its own is not a panacea to resolve ethnic conflict within Northern Ireland, but it can be a part of an overall peace-building process that tackles structural inequalities that contribute to the protracted nature of ethno-political conflicts”.⁹

Furthermore, as Kethesh Loganathan, speaking about the Regaining Sri Lanka document¹⁰, points out:

“...it is also pertinent to note that Regaining Sri Lanka document remains silent on the vision of a future State based on self-rule and power-sharing and is highly economic-centric. But even here, he said, it remains silent on matters relating to fiscal devolution, which will undoubtedly constitute a corner stone of any political and constitutional settlement to the ethnic conflict. He went on to say, that other than the rhetorical reference to the inseparable link between peace and development, there was no indication whatsoever of the post-conflict Sri Lankan economy that is being envisaged in the Regaining Sri Lanka document – in

⁷ Many terms have been used to describe development-related priorities in Sri Lanka recently: reconstruction, relief, rehabilitation, resettlement, reconciliation, rebuilding, and, perhaps most curiously, normalisation. In this article, the term development is used to refer broadly to the stimulation of economic activities and the enhancement of economic opportunities over the short- and long-term.

⁸ Available online at <http://www.time.com/time/asia/features/srilanka/interview.htm>

⁹ S. Byrne and C. Irvin (2001). “Economic aid and policy making: building the peace dividend in Northern Ireland.” *Policy & Politics* 29(4).

¹⁰ The Regaining Sri Lanka document is one of two documents (the other being the Assessment of Needs in Conflict Affected Areas of the North-East that will underpin the future of Sri Lanka’s political and economic development. Both documents will be presented at the Tokyo Donors Conference in June 2003.

particular the relations between macro-economic planning and management and regional economic planning and management.”¹¹

As such, the emphasis on development in the present peace process is a gamble that the main stakeholders cannot afford to lose.

Another enduring facet of the conflict is the lack of political consensus in the South. Exacerbated by notions of a zero-sum politics, petty party differences, used skilfully by politicians in search of election victory, have resulted in a polity in the South that is divided along party lines. At the very top, differences between the leaders of political parties is most evident in the constant antagonism between the ruling party and the opposition. This pendulum swing of politics, where a blindly oppositional notion of politics mars any efforts at a permanent peace have bedevilled numerous attempts at peace building. These differences are reflected at every level of polity and society. Consensus building and the inclusion of the public as equal partners in a peace process are secondary to the conduct of politics along party lines – a characteristic of even the incumbent government, where many political analysts have bemoaned the fact that the President is ill informed of developments in the peace process.

This lack of coherent communication between political leaders coupled with the inability to address the ethnic question as one that is in the national interest, have often thwarted even the most sincere efforts on the ground to build peace. Even though it has been unequivocally stated that even for the present peace process to succeed, there has to be a degree of involving the opposition – the recent strengthening of spoilers in the process is testimony to the fact that nobody is really listening to the pivotal importance of building channels of communication between not only the ruling party and the main opposition, but also between all the key stakeholders in the conflict – including all political parties in the South.

The qualitative nature of Tamil liberation is also put into question when the assassination of Tamil political leaders has continued unabated during the months of the ceasefire agreement. These killings have seriously undermined public confidence in the peace process as well as the transformative nature of the LTTE itself and its own commitment to conflict transformation. While the LTTE has constantly denied any responsibility in these killings, the fact that they have continued on a regular basis begs the question on just how committed the two main actors are to a sincere and sustained peace process. The recent killing of Mr. Thambirajah Subathiran (known as Robert) on Saturday, 14th June 2003 at the party office of the EPRLF (Eelam People's Revolutionary Liberation Front) in Jaffna brought into sharp focus just how grave the situation is. Till date, not a single suspect has been identified or brought to courts in any one of these assassinations.

