

## I. From Crisis to Paradigm Shift?

The LTTE's 'temporary' withdrawal in early May from negotiations with the UNF government and from the proposed donor meeting in Tokyo created the first major setback in Sri Lanka's peace process of 2002-2003. Attempts made by the UNF government, the Norwegian mediators and the international custodians of peace in Sri Lanka to persuade the LTTE leadership to end its boycott stance have not yet been successful. Whether the LTTE will participate or not in the Tokyo meeting in early June is perhaps not the most important issue at the moment. The real issue is linked to the qualitative nature of the present crisis in the peace process. It concerns the capacity or incapacity of the UNF government to work with the LTTE towards a win-win outcome. This indeed poses a fairly serious challenge to the UNF government leaders to prove what they really meant when Prime Minister Wickramasinghe and Minister Moragoda repeatedly asserted that their peace initiative represented a 'paradigm shift' in thinking.

While the UNF government was preparing its response to the LTTE's latest demand concerning setting up of an interim administrative structure in the North and East, the old paradigm has once again appeared in posters pasted on Colombo's walls. The opposition political posters call upon the UNF government not to 'betray' the country and its 'sovereignty' to the 'murderous' LTTE. Many newspaper editorials as well as commentaries and TV debates on the present crisis of the peace process also indicate that a paradigm shift in thinking is indeed necessary to grasp even the elementary essentials of current conjuncture of Sri Lanka's quest for a political transition from war to peace. It is quite amazing that the old notion of state sovereignty developed in post-medieval Europe has found its respectable presence - one may even say re-bashing - in the learned political debates in Colombo's English press as well as in Parliament.

### Deception

For many critics in the Opposition, the LTTE's action of negotiation boycott is typical of its politics of deception and cunning. This critical reaction in its extreme form presents an analysis which may be summarized as follows: 'Pretending to be negotiating peace, the LTTE has got everything possible from the foolish UNF government. After taking Ranil Wickramasinghe for a good ride, they are now after the pound of flesh. Prabhakaran is merely looking for an excuse to strike back.' Some opposition politicians even appear to think that a re-alignment of political forces in the South, coupled with a regime change, is necessary to arrest what they see as a quick march to an impending disaster.

This rejectionist reaction obviously stems from a partisan and therefore inadequate understanding of the present historical phase of Sri Lanka's ethnic conflict as well as the shift in the LTTE politics it has facilitated. The 'hidden agenda' explanation it offers can only lead one to make, as we witnessed in Colombo during the past few weeks, bad political judgements while legitimizing narrow political perspectives.

An alternative explanation of Sri Lanka's negotiation crisis can be offered by looking at the structural dynamics of the negotiation process itself. When the UNF government and the LTTE began the peace initiative in December 2001, the two sides represented two militarily undefeated entities - one the state and the other a counter-state military-political movement. There was a state of symmetry and the parity of status in military power, as well as the recognition of that shift, providing the structural context for the UNF-LTTE political engagement. Meanwhile, and quite paradoxically, there were subsequent developments within the negotiation process itself that seem to have altered this state of power symmetry in favor of the Sri Lankan state. The so-called international community, both state and non-state, entered the negotiation process in a somewhat spectacular manner, giving the impression that the global state system, led by the USA and followed by Japan, was there to back the Sri Lankan state in its engagement with the 'terrorist' LTTE.

The Washington Aid Seminar in April from which the LTTE was officially excluded and the US-led war against Iraq were two major events that probably dramatically presented to the LTTE leadership a new political reality for which they had not earlier bargained. Concerning the Washington episode, the LTTE appears to have two main grievances. Firstly, it has been treated as a secondary entity to the Sri Lankan government. Secondly, its exclusion was based on the US government's position that the LTTE still remained a 'terrorist' organization. The LTTE's argument is that even after major political concessions they have unilaterally made to the Sri Lankan government, treating them as a 'terrorist' entity would smack a real danger, especially in the post-Iraq war context. This further complicated the LTTE's peculiar security dilemma.

### Dynamics

The above developments occurred in the backdrop of another structural dynamic of the negotiation process, namely its excessive internationalization. We may note that it is the internationalization of Sri Lanka's conflict that to begin with made the negotiation option possible. It is also the excessive internationalization of the negotiation process that in turn created a new condition of structural asymmetry between the two negotiation parties. The LTTE leadership seems to have perceived

this shift in balance of power as one that clearly favored of the state. Against this backdrop, we may also note that Sri Lanka's present crisis of the negotiation process can be better understood as one occurred in a context of post-Iraq war conditions, rather than under post-September 11 conditions.

