

# NEGOTIATIONS FOR CONFLICT RESOLUTION: LESSONS FROM SRI LANKA'S RECENT PAST

Jayadeva Uyangoda

## Introduction

In February-March this year, the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) entered into a process that had the potential of developing into negotiations between the two sides. One important aspect of this development is the participation of the government of Norway as a facilitator of communication between the Colombo government and the LTTE. In fact, Norwegian officials met Sri Lanka's President, the Minister of Foreign Affairs, as Leader of the Opposition, as well as LTTE representatives in Europe in order to facilitate eventual negotiations to bring Sri Lanka's ethnic conflict to an end.

The responses in Sri Lanka to the possibility of government-LTTE talks and the Norwegian role in promoting communication between the two sides have been mixed. While some supported the initiative, Sinhalese nationalist forces have strongly opposed the possibility of negotiations as well as Norwegian involvement in Sri Lanka's crisis. Their point is that while talks with the LTTE are certain to undermine the military effort to defeat the LTTE in the battlefield, the Norwegian involvement in Sri Lanka's conflict is an affront to Sri Lanka's national sovereignty.

From the early days of Sri Lanka's ethnic armed conflict, there have been attempts at ending the conflict through negotiations. But, all these negotiation efforts have failed to terminate the conflict, or at least de-escalate the war. These failures, in a way, buttress the Sinhalese nationalist argument against negotiations with the LTTE. However, the failures provide a wealth of insights on which a future process of successful negotiations could be built. It is wrong to assume that an internal armed conflict can be brought to an end through one or few negotiation attempts. Once a conflict has started, its termination may become exceedingly difficult due to a variety of factors. Conflict resolution can be as complex a phenomenon as is the conflict itself. Similarly, when negotiations fail once, twice or perhaps many times, it does not mean that the negotiation option is totally invalidated, although some may argue to that effect. From a common sense perspective, it is through failures that success ultimately materializes itself. What is important in this regard is to examine failures as objectively as possible and draw necessary lessons.

In this essay, an attempt is made to look back at Sri Lanka's past experiences of negotiations in order to draw some useful lessons. Our discussion will examine four negotiation attempts, the Thimpu Talks of 1985, Indo-Lanka Agreement of 1986, Government of Sri Lanka and LTTE talks of 1989/1990, and Government-LTTE talks of 1994/1995.

## Thimpu Talks

The first attempt at bringing representatives of the Sri Lankan government and Tamil militant groups together was mediated by the Indian government in July 1985. By this time, the ethnic war was two years old. Tamil militant groups were relatively small guerilla organizations operating mainly in the Northern Province. The talks were held in Thimpu, the capital of Bhutan. Thimpu was selected because of the perception that the two sides should meet at a neutral venue. Indian government acted as the broker of the Thimpu meeting. The Indian government also facilitated a ceasefire agreement between the Sri Lankan government and Tamil militant groups as a prelude to negotiations. In order to present a common Tamil voice at negotiations, the Tamil militant groups formed a common front called Eelam National Liberation Front (ENLF). Although the TULF, the main Tamil parliamentary party, also represented the Tamil side, the militant groups had an upper hand in the talks. Dr. H. W. Jayewardene, President J. R. Jayewardene's brother, led the Sri Lankan delegation.

During the talks that went on through two rounds, the Tamil side had insisted that the Sri Lankan government should put forward its own proposals for a settlement so that they could consider whether these proposals were acceptable. The government delegation presented a set of political proposals and draft legislation for their implementation. These were basically the proposals that the government had already presented before the All-Party Conference (APC) held in Colombo the previous year. Incidentally, they were the same proposals which the Tamil parties had rejected at the APC. The essence of these proposals was to set up a system of District Development Councils (DDCs) in each district of Sri Lanka, with the provision of two or more DDCs to amalgamate. The Tamil delegation at Thimpu talks rejected these proposals as inadequate and presented their own framework for a settlement of the ethnic problem.<sup>1</sup>

Now known as Thimpu principles, these counter-proposals of Tamil parties contained the following four elements:

- (i) Recognition of Tamils in Sri Lanka as a distinct nationality.
- (ii) Recognition of a Tamil homeland and its territorial sovereignty.
- (iii) Right of self-determination of Tamil people.
- (iv) The right of citizenship and other democratic rights of Tamil people.

The government delegation rejected the first three demands of the Tamil side as totally unacceptable. Their position was that the government could consider only the citizenship demand. The gov-

ernment side also reiterated that any agreement reached at Thimpu talks could be implemented only if the militant groups surrendered all their arms and dismantled their training camps located in Sri Lanka and abroad. When the round two of Thimpu talks began a few days later, the negotiations had reached a point of collapse. Both sides accused each other of intentional violation of the cease-fire agreement and the Tamil delegation walked out from the negotiation table.