The debate on Human Rights in the Peace Process

The cease-fire agreement signed in February 2002 does contain some provisions that seek to protect civilians from abuse. Article 2.1 is the most clearly aimed at civilian protection. It states: "Parties shall in accordance with international law abstain from hostile acts against the civilian population, including such as acts as torture, intimidation, abduction, extortion and harassment. Article 2.5 requires the Parties to "review the security measures and the set-up of checkpoints, particularly in densely populated cities and towns, in order to introduce systems that will prevent harassment of the civilian population." Article 2.12 prohibits search operations and arrests under the Prevention of Terrorism Act

¹¹ Excerpt from report on conference on Peace and Development: The Road to Tokyo, Centre for Policy Alternatives, 2003. Available for download at www.cpalanka.org

and the following article (2.13) guarantees family members of detainees access to the detainees within thirty days of the signing of the agreement.

However, there is little reason to believe that either the government - members of which were implicated in the massive human rights violations of the previous UNP regime in the 1980's and early 90's - or the LTTE have any genuine desire to see strong human rights standards enforced as part of any peace settlement. A robust practice of human rights monitoring and enforcement would be a threat to the traditional sources of power of both organizations.

Still, to the extent that the enforcement of effective human rights standards and democratic norms can be shown to be necessary to maintaining the peace process itself - by stemming worries that the LTTE is simply consolidating its power before further attacks, and by acting as a further confidence builder that the Sri Lankan state has learned to treat its Tamil citizens fairly - both the government and the LTTE would seem to have an interest in limiting their own anti-democratic tendencies.

Furthermore, the Norwegian-sponsored peace process is very much a bi-lateral one between the two major actors, the government and the LTTE. With the possible exception of the Sri Lankan Muslim Congress (or some other representative of the Muslim people) being given a place at upcoming government-LTTE talks, there are no official avenues within the Norwegian sponsored process for other voices to be heard, especially those of average Sri Lankans or of "civil society" organizations. Indeed, this limitation has been in the interests of both parties to the process. The Sri Lankan government has been afraid of opening up the process to political forces it doesn't control, in part out of fear that effective - perhaps even violent - opposition to the peace process from Sinhala nationalists might emerge, as has been the case in each previous such process. The LTTE, in turn, has built its power on the ruthless elimination of all other Tamil political voices and will be loathe to weaken its hard-won monopoly on Tamil politics even if it might seem to be in its immediate self-interest.

However, the transformative aspect of human rights also needs to be looked into. Till now, the discourse on human rights in Sri Lanka has centred on punitive actions that can be taken against perpetrators of violations. It can be argued that the Government and the LTTE will be more appreciative of the importance of human rights, if it was couched in language and action that enhances its role as a factor that strengthens the peace process. As Dr. Alan Keenan states succinctly:

“...human rights discourse and practice can and needs to be understood as a tool of constructive conflict management, informed by basic common sense conflict resolution principles of de-escalation and trust building. The challenge for human rights advocates is to initiate processes of collective reflection and criticism, within and across communities, that can offer insight into the reasons for Sri Lanka's bitter divisions and methods for crafting ways of preventing further wrongs, re-escalation, or re-polarization. Such an approach, I am suggesting, would allow for the democratization of human rights politics, whereby members of all ethnic communities would transform human rights principles into tools for expanding democratic space throughout the country and for establishing effective practices of accountability with respect to all forms of political power, whatever organization or party happens to be in charge.”¹²

The debate on human rights also has to recognise that the Sri Lankan State is the greatest violator of human rights. The sincerity of successive Governments to address human rights issues has also been

¹² Excerpt from report on 'Human Rights Benchmarks in the Peace Process', Centre for Policy Alternatives, 2003. Full report available at www.cpalanka.org.

suspect. While international interest has often focussed on the suicide bombing and other highly visible manifestations of terrorism by the LTTE, the Government forces have been no less brutal in their methods of quelling the armed uprising in the North East. Furthermore, though directly unrelated to the ethnic conflict in the North East, heavy handed government methods used to control the JVP uprising in the late 80's was also seen by many as a gross violation of human rights.

