

As a seasoned peace practitioner and scholar Joe William has undertaken an in-depth analysis of the difficult and finally failed peace process of 2002 – 2008. With persistence and an open academic mind he not only wants the reader to understand what went wrong with the peace process which had looked so promising at the beginning, but he also wants to draw concrete lessons for the unfinished mission of a peaceful settlement of the conflict. In contrast to many observers who primarily blame the international liberal peace experiment for the failures in Sri Lanka, he provides a more nuanced analysis of various internal factors with unforeseen implications. To understand these dynamics he explains and makes detailed use of systemic analysis and the need for collective and organizational learning. What makes his book particularly important are the reflections on the work and the experiences of the National Peace Council. Many of them are based on systemic thinking and the conclusion that peace processes need spaces and opportunities for joined learning.

Dr. Norbert Ropers

Director, Peace Resource Collaborative, Faculty of Political Science, Chulalongkorn University, Thailand

This book is an outcome of the PhD thesis submitted by Dr. Joe William for the Degree of Doctor of Philosophy at the Faculty of Social Sciences, University of Bradford. It is an enormous piece of work that has resulted from years of extensive research. Dr. William has maintained an impartiality in analyzing what took place in Sri Lanka during the peace process that is commendable. He analyzes the peace process using systemic thinking, and makes an effort to investigate its role in Sri Lanka's conflict transformation. Referring extensively to the vast body of literature including academic writings, books and various other publications, agreements, reports, press releases and websites he identifies the substance of conflict transformation in peace processes quoting authors and examples.

The special feature of this book is the dedication of two chapters of his thesis to the National Peace Council (NPC). He demonstrates how NPC's task, its strategies and experiences become crucial in discovering to what extent systemic conflict transformation theory can enable the peacebuilding community to be mobilized. I believe this is a work, which is translated into Sinhala and Tamil should be studied by all dedicated to Sri Lanka's conflict transformation and its application to the peace process. Considering its complexity, it is left to the NPC to build a dialogue around this book to ensure the researcher's tremendous efforts are put to good use. I believe that NPC is well placed for this task.

Dr. Margaret Kuruppu

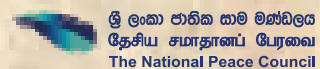
Former Director, Enterprise Services, Sarvodaya Enterprise Development (Gte) Ltd, Moratuwa

While I was engaged in the translation, I was able to appreciate the thoroughness of the methodology used by Dr. Joe William. He had consulted several experts and authorities in the field due to his professional advantage of being a member of third party initiatives dealing with the conflicting parties. He adopted a Systemic Analysis of the Peace Process from 2002 - 2008 to explain the Sri Lankan ethnic conflict.

Governments that came into power in Sri Lanka after independence continued to reject the political aspirations and demands of power sharing by the minority Tamil community at crucial times of constitutional reforms especially in 1972 and again in 1978, by the SLFP and UNP respectively. He confirms that the ethnic conflict is a by-product of misinterpretation of historical facts by the religious institutions, education system and the errors of the political authorities who were in power in Sri Lanka since independence. This is further made evident by the conclusions of the "Lessons learned and Reconciliation Commission (LLRC) which states in its official report that the ethnic conflict is due to irresponsible acts of the major political parties in the country.

Professor M S Mookiah,

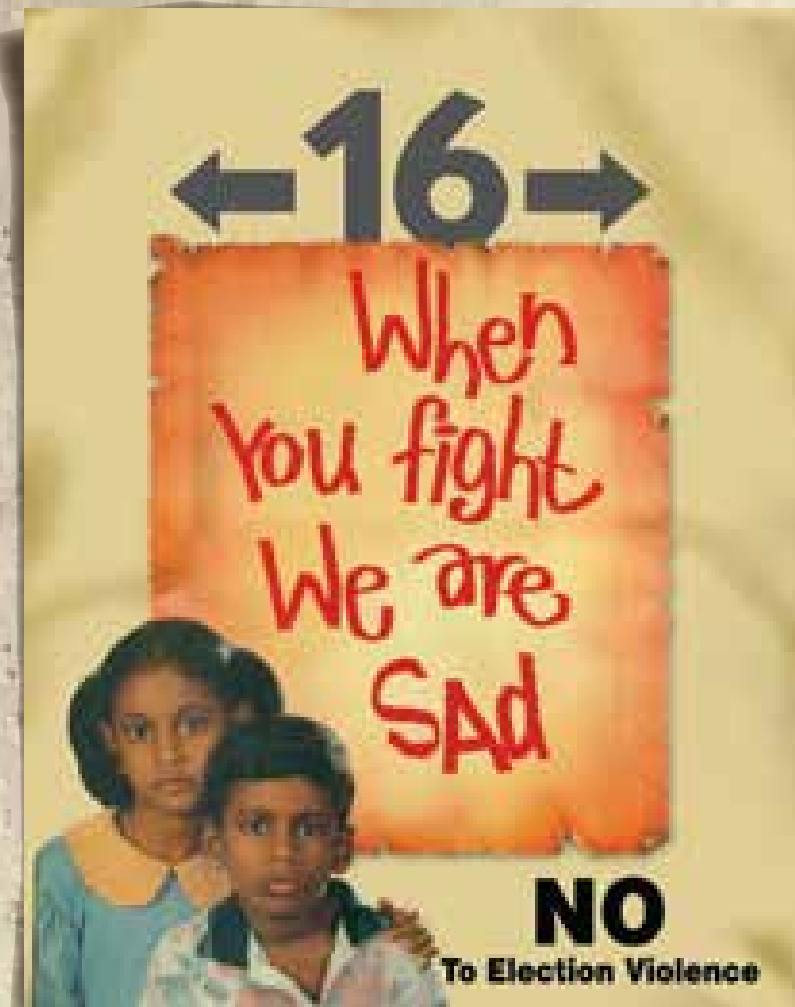
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THE PEACE PROCESS IN SRI LANKA AFTER THE CEASEFIRE AGREEMENT FROM 2002-2008

JOE WILLIAM PHD 2012

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Foreword

It is a privilege to write this foreword to Dr. Joe William's book, "The Peace Process in Sri Lanka after the Ceasefire Agreement from 2002-2008," which deals with one of the most hopeful and yet controversial periods of the Sri Lankan conflict and obtained hitherto unprecedented international attention. The book itself is the fruit of over three decades of his work at multiple levels in the field of peacebuilding that both preceded and superseded the ceasefire period. Joe has been my friend and colleague during nearly all this period, beginning in those early days when he was coordinating the relief operations carried out by Caritas-SEDEC, the social development agency of the Catholic Church in Sri Lanka, in the war-torn north and east of the country. The internal war in Sri Lanka was at its height when Dr. William demonstrated his leadership to establish a full time peace building organization that would be comprised of both activists and professionals from different disciplines who were bound together by a shared commitment to peace building. The National Peace Council of Sri Lanka that he was inspired to found in 1995 along with a core team of seven others of which I was one, has stood from its inception for a negotiated political solution to the ethnic conflict and for an equitable power-sharing arrangement that is acceptable to all communities.

Dr. William spent over ten years working on this book, taking notes from the field, compiling his collection of reports, and applying academic theories to them to find the ones that fit most closely with his preferences as a peace builder. Adding to the value of this book is the pioneering account he gives of the National Peace Council from its inception to its emergence as one of the country's prominent civil society organisations.

What comes out of the time, thought and effort of this accomplished Sri Lankan peacebuilder is a unique blend of grounded experience and academic insight. During the past three decades Dr. William has been able to engage in depth in different tasks, as relief coordinator at Caritas, as consultant to Caritas UK (CAFOD), as Senior Development Officer at the Canadian International Development Agency (CIDA), as chair of the National Peace Council (NPC) and as executive director of the Centre for Communication Training (CCT). This wide swathe of associations has given him a special perspective, not commonly accessible to most Sri Lankan peace workers of insights into international practices and to a comparative approach to addressing Sri Lanka's peacebuilding challenge.

This significant contribution of Dr. William is an outcome of his determination to put his experience in the field into an intellectual and academic frame that will be beneficial to all who will be grappling with similar issues. In the book's focus on conflict transformation, by applying a systemic perspective, Dr. William shows that the way to peace has to be forged at many different levels than to deal with the immediate causes that led to the conflict in the first place.

The National Peace Council is pleased to support this publication which has also been translated into Sinhala and Tamil for the benefit of Sri Lankans who do not have access to similar publications in the local languages. There is a dearth of knowledge in society on the issues dealt with this in the book which is why it needs to be widely publicized in the anticipation that the time will come when the state more fully discharges its own peacebuilding responsibilities.

Dr. Jehan Perera
Executive Director
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The 1994 Poster that led to the Launching of National Peace Council in 1995

**The Peace Process in Sri Lanka after the Ceasefire
Agreement from 2002-2008**

**Systemic Conflict Transformation and its Application to
the Peace Process in Sri Lanka**

Joseph Vethamanickam William

**Submitted for the Degree of
Doctor of Philosophy**

**Faculty of Social Sciences
University of Bradford**

2012

ABSTRACT

Name: Joe William

Title: The Peace Process in Sri Lanka after the Ceasefire Agreement from 2002-2008

Key Words: Sri Lanka, Liberation Tigers, Norway, Ceasefire, Peace Process, Systemic Theory

The ethnic conflict in Sri Lanka is a good example of how peace negotiations in an internal armed civil conflict can collapse when the protagonists remain entrenched in their own positions. This thesis explores the 2002 – 2008 Norwegian facilitated peace process from a Systemic Conflict Transformation (SCT) perspective and examines its multi-layered approach that provides a diagnostic value to outline principles and processes for conflict transformation.

The thesis highlights that, despite a high degree of internationalization evinced in the belief of a successful conclusion, optimism soon faded. The profound paradigm shift following President Rajapakse's coming to power from a liberal peace to a counter insurgency strategy, led to the abrogation of the CFA in 2008 and resumption of war that ended with the military defeat of the LTTE in May 2009.

The thesis concludes that elements of SCT as applied at the field level from 2002-2008 can be concluded as being learning processes and actors and institutions involved could play catalytic roles in launching post-war peacebuilding strategies, not to re-invent the wheel but to assemble the existing wheels in appropriate ways to promote conflict transformation and peace with justice in Sri Lanka.

ACKNOWLEDGEMENTS AND DEDICATIONS

I am grateful that I was able to undertake this research and work with Professors Tom Woodhouse and Nick Lewer and Dr. Norbert Ropers. I am tremendously thankful to them for their friendship, encouragement and insight that enabled me to draw on their collective experiences.

I would like to thank my good friends Steve Alston, Caroline Spires, Minoli de Soyza and Tanuja D' Almeida for editing some chapters of my thesis. Their inputs made me realize how difficult it is to recognize one's own mistakes. I wish also to thank my colleague Romano Pereira for helping me deal with technological issues in the presentation of my thesis. I am also grateful to my colleagues from the National Peace Council and the Centre for Communication Training for their encouragement to complete this task under some very difficult circumstances.

Finally, I want to express how blessed I was with the support and encouragement I always received from my late wife Lourdes and our son Jerome, and our extended families which enriched my life and contributed immensely in a variety of ways at this stage of my life.

I dedicate this thesis to Lourdes who is rejoicing at my achievement from her heavenly abode, and pray for the repose of her loving and caring soul.

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ACRONYMS

ACTC	All Ceylon Tamil Congress
CAS	Country Assistance Strategy
CBO	Community Based Organisations
CEPA	Centre for Poverty Analysis
CFA	Cease Fire Agreement
CJPD	Centre for Justice Peace and Development
CIDA	Canadian International Development Agency
CPA	Centre for Policy Alternatives
CPPB	Conflict Prevention and Peacebuilding
CRP	Childs Rights Project
CSO	Civil Society Organization
CWC	Ceylon Worker's Congress
DAC	Development Assistance Committee
DDC	District Development Councils
DFID	Department for International Development (UK)
DPSG	Donor Peace Support Group
DWG	Donor Working Group
EC	European Commission
GoSL	Government of Sri Lanka
GTZ	German Development Cooperation Arm of German Government
HSZ	High Security Zones
ICRC	International Committee of the Red Cross

IDP	Internally Displaced Person	RRR	Relief, Rehabilitation and Reconciliation Programme
IIGEP	International Independent Group of Eminent Persons	RSL	Regaining Sri Lanka
IMF	International Monetary Fund	SCA	Strategic Conflict Analysis
JHU	Jathika Hela Urumaya	SCR	Systemic Conflict Resolution
JVP	Janatha Vimukti Peramuna or People's Liberation Front	SCT	Systemic Conflict Transformation
JYC	Jaffna Youth Congress	SIHRN	Sub Committee on Immediate Humanitarian Needs
LA	Local Authorities	SLMC	Sri Lanka Muslim Congress
LTTE	Liberation Tigers of Tamil Eelam	SLMM	Sri Lanka Monitoring Mission
MEP	Mahajana Eksath Peramuna	SLPI	Sri Lanka Press Institute
M & E	Monitoring and Evaluation	TA	Technical Assistance
NEPC	North East Provincial Council	TP	Transition Programme
NERF	Northeast Reconstruction Fund	TOR	Terms of Reference
NGO	Non-Governmental Organizations	TRO	Tamil Rehabilitation Organisation
NPC	National Peace Council	TULF	Tamil United Liberation Front
NWZ	No War Zone	UAS	Unified Assistance Scheme
OECD	Organisation for Economic Cooperation and Development	UN	United Nations
OTI	One Text Initiative	UNDAF	United Nations Development Assistance Framework
PA	People's Alliance	UNDP	United Nations Development Program
PNM	Patriotic National Movement	UNHCR	United Nations High Commissioner for Refugees
PSP	Peace Support Programme	UNICEF	United Nations International Children's Fund
PTA	Prevention of Terrorism (Temporary Provisions) Act of 1979	UNP	United National Party
P-TOMS	Post-Tsunami Management Structure	USAID	United States Agency for International Development
RNCST	Resource Network for Conflict Studies and Transformation	YATV	Young Asia Television

MAP OF SRI LANKA



CHAPTER 1

INTRODUCTION

I embarked on this research in 2005 with a hope that the stalled Norwegian facilitated Ceasefire Agreement (CFA) signed between the Government of Sri Lanka (GoSL) and the Liberation Tigers of Tamil Eelam (LTTE) in February 2002 would somehow be resurrected. Unfortunately the process itself was progressively derailed during this period due to the abrogation of the CFA and renewed hostilities that led to the complete military defeat of the once invincible LTTE in early 2009. The Norwegian-facilitated peace process collapsed totally despite their untiring efforts, financial investment and support from the international community. Academics and others have described the Sri Lankan conflict as the country's most intractable and destructive problem.¹

Why did the Norwegian-facilitated peace process fail? Will Sri Lankans be able to construct a just and inclusive peace for future generations or remain condemned by their past history? Answers to these questions will be crucial for future peace processes. My combined role as an academic and an activist led me to focus my research on a Sri Lankan perspective of Systemic Conflict Transformation (SCT) very much in the spirit of what Lederach says, "The peacebuilder must have one foot in what is and one foot beyond what exists. It is the nature of pursuing change."²

Background to the Research

On my return to Sri Lanka after completing my dissertation for my MA in Peace Studies at the University of Bradford on 'Integrative Approach to Peace Building – A Sri Lankan Case Study', I immersed myself more actively in peacebuilding by focusing on a range of activities that involved promotion of good governance, respect for human rights and humanitarian norms, and civil society peace promotion. At the same time, I was anxious to return to Bradford University to continue with my research. Being unable to invest several years in this pursuit on a full-time basis, my research proposal submitted to the university was approved that enabled me to register as an extramural candidate in 2005. Since the most significant event in recent Sri Lankan history was the signing of the CFA in February 2002 which recognized the importance of bringing an end to hostilities and thereby improving the living conditions of all Sri Lankans affected by the conflict. Not surprisingly, the title of my research was, 'The Peace Process in Sri Lanka after the 2002 Ceasefire Agreement.'