The LTTE's has explained the boycotting of negotiations as well as the Tokyo donor meeting in terms of the UNF government's failure to implement promises made to improve the conditions of civilian life in the North. Indeed, the LTTE's first letter to the Prime Minister on this issue had, in both tone and argument, a remarkable similarity with their letters to President Kumaratunga in March 1995, written just before the PA-LTTE talks collapsed. This appears to have prompted some PA leaders to believe that in May 2003 the LTTE was going to repeat its action of April 19, 1995. However, a closer look at the political conditions under which the LTTE now operates in 2003 would favor the argument that it is not easy for the rebels to unilaterally return to war by totally violating a cease-fire agreement which has a measure of international sanctity. Quite apart from the fact that the LTTE leaders have repeatedly assured the UNF government that their suspension of political engagement did not mean returning to war, it also appears that the LTTE has decided to 'correct' the structural 'imbalance' of the negotiation process primarily by non-military means. The LTTE's action hardly constituted any 'brinkmanship' in a purely military sense, as some foreign correspondents based in Colombo hastened to describe it.

### Threat of War

No serious analyst of the LTTE's current politics should miss the point that the LTTE this time has not resorted to the threat of war to achieve negotiation objectives. It is their military strength and military preparedness as a parallel state entity, and not the threat of war of a mere military entity, that the LTTE has deployed to make political gains through the present phase of negotiation. The 'corrective' actions the LTTE has initiated during the past several weeks in order to restore negotiation symmetry indicate that the LTTE leaders are quite sharp and decisive in political engagement as well. From the LTTE's perspective, a mid-course correction is necessary to take the negotiation process to a new level. One wonders whether the Wickramasinghe administration in Colombo too has made a serious political assessment of the negotiation experience.

For the Colombo government to engage in a comprehensive analysis of the negotiation process, it would have required from it to acquire the ability to look at problems from the LTTE's perspective and then take constructive and effective corrective measures. Such an analysis would have enabled the government to quickly grasp what the LTTE leaders meant when they complained that the government had not delivered its promises of improving the civilian life in war-ravaged areas. One can make a number of observations in this regard. The first is that the LTTE

leaders would not want to be treated by Colombo governments in the same way that the latter have treated the parliamentary Tamil parties in the past. As it is strongly put in the Sri Lankan Tamil nationalist lore, the Sinhalese political leaders have only deceived Tamils by making false promises to the Federal Party, Tamil Congress and the TULF. Radical Tamil nationalist critique of the traditional Tamil political leadership – quite similar to the JVP critique of the old Left – is that they allowed themselves to be deceived by the Sinhalese bourgeois political elite. The LTTE is an efficient military force with the semi-state political character that has decided to politically engage the Sri Lankan state. Therefore, it is most unlikely for the LTTE to act on Colombo government's legal-procedural or constitutional excuses for not letting them establish political-administrative consolidation of their power in the North and East during a phase of economic and social reconstruction. This perhaps is one way to understand why the LTTE has given a deadline to the PM to present his concrete proposals concerning an interim administration.

### Assessment

The second observation one can make concerning the LTTE's complaints about the non-implementation of promises is that the LTTE may have made a serious assessment of the negotiation outcome so far. Although critics in Colombo have often complained that the LTTE has got 'everything' they wanted through negotiations, from the LTTE's point of view, they have not yet gotten much. Instead, they have made three fundamental concessions which the government has not yet adequately reciprocated. Firstly, they signed a cease-fire agreement at a time when the government had no resources to fund the war, due to economic bankruptcy. Secondly, they unilaterally announced, at the second round of negotiations, that they were seeking a settlement on the principle of internal self-determination. Thirdly, they entered into the 'Oslo Consensus' with the UNF government committing themselves to explore a federalist framework within which to find a political settlement. It is inconceivable that the LTTE leaders at their Central Committee meetings would have ignored a thoroughgoing assessment of the gains of the peace process against these three fundamental concessions they have made to the Colombo government.

