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The Peace Process of 2002-2005, Lessons learned, challenges and (future) opportunities

1. Prelude

The peace process of 2002 opened up a new political terrain for the Sri Lankan politicians by providing a space for them to engage in constructive dialogue with the Liberation Tigers of Tamil Eelam (LTTE) for conflict transformation. The masses in the ethnic divide, which had been experiencing a noisy debate on “high politics” relating to political settlement of the ethnic conflict since the 1980s, also received an opportunity to understand that there is an interim space to be filled jointly by the government and the LTTE before finalizing the political framework of a so called final settlement. The remoteness of the so called “final settlement” in the context of mutually exclusive nationalist projections of principle ethnic nations in society became very evident during the 2002 peace process.

The new initiative was different from the previous efforts because of the new measures identified by the two protagonists (the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam) for “confidence building” and “stake sharing” in order to float the negative peace created by the CFA. Although the peace process of 2002 has now created a “Talk-fight” situation, optimism still prevails, warranting evaluations of the lessons learned.

To evaluate the lessons learned from the peace process thus far, this paper focuses not on the technicalities relating to the “mediations and negotiations” but the “politics” relating to the peace process. In other words it focuses on the events and environment leading up to the peace process rather than the peace process itself. This is important as the “moment of choice” factored into creating both the initiation and stalling of the negotiation process. Furthermore it had a direct relationship to the political exigencies that emerged in the external and internal political environment. The ethnic conflict in Sri Lanka not only contested the domestic environment but its’ spill over effects soon reached the borders of the India in the 1980s and, now has even reached the capitals of some “powerful” states in Europe and the Americas. Consequently “peace” in Sri Lanka has to be structured with these extra territorial politics.

Therefore Sri Lankan stakeholders are struggling to advance their current positions vis-à-vis their opponents by manipulating the interests of these “intervening” out side parties. Thus there is danger in pushing the “ethnic conflict” further to the remoteness and bringing out “power issues” to the fore front, making the bargaining between the GOSL and the LTTE on “sharing stake in peace” identifying as “peace making”.

This paper makes an effort to discern the lessons, challenges and opportunities in the current peace process by focusing on this issue, “politics of peace”. The paper is divided into two parts;

part one details the most important lessons learned from the peace process while part two details challenges and opportunities that emanate from the negative peace prevalent in the country, which is currently experiencing a “talk-fight situation” amidst high involvement of international parties to revive the negotiation process stalled since 2003.

Part I – Lessons learned

2.1 Confidence building between the Government and the LTTE required a shift in focus from “high politics” to “immediate practical issues”

As stated above the Ceasefire Agreement of 2002 looked beyond the so-called “core-issues” or the issues to be addressed by the final political settlement. Focusing on core issues thus far had only fueled an unending debate on the “more remote” solutions to the problem. The Ceasefire Agreement invited both the signatory parties to focus on more immediate issues relating to the normalizing the daily lives of people in war-torn areas. This approach was adopted with the intention it would prepare the groundwork for an interim administration run by the LTTE. This was a different terrain for the regime of Sri Lanka because it was the first opportunity of its kind allowing the regime to engage in joint problem solving attempts with the LTTE. In my article published by the “Lanka Academic” on 22 February 2002, I made the following comment on this new approach:

“The present phase of the peace process...seems different from previous initiatives. The new initiative does not use the breathing spaces created by earlier attempts, which provided frameworks for further discussions on substantive issues over which the conflict was fought for years. ...Rather the new initiative is directed at confidence building exercise during the period of “long-term-ceasefire” created by the MOU...It is quite clear that the Prime Minister is interested in commencing a ‘no war period’ first; in other words, permanent or long-term ceasefire is in the Agenda...The next scenario would be inviting the LTTE to enjoy its newly conferred status as the “sole representative of Sri Lankan Tamils” in an interim administration in the North and East of Sri Lanka (see for a reprint Navaratna-Bandara 2003-a:28-30).

The steps which were identified through negotiations to normalize daily life in the North-East provinces combined with the recognition given to the LTTE in the agreement as a partner in the peace process has allowed society in the south to observe and gain insights into the difficult aspects of conflict transformation.