However, the failed Thimpu talks provide some important lessons concerning ethnic conflict resolution and negotiations. The first lesson, which we may draw from retrospective insights, is that the situation prevailing at that time was too early for a negotiated settlement. In other words, there were no favorable prerequisites for a negotiated settlement of the conflict. It is true that both sides publicly claimed that they were for a negotiated settlement. But, that was only a rhetorical commitment. Behind the rhetoric of negotiations and the reality of failure was indeed one important dynamic in conflict formation and conflict resolution: the Sri Lankan armed conflict had not reached a stage of settlement that can be worked out through negotiations at all. In other words, both sides had maintained their faith in the efficacy of the military strategy. It was too early for the Sri Lankan government to come to a compromise with Tamil militants, because the government still believed that the guerilla war could be defeated by military means. It was too early for the Tamil militant groups too to abandon the armed struggle in favor of a negotiated settlement, because they had just begun what they perceived as a 'liberation war'. Indeed, the Thimpu talks began within just two years of a liberation struggle for a separate ethnic state and the romanticism of a long-drawn, heroic war was still afresh in the thinking of Tamil militants. In the initial phase of a war of liberation, militant guerilla groups usually have little or no inclination to make a compromise with the 'enemy'. Their idealism was such that any settlement with the state had to be in their own victorious terms. The point then is that the conflict had not reached a stage where the parties would pursue negotiations with seriousness of intent of its outcome.

The second important lesson emanates from the fact that the negotiation positions adopted by the two sides were too far apart from one another. A negotiated settlement means, in simple terms, the emergence of a compromise of contending positions, jointly pursued by the parties to the conflict. It is a middle ground. But for a middle ground to emerge, the competing positions of negotiating parties should be such that the meeting point should not be one that demands the parties to make fundamental revisions of their original positions. But, at Thimpu talks, there was no such possibility of flexibility of negotiation positions. On the contrary, they were hard and rigid bargaining positions, in the sense that they represented a spirit of 'take it or leave it'. Conflict resolution is hardly materialized when competing negotiation positions are designed to be rigid and inflexible.

The third lesson is linked to the second. That concerns the intent of parties to come to the negotiation table. In conflict negotiation, it is not always the case that parties agree to negotiations to seek a settlement. They may have other intentions or agendas. Indeed, the

government of Sri Lanka and the Tamil militant groups came to Thimpu, largely because of the pressure brought upon them by the Indian government. It is clear that neither party had any appreciable measure of faith in a positive outcome of the negotiation exercise. Evidence points to an observation which is important for students of conflict resolution. The overriding objective of the two sides at Thimpu talks was not conflict settlement, but canvassing for their respective positions that left little or no room for a compromise.

There is a fourth lesson to be drawn from Thimpu talks. It centers on the question of terms of a settlement. The experience of Thimpu tells us that the two sides attempted to impose a settlement on one another on terms, preferred and defined by either side. What it meant in practical terms is that while the Sri Lankan government delegation presented its settlement formula in terms of district-based decentralization of power, the Tamil side argued for the right of self-determination of the nationality of Sri Lankan Tamils in a territorial homeland. These were not negotiable terms, but mutually exclusive positions which each side attempted to impose on the other.

### Indo-Lanka Accord

On July 27, 1987, Sri Lanka's President J. R. Jayewardene and India's Prime Minister Rajiv Gandhi signed an inter-state agreement to end Sri Lanka's ethnic conflict and bring about a political settlement.<sup>2</sup> The agreement envisaged all parties to the conflict, Sinhalese and Tamil, to accept the framework of settlement as proposed in the Accord. The main points of the Accord were for the Sri Lankan government to create a system of devolution of power through a constitutional amendment. Once the provincial councils were created, elections were to be held to elect representatives for these new bodies of devolution. Devolution was meant to grant a measure of political and administrative autonomy to the periphery with the province as the unit of devolution. This was a significant improvement from the position earlier held by the Sri Lankan government in its proposal for a district-based system of administrative decentralization. There was also a provision for an eventual merger of Northern and Eastern provinces through a referendum. The Accord also expected all Tamil parties to the conflict to accept the settlement, since the new system of province-based devolution was viewed as a suitable mechanism to meet the Tamil demand for autonomy. The Accord particularly envisaged that the militant Tamil groups, who were waging a guerilla war for an independent state, would accept the settlement, surrender their arms and join the mainstream of politics. On India's part, Prime Minister Rajiv Gandhi committed the Indian state to be the guarantor of the implementation of the Accord.