Federalism in Sri Lanka

Sri Lanka has, under the guise of democratization and development, cumulatively concentrated power at the centre, effectively in the hands of one community, one party and in the office of one person – the Executive President, a pernicious creation of the constitution of 1977. Polity and society in Sri Lanka is characterised by a zero sum notion of power and a majoritarian notion of democracy. The frequent confusion of the terms 'unitary' and 'united', when describing the structure of the State, attests to this miserable paradigm of partisan politics, informed by a view that is riveted with petty rivalries that have barred the development of any notion of a collective destiny.

Through Sri Lanka's post-independent political history, Federalism as a founding idea for a new political architecture of Sri Lanka has been much misunderstood, deliberately distorted and vilified. Federalism is often branded as a stepping stone to secession. It is the author's contention however that federalism, and the move away from a centralised notion of the State, is the bed-rock of a new political culture that will underpin any final solution to the ethnic problem.

Federalism is premised on a culture of rights, respect and the honourable accommodation of difference is crucial to the federal idea and to its realization. The *raison d'être* of federalism is a new social contract, a covenant – the Latin word from which the term federalism is coined. As one authority on the subject – the Forum of Federations has elaborated:

A covenant signifies a binding partnership among co-equals in which the parties to the covenant retain their individual identity and integrity while creating a new entity, such as a family or a body politic, that has its own identity and integrity as well. A covenant also signifies a morally binding commitment in which the partners behave toward each other in accord with the spirit of the law rather than merely the letter of the law. Thus the binding agreement is more than a contract. A covenant commits the parties to an enduring, even perpetual relationship and to an obligation to cooperate to achieve the ends of the agreement and to resolve peacefully the conflicts that invariably arise in every relationship.¹³

Final Thoughts

The ramifying evil of terrorism, according to Michael Walzer, is not just the killing of innocent people but also the intrusion of fear into everyday life, the violation of private purposes, the insecurity of public spaces and the endless coerciveness of precaution.¹⁴ He also argues against a fundamental principle of terrorism – that it is the last resort of an underprivileged and discriminated peoples to overturn and change dominant political structures. Walzer says that it is not easy to reach the last resort. Politics, he states, is the art of repetition, and terrorists often conveniently forget that it sometimes takes much more than one attempt to democratically change the prevailing structures of governance.

¹³ Handbook of Federal Countries 2002, Edited by Ann L. Griffiths, Forum of Federations, McGill-Queen's University Press, 2002

¹⁴ Michael Walzer, 'Excusing Terror', The American Prospect, Vol. 12 No. 18, 2001.

In the Sri Lanka, it is now passé to say that the repetitive and continued discrimination against Tamils fostered the terrorist movement. What has to be recognised now are the limitations of terrorism. Terrorists and terrorism can never engender values of a liberal democracy, pluralism or human rights. Such values are the realm of democratic mainstream politics. Terrorists, both in Sri Lanka and in the world, have to realise that true peace, justice and equality are not achieved through the barrel of a gun.

We must also remember that a negotiated agreement or a peace process that address the symptoms of violent conflict must include provisions for future processes towards institution-building and transformation if they are to be sustainable. If they are merely concerned with ending hostilities but do not address the core caused of the underlying conflict, they will only be of temporary value. Institutionalising respect for human rights - through for example an independent judiciary, an independent Human Rights Commission and the constitutional entrenchment and animated application of fundamental rights – ensures that such Human Rights values inform and shape, and are an integral part of, conflict transformation processes.

In the present context, both the State and the LTTE have much to lose if the present peace process breaks down. Both have to recognise that indifference to historical antecedents, the international context and the aspirations of all communities in Sri Lanka, could irrevocably plunge Sri Lanka into a vortex of bitterness, mistrust, mutual acrimony and violence from which there could very well be no return.

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