It needs to be noted that the LTTE's recent public statements reveal a deep sense of frustration about the negotiation outcomes. Perhaps, this frustration arises from the fact they had initially placed a great deal of trust on Mr. Ranil Wickramasinghe's personal ability to manage the service delivery promises effectively and diligently. But when the issue of managing funds for re-construction emerged, the UNF government too proved itself to be not only ineffective, but also taking refuge in administrative and procedural obstacles. It is quite surprising that three top leaders of the LTTE – Messrs. Prabhakaran, Balasingham and Thamilselvam – repeatedly expressed in public a measure of personal confidence in Mr. Wickramasinghe, even giving the impressions that they were merely

indulging in ego-pleasing politics. But the point is that Mr. Wickramasinghe has not delivered much, contrary to expectations implied in the personal trust.

### Internationalism

If one looks at this issue from the LTTE's perspective, one may feel that Mr. Wickramasinghe while failing to deliver promises, has also invited, or at least allowed, very powerful international forces to take over Sri Lanka's peace process. This indeed is the flip side of one of the smartest political achievements Mr. Wickramasinghe gained when he put together a powerful international coalition to back his move to negotiate with the LTTE. The LTTE's present apprehension is perhaps that with the direct involvement of such international heavyweights as the US and Japanese governments and the World Bank, they are compelled to deal with a formidable set of forces which has not been their choice at all. Meanwhile, the LTTE is a hardcore nationalist entity that might not want to see the indigenously mapped out trajectories of the future of Sri Lanka's Tamil polity are being overtaken by the international forces. It would not be surprising if the LTTE leaders suspected that the UNF government had a hidden agenda, in collaboration with the US government. Rebels are always conscious, often in a paranoid mode, of the possibility of traps beneath the negotiation table. This is exactly why Messrs. Wickramasinghe and Moragoda should, in a post-Iraq war world, handle their links with the US government with greater care and sensitivity than they have so far demonstrated. A wrong message given to the LTTE at this very sensitive stage of Sri Lanka's peace process can have far reaching and even irreversible consequences.

This backdrop helps one to make sense of the LTTE's present reluctance to attend the Tokyo donor meeting. The LTTE may or may not go to Tokyo. If they do, they will still have achieved their objective of drawing enough international attention to their argument that the negotiation process as well as the agenda of reconstruction had some crucial flaws. If they do not, they will initially lose international support and sympathy; but the international community will still find it difficult to ignore the LTTE's claims and arguments if the Sinhalese political class continues to waver in its commitment to finding a fair and just settlement to the ethnic conflict. Then, sooner than later, the international custodians of Sri Lanka's peace will be confronted with the issue of LTTE's international de-proscription. Indeed, international de-proscription is at the heart of the LTTE's political maneuverings at this moment, although they have been maintaining a studied silence about it. The LTTE leaders appear to be allowing the logic of political events surrounding their negotiation and Tokyo boycott lead itself to the agenda of de-proscription.

### Interim Administration

Meanwhile, the issue of Interim Administration is shaping up to be a crucial test of the UNF government's willingness to

put into practice any paradigm shift it may have experienced in its political thinking concerning the LTTE and ethnic conflict resolution. The way the LTTE has raised the issue this time leaves hardly any room for the Wickramasinghe administration to take refuge in constitutional obstacles or procedural difficulties. If the government cannot change the Constitution, it has to find out an alternative course of action that will still make the interim administration legally valid. Such a move might be challenged before the Supreme Court. But, the government will have to be bold enough to take a political-legal risk, rather than slipping towards the risk of war. If the government leaders could exercise political imagination and creativity, the issue of interim administration may not be an insurmountable one. If they do not, they should still not explore any non-political options, as some bright young advisors at the US State Department might hasten to offer.

For Sri Lanka's peace process to move forward, the negotiation initiative has to enter into a qualitatively new phase. The primary responsibility in that direction lies with the UNF government and the international community that backs the peace bid. The LTTE's boycott is a telling reminder to the government as well as its international friends that the Phase I of the negotiation process has effectively ended and a Phase II is struggling to emerge. The transition from Phase I to Phase II requires bold, fresh, creative and dramatic political initiatives that can accomplish two immediate goals: re-defining the trust between the UNF government and the LTTE in stronger terms and re-designing the negotiation process in a sustainable manner. Let us hope that the Wickramasinghe administration possesses necessary will and the resources to further pursue that transition.