Further the “South”, which was debating the political issues and settlements on its own has realized that addressing the immediate issues jointly with the LTTE is a must and is far more important than attempting to address the core issues of the ethnic conflict. While the United National Front leaders busied themselves in the “deal making” process with the LTTE to keep the rebel organization on the peace track, people realized that there are two different aspects to be tackled by the power elite in Colombo. One is to create an interim political arrangement for the rebel organization to engage in joint problem solving with the government “without sacrificing its present military, territorial and organizational capabilities”.

Second is to change the ethnic policy of the state to accept a new political formula for rebuilding the state and accommodate all constituent ethnic groups into the political system. The negotiation process tried to address these two aspects. First both protagonists agreed to establish three sub-committees to attend to the immediate issues, i.e. creating a process that lead to “an interim to another interim”. Second both parties decided to “explore federalism” in order to prepare a

political framework for the final settlement. The result of which was a commencement of “federal tours” in Europe by the two parties.

Though the process ended without any conclusive results, leaving some bitter memories for both the signatories, the Ceasefire Agreement received legitimacy in society as a positive step - no political party wanted to resume the war with the LTTE though some of them are very vociferous in criticizing the MOU. Now the “South” has decided to try the process with a new President who wanted to continue the negotiations with the LTTE to find a middle ground without engaging in the unending debate on so called core-issues.

2.2 The regime’s inclination for politics with peace

However, though society learned a lesson on “how to proceed with the rebels outside the war-front without an agreed political framework”, the processes initiated by the governing regime in conducting the negotiations with the LTTE ended without substantive achievement creating a difficult politico-military environment. The process itself had proven that there are no quick fixes even if it is just arranging an interim period for conflict transformation.

The most important lesson learned from the CFA process of 2002 was not only the “ethno-centric war” but also that a “peace process”, even with the heavy presence of international third parties, can be manipulated by the regime in power to gain short-term political gains against its nearest political rivals. We witnessed how the regime failed in maintaining the delicate balance between the handling of the political rivals in the “South” and the fulfillment of promises given to the rebel organization.

No doubt that the UNF leadership of 2002 should be congratulated for its “brave new politics”, which paved the way for signing the current ceasefire backed by the international community of states. But the UNF regime cannot escape from the blame that it lost the momentum of peace by handling the peace process for short-term political gains. It was quite clear in the beginning that the regime was trying to use the CFA and the breathing space it had created against the Executive President. It seems that the Prime Minister was envisaging a “high social expectation for peace as a result of his brave new politics with the LTTE” and had planned to use it against the Executive President with whom he had to cohabitate in government. The clipping “the wings of the President” was also attempted through a constitutional amendment, identifying her as one of the strongest spoilers of the peace process. The ensuing political process that identified the Executive President as a “spoiler” generated a massive counter political campaign by the President Chandrika Bandaranaike to unseat the government at the expense of the peace process.

Finally the regime not only lost the power it had captured at the general election of 2001 but also lost the task of carrying forward the historical momentum which brought the LTTE to the negotiation table. The LTTE abandoned its hope on the process and decided to leave the negotiation table before the collapse of the UNF regime. The ISGA proposal was a “bottom heavy ball” for the Prime Minister who was already losing his political support in the South and provided a further encouragement to the President to unseat the Prime Minister.

Predicting this scenario I made the following comment in an article published in “The Island” (News Paper in Colombo) on 24th October 2003 just two weeks before the announcement of the ISGA proposal:

“...However, in the first round, the negotiation process became a one sided race as the international partners showed a bias towards the government, influencing the Tigers to pull out

from the negotiation process. The LTTE withdrawal from the negotiation process in April this year has brought the two negotiation parties back to the original place where they stood before the race. Next round would be a fresh start for the LTTE, though the government envisages it as the 2nd phase of the peace process. This time the LTTE would abandon their initial understanding with the government to share the burdens in moving the peace process. They will go alone ignoring what ever difficulties the government faces when confronted with their proposals to be submitted shortly. ...As such. This time the government has to take time in responding to the LTTE as the forth coming proposals would ignore the other's concerns in their advancement towards an interim administration. (Navaratna-Bandara 2003-b)