¹ Lewer, N., and William, J. (2002). *Finding a Negotiated End to Twenty-five Years of Violence*, in Searching for Peace in Central and South Asia, European Centre for Conflict Prevention, London: Lynne Rienner Publishers. P. 489.

² Lederach J P. (2005). *The Moral Imagination, The Art and Soul of Building Peace*, New York: Oxford University Press. p. x.

Inspiration for my research

The inspiration for my research came from my own need to become a more reflective and analytic professional and bring further theoretical, conceptual and operational insights into my work. I intended to focus my thesis on action research methodology. However, following a series of meetings with my associate supervisors both resident in Sri Lanka at that time, Dr. Nick Lewer and Dr. Norbert Ropers³ I decided to explore the potential of a systemic approach to conflict transformation and explore its strengths and limitations in its application to the Sri Lankan peace process from 2002-2008.

Situation of the Research

Terms such as 'conflict management', 'conflict resolution' and 'conflict transformation' have been increasingly applied to address violent conflicts, mainly intrastate ones, and have enriched capacities to respond to them. Given the complexity of the Sri Lankan conflict, conventional concepts and methods of stimulating peace may no longer suffice and new avenues of peacebuilding may have to be explored. Lewer asserts that this needs to be based on a non-violent process to rebuild societies in which people have fair access to resources and based on social justice, and respect for fundamental human rights and international law.⁴ My research will fall within the broader parameters of 'conflict transformation' which is a significant step beyond 'conflict resolution' whereby the outcome will satisfy all parties; it involves changing structures and frameworks that cause inequality and injustice, improving long-term relationships and attitudes among the conflicting parties and developing processes and systems that promote justice, peace, forgiveness, recognition and reconciliation.⁵

I will then attempt to apply systemic thinking in order to better understand the dynamics of the Sri Lankan conflict and to investigate how far systemic analysis could contribute to its transformation. Introducing the development-deadly-conflict system, Richardson points out:

Insights from systems analysis provide a deeper understanding of development-deadly conflict linkages. The approach is not a panacea, but does offer a relatively unexplored path that points toward policy recommendations we seek.⁶

Some of the terminology and concepts from systems theory both from the arenas of theory and practice will be investigated by drawing especially from the Resource Network for Conflict Studies and Transformation (RNCST) in Sri Lanka.⁷ In addition an understanding of systems theory from a donor perspective by the Canadian International Development Agency (CIDA) and from a civil society perspective by the National Peace Council of Sri Lanka (NPC) will be incorporated.

³ Director, Berghof Foundation for Conflict Studies (BFCS), Sri Lanka office

⁴ Lewer, N. in, Douma, N and Klem.B., (2004). *Civil War and Civil Peace*, A Literature Review of the Dynamics and Dilemmas of Peacebuilding through Civil Society, Clingendael Institute. pp. 5-6

⁵ Uyangoda, J. (2005). *Conflict, Conflict Resolution & Peace Building*, GTZ Sri Lanka. pp. 27-28.

⁶ Richardson, J. (2005) *Paradise Poisoned*, Kandy: International Centre for Ethnic Studies. P. 91.

⁷ RNCST was co-funded by the Swiss and German governments and set up by BFCS in 2001.

These organizations were chosen due to my links to them which gave me a wide range of opportunities to analyze the theory as an insider with potential influence on their conflict transformation initiatives and because of their involvement in civil society and political peacemaking.

The origins of the theme of my research came as a result of my association with the Berghof Foundation for Conflict Studies (BFCS) where I had many opportunities to discuss this concept with colleagues active in conflict transformation work both inside and outside of the RNCST. I will explore how systemic conflict transformation (SCT) theory could help make transforming internal conflicts more effective based on three insights: a systemic analysis, a systemic perspective and a systemic framework. As quoted earlier, 'the peacebuilder must have one foot in what exists and one foot beyond what exists' and in systemic language this means that peace promoting interventions have to become part of the thinking of the conflicting parties to be effective, while at the same time, have to stay outside of the system and try to disturb and prevent the reproduction of the system and promote its transformation. Another purpose of my thesis is to review literature especially in the light of most recent contribution on SCT theory by Ropers and others in the publication under the Berghof Dialogue Series. This can be defined as being a work in progress on the SCT approach, particularly in reference to the Sri Lankan peace process. The title of the publication itself is exploratory in nature.

Research Methodology

As indicated earlier I will adopt an action research methodology. My association with RNCST gave me an initial insight into SCT and gave me scope to apply some components from the Sri Lanka One Text Initiative (SLOTI) and the South Asia Peace Institute (SAPI) and CIDA programmes. However, I was able to focus more closely working with the NPC in helping to apply SCT thinking into its activities. As will be seen in Chapters 5 & 6, the NPC applied components of SCT in their programmes, capacity-building and advocacy efforts. With management responsibilities and as a participant and facilitator of activities organized by the abovementioned institutions I was in a position to provide SCT inputs access a significant collection of resource material not available in the public domain.

A starting point is a review of existing academic literature on the subject. Additionally, I will analyze a wide variety of new policy and operational literature on the CFA which reflect analytic and historical reviews from varying perspectives. These sources draw from workshops conducted during the peace process and look for opportunities to understand the peace process through a systemic analysis lens. In view of the above, my thesis will contribute to the literature and also propose options for a sustainable peace and reconciliation in Sri Lanka.

A systemic analysis enables me to identify the drivers of conflict and drivers of peace and those on the margins of the two. I will also look for significant events during the period that have moved the process towards a peaceful outcome or a resumption of hostilities and identify

embedded structural factors which will ultimately drive them in one direction or the other. This will also enable me to see the degree to which SCT theory succeeds in explaining why the peace process failed.

Contribution of the Research

As indicated earlier, my research will be original from the perspective of its analysis based on SCT principles. My thesis will test the inherent fragility of the peace process as a consequence of inter-and intra-party political cleavages and tensions and will involve a close examination of the role of the variables, and the mediation efforts of the Norwegian facilitators. It will also identify markers of transformation and blockages in operationalizing the peace process and provide recommendations that refer to finding ways of breaking out of recurring circles of violence, where the solution to the problem for one party is seen as a problem to the other. It will add to the existing body of research and will inform conflict analysis, review and reflection on peace processes, and assist in designing initiatives that would help promote conflict transformation. The final original outcome will be in advancing theory-building and will have exposed the pathway and have indicated possible options for restructuring the peace process.

Ethical Issues

Being rooted in action research methodology can benefit me as practitioner as well as a researcher and can be defined as a collaborative enterprise and sharing of a lived experience. Reviewing the CFA which ended in failure, opinions of different stakeholders involved in the process will be vital to enhance the quality of the research particularly when viewed from the perspective of designing a new process in order to prevent past failures being repeated. From this perspective the ethical principles of integrity, honesty, confidentiality, voluntary participation, impartiality and the avoidance of personal risk to individuals or social groups will characterise my research. I will guard against my own researcher bias coming into play and be particularly conscious of my background, work experience and organizational links. With regard to one-to-one interviews the key concept of informed consent will always be maintained in addition to being transparent with informants with regard to the aims and objectives of my research. In keeping with these principles, no undue influence will be applied on participants' response. There will be clarity and mutual understanding and expectations and a willing co-operation of participants to maintain trust and confidentiality and ultimately share the findings of my research with them.

With regard to drawing from workshops and focused group discussions on the peace process in which I participated from 2002 to 2008 or brainstorming meetings on future strategies for peace initiatives in Sri Lanka, the Chatham House Rule is always invoked at the start of such events. Accordingly, I will use information gathered from these events, but neither the identity nor the affiliation of the speaker(s) nor any other participant will be revealed. Because of these rules such meetings also encourage openness and sharing of information, allowing people to speak as individuals, and to express views that may not be those of their organizations. As a major source these events will make a positive contribution to my research.

Research Questions

As indicated in the opening paragraphs, two questions come foremost to my mind. These questions also lend themselves analysis under the proposed SCT methodology. They are:

- Why did the Norwegian-facilitated peace process fail?
- To what extent can systemic conflict transformation theory enable the peacebuilding community to be mobilized?

In addition, questions embedded in some of the chapters that follow will also contribute to finding answers to the above questions.

Outline of the Thesis

The focus of my thesis is to explore, drawing from practical experiences, how systemic thinking could help make transformation of internal conflicts more effective. Personally it will be a learning process for me as well. My thesis will be based on the following chapter outline: In Chapter 2, titled Conflict Resolution and Systemic Conflict Theory I will provide a brief sketch of some of the best known conflict resolution models and introduce the concept of SCT which is the sub-focus of my research in analyzing the Norwegian-facilitated peace process in Sri Lanka.

In Chapter 3 titled Conflict Context and Conflict Actors I will provide a historical overview of the post-independence political processes that generated and sustained the Sri Lankan conflict concluding with the events leading up to the signing of the CFA. I will then examine different stages of the peace process, from 2002 to 2008, its collapse and ending with the abrogation of the CFA. I will then proceed to develop a more systematic conflict analysis with reference to conflict parties or stakeholders and the relationships among them; I will highlight embedded conflict issues with respect to their positions, interests and values; and trace historical events and actions that contributed to the genesis and dynamics of the parties in conflict. I will then attempt to develop a more systemic conflict analysis utilizing the following questions on the Sri Lankan conflict as a supporting structure for the analysis:⁹

1. Who are the *conflict* parties or stakeholders, by which criteria are they characterized and what are the relationships among them?
2. What are the conflict *issues* with respect to the positions, interests, and values and needs of the parties?
3. What is the *history* of the conflict and how far can its features explain the genesis and dynamic of hostilities?

This will attempt to reduce the complexity of a multiplicity of interacting factors in coming to an understanding of how the parties to the conflict conceptualize it and how outside observers can integrate into a system of conflict transformation.

⁹ ibid.

This process will hopefully encourage the parties to make concerted efforts to bring about changes that enable them to move towards finding a permanent solution to the protracted, and up to now intractable conflict in Sri Lanka. By taking a systemic approach, the chapter will grapple with issues that could potentially move to a conflict transformation one, shift root and proximity causes of conflict to interaction and independence, and to help focus analyses on solution rather than just reflecting on problems and options for change. According to Stroth, 'Systems thinking is a very powerful way of uncovering root causes because it illuminates the non-obvious interdependencies among complex organizational (and external) factors.'¹⁰

It is often said that the road to hell is paved with good intentions. One reason for this is that complex systems tend to seduce people into taking actions that achieve short-term benefit but often make matters worse in the long run.

Thinking systemically helps people recognize how they are in part responsible for the problems they are trying to solve. They can learn how their well-intentioned actions often produce unintended consequences that actually reduce their effectiveness in the long run. Effective leaders know that the goal of taking responsibility is not to allocate blame, but to take back the power that organizations surrender when they inaccurately assume that problems are caused by forces beyond their control.¹¹

In his critique on the three questions Smith asserts that these are standard questions for conflict analysis and it is unclear if there is something specifically systemic about them. He adds: 'if there is a systemic essence in them it is not on what answers are produced but how the answers are produced, and can be addressed using the standard political science research methods.'¹²

In Chapter 4, titled Systemic Analysis of the Peace Process from 2002-2008, in line with SCT theory, I will unpack the structural and contextual features that influenced the character of the conflict the needs of the parties and their needs for conflict resolution. I will address how conflict resolution preferences and options can be framed to support a constructive transformation of the conflict. I will begin by answering the following three additional questions as proposed by Ropers:¹³

1. What are the structural and contextual features which influence the character of the conflict and determine its dynamic?
2. What are the parties' understanding of the conflict and their needs for conflict resolution?
3. How can the conflict resolution preferences and options be framed in a way which supports a constructive transformation of the conflict?

¹⁰ Stroth, D. (2000). Leveraging Change: The Power of Systems Thinking in Action. *Reflections*. Vol. 2, No. 2.¹¹ *ibid*.

¹² Smith, D. (2008). *Systemic Conflict Transformation*. in, Berlin: Berghof Handbook Dialogue Series No. 6. P. 88.

¹³ Ropers, N. (2008). Systemic Conflict Transformation: Reflections on the Conflict and Peace Process in Sri Lanka, Berghof Handbook Dialogue Series No. 6. P. 17.

Smith argues that the first question refers to structural and contextual factors that require a broader basis in social science; the second refers to parties' interpretation of the conflict requiring an exploration through sensitive textual exegesis informed by methodologies adopted in the earlier questions; and the third about framing conflict resolution options, requires conflict knowledge, qualities of imagination and realism and more importantly, intuition.¹⁴ I will then proceed to look at the Sri Lankan peace process from a systemic thinking perspective where significant forces have opposed moderation, compromises and concessions vis-à-vis the other side.