## II. Mapping a Way Out

With the negotiations between the UNF government and the LTTE in crisis, there are some who probably feel vindicated that their predictions of negotiation collapse, made at the very beginning of the peace process, might even be proved prophetic. Indeed, when the UNF-LTTE political engagement began in December 2001, there were very few analysts who could point to any significantly positive outcome. This in a way demonstrates one of the unfortunate ironies inherent in the efforts towards settling protracted conflicts by non-military means. There is a greater likelihood of negative predictions concerning negotiation outcomes becoming a reality than would the possibilities for constructive conflict management through talks.

Most of the negative-outcome analysis of UNF-LTTE talks has had a common thread: an overwhelming belief that the LTTE was not really interested in either a negotiated settlement or an alternative to its goal of a separate state. To the question why the LTTE has joined in negotiations with the government, the answer provided by this perspective is a simple one: 'The LTTE's nature

is exactly that: It negotiates when it is militarily weak and returns to war after re-grouping, re-training and re-arming. This is probably not an incorrect assessment of the LTTE's past negotiation behavior. But it does not explain much about the structural dynamics as well as politics that may have also shaped the LTTE's decisions concerning both war and negotiation. Nor does it explain why governments in Colombo have repeatedly initiated negotiations with the LTTE against a backdrop of previous experiences of costly negotiation failure. It is not enough to say that politicians in Colombo, when in power, are a naive bunch of men and women who would usually await to be deceived by the LTTE. Both the UNF government and the LTTE leaders, in initiating negotiations, have responded to certain political imperatives. They are now under pressure from the structural dynamics of a political process which they themselves have jointly inaugurated. After one and half years of a preliminary phase, that process can proceed forward only after confronting some very hard issues of state power.

When we take a long-term view of Sri Lanka's ethnic conflict, we may notice that war and negotiations have been the two main strategies that both sides, the state and the LTTE, have pursued with consequences that have been equally costly to both sides. Unlike the negotiation skeptics would always want to emphasize, both sides have suffered in both war and talks. Meanwhile, what appears to be quite interesting in this history of war and relative peace in Sri Lanka's ethnic conflict is the fact that there have been two conjunctures in which possibilities for a negotiated political settlement through talks have had greater potential than the conflict ending through war. In other words, in these conjunctures, the balance of possibilities and trajectories has been in favor of a negotiated settlement. The moments of 1994-1995 and 2002-2003 constituted such conjunctures. The state and the LTTE irretrievably lost the moment of 1994-1995. There is still time for them not to lose the political moment of 2002-2003.

## Analysis

Any government that decides to negotiate with the LTTE should have in its store of ideas some credible explanation as to why the rebel leaders have decided to pursue the option of political engagement while giving a respite to war. That explanation has to be a seriously analytical one, and not a conjecture guided by shallow rhetoric which we often find in media debates. For example, the UNF government should not strategize its negotiation options on the belief that the LTTE has come to talks to bargain the terms of its surrender. Nor should the government view the LTTE's negotiation turn as one necessitated by the need for fresh recruitment and procuring of new weapons etc., in the interregnum of a cease-fire. Moreover, no government in Colombo should think that they could either deceive the LTTE at the negotiation table, or even achieve the same objectives through talks which they failed in war. The LTTE needs to be understood as a counter-state politico-military entity that has been extremely serious about its goals, its methods and even its compromises. An elementary lesson that has

to be learned from Sri Lanka's previous negotiation experiences is that no government in Colombo should engage the LTTE politically if it is not serious about what it is willing and ready to offer to the LTTE in exchange of a possible commitment from the latter to a goal other than a separate state.

Negotiations with the LTTE, as it has already become evident during the UNF government's learning process, entails profoundly complex, and potentially unpopular, compromises, particularly in the short run. For some of them, it may even require re-alignment of political forces in the South. Offering a credible alternative to the goal of a separate Tamil state now is not as difficult as it was until late last year. By unilaterally opting for the notion of internal self-determination and for a federalist framework, the LTTE leadership has indeed simplified the matters for the UNF government. But now, the more complex issues are located in some of the immediate challenges and that is where the UNF government will have to act fast, with both imagination and courage.

## Challenges

Two such crucial challenges are linked to the LTTE's not-so-hidden expectation of consolidating its political-administrative control of Northern and Eastern provinces. The LTTE's demand for setting up of an interim administration is one. The other issue has not yet been clearly articulated in the debate, but any observer of LTTE politics would have identified it with relative ease. It entails the LTTE's objective of returning to Jaffna, of which they lost control during the Sri Lanka's army's offensive in late 1995 and early 1996. Allowing the LTTE to return to Jaffna and re-establish its control over the civilian population there under conditions of peace talks is obviously a task more difficult than setting up of an LTTE-led interim administration in the North and East. Meanwhile, the LTTE's demand for de-militarization of Jaffna peninsula can be seen as directly linked to its objective of returning to Jaffna.