The manipulative approach adopted by the UNF regime is not a fault of its own but a behavior inherent to any political regime that gains ultimate power in Sri Lanka. This is conditioned by the "ethnicized" politics emanating from the socio-religious environment in the southern polity that has been constantly disturbed by the protracted ethno-centric war and the political debate on finding a political solution to the ethnic conflict. It seems that the governing parties, even with the powerful Executive Presidency in hand; feel that they are vulnerable in front of the politics associated with the extreme Sinhala nationalism when dealing with the minority leaders to find a political compromise.

The recently concluded Presidential election represents one such type of political formation to be produced by "ethnicized politics" in the south. Even today no one can rule out the possibility of political manipulation of peace negotiations by the regime in power in order to strengthen its position vis-à-vis the nearest political rivals.

2. 3 sharing the stake in peace unavoidable for government and LTTE

The two negotiating parties tried to use the peace process to share their stakes in peace. Thus for them it became a "time and space game". Looking back we can identify the following "high stake" situation at the time of signing the ceasefire:

The stake of the UNF is a domestic one. The resumption of war may have serious implications for the Prime Minister. It would disrupt his plan to revise the domestic economy and establish a "neo-liberal democratic regime" in order to consolidate his political victory of 5 December 2001. It was the expectation that through the peace process the UNF could improve its popularity vis-à-vis the executive President as it provides a breathing space to revive the economy and the democracy in the country.

The President who constitutionally holds the position of Commander-in-Chief of the armed forces and is entrusted with power to declare war and peace and dissolution of Parliament and call a fresh general election would be cornered if the PM has power to maintain a longer period of a no-war situation. On the other hand the LTTE, now working as a "transnational enterprise" had the biggest stake in the conflict system. It had to deal with the emerging new "international anti-terrorism regime" which replaced the old slogan of anti—communism with the slogan of anti-terrorism after the "September 11" terrorist attack in the US. As such both the protagonists needed a period of tranquility in order to minimize the political risks created by the then uncertain period. Following this stake in peace the present author wrote in 2002:

"...This is not unusual to the conflict regulation practices exercised in other places around the globe. The opportune moment created by the change of regime in Colombo cannot be used unless the process offers political dividends to the parties involved in serious negotiations. What is important for us is to accept the fact that if this period of temporary peace with the LTTE is

successful, the country would benefit economically and socially as this will bring the conflict out of violence to the political negotiation table. As such, the conflict in Sri Lanka has now entered into a period “conflict transformation” thus the positive aspects of the current negotiations should be strengthened and supported by the people who are interested in a negotiated settlement.” (Navaratna-Bandara 2003-a)

The "seeking of political dividends" by the governing party in Sri Lanka and the LTTE through the negative peace will be a continuing aspect in the peace process if the international community succeeded in reviving the process once again.

The “Geneva talks” held in March 2006 focused on the immediate domestic political environment by “talking only of the ceasefire agreement”. The LTTE’s concern was the paramilitaries operating in the East while the newly elected President is interested in maintaining the negative peace created by the CFA in order to consolidate his newly gained political power without touching the “high politics” which would open up the “Pandora’s box of nationalist politics” in the South. However, both parties have not yet taken the other’s concern seriously. The talk-fight situation prevalent in the country at the moment highlights the need for more “shuttle diplomacy” actions by the third parties for “confidence building”.

PART II – The Challenges and opportunities

3.1 How to provide a fresh start

Thanks to the international safety-net created during 2002-2003 the conflict has not yet reduced itself back to square one; so we are here to support the international efforts to revive the peace process in Sri Lanka and map out strategies to protect the process from the negative backlashes of the “manipulative approach” inherent to the regime in Colombo.

The challenge at this moment is how to provide a “fresh start” to the peace process. If the process cannot start “afresh” the new political regime cannot develop “a sense of ownership to the process”. This is crucial to revitalizing the peace process, as the regime in Colombo needs to convince the people that it is “different”. Thus the process does not necessarily rest on everything that has been agreed upon earlier.