However, the events that followed the signing of the Indo-Lanka Accord belied the optimistic expectations of the Sri Lankan and Indian leaders and the well-wishers of the Accord. When the Accord was being signed in Colombo, there was violent resistance by Sinhalese nationalist forces against what was termed as Indian intervention in Sri Lanka. The resistance, led by the Janatha Vimukthi Peramuna (JVP) subsequently developed itself into an armed rebellion against the state, which went on for almost three years, bringing the government under a serious political crisis. The

constitutional amendment to create provincial councils was passed in October 1987. Yet, when the elections for new councils were held, there was unprecedented violence against holding elections.

More importantly, in the immediate aftermath of the Indo-Lanka joint initiative, the conflict in the North-East entered a new phase of complexity, which went totally against the expectations of the Accord. The new complexity centered on the non-cooperation of the Liberation Tigers of Tamil Eelam (LTTE), the main Tamil guerilla organization, to accept and join in the process of implementing the Accord. While the other guerilla organizations directly or tacitly accepted the accord and decided to join the mainstream of politics, the LTTE did not. Except a symbolic surrender of few weapons, it did not disarm itself. When the LTTE refused to cooperate with the implementation of the Accord, President Jayewardene, in accordance with the provisions of the Accord, asked the Indian government to take steps to disarm the LTTE. Then, in October 1987, the Indian government began to send its army to Sri Lanka with the intention of disarming the LTTE. The LTTE began to resist the Indian Army, or the Indian Peace Keeping Forces (IPKF) and soon the confrontation between the two sides developed into a major war. After two years of fighting the LTTE, with about 85,000 of its troops, the Indian army withdrew its forces from Sri Lanka in 1990 with mission unaccomplished.

The experience of the Indo-Lanka Accord and its aftermath provides some important lessons for conflict resolution. Let us identify and briefly discuss the main lessons.

### **The Role of the Third Party**

**I**n the literature of conflict resolution and peace-making, there is an extensive body of ideas about the role of the third party. In this literature, the neutrality of the third party is often emphasized. The notion of neutrality means that the mediator should not be seen as favoring one party over the other, because the mediator's role should be acceptable to both parties. In Sri Lanka's experience of India's role in the proposed settlement of July 1987, it was not clear whether India mediated or intervened in bringing about a settlement framework. In a pure case of mediation, the third party may bring the conflicting parties together, facilitate negotiations between them, help them to work out a settlement on mutual acceptance and ultimately assist the parties to implement the settlement. In this process, the mediator may use political, diplomatic and perhaps military coercion, but in a manner that will not jeopardize the avowed principle of neutrality.

It is on the question of neutrality that India's role in 1987 can be first examined. The Sinhalese people did not believe that India was a neutral outsider in Sri Lanka's conflict. They believed that the Indian government and its state government in Tamil Nadu had supported and directly assisted the Tamil militant movement. As a result, there was overwhelming Sinhalese suspicion about India's intentions in Sri Lanka's problem. Then in July 1987, when the Indian government tried to broker a peace settlement, the Sinhalese nationalist forces thought that India had a hidden political agenda. The issue became more complicated when the Indian government sent the

IPKF to disarm the LTTE. This military intervention meant that India used its direct military power to implement the settlement. Then, a full-scale war broke out between the IPKF and the LTTE, running into about two years. In this process, India became a direct party to the conflict. This process indicates how India's role in Sri Lanka's conflict gradually changed from mediation to military intervention and then to be a party to the conflict.

### **Role of Multiple Parties in the Conflict**

**I**n conflict is usually resolved by the active engagement of the direct parties to the conflict. By agreeing to resolve the armed conflict, the parties are supposed to seek non-military options and work out political measures to address the causes of the conflict. But, Indo-Lanka Accord of 1987 and its implementation process raises many questions about the role of various indirect parties to the conflict in the exercise of settlement. These questions can be clustered around two issues: (i) What was the role of direct parties in working out the settlement agreement? (ii) What was the role of indirect parties in making the settlement agreement unworkable?

On the question of the role of direct parties in formulating the framework of settlement, the Indian and Sri Lankan governments did the negotiations between them while keeping Tamil militant groups away from the negotiation process. It appears that the Tamil groups were-consulted by the Indian officials, yet there was no direct communication between them and the Sri Lankan government. In fact, the representatives and leaders of the two governments decided the entire framework of settlement. In this sense, only one direct party to the conflict, the Sri Lankan government, played a direct role in the proposed settlement. Even that role was limited to negotiations with the Indian government, an interested third party. This, from a conflict resolution perspective, was a major weakness in the 1987 effort at conflict settlement in Sri Lanka. When one side of the conflict is excluded from the negotiations, that side has no political responsibility to abide by the settlement. As the position taken by the LTTE clearly demonstrated, such a peace effort can be interpreted as an attempt to impose a solution by force. It is obvious that the Indian government overestimated its own possible role in bringing a settlement in Sri Lanka.