These two issues, taken together, represent the short-term political outcome that the LTTE would have expected from their political engagement with the UNF government. Given the utter complexity of these two possibilities, the UNF government, particularly in the absence of a political consensus in the South, may feel unable to engage the LTTE to negotiate a road map to effect a 'transfer' of administrative control of the two provinces. Quite paradoxically, the LTTE is also in a difficult situation in this regard. Having already announced, unilaterally and without a equivalent quid pro quo from Colombo, their partial renouncement of the goal of a separate state, the LTTE's agenda of returning to Jaffna may seem in the public eye an unfair extraction of a unilateral and asymmetrical concession from a weak government running out of options. Incidentally, one way of explaining, partially though, the LTTE's resorting to hard bargaining tactics after mid-April is perhaps the realization that it has not got anything substantial from the UNF government in exchange of compromising the secessionist goal.



## Limited Options

Hard bargaining from either side is not likely to help the negotiation process at present. In order to restore the partnership with the UNF government, the LTTE too will have to work hard towards a win-win outcome. If the LTTE continues to put pressure on the government for concessions on the interim administration issue outside the negotiation table, the fragile peace process will be at risk of losing its momentum as well as legitimacy. But, the LTTE's present dilemma lies precisely in the absence of a gain that will have an adequate weight with the suspension of its negotiation boycott.

To return to the issue of the prospect of the LTTE's establishing politico-administrative control over the Northern and Eastern provinces along with its returning to Jaffna, the government in Colombo will have hardly any options to prevent that eventuality without putting the negotiation process in jeopardy. While the LTTE is unlikely to resort to military action to regain Jaffna, they may, in the worse case scenario, not find any useful purpose in the continuing political engagement with the government either. This may lead to a fairly long period of negotiation stalemate, with recurring incidents of cease-fire violations in the Jaffna city combined with mass mobilization by the LTTE aimed at demilitarizing the Jaffna peninsula. Meanwhile, the Sri Lankan government as well as the international custodians of the island's peace will also be hard pressed to sustain the cease-fire process in a context of increasing uncertainty that will provide a great deal of space for spoiler interventions. Actually, the restoration of the negotiation track is the best way to ensure the political interests of both the government and the LTTE.

## Fresh Approach

This calls for a fresh approach to the strategy of negotiation. If the UNF and LTTE leaders are seriously committed to a process of conflict settlement through the de-escalation of war, neither party should engage in tactics that endanger the peace

process and bring back the threat of war. One option available to the leaders of the two sides is the opening up of a new, second, negotiation front that can complement the formal talks between the two delegations. Initiation of direct political talks between Messrs Wickremasinghe and Prabhakaran at times of negotiation crisis can be an immensely useful problem-solving alternative. Now is the time for such a courageous move, because the negotiation process, having exhausted all the potentialities of its Phase I is struggling to enter Phase II without a clear road map.

While re-launching the negotiation initiative with the LTTE, Prime Minister Wickremasinghe might want to seriously reflect on the agenda for Phase II of the process. There is no way for him to avoid in the coming phase of negotiations the substantial issue of sharing of Sri Lanka's state power with the LTTE through institutionalizing an interim process. Institution building for transition of political-administrative power in the North and East and eventual democratization of political process there should not be delayed, if the two sides are committed to a political settlement based on power-sharing. Actually, both the UNF and the LTTE should be blamed for avoiding the issue of interim administration during the Phase I of talks. The greatest failure of that phase of talks is the inability, as well as unwillingness, of the two sides to build political institutions for transition to power-sharing in the North and East.

Institution building for transition to power sharing entails a complex road map that should deal with a host of hard issues that would actually constitute the core issues of negotiation. Resolving the high security zone issue, de-militarization of Jaffna, addressing Sinhalese and Muslim fears about LTTE rule in the Eastern province while allowing the LTTE to take control of the administrative functions in the two provinces, setting up of mechanisms for political and administrative accountability and defining the relationship between the emerging institutions in the North and East and the Sri Lankan state will be at the center of negotiation agenda in the coming phase. There is no way to avoid these issues during the Phase II of negotiations. ■

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