In this regard the last Geneva Talks was a worthy start because it focused on the most immediate and urgent issue, namely, “the escalation of violence in the Northern and Eastern parts of Sri Lanka” and allowing both sides to “claim a victory” with a win-win situation. As such both parties need to build on what they have achieved after Geneva-1 and evaluate their failures and achievements to move forward. Therefore it would be a more rational approach if the negotiating parties were able to keep discussions of the final political framework out of the negotiation table as far as possible while taking an interest in the more immediate issues, anxieties and fears relating to the people in the North-East region. We must not forget that the present CFA has lasted for more than four years without a political framework. If the CFA can be implemented fully with genuine commitment from the government and the LTTE with the continuous participation of the international community, an interim arrangement can be founded to accommodate all the communities in the region into the process without the search for a “theoretically sound political framework”.

Improving the security of the people belong to all the communities and is a must for the accommodation of all the communities into the process. Thus issues relating to the normalization of life in the North and East provinces should be given priority. The parties should try to expand

the participant base in the peace negotiations in order to bring all the issues, i.e. security of life and property, civil activities and movements, economic activities, particularly social capital based on people's activities among the different ethnic communities, the resettlement of IDPs and rehabilitation of war damaged public utilities. In this connection the containment of both "war of words and war of militaries" is essential.

3.2 The international safety-net

One of the most significant gains of the current process is the creation of an international safety-net to protect the peace process. It gave the courage to the UNF regime and the Tigers in 2002 to bring their "own power stakes" to the fore front of the negotiations while sidetracking the demand that came from some quarters to discuss the "core issues" which were used over the years to justify the "spill of blood.

The "division of labour" arrangement in the international safety-net is analogous to the situation prior to the signing of the Indo-Sri Lanka accord of 1987. It seems that the international supporters of the Sri Lanka peace process are playing the same roles that were previously played by India when it engaged in Sri Lanka's ethnic civil war in the 1980s. The difference is this time a "division of labour" has taken place among the international supporters to take up the responsibility of playing those different roles effectively. This time some are waving the "big stick", some are carrying the (aid) Carrot, while Nordic partners are doing the hard part; go-between in order to keep MOU intact (see Navaratna-Bandara 2003-c). As such both "pure" and "power" mediations are entrenched in the process that commenced in 2002.

The safety-net arrangement can be identified as the most important element in keeping both sides within reach of the negotiation table. After the withdrawal of the LTTE from the negotiation table and removal of the other signatory to the CFA, the international safety-net parties relentlessly worked to protect the ceasefire process. The last Geneva talk was a success achieved by the international third parties. In this connection the biggest challenge they face is removing the unforeseen obstacles now working against the Geneva I consensus.

The emergence of an underground war between the Sri Lankan military and the LTTE, and the military activities of the breakaway fraction of the LTTE, are unforeseen aspects of the CFA of 2002. It is quite clear that the international third party actors did not anticipate the emergence of armed spoilers and the parties to the conflict drifting towards a clandestine war against each other. The armed forces of the state received an opportunity to demonstrate their concerns and to make a strong claim to become a "stake-holder" in the peace process when their leaders were asked to discuss the High Security Zones (HSZs) issue with the rebels. The third party facilitators must keep in mind that as one of the ground level implementers of the ceasefire agreement with the LTTE, the military has enormous capacity to disrupt the peace process.

In this regard the international community must think about the ways and means to move from "the mobilization of shame approach" to a more effective system of "checks and balances" to contain the ceasefire violations by the two parties. The "armed spoilers" are not gaining a free space if the signatory parties do "confidence building properly" and engage in "joint problem solving". Therefore, addressing of CFA violations more effectively is one of the key areas to be tackled by the SLMM. Without a "peace-keeping force" and a "green line to separate the militaries" SLMM is facing a daunting task. The "pressure" and "big stick" roles played by some of the safety-net parties may be identified by the parties to the conflict as biased actions. The talk-fight situation just emerging in the North-East provinces amidst allegations of organizing

subversive military campaigns against each other can be used to create a “green line” supervised by an “international peace keeping force”.