A settlement effort can also be undermined by the actions of indirect parties to the conflict, as it was the case in Sri Lanka in 1987 and after. The Sinhalese nationalist opposition led by the JVP opposed the Indo-Lanka Accord so violently that the implementation of the agreement itself became a major political challenge for the government. Indeed, the JVP derived much public support for its anti-state rebellion primarily by appealing to anti-Indian nationalist sentiments of the Sinhalese community. The JVP described India's military intervention in the North-East as a prelude to a larger project of colonizing Sri Lanka. The JVP-led resistance also became the rallying point for a variety of Sinhalese nationalist forces including the Sri Lanka Freedom Party (SLFP), the nationalist Buddhist Sangha and the Sinhala nationalist intelligentsia. Utilizing the new nationalist/patriotic political space opened up by the Indo-Lanka Accord, these forces seized control of the political debate thereby de-legitimizing to a considerable extent the very

concept of a political solution to the ethnic question. The lesson to be learned from that experience is that there are both direct and indirect parties to the Sri Lankan conflict and their actions can shape the entire fate of the settlement.

This leads us to identify a much more fundamental lesson to be drawn in conflict resolution. In an ethnic conflict, which has deeply divided ethnic communities, a settlement can regenerate deeply held fears of the majority ethnic group when that settlement intends to recognize the legitimacy of minority ethnic demands. In other words, a settlement in the nature of compromise with a minority ethnic group, is likely to regenerate fears and anxieties among sections of the majority community whose majoritarian world view is shaped by a deep seated feeling of political insecurity. Indeed, this is not unique to Sri Lanka. In plural societies where there is competition and tension between the ethnic majority and minorities, the fear of the minorities gaining supremacy is a deeply felt anxiety among nationalists of the majority community. In such a context, there is the ever-present possibility of extremist groups within the majority community mobilizing those fears in a campaign of militant resistance to compromise. They see compromise with the ethnic 'enemy' as a betrayal, an act of treachery that has to be resisted violently and as a matter of patriotic duty. For a negotiated settlement to succeed, it is important to recognize the crucial need to politically manage the post-agreement process in such a way that extremist political groups, that are intrinsically opposed to peace-making through compromise, are not allowed to occupy the political centerstage.

### Political Consensus

The point we just made above warrants some reflection, so that we can learn another lesson from the 1987 experience. A society where an internal ethnic conflict has taken a violent and military form, the polity can become an intensely fragmented entity. Various political groups can have different and competing understandings of the conflict and conflicting approaches as to what the solution should be. When one party works out a solution, say by the government, there is always the possibility of other forces in society radically opposing the government's decision. Such a development can have unforeseen and complex consequences, as evidenced in Sri Lanka in 1987-1989. It can politically isolate the government, thereby making the government incapable of properly implementing the settlement. It can also deny legitimacy to the settlement itself. Without public support, no ethnic conflict settlement can be realistically implemented. And finally, there can be fears among sections of society about the settlement itself. Public fear of the consequences of conflict settlement is a major barrier to any conflict resolution process. The lesson to be learned then is that in a deeply divided society, ethnic conflict resolution requires consensus among political actors as well as between the government and the people. Bringing about such a broad consensus requires political education of the masses of the people, redefining the terms of the political debate and providing intellectual and political leadership to society in a direction of ethnic reconciliation.

### UNP-LTTE Talks in 1989/1990

After the failure of Indo-Lanka Accord to bring Sri Lanka's conflict to an end, another round of talks was held in 1989-1990 between the UNP government, headed by President Premadasa, and the LTTE leadership. The initiative for this round of talks was taken by Mr. Premadasa, within a few months of his being elected to the office of the President. In April 1989, he made an open call on the JVP and the LTTE to come to talks with the government. While the JVP, which was engaged in a rebellion to capture state power, rejected Mr. Premadasa's offer, the LTTE, while fighting the IPKF, responded positively. The talks were held in Colombo. From the government's side the President himself, the Minister of Foreign Affairs and senior government officials took part in the talks. The LTTE side was represented by its political representatives and headed by Anton Balasingham. During the talks, which went on for about a year, there was an understanding between the two sides to refrain from hostilities, although they did not sign a formal cease-fire agreement.<sup>3</sup>

The talks suddenly broke down in June 1990. The LTTE appeared to have unilaterally walked off negotiations with no public explanation. The breakdown of talks and the resumption of hostilities were a violent event. It was reported that the LTTE suddenly surrounded a police station in Amparai, took nearly 200 policemen prisoners and some of them were executed. Although the government made an attempt to resume talks by sending the Minister of Foreign Affairs to Jaffna to meet the LTTE leadership, the latter refused to engage in any further talks on the argument that the government had not been sincere in its approach to negotiations.

