

REDESIGNING THE PEACE PROCESS

Kumar Rupesinghe

The first anniversary of the signing of the Cease-Fire Agreement is an opportunity to collectively engage in reflecting on what challenges lie ahead to bring about a negotiated solution to the civil war. International experiences show us that negotiated solutions to civil wars have been rare. Since 1800 only one-third of all civil wars have ended through negotiations. Since 1945 that ratio stands at 25 per cent. The lesson that we need to draw from this is that the peace process is extremely fragile and cease-fire agreements are but a first step in the long road to a negotiated settlement. In the light of international experiences and lessons learned in four previous failed negotiations in Sri Lanka we should evaluate how the current peace process can achieve a negotiated solution.

Architecture and Design

The challenge facing the country is how to redesign a process, which can prevent a recurrence of war. Whether Sri Lanka can transcend a highly fragmented competitive political culture and the distrust and bitterness engendered by a twenty-five year protracted conflict will depend on the political management of a complex process. If there are any lessons that can be learnt from our own experience and successful negotiated settlements elsewhere, it is that the process design should be inclusive of significant stakeholders. What is required is to move away from a two-party negotiation process to a multi-party stakeholder dialogue and work towards building a comprehensive peace-building strategy.

The Cease-Fire Agreement

The premise upon which the Cease-Fire Agreement is based is the recognition that both sides have reached military parity. The LTTE is not a defeated army. It controls territory. Confidence building measures amongst the people and trust building amongst the two parties is the centerpiece of the Cease-Fire Agreement. Both sides have come to an understanding that core issues would be postponed indefinitely until a specific set of circumstances would enable both sides to implement equitable power sharing and decommissioning of weapons.

Role of the Facilitators

The role of Norway has been a key factor in the facilitation process. The most important consideration is that Norway has won the trust of both parties to the conflict. Both are convinced that Norway has no hidden agenda. The Norwegian facilitation

exercise has ensured proper communication between the two parties at multiple levels. The opposition parties have however questioned the impartiality of the Norwegians but this is more to do with domestic politics and political competition.

The Cease-Fire Agreement also provided the establishment of an International Monitoring Mission composed of Scandinavian Monitors who would be required to monitor the implementation of the Cease-Fire Agreement. These monitors have demonstrated their neutrality in the evenhandedness of their criticisms of the Government and the LTTE. Their moral authority and rulings have been accepted as final by both sides. Their impartiality has been severely tested in numerous ceasefire violations, sometimes at the risk of their lives. Cease-fire violations will take place again and again but what is important to note is that these violations are effectively monitored and procedures put in place to address these issues.

The immediate effect of the peace dividend is the absence of direct violence where the guns are silent. This has resulted in over ten thousand lives being saved and about fifteen thousand not maimed or injured during the period of the cease-fire. The peace dividend is experienced in different ways by the population. Whilst the people of the South have experienced peace and tranquility there is considerable turbulence in the North where the people still experience the presence of 40,000 troops, restrictions on fishing and restrictions on the freedom of movement. The presence of High Security Zones in Jaffna and the inability of citizens to reclaim their land and houses is a constant source of concern and frustration. In the East there are periodic disturbances, demonstrations and tension over extortion, child abductions and insecurity experienced by the Muslim people.

Negotiations Strategy

The principles that guide negotiations must be singularly focused on producing win-win solutions. No other option is acceptable. The process which was designed and the sequencing of events proved to have moved away from positional bargaining to problem solving. Unfortunately this problem-solving approach is not reflected at the meetings of the 3 committees established by the parties. For example, the debacle over the handling of the High Security Zones by the Committee on De-escalation and Normalization was an important case of positional bargaining which eventually led to this important committee being dissolved. The High Security Zones lies at the heart of the negotiations and is too complex and sensitive a matter to have been referred to a committee.

This problem should have been taken up through a problem-solving approach at the highest political level. The stakes are indeed very high here with the Government concerned with the security of the State and the LTTE concerned with human security and the rights of the displaced and their right of return to their homes. The choice of asking General Nambiar from India to engage in a fact-finding mission and present a report on security regarding the High Security Zone is eagerly awaited whilst the LTTE has denounced the report even before it has been released.

There is a more fundamental problem in the methodology and manner in which the negotiations are conducted. Negotiations are held every six weeks in a high profile and much publicized drama where both parties are undertaking what can be called a high-risk negotiations strategy. All the stakes are centered on one negotiations table. There is little work done in between the sessions. In other similar endeavors such as in El Salvador and South Africa there were numerous committees at the political level and at the expert level to work on detailed and complicated questions. Failure in any one committee does not entail a breakdown of the entire process. The current linear and high profile strategy means that a success story has to be produced at each round of talks. This strategy may encounter diminishing returns with a skeptical public.

Whilst problem solving seems to be the method used at the High Table there have been concerns raised as to the content of the discussions. It is difficult for the population to learn if high table meetings are based on principled discussions or accommodating to each other's needs. The more the two parties lean on each other the more concessions are provided. The more such concessions are provided the more estranged the two parties get from their own constituencies. It is important to understand this psychology of dependence. The two parties are dependent on each other and the facilitator is dependent on the two parties. It is obvious that there should be a more broader based negotiations strategy.

The absence of a separate Muslim representation at the negotiations is another significant lacuna in the process. This problem continues to be a source of great discomfort and anxiety to the Muslim population in the Eastern region.