In Chapter 5, titled The National Peace Council, Study 1, I will trace the history of the NPC since its inception in 1995 and describe the work of the organization from 2002 to 2008 which was based on the assumption of linear solutions and progression to peace. I will highlight some significant milestones in the work of the NPC following the signing of the CFA. I will conclude this chapter by answering one of my two research questions why the Norwegian-facilitated peace process failed. I will then seek to apply the lessons from such failure.

In Chapter 6 titled, The NPC – Study 2, I will look at how the NPC addressed possible modalities for supporting the Sri Lankan peace process using systemic thinking as a tool for understanding the dynamics of conflict and peace and to exploring its potential for guiding and reflecting on practical measures of intervention. This chapter will answer my second research question by looking at the NPC's own strategies and experiences to discover to what extent systemic conflict transformation theory can enable the peacebuilding community to be mobilized.

In Chapter 7, which will be the concluding analyses, I will assess/evaluate the prospects for peace in Sri Lanka and explore the potential for applying systemic thinking for guiding its transformation. The study of systemic conflict transformation (SCT) is an emerging field of scholarly research and practice. Ropers argues that from a systemic perspective:¹⁵

All peace processes are processes of collective learning. The conflicting parties explore the possibilities of changing or transforming the conflict system they share with each other, and third parties explore what they can do to engage with relevant persons at the right time on the most critical issues.

Ropers continues that a key test of systemic thinking is indeed that third parties and insider activists become increasingly capable of applying systemic knowledge while supporting peace processes.¹⁶

However there are many challenges ahead. The Sinhala community — the majority population — took power after the departure of the British in 1949 and over a long period made a series of disastrous decisions: imposing their language and religion (Buddhism) as the only official expression of the country, limiting access to universities and the civil service by the Tamil community, and refusing to broaden the country's politics to allow an effective expression of Tamil opinion. Repeated attempts by moderate Tamils to effect change were met by a stone wall of resistance. What had been a parliamentary issue turned violent in the 1970s, with the LTTE emerging as the most powerful guerrilla force after that time.

¹⁴ *op.cit*. p. 88.

¹⁵ *ibid*. p.92.

¹⁶ *ibid*. p.93.

with the LTTE emerging as the most powerful guerrilla force after that time. The LTTE were ruthless at killing their opponents and insisting that they alone would represent the Tamil people. Their goal was an independent Tamil state in the north and east controlled by them.

The LTTE became victims of a combination of their acts of terror and international circumstances. After 9/11, 'war on terror' created zero tolerance for terrorism around the world. It also blurred distinctions between terrorist organizations and national liberation groups. There is no liberation army in the world that has not faced state terror and in turn used terror as a tactic to pursue its nationalist goals and the LTTE is no exception. The LTTE was banned as a terrorist organization in nearly thirty countries, which gave the Sri Lankan government global sanction to destroy them. But in doing so, the international community allowed a disaster of epic proportion to unfold. This is not an LTTE, but a Tamil tragedy. Nowhere in the world has a government continuously bombed its own civilians for over a year. The net result is that the Sri Lankan military decisively defeated the LTTE.

The defeat of the LTTE was made possible by a combination of factors: the unwavering focus of the Sri Lankan President to prosecute the war to its end, irrespective of the human and material costs that it would entail; the tragic mistake of the LTTE in withdrawing from the peace talks and carrying out military and terrorist acts which attracted a military response from the government; the blurred role of large sections of the international community, by openly calling for a political solution to the conflict while providing military, moral and political support to the Sri Lankan government to prosecute the war; urging the application of the 'responsibility to protect' and principles of International Humanitarian Law only when several hundred thousand civilians were trapped in a so-called 'no war zone' facing imminent death and annihilation; the war euphoria displayed by a majority of the Sri Lankan citizens on successive military victories and a total annihilation of the LTTE; the losers in the war, not just the few thousand LTTE cadres but the hundreds of thousands of those (mostly Tamils) repeatedly displaced, physically and psychologically bruised, deprived of their dignity, freedom of movement and quality of life and held captive (whether as hostages or suspects or potential hosts to the enemy) in camps or designated areas by one party to the conflict or the other.

The clear victory for the government has created an environment more conducive for securing a long-lasting peace but it is a challenge to apply SCT principles to design a new peace process taking the above reality into account. If the country is to embark on constructing a post-war Sri Lankan nation from the ashes of sixty years of ethnic conflict, twenty-five years of civil war and decades of terrible human rights abuses and terrorism, there is a need radical transformation of the Sri Lankan state, not patchwork corrections.

The end to military confrontation with the annihilation of the LTTE is perhaps one of the most important 'turning points' which may provide entry points for pursuing new political strategies. There may still be opportunities for influencing resolution of protracted conflicts from the outside and promoting a solution-oriented approach by encouraging all stakeholders to broaden the search for creative solutions through exploring common grounds that would live up to international regimes of human rights and humanitarian standards.

The systemic approach attempted by me is a personal challenge, one that would help me to come to a clearer understanding of the skills and qualities required both to analyse and act living and working in Sri Lanka.

CHAPTER 2

CONFLICT RESOLUTION AND SYSTEMIC CONFLICT THEORY

INTRODUCTION

The island of Sri Lanka is situated in the Indian Ocean just 20 miles off the south-eastern tip of India, with whom it has strong historical and cultural connections. For more than twenty years it has experienced a series of violent and bloody conflicts. These include two uprisings by a Sinhalese group, the Janatha Vimukthi Peramuna (JVP) in 1971 and 1987-1989, and the war with the Liberation Tigers of Tamil Eelam (LTTE). My research will focus on the latter. The causes of the conflict are hotly contested, and it has been referred to variously as a terrorist problem, a war of secession, a protracted social conflict, an ethnic conflict, and a complex political emergency. It is beyond the scope of this research to provide a detailed analysis of the complexities of the conflict in Sri Lanka. I can only sketch some of the root causes, and summarize previous peacemaking processes looking at lessons learned from these attempts.

The roots of the Sri Lankan conflict are complex, multi-layered and multi-factorial and include grievances and deep-rooted factors related to issues such as the favouring of one language as the language of administration, the denial of historical claims to land rights and the denial of access to power for the Tamils to manage their affairs in the areas of their traditional habitation. These grievances, which were initially articulated in Gandhian non-violent struggle by Tamil speaking minorities, were met with violent responses by agents of the state. The failure of post-colonial state formation, employment discrimination in public sector organizations, university admissions opportunities, lack of protection of minority rights, manipulation of events by political elites, negative role of religion, the rise of Tamil militancy, and the use of terror and violence by all sides to the conflict would fit into what Edward Azar defines as a protracted social conflict.¹⁷

There have been many attempts at both official as well as unofficial level to bring peace to the country. There is an existing extensive body of literature associated with all aspects of the conflict which provides a sophisticated analysis from the different perspectives of the parties engaged in the conflict. There is no doubt that the war has had a massively destructive impact on Sri Lanka's human, social and economic capacity, and its infrastructure.

Conflict is an ambiguous concept that takes on different meanings for different groups and in different contexts. In particular, conflict tends to be understood as a negative phenomenon, synonymous with violence. Conflict occurs when two or more parties believe that their interests are incompatible, express hostile attitudes or take action that damages other parties' ability to pursue their interests. It becomes violent when parties no longer seek to attain their goals peacefully, but resort instead to violence in one form or another.¹⁸

¹⁷ 'The prolonged and often violent struggle by communal groups for such basic needs as security, recognition and acceptance, fair access to political institutions and economic participation.' Azar, E. (2005). in Ramsbotham et al. (2005) *Contemporary Conflict Resolution, (Second Edition.)* Cambridge: Polity Press, p. 84.

¹⁸ Conflict-sensitive approaches to development, humanitarian assistance and peacebuilding: a resource pack, www.conflictsensitivity.org, [accessed on May 18, 2008].

Ramsbotham et al define conflict to mean the pursuit of incompatible goals by different groups. This suggests a broader span of time and a wider class of struggle than armed conflict. They intend their usage to apply to any political conflict, whether pursued by peaceful means or by the use of force.¹⁹ Frerks argues that there is a general consensus that intrastate conflicts differ in type, scale and culture; that they are caused by a complex of factors, built up over a long history of tension; that causal factors also may change in the course of the conflict; and the consequences of conflict or other forms of violence and the resulting traumas, may feed into a new escalation of violence.²⁰

Despite the preponderance of literature and scholarly debate on 'conflict management', 'conflict resolution' and 'conflict transformation', the difficulty of describing the space between war and peace remains. Concepts such as 'undeclared' or 'declared, wars, and latent conflicts contribute to this difficulty. Given the complexity of intrastate conflicts, conventional concepts and methods of stimulating peace may no longer suffice and new avenues of peacebuilding may have to be explored. Lewer, presents a much broader definition:

Non-violent processes which attempt to prevent, mitigate, and transform violent conflict and contribute to building societies in which people have fair access to resources, which are based on social justice, and which respect fundamental human rights recognized under international law. The rebuilding of benign functional relationships is a vital part of this activity. Such processes should be rooted within the communities affected by the conflict and be sustainable locally. Peacebuilding usually requires a long-term commitment from local people and outside helpers, and can involve both cross-cutting (integrated into development and relief programmes) and stand-alone approaches, and work at community or national levels, or both.²¹

Peacebuilding was no longer confined to organizations that promoted peacebuilding or conflict resolution per se. Douma and Klem highlighted that some agencies attempted to address root causes of violence through development, democratization, justice and respect for human rights. Peacebuilding was not the only term used to describe the transformation of conflict situations.²²

While there are many themes or terms relevant in the lead up to my own research, I will briefly analyze conflict resolution and conflict transformation in order to remain more focused. There are other categories of conflict analysis methods which are used by a range of actors in civil society, national and state agencies and the international community because these will help contextualize the later discussions on Systemic Conflict Resolution (SCR) and Systemic Conflict Transformation (SCT). Peacebuilding is the central focus of my study as the term 'underpins peacemaking and peacekeeping by addressing structural issues and long-term relationship between conflict parties; creating a stable and durable peace'.²³

¹⁹ Ramsbotham et al. (2005). *Contemporary Conflict Resolution, (Second Edition)*. Cambridge: Polity Press, p. 27.

²⁰ Frerks, G. in Douma, N. & Klem. B., (2004). *Civil War and Civil Peace, A Literature Review of the Dynamics and Dilemmas of Peacebuilding through Civil Society*, Clingendael Institute, p. 5.

²¹ Lewer, N., in *ibid*, pp, 5, 6.

²² *ibid*, p 6.

²³ *ibid*, p 7.

Conflict Resolution

Conflict resolution refers to activities undertaken over the short and medium-term dealing with, and aiming at overcoming the deep-rooted causes of conflict, be they structural, behavioural, or attitude-based. It also refers to a process focusing on the relationship between the parties more than to the content of a specific outcome.²⁴

Ramsbotham et al assert that as a defined field of study, conflict resolution started in the 1950s and 1960s. A group of pioneers from different disciplines saw the value of studying conflict as a general phenomenon, with similar properties whether it occludes in international relations, domestic politics, industrial relations, communities, families or between individuals. They saw the potential for applying approaches that were evolving in industrial relations and community mediation settings to conflicts in general, including civil and international conflicts. By the 1980s, conflict resolution ideas were increasingly making a difference in actual conflicts in South Africa, Northern Ireland the Middle East and South East Asia. Ramsbotham et al added that by the closing years of the Cold War, the climate for conflict resolution was changing radically with the improved relationship between the superpowers and military competition that fuelled many regional conflicts fading and moving towards settlement in South Africa, Central America and East Asia.²⁶

Ramsbotham et al highlight that in this new climate, the attention of scholars of international relations and comparative politics turned to the type of conflict that had preoccupied conflict resolution thinkers for many years. A richer cross-fertilization of ideas developed between conflict resolution and these traditional fields. At the same time, practitioners from various backgrounds were attracted to conflict resolution, including a former President of the United States, Jimmy Carter. Development and aid workers, who had earlier tended to see their function as non-political, now became interested in linking their expertise to conflict resolution approaches. 'Complex humanitarian emergencies' became 'complex political emergencies' which in turn led to many governments setting up conflict units and providing funds for conflict prevention and resolution initiatives.²⁷

Despite these positive outcomes, difficulties encountered in the early 1990s in chaotic war zones such as in Bosnia and Somalia, highlighted the unrealistic expectations of rapid results. Conflict resolution was seen as being incapable of addressing the nexus between the weakening of vulnerable states, the availability of cheap weaponry and the generation of shadow economies that made new wars self-perpetuating and profitable. The collapse of the much hailed Israeli-Palestinian 'Oslo' peace process with the launch of the intifada in September 2000 was seen as another failure for conflict resolution. Finally conflict resolution was not prepared to deal with the shock of the events of September 11, 2001 which was seen as a lethal combination of 'rogue states' globalized crime, proliferation of weapons of mass destruction, and the fanatical ideologues of international terrorism.²⁸ There were also intellectual challenges and criticisms besides the political challenges articulated above. Ramsbotham et al highlight three sets of critics.

²⁴ *Berghof Handbook for Conflict Transformation*, (2001). Berghof Research Center for constructive conflict management, Berlin, p. 6.

²⁵ Ramsbotham et al. (2005). *Contemporary Conflict Resolution, (Second Edition)* Cambridge: Polity Press. p 3.

²⁶ *ibid*. pp. 4-5.

²⁷ *ibid*. p. 5.