The other important issue relating to the safety-net arrangement is not providing an adequate guarantee to the security concerns of India, the immediate Big Neighbour of Sri Lanka. Though it openly struck a deal with India following the directions of the Indo-Lanka accord of 1987, the UNF regime too failed to mobilize the support of Indian leadership openly in favour of an interim arrangement for the Northern and Eastern Province [see my comment titled “The big Neighbour Syndrome” published in Lanka Academics (Navaratna-Bandara 2003-c: 78-81) and; see for a full analysis of Indian role in Sri Lanka in 1987, (Navaratna-Bandara 1995)]. This is one of the biggest responsibilities to be taken over by the international third parties. While facilitating between domestic actors they should mediate between India and Sri Lanka and also between India and LTTE, recognizing that India has a stake in any sort of settlement to the North-East conflict in Sri Lanka. The international parties must offer a prominent role for the Indian government to openly participate in the process at least on “Sri Lanka-India security issues relating to the North-East problem”.

However, since these third party maneuverings make the internal conflict “every ones business” there is a possibility of people looking at their participation as an external intervention to achieve some “strategic gains” though they jointly invited their participation in the peace process. As such the third party actors participating in the international safety-net must look into the necessary mechanisms for improving their public standing in the Sri Lankan society. They must not forget that the communities in Sri Lanka would like to see the international participants playing a “neutral” and “principled role” in the peace process.

3.3 The Muslim minority – Are we waiting for them to become a party to the conflict?

The Muslim minority in the eastern province became restless when their leadership was denied the opportunity to represent their community interests at the negotiation table. The communal clashes between the Tamil and the Muslim communities in the Eastern province reflect their frustration towards the National Muslim leadership and the advocacy politics promoted by them. The peace process of 2002 is an eye opener to understand that any settlement to the Sri Lanka Tamils’ Self-Determination conflict to be reached out by the GoSL and the LTTE needs to accommodate the Muslims in the East as a distinct nationality.

The Muslim majority areas in the Eastern Province have become a ‘reactive sub-system’ capable of producing a ‘reactive political movement’ representing the Muslim aspirations in the Eastern Province. It is very much clear that a Muslim self-determination movement based on separate “ethno-regional identity” now exists in the Eastern province. It has contributed to the sentiments that led to the collective political and social actions taken place in recent times. The community that is participating in these collective actions has most of the political bases of communal identity such as shared language (Tamil) and religion (Islam), common cultural practices and above all attachment to a particular territory. The recent past has created another important element, namely, shared experience of victimization by others, interestingly by a non-state actor fighting for an independent nationhood.

Presently the Muslim self-determination movement in the East is reacting to three different cores, namely, the LTTE, the Government and the mainstream Muslim leaders. The LTTE led self-determination conflict of the Sri Lanka Tamils is the most pre-eminent of them. It is responsible for sharpening the Muslim nationalism that is prevalent in the area. The second core is the mainstream Muslim leaders. The LTTE’s change of policy on the Muslims has outweighed the

traditional strategy followed by the Muslim leaders, namely, working closely with the major political parties in order to protect their larger communal interests. However, the Muslim leaders in the mainstream are still trying to use this issue as a bargaining chip to negotiate with the two major political parties. As a result the Eastern Muslims are showing uneasiness towards the incapacity of the mainstream Muslim leaders to provide them a clear political direction. The third core is the government of Sri Lanka, which has not yet recognized that it has to cope with two minority self-determination movements in the North-East; one Tamils and one Muslim. The government must recognize that mustering the support of the Muslim parties, groups or individuals in Parliament is simply not enough to tackle the problem. The non-recognition of Muslims as a party to negotiation will reflect badly not only on government but also on the Muslim leaders supporting the government in power. This has been the case for the protest campaigns organized in the eastern province against both the ceasefire and the P-TOMS agreements.