On government-LTTE talks of 1989/1990, there is very little information available. There are no records available to find out what the two parties discussed in these talks. The content of discussions was not reported in the press either.

The main lessons to be drawn from 1989/1990 talks concern the objectives of participants. The available information suggests that the two parties did not have a commitment to resolution of the ethnic conflict as such. Instead, the two sides appeared to have had their own strategic objectives to be achieved in an exercise of talks. For the Colombo government under President Premadasa, forcing India to withdraw the IPKF from Sri Lanka was an immediate issue in its political agenda. During this time, the government was also fighting the JVP insurgency in the south, with all its armed forces and the police and the state machinery involved in a massive counter-insurgency operation. Neutralizing one military front was obviously an objective in real politics. In achieving that objective, the government perhaps sought a strategic political alliance with the LTTE. From the LTTE's own perspective, the removal of Indian military forces from the Northern and Eastern provinces was an immediate politico-military objective. They then found an ally in President Premadasa in whose agenda too the Indian military presence in Sri Lanka was a factor of priority. When their respective strategic objectives coincided, they began to talk and refrained from hostility. But when the Indian government withdrew the IPKF from Sri Lanka by March 1990, the need for further continuation of that

strategic alliance was perhaps not there. In this sense, it is difficult to characterize the 1989/1990 talks as negotiation for conflict resolution as such.

Then, the overall lesson to be learned from UNP-LTTE talks in 1989/1990 is that negotiation for conflict resolution requires a vision and commitment to resolving the conflict. When short-term strategic or tactical objectives are allowed to take precedence, no tangible outcome can emerge through talks. Yet, it is also important to recognize that in protracted conflicts, the occurrence of such 'negotiations' for short-term gains cannot be totally ruled out. Indeed, parties might meet at the negotiation table in order to secure specific objectives that can be military or political. In such situations, when one party realizes that talks have served its objectives, or even talks cannot serve its goals, that party will have no moral or political barriers to withdraw from talks unilaterally and even giving no reasons for its action. Subjection of negotiations to tactical objectives of parties does not serve the objectives of conflict resolution. Such action can result in delegitimizing the very concept of a negotiated settlement. Similarly, the party that suffered from the other's unilateral termination of talks is most likely to develop a deep mistrust of the outcome of future talks. It can also strengthen the arguments against a negotiated settlement. And its most pernicious effect would be the possibility of public cynicism concerning negotiations as well as a non-military settlement.

The 1989/1990 talks also provide a lesson concerning the absence of a facilitator or mediator in the negotiation process. The context in which President Premadasa made the offer for talks in 1989 was characterized by a deep crisis suddenly developed in the aftermath of India's mediation and involvement in Sri Lanka's ethnic conflict. India's third party role had not only failed, but also had brought the conflict to a new stage of intensity. In that context, the suspicion of the role of a third party in conflict negotiation had gained ground in Sri Lanka. The assumption developed at that time and publicly articulated by President Premadasa was that Sri Lanka's conflict was a purely internal matter that required no outside involvement. However, what appears to be clear from the 1989/1990 experience is that when parties meet at talks without a mediator, there is always the risk of the talks being unilaterally terminated by one party with no possibility of their return to the negotiation table. This experience was indeed to be repeated subsequently too, during 1994/1995 peace talks.

### PA-LTTE Negotiations of 1994/1995

The negotiations between the People's Alliance government and the LTTE in 1994/1995 provide a host of important lessons in negotiation for conflict resolution.<sup>4</sup> When this round of negotiations began, there was a great deal of expectations and optimism about peace returning to the country. This is the first time that the people in Sri Lanka and the international community took government-LTTE negotiations seriously in the hope that at last the parties to negotiations would manage to find and work out a lasting solution to the ethnic question.

In 1994/1995, there were four rounds of talks between government and LTTE representatives. The talks were held in Jaffna. The last round of talks was held on April 9-10, 1995. And a few days after the last round ended, the LTTE unilaterally terminated the negotiation process by resuming military hostilities on April 19, 1995. The main lessons to be learned from this experience of negotiations concerns why the exercise of peace making failed.