Firstly, David Shearer who argued that the principles of conflict resolution can be applied to in cases where the conflict was fuelled by greed rather than grievance as in Sierra Leone, where the pursuit of mediated settlements and delivery of humanitarian aid contributed to the unintended effect of prolonging the conflict and feeding the warring factions, while civilian populations continued to suffer. In this case, he argued that targeted military action on the other hand could have the effect of foreshortening the conflict by persuading the losing side to accept a settlement, as was seen in Bosnia in 1995. However, Ramsbotham et al in response argue that quick military fixes are rarely possible and that military force enabled international interveners to create political space for a post-war reconstruction process defined largely in terms of conflict resolution principles.²⁹

Secondly, Mark Duffield, who argued that internal wars, however negative they may be, allow the emergence of entirely new types of social formations adapted for survival on the margins of the global economy. The most powerful economies treat these wars as local symptoms of local failures and expect behavioural and attitudinal changes in these countries. Conflict resolution, described by Duffield as a socio-psychological model, together with aid and human development programmes, is seen to have been co-opted into this enterprise so that existing power structures can continue to control the global system. This, according to Duffield, is in variance with traditional Marxist criticism which sees liberal conflict resolution as naïve and theoretically uncritical, since it attempts to reconcile interests that should not be reconciled, fails to take sides in unequal and unjust struggles, and lacks an analysis within a properly global perspective of the forces of exploitation and oppression. Ramsbotham et al in response assert that while realist theory and most Marxist theory sees violence as unavoidable and integral to the nature of conflict, such determination is rejected in conflict resolution. Here they are always seen to be other options, and direct violence is regarded as an avoidable consequence of human choice.³⁰

Thirdly, Paul Salem, who argued that the western assumptions on which conflict resolution rests are not applicable universally and suggests that hidden assumptions in the western approach to conflict resolution from an Arab Muslim perspective are not shared in other parts of the world.³¹

In response to the above and other criticisms, Ramsbotham *et al* argue that:

The developing tradition of conflict and conflict resolution is all the more relevant as the fixed structures of sovereignty and governance break down. All over the world, societies are facing stress from population growth, structural change in the world economy, migration into cities, environmental degradation and rapid social change. Societies with institutions or norms for managing conflict and well-established traditions of governance are generally better able to accommodate peacefully to change; those with weaker governance, fragile social bonds and little consensus on values or traditions are more likely to buckle..... We argue that conflict resolution

²⁸ *ibid.* pp 3-6.
²⁹ *ibid.* p 6.
³⁰ *ibid.* p 7

has a role to play, even in war zones, since building peace constituencies and understanding across divided communities is an essential element of humanitarian engagement. We argue for a broad understanding of conflict resolution, to include not only mediation between the parties but also efforts to address the wider context in which international actors, domestic constituencies and intra-party relationships sustain violent conflicts. We argue that although many of the recent theories and practices of conflict resolution may have been articulated more vociferously in the West, their deep roots reach into far older world traditions from which they draw their inspiration. The point is not to abandon conflict resolution because it is western, but to find ways to enrich western and non-western traditions through their mutual encounter.³²

It must be recognized that the transition from war to peace does not come easily or spontaneously as years of, polarization, violence, strife and war inevitably leave deep scars, bitter memories and rancour. I will now give a brief sketch of some conflict resolution models.

A conflict escalation and de-escalation model

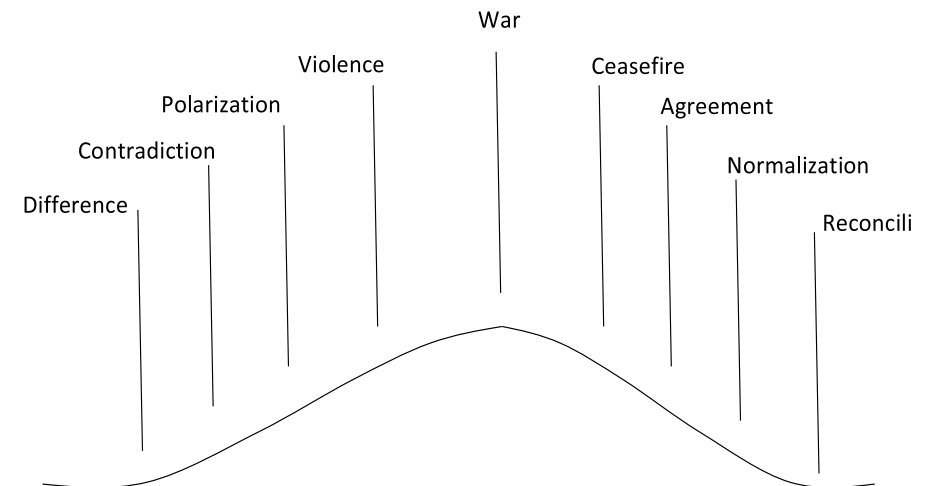


Figure 1 Conflict Escalation and de-escalation

³² *ibid.* pp. 7-8

Figure 1 above³³ highlights that conflicts are dynamic and can develop and change at astonishing speed. Peace is won only by effort and resolve, and a change in attitudes and mentalities all contribute to reconciliation. As can be seen, the process of conflict escalation is complex and unpredictable culminating in the outbreak of direct violence and war while the same can equally be applied for de-escalation.

The hourglass model: a spectrum of conflict resolution responses

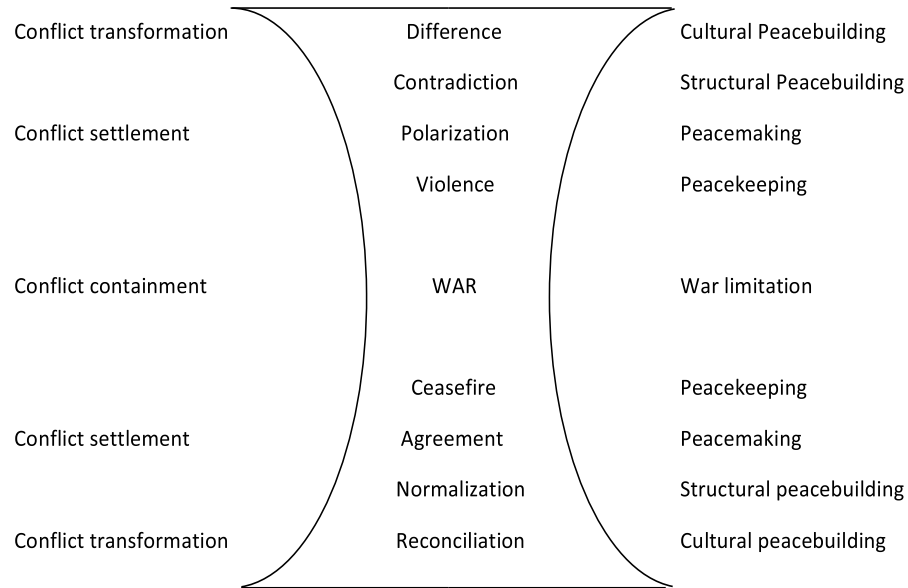


Figure 2 – The hourglass model: conflict containment, conflict settlement and conflict transformation.³⁴

The hourglass model in Figure 2 represents the narrowing of political space that characterizes conflict escalation, and the widening political space that characterizes conflict de-escalation. As the political space narrows and widens, different conflict resolution responses become more or less appropriate or possible.

³⁴ ibid. p. 14

Symmetric and asymmetric conflicts

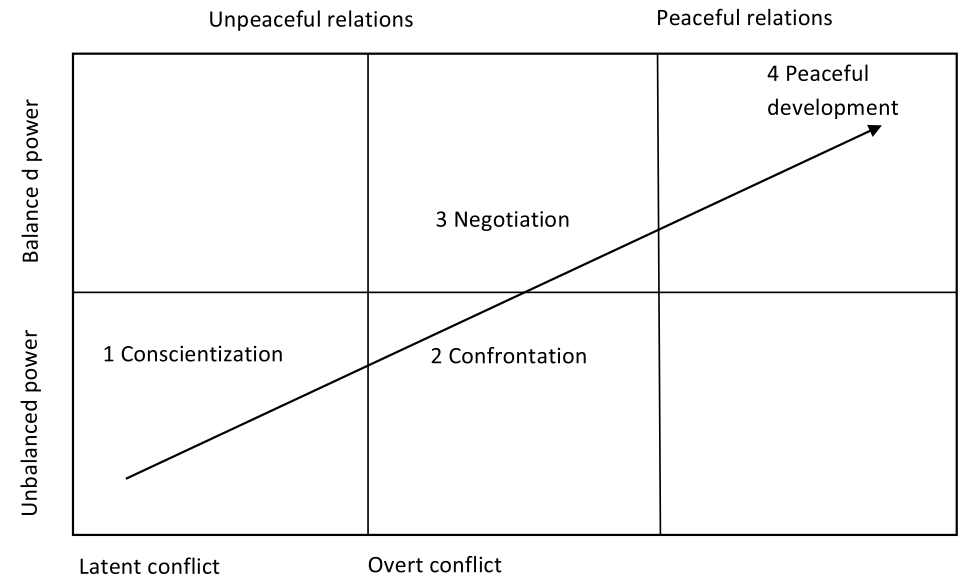


Figure 3 Transforming asymmetric conflicts³⁵

Figure 3 above highlights that conflicts between relatively similar parties are termed symmetric conflicts. Conflicts arising between dissimilar parties such as between a majority and a minority, an established government and a rebel group are termed asymmetric conflicts. Here the root cause of the conflict lies not in particular issues or interests that may divide the parties, but the very structure of who they are and the relationship between them. It may be that the structure of roles and relationships cannot be changed without conflict.

The examples given above are commonly used conflict cycle models that move through low-intensity conflict to violent conflict and then de-escalate through stages of post-conflict settlement and recovery. While neat and linear, these may be out of line with reality in civil wars and interethnic disputes where there is no sequence in which a conflict ends as they are buried within a multiplicity of embedded conflicts that exhibit properties of several escalation and de-escalation stages as seen in the Sri Lankan conflict.

Religion and Conflict Resolution

Religion as it relates to conflict can be a double edged sword. It can cause conflict or end it. In Sri Lanka it can well be termed as being one of the causes that sustains it. For instance a fundamental tenet of nationalist ideology in Sri Lanka is the belief that Sri Lanka

³⁵ ibid. p. 25

is the island of the majority Sinhalese, who in turn are ennobled to preserve and propagate Buddhism. This ideology privileges the Sinhala Buddhist Sri Lankans and justifies the subjugation of minorities – both ethnic and religious. Eva Neumaier articulates the Sri Lankan reality thus:³⁶

Working toward peace in Sri Lanka will depend on whether the various ethno-religious communities are prepared to engage in critical self-reflection to demystify their own mytho-historic narratives that give rise to fundamentalist movements not only among Sinhala Buddhists, but also among the Tamils and Muslims of the island. So far nothing indicates such moves towards self-reflection have begun.

Radical Disagreements – Managing Linguistic Intractability

The aim of conflict resolution is to transform destructive into constructive conflict. Ramsbotham argues that it is the study of radical disagreement that gives the deepest insights into the nature of linguistic intractability.³⁷ Intractable conflicts are those that continue to defy all efforts at settlement and transformation such as in Sri Lanka, where the conflicting parties do not seem to understand the narrative of the other parties. This intractability continues more than five years after the end of the war.

Various forms of negotiation, interactive problem-solving, systems perspective analysis, comparative psycho-cultural narrative work, dialogic conflict resolution, constructive conflict engagement, and critical discursive conflict transformation all form dialogue for mutual understanding with the aim of overcoming radical disagreement in the interest of mutual accommodation. These are all forms of dialogue for mutual understanding, inasmuch as their aim from the very outset is to overcome radical disagreements in the interest of mutual accommodation. To promote dialogue for mutual understanding and to substitute systemic for linear thinking is to seek to transform radical disagreement. Ramsbotham asserts: 'Dialogue for mutual understanding is the communicative foundation upon which conceptual and cultural peacebuilding is constructed. The application of complex system analysis is often equally effective'.³⁸

Human beings do not struggle in silence once conflict parties have formed. In the most serious political conflicts, wars of words play as significant a role as wars of weapons. Wars of words are propaganda battles and contests for media control.

Linguistic intractability lies at the heart of the communicative aspect of intractable conflict in general, which is defined here as conflict that has 'so far' defied all attempts at conflict resolution and conflict transformation. But 'so far' can go on for years, if not decades, during which time unimaginable destruction and damage to human lives and life-hopes is inflicted.

³⁶ Neumaier, E. in *Ibid.* p. 341.

³⁷ *ibid.* p. 375.

³⁸ *ibid.* p. 377.

Contrary to what conflict resolution tends to imply, in intractable conflicts there has often been too much radical disagreement and agonistic dialogue between opponents. The suggestion therefore is to actively promote dialogue for strategic engagement. This seeks to promote Strategic Engagement of Discourses (SED) within and between conflict parties that also involves third parties. SED offers a means of keeping channels of communication open when all else has failed. Ramsbotham asserts that the strategic engagement of discourses then operates at three levels:³⁹

- Level 1: Inclusive systemic thinking within each conflict party;
- Level 2: Resultant scope for communication across the spectrum between conflict parties;
- Level 3: Greater clarification of the task of peacemakers, both internal and third party.

Given the space constraint, I will briefly highlight Ramsbotham's test of the Israeli-Palestinian conflict between 2007 and early 2010 of which a fuller account is available.⁴⁰

Level 1: Inclusive systemic thinking within each conflict party highlights six reasons why strategic thinking imitates aspects of dialogue for mutual understanding.⁴¹

- a) By its nature strategic thinking looks, not in the past, but to the future;
- b) Strategic thinking recognizes the prerequisite not of cancelling internal radical disagreement, but of subordinating it to the priority of presenting a united front to the external world;
- c) Strategic thinking links objectives to strengths through awareness of systemic complexity and realistic assessment of relative power;
- d) Strategic thinking understands that the chessboard must be looked at from the perspective of the opposition;
- e) Strategic thinking chooses the most appropriate means to attain its overall strategic ends – and keeps these under constant review;
- f) Strategic thinking clearly understands that the communication of messages to supporters, opponents, and third parties as an essential part of strategy.

³⁹ *ibid.* p. 381.

⁴⁰ *ibid.* pp. 380-395.