The Eastern Muslims are trying to move out from the conventional politics such as advocacy, lobbying and electoral politics etc. to face the emerging LTTE power in the East. It seems that the Muslims have lost the confidence not only on such conventional methods of politics but also the Muslim leaders and the governing parties, which promote such advocacy politics to protect the interests of the Muslims in the East. The area has already produced several kinds of militant politics such as mass protests, boycotts and communal violence. The Muslims in the East will challenge any future action by both the government and the LTTE, if it affects their community interests, which have been articulated in their demand for 'regional autonomy'. Thus the Muslim issue in the Eastern province is not just another issue of human rights violation or human security but a self-determination movement, demanding recognition and power sharing.

3.4 Fair Trial for the President –

The rapport between the new government and the LTTE

The LTTE's decision to "give a fair trial to the newly elected President", despite the frustration it experienced with the way in which the previous UNF regime handled the peace process depicts how the organization has learned from the peace process on how to balance its military strategies with the peace time activities. The new President is supported by most vociferous opponents of the earlier peace process for his decision to "talk to the LTTE". In this connection the All Party Conference summoned by the President is a good start and it must be supported by the civil society. As such the President should be given time to consolidate his mass support base and to free his hand to enter joint problem solving with the LTTE.

Therefore the commencement of talks between the government and the LTTE is must. It allows the President and his party to move out from the political mindset created at the Presidential election with a more pragmatic approach. The "unitary state" politics is always associated with the politics in the South. Even the UNF government's actions were shaped by the unitary state mindset. A strong example of this was its proposal to establish an "Apex body" to work with the existing Provincial Councils and central bureaucracy, for the Sinhalese "unitary concept" means not separation. For an interim arrangement there is enough political space to maneuver without touching these "high politics". The Tiger leaders identified Mahinda Rajapaksa as a pragmatic political leader, which was a good start, but he needs time to enter the unknown area of political negotiations.

Both the government and the LTTE must focus on the genuine concerns of the masses on the "power" settlement they are going to strike in the near future. At this point we must take a serious note on the indifference shown by the UNF regime on the issue of mobilizing the ordinary

masses in support of the peace process. The lack of mass support for the peace process helped the political opponents to remove the previous regime from power despite its commitment to the peace process. Since the process has to follow a “step-by-step approach”, the new government must trust the intellect of the ordinary masses. The CFA provided a political space for the LTTE to work among the communities in the North-East. However, it did not properly use the space offered by the CFA for political activities in the Northern and Eastern provinces to win the hearts and minds of the Muslim and Sinhala communities in the region. Instead it continued with its military and highhanded tactics against its political opponents and the Muslim minority. It disregarded the international public opinion, proving the argument that it was not yet ready to become a peacetime political organization.

4. Conclusion

The peace process of 2002 is now passing through a difficult phase. It is being transformed into a "talk-fight" situation. The immediate issue at the moment is how to contain the violence in the North-East, particularly the clandestine violence against the military & the LTTE. Unless both sides try to address the security concerns of each other the process cannot move beyond the present impasse. However, if the LTTE is still in the mindset of 2003 and trying to find an escape route from the current European sponsored peace process or the government is still in the unitary mindset as advocated during the Presidential election by the JVP and JHU, the process cannot be saved. In those mindsets both sides, as competitors for the territory of the state, are demonstrating a dislike towards external interventions. However, if the present peace process ends and the war begins both sides must keep in mind that in a situation of war they have to deal with external military interventions from outside parties who have already identified their own strategic interests with the conflict in Sri Lanka.

References:

- Navaratna-Bandara, (1995), *The Management of Ethnic Secessionist Conflict; The Big Neighbour Syndrome*, Dartmouth, Aldershot, 1995
- _____, (2003-a), “The Peace Process; It is different this time” in Jayadea Uyangoda and Morine Perera (eds.), *Sri Lanka’s Peace Process 2002; Critical Perspective*, Social Scientists’ Association, Colombo, (28-30).
- _____, (2003-b), “The Forthcoming LTTE Proposals and the International Safety Net”, *The Island*, 24 October 2003.
- _____, (2003-c), “The Big Neighbour Syndrome” in Jayadea Uyangoda and Morine Perera (eds.), *Sri Lanka’s Peace Process 2002; Critical Perspective*, Social Scientists’ Association, Colombo, (78-81).

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