Communications

Effective communications between the parties and stakeholders is a prerequisite to a successful negotiations strategy. It would be a fatal error to assume that trust building and confidence building should be restricted to the two parties. Neither the Government nor the LTTE has a well-planned communications strategy. Consulting and informing stakeholders requires a more structured process. They also need to inform strategic constituencies of civil society. This does not happen. The LTTE on the other hand makes bellicose statements outside the negotiations table, which are contrary to the spirit of the agreement. These flaws in the communications strategy should be rectified through a multi-level communications strategy.

Burden Sharing

In a situation where both sides have been trapped in a violent relationship spanning 25 years it requires third parties to share the burden. A significant achievement of the Government has been the willingness of the international community to share the burden by being prepared to shoulder the cost of relief, reconstruction and development. They have also created a normative framework where the donor community can use their leverage to discipline the parties to respect international obligations with regard to human rights and democracy. Such arrangements also ensure a security blanket in case the talks fail. The engagement of UNICEF with regard to child soldiers and efforts to sign a protocol on this subject with the LTTE is a significant achievement. The decision of the human rights community to engage with the LTTE has already produced some interesting results. It has led to an agreement where the LTTE is prepared to accept the Sri Lankan Human Rights Commission as an oversight body for human rights monitoring. The recent decision by the LTTE to propose a Federal Constitution may also have been a result of international pressure. The entry of Japan into the peace process and its willingness to spearhead the donor consortium for Sri Lanka expands the umbrella and enhances the division of labor based on comparative advantage.

India has maintained equidistance from the formal negotiations. India has also provided a standby loan of over \$100 million as a credit line for the purchase of Indian goods and has made it clear that whilst it has grave reservations about the LTTE, it remains supportive of the peace process and supports the Sri Lankan Government.

Stakeholder Analysis

A significant aspect of the design of the peace process as a whole is the lack of a proper inclusive process where other stakeholders are involved. This lacuna is a fundamental flaw in the process design. A strategy needs to be evolved not only for bilateral negotiations between the principle parties i.e. the Government of Sri Lanka and the LTTE, but multilateral negotiations with other political parties in the South and the North. A structure needs to be evolved to ensure a mechanism for consensus. Such a mechanism was suggested sometime ago by the LSSP to create a Parliamentary Committee, but this proposal was not followed through. The PA has suggested that an opposition member should be represented at the talks. This proposal has been rejected. Serious consideration should be given on how the opposition could be represented at the various committees, which are being formed at various levels.

A policy of exclusion and ownership will undermine the foundations upon which a just peace needs to be built. In the Israel-Palestine conflict the two parties to the conflict, the Labor Party of Israel and the PLO representing the Palestinians failed to involve other key stakeholders such as the Likud party in Israel and Hamas

in Palestine, which led to a breakdown of the process. In South Africa on the other hand the process design was inclusive in that all political parties which came to over 20 political parties were brought into a multi-lateral dialogue, whilst bi-lateral discussions continued between the National party and the ANC. The challenge for the government is how to broad base the negotiations strategy by creating a multi-stakeholder dialogue.

Apart from sporadic attempts to mediate between the UNF and the PA there has been no systematic and structured effort to bring about a bi-partisan agreement between the two parties. The minimum requirement should be that all parties agree to a formula, which agrees that there will be no recurrence of war. Such a memorandum of understanding should make concrete proposals, which ensure that even if the cease-fire agreement breaks down that scenarios are developed to explore options and safety nets against a return to war.

There is some concern that there can be a likelihood of an early election sometime this year. Nobody wants elections, particularly when the people have given an overwhelming mandate to the government on three occasions to go for a negotiated solution. Elections under the present circumstances would become highly polarized and divert the attention of the country from the decisive problem of obtaining a negotiated solution.

The Muslim Factor

The Muslims in the Northeast constitute a major stakeholder in the negotiations process. Relations between the Muslims and the Tamils in the North and East remain turbulent but also incidents of violations against Muslims have substantially decreased. The Sri Lanka Muslim Congress has also undergone a serious split in its ranks. Political unrest is at its highest in the eastern region with the recent demonstration in the South Eastern University where over 65,000 people seemed to have called for a separate power-sharing unit for the Muslims in the Eastern region. Whilst it would be attractive to both parties to weaken the Muslim factor in the long run this would harm the entire process. It is very

important that the Muslim dimension is given proper recognition by all the parties.

Role of Civil Society

Recent polls taken by the Center for Policy Alternatives show a significant decline of support in the South. The decline in support is due to a number of reasons. An important one is the astronomical rise in the cost of living where the real incomes of people have been halved. Another is that the opposition parties are succeeding in casting doubts as to the direction of the peace process as a whole. Significant actors in civil society continue to be by-standers.

Civil society should be critical stakeholders of the process. Civil society is neither an appendage of government nor is it a permanent opposition. Civil society has not succeeded in building a viable peace movement capable of voicing its own agenda on the direction of the process. In a democracy the role of civil society institutions is to articulate stakeholder interests to officials in Track 1, and contribute significantly to policy making through effective lobbying.

We need a sustained and deeper dialogue process between civil society institutions and the two parties to the conflict. Currently the process is too exclusive. Whilst important gains have been achieved by citizen initiatives, such as initiating policy dialogue towards a federal solution, the decision to form a women's committee, lobbying to appoint a human rights expert was the work of significant civil society interventions. We need to broaden this base and create a citizens consultative forum, which can engage in such a dialogue both with the North and the South.

Finally then we require not only a monitoring of the cease-fire agreement but mechanisms to monitor the direction of the peace process as a whole. Such a citizen initiative to monitor, evaluate and rectify the process through concerted action is vital for the health of the process. ■

Kumar Rupesinghe is the Chair of the Foundation for Coexistence, Sri Lanka.