⁴¹ *ibid.* pp. 384-386

Level 2: Resultant scope for communication across the spectrum between conflict parties: This second advantage of radical disagreement is simplified and highlighted in the hexagon of radical disagreement in Figure 4 below:

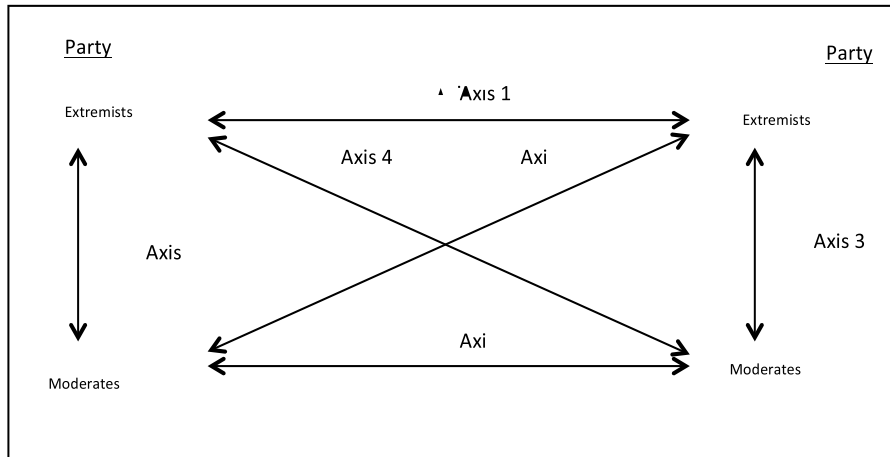


Figure 4 - The hexagon of radical disagreement

This simplified model generates six axes of radical disagreement, which is useful for illustrating the main dynamics involved. This model also demonstrates radical disagreement between conflict parties (axes 1, 4, 5 & 6), but with inclusive strategic engagement of discourses with them (axes 2 & 3).

Level 3: Greater clarification of the task of peacemakers, both internal and third party. As a result of the first two levels of strategic engagement discourse, potential internal and external peacemakers have the full range of insights into linguistic intractability in order both to understand their own involvement and to maximize the chances that their own peacemaking discourses will prevail.

In intractable conflicts in which dialogue for mutual understanding proves premature, it is dialogue for strategic engagement that offers the best hope for conflict management in discursive sphere. This may not deliver conflict settlement but strategic thinking may improve conflict environment. In this strategy words will die rather than people.

Conflict Transformation

Another approach to handling conflict is conflict transformation, which has also arisen as an addition to the concept of conflict resolution. Ramsbotham *et al* state that for some analysts it is a significant step beyond conflict resolution and they assert that this represents the deepest level.⁴² In their later publication they see conflict transformation as the deepest level of the conflict resolution tradition rather than as a separate tradition.⁴³

⁴² Ramsbotham *et al* (2005) *Contemporary Conflict Resolution, (Second Edition)*, Cambridge: Polity Press, p. 927 op cit, p. 9

Cordula Reiman, writing in the Case of Conflict Transformation refers to conflict transformation as outcome-process and structure-oriented long-term peacebuilding efforts, which aim to truly overcome revealed forms of direct, cultural and structural violence.⁴⁴ Uyangoda asserts that advocates of conflict transformation theory argue that conflict resolution is only a way of transcending a basic incompatibility between the parties on conflict. Thus the focus is on the outcome, which satisfies parties. It is not much concerned with changes to the parties, issues and desired outcomes in the course of the conflict. The conflict transformation approach is based on the premise that the conflict changes the parties, their relationships, issues and that, in the process of that struggle, there are fundamental lessons that transform the entire dynamic of the conflict.⁴⁵

Uyangoda adds that transformation of conflict is the result of the struggle itself where the where the contention transforms the parties, their interests and actions. It is no longer the individual war or battle that is of interest; rather the focus is on the more general experience of conflict over a long period of time. In this approach, parties are affected by their conflict experiences and thus change themselves so that there is no longer a fear of war arising from the relationship. The conflict transformation theory assumes that conflicts are continuously transformed, even if efforts to resolve them have not shown explicit progress.⁴⁶ In looking at the scope for conflict resolution in ending violent conflict Ramsbotham *et al* identify a number of ways in which conflict transformation takes place. Based on ideas articulated by Vayrynen, Galtung, Burton, Azar, Curle and others, Ramsbotham *et al* outline five generic transformers of protracted conflict.⁴⁷ They are context transformation, structural transformation, actor transformation, issue transformation and personal and group transformation.⁴⁸

First, context transformation refers to changes in the context of conflict that may radically alter each party's perception of the conflict situation, as well as their motives. Second, structural transformation refers to changes in the basic structure of the conflict; that is to the set of actors, issues and incompatible goals, conflicting beliefs or relationships, or to the society economy or state within which the conflict is embedded. Third, actor transformation refers to decisions on the part of actors to change their goals or alter their general approach to conflict. Fourth, issue transformation refers to changes in positions that parties take on key issues at the heart of the conflict as well as the way in which parties redefine or reframe those positions in order to reach compromises or resolutions. Finally personal and group transformation refers to personal changes of heart or mind within individual leaders or small groups with decision making power at critical moments. The timing and coordination of these transformative actions are crucial to give adequate impetus and a sustainable momentum if they are to be successful in creatively addressing and mitigating violent conflict.

⁴⁴ Reiman, C. (2001). *Berghof Handbook for Conflict Transformation*, Berlin: Berghof Research Centre for Constructive Conflict Management, p. 13.

⁴⁵ Uyangoda, J. (2005). *Conflict, Conflict Resolution & Peace Building*, Colombo: GTZ Sri Lanka, p. 12.

⁴⁶ *ibid* p, 13

⁴⁷ Ramsbotham *et al*. (2005). *Contemporary Conflict Resolution, (Second Edition)* Cambridge: Polity Press, pp. 163-164.

⁴⁸ *ibid*.

Ramsbotham et al highlight:

A broad view of conflict transformation is necessary to correct the misperception that conflict resolution rests on an assumption of harmony of interests between actors, and that third-party mediators can settle conflict by appealing to the reason or underlying humanity of the parties. On the contrary conflict transformation requires real changes in parties' interests, goals or self-definitions. These may be forced by the conflict itself, or may come about because of intra-party changes, shifts in the constituencies of the parties, or changes in the context in which the conflict is situated. Conflict resolution must therefore be concerned not only with the issues that divide the main parties but also with the social, psychological and political changes that are necessary to address root causes, the intra-party conflicts that may inhibit the acceptance of a settlement, the global and regional context which structures the issues in conflict and the thinking of the parties, and the social and institutional capacity, that determines whether a settlement can be made acceptable and workable. The response must be 'conflict sensitive' in a number of different ways.⁴⁹

Uyangoda contends that there are many approaches to addressing conflicts and sums up that conflict transformation involves changing structures and frameworks that cause inequality and injustice; improving long-term relationships and attitudes among the conflicting parties; and developing processes and systems that promote empowerment, justice, peace, forgiveness, recognition and reconciliation.⁵⁰

In the field of conflict transformation the most significant scholar-practitioners are John Paul Lederach, Adam Curle and Johann Galtung.⁵¹ Lederach takes conflict transformation to be understood in two ways, descriptively and prescriptively, across four dimensions, personal, relational, structural and cultural. He provides comprehensive perspectives for describing how conflict emerges from, evolves within, and brings about changes for developing creative responses that promote peaceful change through non-violent mechanisms. At a prescriptive level, transformation implies deliberate intervention to effect change in the goals.⁵²

In summary conflict resolution implies that the deep-rooted sources of conflict are addressed and resolved and is thus very similar to peacebuilding. It implies that behaviour is no longer violent, attitudes are no longer hostile and the structure of the conflict has changed. The problem with the term is that it is both used to refer to the process and the end state, which can be confusing. Conflict transformation implies a deep transformation in the parties and their relationships as well as in the situation that created the conflict. Some use the term as a significant step beyond resolution, others believe that it is the development of resolution.⁵³

⁴⁹ *ibid.* pp. 164-165.

⁵⁰ *op.cit.* pp. 27-28.

⁵¹ *op.cit.* p. 13.

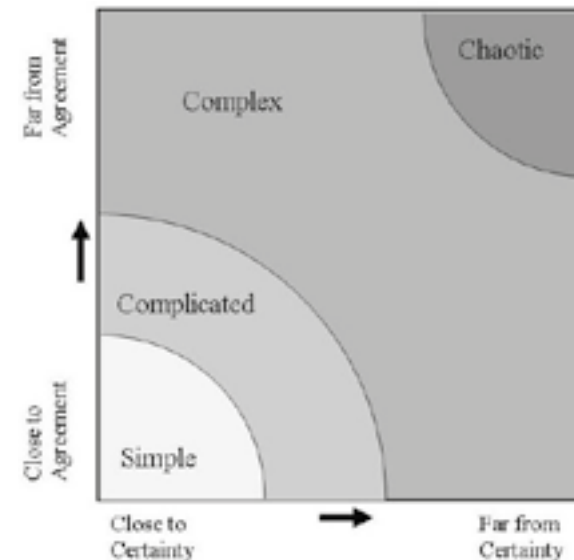
⁵² *ibid.* p. 14.

⁵³ Douma, N., & Klem, B. (2004). *Civil War and Civil Peace*, A Literature Review of the Dynamics and Dilemmas of Peacebuilding through Civil Society, Clingendael Institute, p. 7.

In the debate between conflict resolution and conflict transformation, Ramsbotham et al contend the latter as being at the deepest level of the conflict resolution tradition and add that both conflict resolvers and conflict transformers are essentially engaged in the same enterprise.⁵⁴

Systems Thinking and Traditional Conflict Analysis

In the late 1990s Ralph Stacy introduced a matrix to help organizations to distinguish between simple and complicated, complex and chaotic situations. Stacey's model presents two main factors that contribute to complexity, the degree of certainty for outcomes and the degree of agreement among decision makers on the approach.⁵⁵ These two dimensions



are illustrated in the graphic below:

The domains at the intersection of the Certainty and Agreement axes are Simple, Complicated, Complex and Chaotic. It is important to note that an issue may be in the simple domain at one point in time but may shift in certainty as new information and influences come into play. As issues move further away from certainty and agreement, they shift into the complicated, complex and even chaotic realms. There is general agreement that when a situation is in chaos, nothing is certain, there is no discernible link between cause and effect, and things are constantly changing, and survival is the primary concern.

⁵⁴ Ramsbotham et al. (2011). *Contemporary Conflict Resolution*, (Third Edition) Cambridge: Polity Press, p. 9.

⁵⁵ Canadian Centre on Substance Abuse 2012, www.NTS-SNT.ca. p. 9. [Accessed on May 1, 2915]

Given that any given change initiative will likely involve components with various levels of complexity, as illustrated in the table below.

Table 1. Example of change initiative⁵⁶

Domain	Initiative Activity	Dimensions of Complicity
Simple	Inputting client information from a paper form in to a provincial database after it is collected.	High levels of certainty on the process for data input and agreement that data should be kept in the database
Complicated	Working on a committee to decide what questions should be included on the initial intake form.	A lot of information available on questions that need to be asked. Differences in opinion on when, where and how best to ask the questions.
Complex	Piloting a draft version of the new form and processes.	Because not all staff agree that a standardized intake process will be suitable to the cultural diversity of their clientele, individual and service-level adherence to the new process may vary. Different agreements will have to be negotiated with each site based on the data collection requirements of various funders. Site location will also be influenced by provincial and regional political interest.

Traditional models of conflict analysis focus on understanding the conflict context (history, economics, political movements, etc.), identifying the causes or root causes of the conflict, and categorizing the various stakeholders/conflict actors and their interests. Most models lay out a series of questions to focus the analysis, some of them quite comprehensive, and touching on almost all aspects of society.⁵⁷

⁵⁶ *ibid.* p. 10.

⁵⁷ Woodrow, P. (2006). *Advancing Practice in Conflict Analysis and Strategy Development*, Interim Progress Report, Reflecting on Peace Practice Project, CDA collaborative Learning Projects, p.3.

Woodrow argues that traditional methods tend to present a static snapshot showing a wide range of factors without much sense of how they work together and in which the dynamics of conflict are missing. He adds that people seem to have a great deal of difficulty moving from any sort of analysis to an effective strategy for change – since in a situation of war or chronic violence, establishing peace is a change process. Somehow the analysis processes do not enable people to identify what to do about the situation, and organizations tend to fall back on what they know or do best, without much sense of whether these approaches are the most effective for peacebuilding. These include activities such as dialogues and trauma healing or sectors such as women and youth. Often resources are used to address highly visible and politically sensitive symptoms that are far removed from the important driving factors of the conflict.⁵⁸ Without suggesting it is a panacea for these problems, Woodrow believes that this approach shows promise and goes on to define Systems Thinking as follows:

Systems Thinking is a way of understanding reality that emphasizes the relationships among a system's parts, rather than the parts themselves. Based on a field study known as Systems Dynamics, Systems Thinking has a practical value that rests on a solid theoretical foundation.... A system is a group of interacting, interrelated, and interdependent components that form a complex and unified whole. Systems are everywhere – for example, the circulatory system in your body, the predator/prey relationships in nature, the ignition system in your car, and so on. Ecological systems and human social systems are living systems, especially human social systems. However, many systems thinkers are also interested in how human social systems affect the larger ecological systems in our planet.⁵⁹

Woodrow suggests that systems thinking helps people to understand why they do not achieve the results they want, despite their best intentions and considerable effort. Systems analysis also helps people to reflect on the changes in intention, thinking and behaviour that they can initiate, without depending on others to change. By providing a clear map of the conflict it helps people anticipate the potential unintended negative consequences of proposed actions. He adds that in recent times, scholars and practitioners have been working and treating conflicts as systems. One of the principles of systems dynamics asserts that a change in one part of the system will cause changes in other parts, although not always the change intended. He takes heart from the fact that if conflicts conform to the same principles of other types of systems, we should be able to work out how to induce positive changes by developing a systems understanding of conflicts identifying key leverage points for change and undertake appropriate intervention strategies.⁶⁰

Based on field experiences in Serbia, Burundi, Kosovo and Congo, Woodrow was able to come to preliminary conclusions that systems analysis of conflicts appeared to add a useful and dynamic dimension to conflict analysis. A broad analysis of an entire conflict system helped identify priority areas for work, mainly through selecting key driving factors and showing how they interact with each other. He pointed out that early experience suggested that systems maps could assist the bridge between analysis and program

⁵⁸ *ibid.* p, 4.

⁵⁹ *ibid.*

⁶⁰ *ibid.*

strategies, by focusing on leverage points, such as 'weak links' that can interrupt conflict dynamics. He added that conflict analysis can also be used to map where different groups are working on the conflict to see the patterns of who was working on what issues.⁶¹

Systems are characterized by dynamic relationships between interrelated components that make up a whole. The human circulatory system, the global financial system or a provincial health system are just a few examples of such complex systems. Systems thinking means looking at the component parts and their characteristics, relationships and interconnections to better understand the whole. Systems thinking is a discipline of seeing the 'whole', recognizing patterns and interrelationships, and learning how to structure more effective, efficient and creative system solutions. With roots in biology, mathematics and philosophy, systems thinking and complexity theory have emerged as highly relevant concepts in social and organizational contexts. When considering processes for planning and implementing change, it is helpful to move away from linear, sequential thinking and look through a more developmental and evolutionary lens, particularly when dealing with complex systems and environments like those found in substance use and mental health.