### Preconditions for Compromise

A conflict settlement means that the parties to the conflict are ready for a compromise. Willingness to compromise by both sides is an essential precondition for a successful negotiated settlement. A compromise in a conflict involves the willingness of the major parties to seek a middle ground from where they can seek a mutually acceptable framework of settlement. It requires from both parties to the conflict to abandon their maximum goals. Then, the question we can ask is whether in 1994/1995 the PA government and the LTTE had reached such a stage of middle ground and compromise. The PA government declared that it was willing to pursue a political settlement through enhanced devolution, but it was not clear whether the LTTE was ready to accept devolution as an acceptable framework of settlement. When the two sides went into negotiations, they have declared publicly that they were committed to a settlement, but what remained undeclared was the framework within which they could find a common ground.

Finding a common ground between two parties that have been engaged in an internal armed conflict for years is usually not an easy exercise. However, this difficulty may be possible to overcome by parties if the following preconditions are also present:

- (i). Parties to the conflict realize that the war is no longer useful, necessary or helpful to achieve their respective political objectives.
- (ii). There is also the realization that the ultimate goal that the parties had set for themselves at the beginning of the conflict is no longer viable and a new goal, short of the initial goal, needs to be worked out.
- (iii). The new goal can be achieved through negotiation and compromise.

In the conflict resolution theory, the presence of this set of preconditions in a conflict is described as constituting a moment of conflict ripeness. It means that the conflict has reached the stage of certain maturity in the sense that it is ripe for resolution. William Zartman says that a conflict is ripe when (i) there exists a situation of deadlock and deadline, and (ii) the parties realize that unilateral solutions are blocked and joint solutions become conceivable.<sup>5</sup> When we apply this concept to the situation in Sri Lanka's conflict in 1994/1995, it is difficult for us to see that the conflict had reached a dangerous stalemate which could push both parties simultaneously to finding a solution through the difficult path of negotiations.

Nevertheless, there existed some important pre-conditions for negotiations. Most important among them was the public clamor for a negotiated settlement. In Sri Lankan society, among all ethnic groups there had developed a sentiment in favor of a negotiated

settlement. There were also many civil society groups that had actively campaigned for ending the conflict through negotiations. The political change in 1994 to a great extent gave expression to this change in the public mood. The new leadership that came into power in 1994—Peoples Alliance led by President Chandrika Kumaratunga—also enjoyed a uniquely favorable status for finding a settlement to the conflict, precisely because this leadership had not identified itself with the conduct of the war. Rather, it had identified itself with the section of the political opinion in the country that opposed the war and stood for an early political settlement. Consequently, the political leadership of the government enjoyed a considerable measure of confidence among the Tamil people too.

But, 1994/95 negotiation experience tells us that public support for a settlement and the political leadership's commitment to finding a settlement by themselves are not sufficient conditions for successful conflict resolution. Undoubtedly, they are important conditions in the sense that they enabled the negotiation process to begin. They were indeed enabling preconditions. But, when actual negotiations started and new and complex challenges came on the way, the negotiation process entered into a period of crisis, ultimately resulting in the collapse of the entire negotiation exercise. We can draw another lesson from this experience: the favorable pre-conditions to begin negotiations may not be sufficient enough to bring about a settlement. There is a long way to go from negotiations to a negotiated settlement.

### **Negotiation is a Process**

**W**hen negotiations between the government and the LTTE began in 1994 soon after the PA government came into power, there were many expectations in Sri Lanka and abroad that the negotiations would succeed and the success would come soon. There were also skeptics who repeatedly argued that the negotiations were doomed to fail, because a negotiated settlement was not possible or feasible with the LTTE. But, when we look back now at the experience of negotiations from a somewhat detached point of view, with the benefit of retrospective insights, we are more likely to see how complex the entire negotiation exercise was. As we noted above, the negotiations began with a great deal of optimism. The two sides, the government and the LTTE, also initially demonstrated a positive, optimistic and result-oriented approach to negotiations. There were encouraging letters exchanged by President Kumaratunga and Mr. Prabhakaran expressing their commitment to, and willingness of pursuing, an early settlement to the conflict. In the first week of January 1995, the two parties signed a cease-fire agreement. By this time, the government had announced a number of initiatives that can be described in the language of conflict resolution as 'confidence-building measures'. These included the lifting of the ban on many consumer items to Jaffna, a plan of rehabilitation and reconstruction, provision of electricity, the facilitation of civilian travel from Jaffna to the rest of the country and the supply of food and medicine to the civilian population in the North. But, in February 1995, there emerged some signs of the negotiation process beginning to face a crisis. It first manifested itself when the LTTE and the government developed a disagreement over the monitoring of the cease-fire agreement's implementation. In the

agreement, there was a provision for international monitoring of the working of the cease-fire agreement. While the government had invited a team of foreign monitors, the LTTE did not allow the monitors to enter into areas under their control. Ultimately, the monitoring exercise failed. It is still not clear why this happened and what contributed to the LTTE's thinking. But we can draw a general lesson from this experience: once negotiations begin, there can be unforeseen circumstances that have to be treated with care, patience and prudence. If these unanticipated issues are not handled prudently by both sides, the negotiation exercise itself may suffer.