In an overview of Systems Thinking, Daniel Aronson contends:⁶²

Systems thinking is fundamentally different from that of other traditional forms of analysis. Traditional analysis focuses on separating the individual pieces of what is being studied. This means that instead of isolating smaller and smaller parts of the system being studied, system thinking works by expanding its view to take into account larger and larger numbers of interactions as an issue is being studied.This results in sometimes strikingly different conclusions than those generated by traditional forms of analysis.

One of the key benefits of systems thinking is its ability to deal effectively with complex conflicts and multiple actors. Systems thinking is the process of understanding how things, regarded as systems, influence one another within a whole.

Systems thinking has been defined as an approach to problem solving, by viewing "problems" as parts of an overall system, rather than reacting to specific parts, outcomes or events and potentially contributing to further development of unintended consequences.... Consistent with systems philosophy, systems thinking concerns an understanding of a system by examining the linkages and interactions between the elements that compose the entirety of the system.⁶³

I will now briefly introduce the concept of Systemic Conflict Transformation (SCT) elements of which have been used in analyzing the peace process in Sri Lanka after the 2002 ceasefire agreement in Chapter 4.⁶⁴

⁶¹ *ibid.* p. 18.

⁶² Aronson, D. *The Thinking Page*, <http://thinking.net>, [accessed on May, 1, 2015]

⁶³ <http://www.definitions.net/definition/systems%20thinking>, [accessed on May 5, 2015]

⁶⁴ I would like to acknowledge the support given by Dr. Norbert Ropers who initially introduced the subject to me and encouraged me to apply SCT as the basis of my research.

Systemic Conflict Transformation

Writing on systemic conflict transformation, Ropers highlights that in the last 15 years, concepts of conflict transformation have been increasingly applied to address the post-Cold War conflicts. While they have enriched the spectrum of measures for responding to conflict, there is still a huge gap between the grim reality of declared and undeclared wars, of frozen, latent and protracted conflicts and what conflict transformation approaches have been capable of delivering. Much work has been done to redress this gap and improve the effectiveness of nonviolent response to internal conflicts.⁶⁵ In Sri Lanka, for instance, peace-related activities focused on human rights and governance, relief, rehabilitation and development, constitutional reform and language pluralism among others. Ropers asserts that concepts of systemic conflict resolution and SCT can be particularly useful. While systemic approaches have been used for conceptualizing political systems and conflicts for some time they have been primarily used for analysing the intractability of conflicts. Less thought was given to systemic ideas of how to resolve or transform them. This is now beginning to change.⁶⁶

Ropers asserts that systemic thinking encompasses a broad spectrum of theories, principles, methods and techniques which are all rooted in the simple observation that the whole is more than the sum of its parts and attempts to apply systemic thinking to conflict transformation. It can be linked to theories and practices interpreted as a reaction to the early modern tendency of atomizing – separating and de-constructing with the aim of controlling events. He notes that the first contributions to systems theory were guided by the insight that such reduction risked losing key features of the 'whole', which was more than the sum of its parts, and inspired by the wish to overcome the ensuing fragmentation of the natural and social sciences in order to jointly serve 'the human condition'.⁶⁷

At the outset it must be stressed that the concept of SCT is not entirely new; and selected elements have previously been used particularly to analyse intractable conflicts.⁶⁸ As previously stated, systemic thinking encompasses a broad spectrum of theories, principles methods and techniques which are all rooted in the simple observation that the whole is greater than the sum of its parts.

Biologist Ludwig von Bertalanffy articulates systems as follows:

A system is an entity which maintains its existence through the mutual interaction of its parts. The key emphasis here is 'mutual interaction', in that something is occurring between the parts, over time, which maintains the system. Associated with the idea of system is a principle called emergence. From the mutual interaction of the parts of a system there arise characteristics which cannot be found as characteristic of any of the individual parts.

⁶⁵ Ropers, N. (2008) *Systemic Conflict Transformation: Reflection on the Conflict and Peace Process in Sri Lanka*, Berghof Handbook Dialogue No. 6, Berlin: Berghof Research Centre, p. 1.

⁶⁶ *ibid.* p. 2.

⁶⁷ *ibid.* p. 3.

⁶⁸ Coleman *et al.*, *Intractable Conflict as an Attractor*, <http://papers.ssrn.com>, [Accessed on August 17, 2007]

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An application of systemic approaches to understand conflicts and to conceptualize interventions can be found in several contributions to conflict resolution in the 1980s and 1990s. However, one of the early influential scholars since 1960s who applied systemic thinking to conflict analysis and transformation was John Burton. Influenced by general systems theory, he emphasized that to address protracted conflicts, not only 'first-order learning', i.e. learning within a given order, was necessary, but also 'second-order learning', i.e. learning which questions the values, principles, structures of this order. Peter Coleman was one of the first authors to introduce explicitly what he calls 'dynamical systems' approach to address protracted social conflicts in a comprehensive way. He argued that the key goal of conflict intervention should not be to foster one particular outcome (e.g. a peace agreement or a strong peace constituency), but to alter the overall patterns of interaction of the parties. Only such changes in interactive patterns could ensure that social change becomes sustainable.⁷⁰

Louise Diamond writing on systems approach to peacebuilding states:

The more we study the major problems of our time, the more we come to realize that they cannot be understood in isolation. They are systemic problems which mean that they are interconnected and interdependent.⁷¹

According to Diamond, a focus on win/win outcomes has gained a large degree of acceptance, while necessary but not sufficient. Actions that can be taken beyond win/win situations in Sri Lanka, but not limited to, are promoting reconciliation, justice, healing, transformation, power sharing and developing partnerships. Beyond the level of resolving disputes, there must be some attention to changing the relationships and the conditions under which those relationships are shaped.⁷²

Diamond continues by arguing that she understands the notion of going 'beyond win/win' to be through a continuum of transactional and transformational work. Transactional work seeks to get solutions, improve working relationships and provide frameworks for ongoing relationship. Transactional methods include mediation, negotiations, alternative dispute resolutions methods and problem-solving.

⁶⁹ <http://www.systems-thinking.org/index.htm>, [Accessed on August 17, 2007]

⁷⁰ *ibid* p. 6.

⁷¹ Diamond, Louise, A Systems Approach to Peacebuilding, p. 1, <http://www.kalliopeia.org> [Accessed on May 1, 2015]

⁷² *ibid* p. 2.

Transformation work seeks not just to resolve the present conflict but help change the dynamics of relationships and the system of relationships, which if not addressed, has the potential to recur in the future. Diamond adds:⁷³

If we, as peacebuilders, are to think and act transformationally, therefore, we need to be able to think systemically. In fact, I would go further and suggest that the very core of our work needs to be rooted in the systemic or ecological view.

What was once called conflict resolution work is now a wider dimension of intervention by various actors, each working in their unique part of the system for social transformation. No sustainable peace can endure if the people are not empowered to take charge of their own lives; no social and economic advancement can occur in countries consumed by warfare....

The implication for the peacebuilder is clear: we need to see how our own particular contribution fits into the larger whole. No one player can do it all; each of us has a role to play in the whole network of association and activities through which a sustainable peace system may be built.

When the work of peacebuilding, whatever form it may take, introduces and supports systemic or holistic thinking, it inevitably building new pathways for partnership mode. All these pathways widen and then converge, the hundredth monkey phenomenon of a critical mass shift in consciousness becomes inevitable. That shift is essential to building sustainable peace systems, and constitutes the core work of the peacebuilder.

Ricigliano highlights that systems thinking is based on a few fundamental premises, including the following:⁷⁴

- Interconnectedness: events and social phenomena do not exist in a vacuum but are connected to other events and social phenomena
- Dynamic causality: causality does not flow in only one direction but any causal event touches off a chain of chain reaction that will eventually have an impact on the initial causal event itself (feedback)
- Holism: seeing the whole tells one more than just understanding all the parts that make up the whole.

The three systems thinking assumptions make this approach to peacebuilding fundamentally different.

This research is an attempt to apply systemic thinking in order to better understand the dynamics of the Sri Lankan conflict and to investigate how far systemic analysis could

⁷³ *ibid*. pp. 4,10, 22.

⁷⁴ Ricigliano, R. A Systems Approach to Peacebuilding, in Building Peace Across Borders, p 17, <http://www.c.r.org/sites/deposit/files/accord%2022> [Accessed May 2, 2015]

contribute to its transformation. Breaking down the persistent boundaries between the fields of conflict analysis (which concentrates on conflict escalation dynamics) and conflict transformation (which addresses de-escalation), my study will argue that it is possible to identify some factors which can account for change, in any direction, leading towards either constructive or destructive paths with particular reference to the ongoing Sri Lankan conflict. I will also make references to international relations literature on Sri Lanka particularly on conflict management terminology used by the international community after the 2002 Ceasefire Agreement brokered by Norway. I am privileged to locate my research simultaneously in the middle ground, and with a degree of comfort, between international, state and social levels.

At the same time, my proposed systemic approach will place the conflict parties at the centre of gravity in the conflict system and see them as active agents for constructive or destructive change. Dudouet analyzes this approach as follows:

The conflict parties are seen as both results of the conflict system, and active agents for its transformation. Relationships, connectedness, and interactions between the constituting units are at the heart of the systemic approach, which means that the primary factors of transformation of a conflict system lie in the inter-party interactions (struggle, competition, cooperation, power balance etc.) between the constituting parties. One of the basic tenets of system thinking is that groups and individuals are embedded in a network of feedback loops, which can be defined as lines of effect, such as when things happen at point A, events are triggered at point B, and what happens at B comes back to affect A again.⁷⁵

In order to examine the transformative factors that have shaped the course of the Sri Lankan conflict and their influence, it is necessary to identify the various conflict components or stakeholders. This would help the set of actors affected by the conflict and/or affecting its course, as agents of constructive or destructive change or obstacles to change in the transition processes. This exercise goes beyond naming conflict parties, and individuals and institutions linked to them, to identifying the socio-politico-economic factors that led to the renewed conflict in 2006.

Writing on the changing dynamics of the ethnic conflict in Sri Lanka, Uyangoda observes that Sri Lanka's peace processes are often stymied by the relative ease with which conflict parties have repeatedly abandoned opportunities to work out a peace settlement through negotiations. The GoSL and LTTE began a peace process in 2002 in a very supportive international context, yet no settlement agreement emerged after six rounds of talks. Even the massive humanitarian disaster caused by the tsunami of December 2004 failed to provide adequate moral or material incentives for the protagonists to end the conflict. Sri Lanka's conflict parties seemed to find a new vitality toward remilitarization after four years of a ceasefire agreement, one year of peace negotiations, and the unprecedented humanitarian disaster of the tsunami, which struck Sinhalese, Tamil and

⁷⁵ Dudouet, V. (2006). *Transitions from Violence to Peace*, Berlin: Berghof Research Centre for Constructive Conflict Management, p. 25.

⁷⁶ Uyangoda, J. (2007). *Ethnic conflict in Sri Lanka: Changing Dynamics*, Washington DC. East-West Centre. p.1. www.eastwestcentrewashington.org/publications, August 15, 2007

Muslim communities in almost equal measure. Indeed peace negotiations in Sri Lanka have constituted an integral part of the long-drawn life cycle of the ethnic war.⁷⁶

As indicated earlier, my focus is to explore, with concrete practical experiences, how systemic thinking could help make transforming internal conflicts more effective. My own inspiration for the potential of SCT came from Norbert Ropers of RNCST in an attempt to envision and organize SCT as a learning process. Ropers asserts that systemic thinking encompasses a broad spectrum of theories, principles, methods and techniques which are all rooted in the simple observation that the whole is greater the sum of its parts and adds that the goal is to explore, based on concrete practical experiences, how systemic thinking can help to make the transformation of internal conflicts more effective.⁷⁷ He argues that this is based on three insights,⁷⁸ namely:

1. A systemic analysis offered important additional tools for a deeper understanding of the intractability of the Sri Lankan conflict. By starting from solutions rather than causes, this analysis brought to light new creative options.
2. A systemic perspective offered a set of theory-guided explanations for the difficulties facing the Sri Lankan peace process from 2002 to 2007. These explanations, if generalized, offer exciting new hypotheses for effectively supporting peace processes.
3. A *systemic framework* enriched the interpretation of various basic principles of conflict intervention and provided insights into their mutual interaction.

As highlighted in the earlier chapter, Ropers compares these insights to the following quotation from Lederach: 'the peacebuilder must have one foot in what exists⁷⁹ and one foot beyond what exists'.⁷⁹ In systemic language this means that peace promoting interventions have to become to a certain extent part of the system of the conflicting parties to be effective, while at the same time they have to stay outside of the system and try to disturb and prevent the reproduction of the system and promote its transformation. Ropers contends that this is a difficult balancing act which can either lead to assimilation into the system or to exclusion from the system.

Ropers continues that a key test of systemic thinking is indeed that third parties and insider activists become increasingly capable of applying systemic knowledge while supporting peace processes.⁸⁰ However there are many challenges ahead, as systemic thinking needs to be seen primarily as an additional instrument for guiding good conflict transformation and not as an enterprise for substituting the current body of knowledge on the subject, and prove its essential added value.

A systemic approach to conflict transformation should therefore be seen as a process and despite its recognised and noted limitations, the thesis seeks to see whether aspects of SCT theory has utility in providing new and better understanding of my research questions 1 and 2.

⁷⁷ Ropers, N. (2008) *Systemic Conflict Transformation: Reflections on the Conflict and Peace Process in Sri Lanka*, Berlin: Berghof Handbook Dialogue No. 6, p. 12.

⁷⁸ Ibid. p 12.

⁷⁹ Ibid. p. 11.