There were many other similar instances that brought the negotiation exercise under pressure and stress. For example, the lifting of the ban of consumer commodities to Jaffna was hailed by the government as an indication of its own commitment to the normalization of civilian life in the North. But the LTTE repeatedly argued that although the government made public statements to that effect, the commitments were not properly implemented. The LTTE even went to the extent of saying that the government was not sincere. An intense debate between the government and the LTTE ensued. While the government, reiterating its commitment to an early end to the ethnic conflict, demanded that the LTTE should engage the government in negotiating the political and constitutional framework for ethnic conflict resolution. Then, the LTTE took up the position that what was immediately important was the addressing of the consequences of thirteen years of war and not the root causes of the ethnic conflict. These were indeed two different approaches to the negotiation exercise. It is an approach that can be described as root causes of the conflict vs. consequences of the conflict. The two sides indeed could not solve this issue.

What is the lesson we must draw from this and similar experiences of the 1994/95 failed peace negotiations? A basic lesson is that conflict negotiation is not a on-off affair. Rather, it is a complex exercise with unforeseen challenges and difficulties. Parties to negotiations should consider negotiation as a long process that has to be rescued and sustained at every turn of complex events.

### **Negotiation Collapse and Fall Back Strategies**

**T**o treat negotiation for conflict resolution as a process, it is important that parties have strategies to deal with crisis situations, like the crisis which Sri Lanka experienced in April 1995. The LTTE, accusing the government of dragging on negotiations disregarding its demands for normalization of civilian life, issued an ultimatum to the government in April and then within a week of that ultimatum resumed hostilities. Ever since, the two sides have been engaged in an intense war with no effort being made to resume negotiations. The lesson to be learnt from this is that a peace process needs serious strategizing. Strategizing peace is as important as strategizing war. Like in war, in negotiations too, there are inevitable setbacks while there may be occasional successes. It does not mean that the peace process should be abandoned. Northern Ireland negotiation process points to a lesson in contrast. There, the cease-fire agreement was broken a number of times, yet the US mediator and the parties continued with the negotiation process, exploring new options and resuming the exercise of talking. In Sri Lanka, there

was no mediator to bring the parties back to the negotiation table after the resumption of hostilities. Neither did the parties appear to have any sustainable fall back plans to reactivate negotiations. The result was that the parties went back to an exclusively military strategy.

## Cease-fire and its Lessons

**A**nother important lesson to be learnt from the breakdown of 1994/95 negotiations concerns the question of whether a cease-fire agreement is really necessary in negotiating peace in an armed conflict. In conflict resolution, a main argument in favor of cease-fire agreement is that a mutually-agreed no war situation would help humanize the conflict, strengthening the peace process. A cease-fire may also enable civilians to return to a normal life, after years of being caught up in the war. It can also create conditions for the parties to trust each other, enabling them to negotiate in an atmosphere not colored by hostility. In this sense, a cease-fire agreement can be viewed as an important confidence-building measure for conflict resolution. But, Sri Lanka's experience demonstrated that although those favorable conditions were present at the beginning of the cease-fire agreement between the government and the LTTE, it also generated complex challenges to both sides, challenges that had a negative impact on the entire peace process.<sup>6</sup>

One lesson to be learned in the Sri Lankan experience is that a cease-fire agreement can bring a lot of pressure on the negotiation process itself. There can be many reasons for this possibility. There is always the likelihood of the terms of the agreement being violated, intentionally or unintentionally. Combatants on the ground may for purely local reasons may exchange fire at each other. Parties who have signed the agreement also might violate the terms on tactical grounds, in order to bring pressure on the other side. There can also be groups among the negotiating parties that are opposed to negotiations and therefore might try to undermine the talks by intentionally breaking the rules of behavior as specified under the agreement.

These are contingencies that can make the cease-fire situation unstable. Indeed, such a situation can be further complicated by the fact that although the two sides have signed a pact to cease hostilities temporarily, they are deeply suspicious of each other's strategies, motives and goals. Because of calculations based on mistrust, there is the likelihood of one party going back to war on the assessment that negotiations are useless.