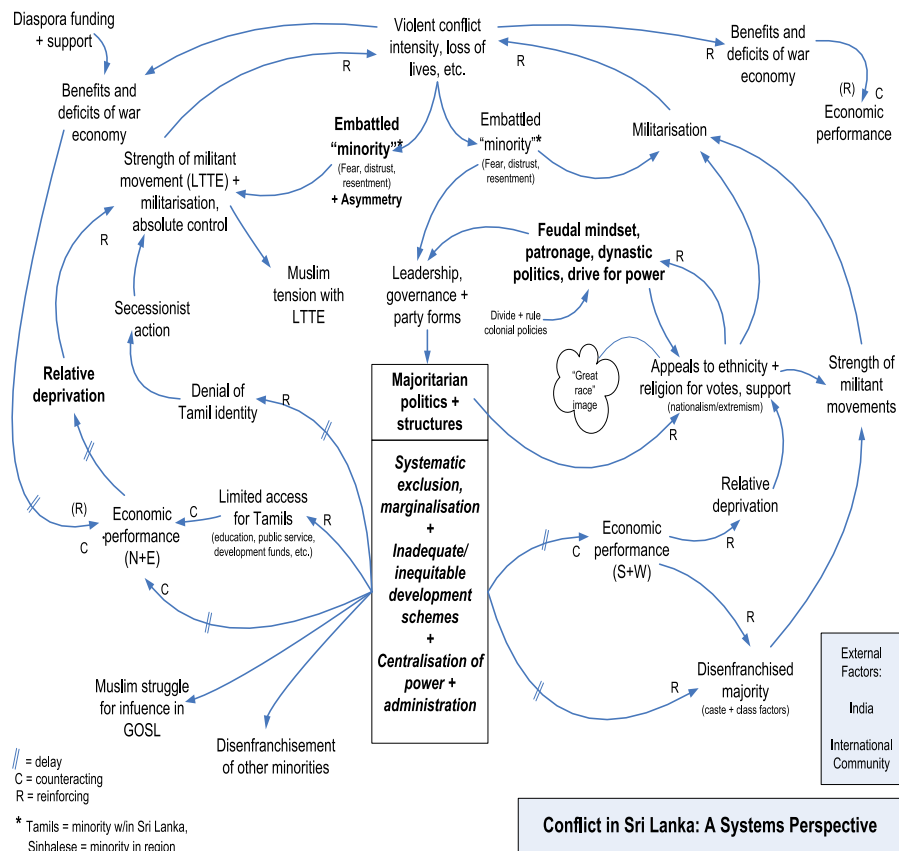
⁸⁰ Ibid. p. 93.

At a workshop for civil society leaders in 2005 facilitated by Peter Woodrow, MPA, Co-Director of the Reflecting on Peace Practice Project (RPP), based at the CDA Collaborative Learning Projects in Cambridge, Massachusetts, a systems perspective of Sri Lanka was developed. This diagram in the following page succinctly captures the dynamics of the Sri Lankan conflict and gives an opportunity to appreciate the complexity of the conflict in Sri Lanka.

On the right side of the diagram the loops reflect the causal links with respect to the Sinhalese society and polity, while the left the left side reflects the views of those within the Tamil society and polity. The box in the centre reflects the key driving factors of several loops on both sides of the divide. The advantage of this type of mapping provides details of the context and a visual image of the linkages between the variables that fuel the conflict and the existence of inter-linkages to prevent a simplistic and linear view of what needs to be done to achieve structural transformation.

The systemic reflection draws attention to underlying causes and resistances and the need to find ways of addressing the mind sets connected with the dominant attitudes in polity and society.

The diagram is essentially a simplification of reality and helps us to see the big picture which will be unpacked in the following chapters.



CHAPTER 3

CONFLICT CONTEXT AND CONFLICT ACTORS

Background – 1948 - 2002

Sri Lanka is located off the southern tip of India, separated from the adjoining Indian state of Tamil Nadu by the twenty mile wide Palk Straits. Historical and cultural links between the people of the Jaffna Peninsula, at the northern tip of Sri Lanka, and this Indian state of 50 million Tamils have always been close. With a population of almost 20 million consisting of 74% Sinhalese, 18% Tamil, 7% Moor, and 1% Malay, Burgher and Veddah peoples, these figures can be further broken down into religious affiliations of 70% Buddhist (Sinhalese), 15% Hindu (Tamil), 8% Christian (Sinhalese and Tamil) and 7% Muslim. Ceylon, which was renamed the Democratic Socialist Republic of Sri Lanka in 1972 when a new Constitution was adopted, had undergone a period of 400 years of colonial occupation by the Portuguese, Dutch and finally the British before gaining independence in February 1948. Compared with other parts of the British colonial empire the transition to independence for Ceylon was comparatively peaceful.

Democracy introduced by the British was a majoritarian system in which the Sinhalese would always control Parliament, and which did not give minorities, including Tamils, real protection against majority Sinhalese rule. Later changes in the constitution gave a pre-eminent position to Buddhism and the Sinhala language (the 1956 Official Languages Act - the "Sinhala-Only" Bill - of Prime Minister S.W. Bandaranaike). This affected all areas of life including education, government services, and the security forces. Political analyst Loganathan, defined how the legislation affected the Tamils as follows:

The *Sinhala Only* Act did, in practical terms, impose restrictions on the recruitment and promotion of Tamils within the Civil Service and, hence, did also have a direct bearing on the economic existence and social aspirations of the Tamil middle and professional classes, as well as the aspirations to the stratum.⁸¹

Power was concentrated in the Sinhala-dominated legislature. In the view of the Sinhalese, this was necessary because Tamils had been over represented in professional occupations such as medicine, engineering, police, judiciary, and in the universities, in relation to their percentage of the total population. There was growing concern within the Tamil political leadership and the Tamil people regarding the unfolding events and the Federal Party, representing the Tamil speaking people, began to engage in direct action.

Actions, although non-violent, were seen to be provocative, resulting in violent responses. The day the Sinhala Only Bill was tabled in parliament in June 1956, the Federal Party led a group of about 200 persons staged a Satyagraha in close proximity to the Parliament.Around the same time violence broke out against Tamils and their properties.⁸²

⁸¹ Loganathan. K. (1996). *Sri Lanka: Lost opportunities*, CEPRA, University of Colombo, p.11.

⁸² *ibid.* pp.11 & 12.

The seeds of ethnic fratricide which were later to tear this country apart were thus sown. Violent upheavals followed the passing of the Sinhala Only Act and the Federal Party decided to step up its campaign of non-violent actions aimed at regional autonomy and parity of status.

Several political initiatives within Sri Lanka have attempted to address the root causes of Tamil discontent, with legislative and constitutional processes within the contexts of attempts to reform the state. Sinhalese dominated governments also included Tamil political parties in strategic alliances at different times. Following the enactment of the Sinhala Only Act, an attempt at political accommodation was made by the signing of the Bandaranaike-Chelvanayakam Pact (BC Pact) (July 1957)⁸³

However, the hopes and enthusiasm generated by the Pact quickly evaporated. The initial salvo against the agreement was launched when the principal opposition, the UNP, hinted at a secret deal between the Government and the Federal Party, highlighting the dangers of the main components of the Pact. In the face of mounting pressures, from the Sinhala polity as well as the Buddhist clergy, Prime Minister SWRD Bandaranaike publicly disowned the agreement. By April, 1958, the B-C Pact had been torn to shreds.⁸⁴

The next initiative to address the root causes of the problem was the Tamil Language (Special Provisions) Act. This provided for the Tamil language to continue as a medium of instruction and a medium of examination for admission to the Public Service. This also allowed Tamil for purposes of correspondence and 'prescribed administrative purposes' in the Northern and Eastern Provinces. This Act ultimately failed because of the non-implementation of its key provisions.

Following a change of Government and the United National Party (UNP) coming to power the Prime Minister and the leader of the Federal Party signed the Senanayake-Chelvanayakam Pact (DC Pact) (1965).⁸⁵ The DC Pact contained distinct advantages to the broader Tamil polity in relation to land alienation and a language policy that could be construed as a viable interim alternative to 'parity'.

However, as a structure of government based on regional autonomy, the earlier B-C Pact was far superior in form and content. DC Pact was also linked to the enactment of the Tamil Language (Special Provisions) Act, No. 28 of 1958, providing for 'the reasonable use of Tamil', without in any way contravening the 'Sinhala Only' Act. However it was the turn of the SLFP and, quite unexpectedly, its leftist allies who used language of ethno-populism and demagoguery not to divide the Country. Efforts at co-habitation between the Federal Party and the UNP also failed and the DC Pact with it.

Non violent agitation by the Tamil polity, inspired by visions of self-rule and glories of the past, left the Tamil people demoralized, and with no solution in sight. Through its exclusivist policies and ethno-populism, the Sinhala polity with the backing of the leftist parties alienated Tamil political and civil society leadership.⁸⁶

⁸³ See Appendix 1

⁸⁴ For more details see: op.cit. Loganathan. K. (1996)

⁸⁵ See Appendix 2

⁸⁶ For more details see: Loganathan. K, (1996). Sri Lanka Lost opportunities, Colombo: CEPRA, University of Colombo.

Even though these pacts tackled some key Tamil issues, on both these occasions the agreements were ignored and left unimplemented by the government.

Despite vigorous opposition from Tamil MPs, a new Republican Constitution was adopted in May 1972. This Constitution afforded Buddhism the 'foremost place' in the State and confirmed Sinhala as the only official language, strengthening the Sinhala Buddhist ideology. It specified that Sinhala would be the language of the legislature, courts and related institutions. The new Constitution removed Article 29 of the previous constitution which had provided at least minimal guarantees to minorities. The electoral and representational system led to Tamils feeling excluded from having any real influence on legislation and decision-making. Some Tamil leaders warned that the Tamils were being pushed to the wall.⁸⁷ Narayan Swamy asserted:

The ethnic divide, which would begin to bleed Sri Lanka within a decade, had reached the breaking point. But Bandaranaike slighted the whole affair and accused the Tamil politicians of making a mountain of a mole hill.⁸⁸

The formation of the Tamil United Front (TUF) in 1972, led to the formation of the Tamil Youth League (TYL) in January 1973. Although not a TUF affiliate, it functioned as one and brought numerous young Tamils under one banner, many of whom were subsequently in the forefront of the militant movement.⁸⁹

In response to the 1972 Constitution the main Tamil opposition party at the time, the Tamil United Liberation Front (TULF), in the Vaddukoddai Resolution Of 1976 called for the self-determination of the Tamil people of Sri Lanka. This demand for a separate state (Tamil Eelam) marked a new phase in the Sri Lankan conflict, and was the end of a series of failed attempts to construct a multi-ethnic Sri Lankan state which had begun during the colonial period. At the next General Elections in 1977 the TULF won seats on a separatist platform and became the main opposition party.

There were also an increasing number of Tamil youths who, impatient with their elders, were turning to armed insurrection. The Liberation Tigers of Tamil Eelam (LTTE), formed in 1976 from the Tamil New Tigers, were highly motivated and well organized. As will be seen later, they proved themselves to be extremely adaptable, moving from guerrilla actions to conventional battles at different stages of the subsequent armed conflict.

President Jayawardene had the constitutional powers to declare a State of Emergency and in July 1979 enacted the Prevention of Terrorism (Temporary Provisions) Act of 1979 (PTA).⁹⁰ Although it was intended to be in force only for six months the PTA has not been rescinded over three decades later. The PTA allowed successive Sri Lankan Governments to arrest and to detain people without proper judicial process, and subject them to torture, and inhuman and degrading treatment. Many have 'disappeared'. Some analysts argue that the PTA is the 'engine of state terrorism'. Similar stories are also heard in relation to prisoners held by the LTTE. Perpetrators of human rights abuses seem to act with impunity, confident that no serious inquisitorial process will be followed.

⁸⁷ Guruge. A. (2011) *Peace at last in Paradise*, Author House, p. 334.

⁸⁸ Narayan Swamy, M R. (1996) *Tigers of Lanka From Boys to Guerrillas*. Delhi: Konark Publishers. P.19.

⁸⁹ *ibid.* p. 26.

⁹⁰ See Appendix 3

District Development Councils (DDC) Act No. 35, 1980

Progress was made with the proposal for the District Development Councils (DDC) Act No. 35, 1980. While the TULF decided to support the DDC Bill and partake in the electoral process, it refused to accept it as a solution to the Ethnic Question. Neither did the government have any illusions on this count. The political context of the DDCs, in relation to the ethnic conflict, has been aptly summed up by Prof. Wiswa Warnapala:

The experiment in decentralization was guided more by considerations for adjustment towards a social order rather than a political order. The Councils in the Tamil areas soon became in-operative, and this dealt a blow to the moderate and the tactical political line of the TULF which now began to lose its grip on the politics of the region. Militant youths made use of this situation to push their line that there is no alternative to a separate state.⁹¹

Elections to the DDCs in Jaffna were scheduled to be held on the 4th June 1981. On 31st March, following a shooting incident by a Tamil militant organization, at a TULF meeting in Jaffna, in which two police constables were killed, the security forces went on the rampage. The Jaffna library was set on fire and its vast collection of rare books and historical documents burnt. TULF MPs characterized the violence preceding the DDC elections as being state-sponsored, and believed to be instigated by high ranking UNP ministers present at that time. This motivated the people to turn out in large numbers at the polls and vote for the TULF. In the midst of state terror and anti-state violence, the DDCs in the Tamil areas failed to have any impact on ameliorating the causes of the ethnic conflict.

Language and Education policies by successive Sri Lankan governments, and the reactions to these by Tamil people, sowed the seeds for a protracted and violent conflict. Anti-Tamil riots in 1958, 77, 78 further exacerbated Tamil alienation. The 1983 pogrom, was by far the most violent, as will be seen later.

Progress was made in implementing the provisions of the District Development Councils as described in the Annexure C Proposals to the Constitution (1983).⁹² However, later in 1983 events took a turn again for the worse when the UNP government of the time added the Sixth Amendment to the Constitution,⁹³ which imposed a ban on all political parties and individuals that advocated separatism. The net effect of this legislation was the TULF forfeiting their seats in Parliament. Later the President proscribed the moderate TULF, the party advocating the peaceful division of the country by constitutional means. Wilson concluded that by this action, President Jayawardene handed over the Tamil political movement to the Tamil militants.⁹⁴

July 1983 is widely seen as a watershed in the current conflict. In a marked escalation of their campaign for a separate state, the Liberation Tigers of Tamil Eelam (LTTE) ambushed and killed 13 government troops near Jaffna. Widespread and indiscriminate

⁹¹ Warnapala, W. (1994). *Ethnic Strife and Politics in Sri Lanka: An Investigation into Demands and Responses*, New Delhi: Navrang.