Yet another crucial issue on cease-fire during negotiations emerged during government-LTTE peace talks in 1994/95. It concerns the suspicion developed by both parties that each side utilized the cease-fire period to rearm and regroup themselves. The LTTE began to accuse the government, even within month of the cease-fire agreement, that the government, behind the veil of cease-fire, began to rearm the armed forces, recruit new troops and then prepare for a major offensive in Jaffna. The government also suspected that the LTTE was busy in recruiting new guerillas, training them and acquiring new weapons. In fact, some critics of the peace-talks accused the government of falling into the LTTE trap of cease-fire. Their point was that the case-fire gave the LTTE, which had been

militarily weakened, much needed breathing space to regroup and re-arm itself. This points to an important lesson: a cease-fire agreement, initially perceived as a confidence-building measure between two conflicting parties, may run the risk of leading itself to greater mutual suspicion and new possibilities of hostility.

The challenge then is how to handle such unforeseen contingencies that may arise as a direct consequence of the cease-fire agreement in such a way that the negotiation process is not disrupted? There are two possible answers to this question. Firstly, a third-party mediation can be of great help, as demonstrated in many peace negotiations in other countries. The mediator's role is to help the two sides to overcome those challenges and prevent them from walking out of the negotiation table. The second response is that perhaps, a cease-fire agreement as a pre-condition for talks between the two warring parties is not necessary. In this argument, what may be important are not the cessation of hostilities, but a sustainable negotiation process that can eventually lead to a workable cease-fire agreement as a positive measure of conflict de-escalation. When two parties to an armed conflict begin talks, there is no need for them to establish mutual trust at the beginning of talks. Even if they want such mutual trust to be established at the very beginning, a cease-fire agreement is perhaps not the best mechanism for that, because once the agreement breaks down, there is every possibility for the negotiation process to collapse. There can be other, less strenuous confidence-building measures like a mutually agreed commitment to a framework for negotiations, an agenda for negotiations and perhaps a time frame. In this process of pre-negotiation talks, once an exploration into issues are jointly made by the two sides, the cease-fire option can also be explored into. Then, a cease-fire arrangement can be worked out under conditions favorable to its sustainability.

## Conclusion

Sri Lanka's past experiences offer valuable insights into both the theory and practice of negotiation for conflict resolution. These experiences can also be read to support arguments against peace through negotiations, primarily because of the sheer complexity of the process of conflict resolution. Those who oppose a negotiated settlement are always ready to cite the negotiation failures while the military failures are usually evoked to buttress arguments for military solutions. This paradox apart, failed negotiations are there indeed to offer constructive lessons for eventual success. Although it may sound a cliché, it is necessary to state that peace making through negotiations is as complex as seeking victory through military means. To summarize all the lessons to be learned from Sri Lanka's past failures in negotiation, we may say that without adequately strategizing peace, conflict negotiations are less likely to succeed.

## Endnotes

1. For a detailed account of Thimpu talks, see Loganathan, K, 1996, *Sri Lanka: Lost Opportunities, Past Attempts at Resolving Ethnic Conflict*, Colombo: Center for Policy Research and Analysis, University of Colombo.

2. One very useful account of the circumstances that led to the Indo-Lanka Accord is found in Dixit, J. N., 1998, *Assignment Colombo*, Colombo Vijitha Yapa Books. For scholarly treatment of the same subject, Kodikara (ed.), S. U., 1989, *Indo-Lanka Agreement of July 1987*, Colombo; University of Colombo and Krishna, Sankaran, 1999, *Postcolonial Insecurities: India, Sri Lanka and the Question of Nationhood*, Minneapolis and London: University of Minnesota Press.

3. Not much information is yet available on Premadasa-LTTE talks. A brief account is given in Rupasinghe, Kumar (ed.), 1998, *Negotiating Peace in Sri Lanka, Efforts, Failures and Lessons*, London: International Alert, particularly chapters by Bradman Weerakoon and Dayan Jayatilleke.

4. See Schaffer, Teresita C., 1999, "Peacemaking in Sri Lanka: The Kumaratunga Initiative," in Robert I. Rotberg (ed.), *Creating Peace in Sri Lanka, Civil War and Reconciliation*, Washington, DC., Brookings Institution Press; Uyangoda, Jayadeva, 1995, "Breakdown of Peace talks," *Pravada*, vol. .. no pp., Rupasinghe (ibid), chapters by p. Rajanayagam, Jehan Perera and S. J. Emmanuel.

5. Zartman, William, 1985, *Ripe for Resolution, Conflict and Intervention in Africa*, New York: Oxford University Press.

6. For a brief, yet insightful discussion on the question of cease-fire and conflict negotiation, Manikkalingam, Ram, 1999, *Prudently Negotiating a Moral Peace*, Colombo: Social Scientists' Association.

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