⁹² See Appendix 4

⁹³ See Appendix 5

⁹⁴ Wilson A, J. (1995). *The Break-Up of Sri Lanka - The Sinhalese Tamil Conflict*. in: Bullion A J, (1995) *India, Sri Lanka and the Tamil Crisis 1976-1994*. New York: Cassell Publishers. p. 32

urban riots spread after the funerals were publicly held in Colombo. Retaliation against Tamils living in the south was severe. Some 80,000 to 100,000 people sought refuge in camps in Colombo alone. At least, 150,000 Tamils fled the island mainly to South India, Europe or North America. Tens of thousands fled to the north. Numerous Tamil business and industrial premises were destroyed. The 1983 riots were marked by highly organized mob violence. Rioters in Colombo used voter lists containing home addresses to make precise attacks on the Tamil community.⁹⁵ From Colombo, the anti-Tamil violence fanned out to the entire island. According to de Silva, the machinery of law and order had almost totally collapsed.⁹⁶

Many Tamils saw that there was no protection against Sinhalese mobs or against the government's own excesses and total indifference to Tamil security needs. No attempt was made to bring to justice the rogue elements from among the security forces and the UNP who were behind the violence but was instead blame was apportioned to the JVP resulting in the banning of this legally constituted political party. Jayawardene reiterated that there would be no concessions to terrorists bent on dividing the Sinhalese nation that had been indivisible for 2,500 years.⁹⁷

Following the July 1983 Pogrom President J.R. Jayawardene summoned a meeting of eight political parties to consider an All Party Conference on "on the daily growing problems of the country in regard to ethnic affairs and terrorism". Like previous attempts, while the composition of the APC seemingly reflected a cross section of national opinion and interests, it also had a motive that was suspect as McGowan highlights:

J.R. Jayawardene, being as astute a politician, immediately co-opted into the conference a sultry collection of religious and cultural organizations, some of which were powerful and others totally obscure associations with no proper membership... This strategy was adopted to balance the Sinhalese representation vis-à-vis the Tamil representation, and this move, covertly guided by communal considerations, became farcical because Sinhalese extremist opinion was able to exercise an influence within the conference.⁹⁸

The APC was doomed to fail as a result of the gap in perception and interests on main issues between the GoSL and the key Tamil negotiator, the TULF. This was further compounded by the increasing militarization of the ethnic conflict which sidelined and discredited the APC. 1983 was a crossroads of history for Sri Lanka. It brought out the reality of the complexity of its society while highlighting a portentous reality, namely that the Sinhalese and Tamils in Sri Lanka were fated by history and geography to coexist in close proximity. While co-existence could have been cordial and amicable, what has been witnessed is a vortex of rancour and violence that has made the restoration of toleration a persistently elusive goal. In its wake it also drew India into the quagmire, which will be explored next.

⁹⁵ Obeyskera, G. (1984). *The Origins and Institutionalisation of Political Violence*. In: Manor J, (ed) *(Sri Lanka in Change and Crisis*. New York: St. Martin Press. P. 153

⁹⁶ De Silva K M. (1995). *Managing Ethnic Tensions in a Multi Ethnic Society: Sri Lanka 1980-1985*. in: Bullion A J, India, Sri Lanka and the Tamil Crisis 1976-1994, New York: Cassell Publishers. p. 32.

⁹⁷ McGowan, W. (1992). *Only Man is Vile, The Tragedy of Sri Lanka, USA*: Harper Collins Canada Ltd., p. 100.

⁹⁸ *ibid*

Thimpu Talks (1985)

In 1985 the Indian Government mediated talks between Tamil militant groups and the Government at Thimpu, in Bhutan. Peace Talks began on 8th July 1985. The talks lasted two rounds. During the first round, from 8th to 13th July 1985, the Tamil delegation placed before the GoSL delegation a set of 'four cardinal principles' based on which it expected the Government to articulate a set of proposals. The four principles were:

1. Recognition of the Tamils of Ceylon as a nation;
2. Recognition of the existence of an identified homeland for the Tamils in Ceylon;
3. Recognition of the right of self-determination of the Tamil Nation;
4. Recognition of the right to citizenship and the fundamental rights of all Tamils in Ceylon.

Also during the first round, the GoSL delegation put forward the set of proposals and draft legislation already placed before the defunct APC. The salient features were that the Districts would comprise the unit of devolution, with provision for the District Development Councils to amalgamate with other Councils. The Tamil organizations declined to negotiate on any proposals that had already been rejected by the TULF at the APC. The Tamil organisations took the position that the burden of presenting a broadly acceptable formula lay with GoSL.

Round Two of the talks began to turn sour with exchanges of allegations of violations of a ceasefire agreement. The Tamil delegation walked out of the Thimpu Talks on receipt of information that the Air Force personnel had rampaged in Vavuniya, resulting in 15 civilians following a landmine explosion.

The Sinhala-Buddhist lobby issued a memorandum calling for the postponement of the Thimpu Talks until terrorism had been wiped out and all Sinhalese were resettled in their original homes in Trincomalee and Vavuniya. The signatories to the memorandum included the Maha Nayake Thero of the Asgiriya Chapter, Ven. Pallipane Chandananda, Ven. Madihe Pannsiha, Ven. Sobitha Thero, Mrs. Bandaranaike and Anura Bandaranaike in their capacity as Leader of the SLFP and Leader of the Opposition respectively, and Dinesh Gunewardene, the leader of the MEP. The Thimpu talks, in sum, were destined to collapse as neither party was prepared to abandon their respective rigid positions. Neither was the ground situation conducive for serious negotiations. Interestingly and yet predictably, both the GoSL and the Tamil organisations were relieved that the Thimpu Talks had collapsed.

Left-Social Democratic Alliance, comprising of the Communist Party (CP), LSSP, and the newly formed SLMP, headed by Vijaya Kumaranatunge, attributed the collapse of the

⁹⁹ For more details see: Loganathan. K. (1996). Sri Lanka Lost Opportunities, Colombo: CEPRA, University of Colombo

Thimpu Talks to 'war mongers' and urged that the Thimpu Talks should not be abandoned. Vijaya Kumaranatunge's visit to Madras in 1986, to meet the leaders of the Tamil militant organisations, followed by his visit to Jaffna to meet the LTTE leadership, was a healthy interlude to the spate of violence and chauvinism on both sides of the ethnic divide. ⁹⁹

The Thimpu Principles have remained core to the LTTE negotiating position. The demand for a traditional homeland of the Tamils (which would cover most of the Northern and Eastern Provinces), also clearly articulated in the 1976 in the Vaddukodai Resolution, presents a fundamental challenge to the Sinhalese insistence on the maintenance of a unitary state.

Indian Involvement and the Indo-Lanka Accord (1987)

In the Sri Lanka conflict, unlike many other protracted conflicts, international geopolitical interests have not been primary drivers. However one significant external element was India.

India which has had three main responses to the Sri Lanka conflict:

- (1). Diplomatic and political initiatives such as good offices (Thimpu Talks) and peace proposal
- (2) covert operations within Sri Lanka and also for training and equipping militants, particularly Tamil Eelam Liberation Organization (TELO) and LTTE during the 1980's, and
- (3) Direct military interventions through the Indian Peace Keeping Force (IPKF) in 1987.

The Indian state of Tamil Nadu has played a crucial role in the conflict, especially after the 1983 riots with the influx of thousands of Sri Lankan Tamil refugees. This had two effects: it 'internationalized' the conflict, and raised strong emotions amongst the Tamils of Tamil Nadu, putting pressure both on Tamil Nadu and national politicians to do something to mitigate the plight of these refugees. Far from resolving the ethnic conflict, the failure of the Indian interventions aggravated successive Sri Lanka governments to negotiate with a reinvigorated LTTE, strengthened by a strategic period of ceasefire enabling them to resume military operations once the negotiations failed.

*Indo-Sri Lankan Accord*¹⁰⁰

On 29 July 1987 Rajiv Gandhi flew to Colombo to sign an Accord with President Jayewardene. This prompted widespread anti-Accord rioting especially in Colombo and the Sinhalese areas of south-west Sri Lanka, and the Sri Lankan Prime Minister Premadasa refused to attend the ceremony. Whilst Gandhi was inspecting a guard of honour he was attacked by one of the Sri Lankan soldiers.

¹⁰⁰ See Appendix 6

The main elements of the Accord were that the Northern and Eastern Provinces of Sri Lanka should join to form one administrative unit with an elected Provincial Council, a Governor, a chief Minister and a Board of Ministers. The Sri Lankan Army would be confined to barracks and Tamil militant groups would surrender their arms. All of this was to be underwritten and guaranteed by India. As a result of this Accord the Indian Peace Keeping Force (IPKF) was dispatched to Sri Lanka on 29th July 1987 with the key mission objectives to:¹⁰¹

1. Supervise a cease-fire between LTTE and the Sri Lankan Army;
2. Accept the surrender of LTTE and other Tamil militants' weapons, and if they refused to do so, disarm them by force;
3. Police the North-East whilst an interim Tamil administration was established to prepare for elections for a North Eastern Provincial Council (NEPC), which would enable some devolution of power from Colombo to the Tamil people.

The venture ended in disaster with the IPKF fighting the LTTE, and a new United National Party (UNP) Government now headed by Premadasa, (now President), demanded the withdrawal of the IPKF. The intervention of the IPKF established India as the dominant regional power. However, by time of its departure the Indian presence was unwanted by both the GoSL and the Tamils. It would be useful to reflect on the statement of J.N.Dixit, Indian High Commissioner in Sri Lanka.¹⁰²

Despite all the murky atmospherics of the Sri Lankan crisis and the contradictions in Indian and Sri Lankan policies, the Indo-Lankan Agreement would have succeeded had Jayawardene been sincere in implementing the Agreement. And also had Premadasa shown the wisdom of acknowledging that the agreement provided a practical compromise on very complex issues and not insisted on the withdrawal of the IPKF..... The manner in which our Sri Lankan policy of 1983 and 1990 failed proved again the international perception of India as a soft state. Not a very happy thought.

Talks between the United National Party (UNP) and the LTTE were held in Colombo towards the end of the IPKF presence. These continued after the departure of the IPKF but broke down.

13th Amendment to the Constitution – 1987

Following the Indo-Sri Lanka Accord, the Sri Lanka Constitution of 1978 was amended to establish the Provincial Councils allowing for devolution of powers (i.e. the 13th Amendment). This gave special significance to the North-East Province by recognizing its merger subject to a referendum to follow within a year. The 13th Amendment to the Constitution was to become operational on 26th January 1988. The provision seeking to articulate 'parity of status' to both Sinhala and Tamil as official languages, the 16th

¹⁰¹ Lewer, N. & William, J. (2002) in *Sri Lanka: Finding a Negotiated End to Twenty-Five Years of Violence*, Searching for Peace in Central and South Asia. London: Lynne Rienner Publishers. P. 491.

¹⁰² Dixit, J., N. (2006). in Indian Involvement in Sri Lanka and the Indo-Sri Lanka Agreement of 1987: A Retrospective Evaluation, *Negotiating Peace in Sri Lanka: Efforts, Failures & Lessons*, Sri Lanka, Colombo: Foundation for Co-Existence. P. 41.

Amendment, came one year later. The key provisions of the 13th Amendment were:¹⁰³

1. In addition to Sinhala, Tamil 'shall also be an official language' of Sri Lanka, with English as a 'link language';
2. The north and east to be merged into one province, subject to a referendum;
3. Provincial councils to be elected every five years;
4. A governor with executive powers to be appointed by the president in each province;
5. Provincial high courts to be established;
6. 'Reserved' and 'Provincial' lists detail powers of the centre and the provinces respectively. A 'Concurrent' list outlined shared powers, though ultimate authority for these issues remains with Parliament;
7. Financial provision for the provinces to be directed by Parliament; and
8. Provincial councils could be over-ruled by regulations promulgated by the president under the Public Security Ordinance

The problems of the 13th Amendment were that the exact division of power between the centre and the provinces was not made clear; the powers of provincial councils could also be controlled, reduced or abolished by the central government acting unilaterally and there was no subject over which a provincial council could claim to exercise exclusive competence. Finally the 13th Amendment failed due to resistance to devolution of power by President Premadasa, and an organized political campaign designed to destabilize the North East Provincial Council (NEPC) by the SLFP and JVP.

*The Premadasa/LTTE talks*¹⁰⁴

Premadasa became president after a controversial election on 19 December 1988. In the north and east, the election was disrupted by the conflict between the LTTE and the IPKF. In the south, fears of Indian expansionism helped spark a bloody insurrection, led by the JVP, which resulted in extremely low voter turnout in a number of areas traditionally loyal to the opposition SLFP.

Premadasa, who himself had vigorously opposed the accord, was intent on ending the JVP insurrection. To this end, he launched a number of initiatives to force the withdrawal of the IPKF. Key among these was a series of talks held in the Colombo Hilton Hotel between the GoSL and the LTTE. These talks resulted in a covert supply of arms and money to the LTTE and the welcoming of the Tigers' political wing, the People's Front of Liberation Tigers (PFLT), as observers at an all party conference on the ethnic/national question.

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¹⁰³ Edirisinghe, R. (1998). Trying times: constitutional attempts to resolve armed conflict in Sri Lanka, Conciliation resources, <http://www.c-r/our-work/accord/sri-lanka/trying-times.php>, [Accessed 25/01/2008]

¹⁰⁴ ibid

the IPKF. Key among these was a series of talks held in the Colombo Hilton Hotel between the GoSL and the LTTE. These talks resulted in a covert supply of arms and money to the LTTE and the welcoming of the Tigers' political wing, the People's Front of Liberation Tigers (PFLT), as observers at an all party conference on the ethnic/national question.

The talks between the government and the LTTE commenced in May 1989 but lasted only so long as President Premadasa and the LTTE shared the immediate political objective of the IPKF withdrawal. By March 1990, the IPKF left the island. In June, the talks broke down and the vicious Eelam War II immediately commenced throughout the north and east.

One unfortunate consequence of the Premadasa/LTTE talks was that they frustrated attempts to implement the 13th amendment in the Northeast Province. His efforts to continue dialogue with the LTTE made him unwilling to support the NEPC which was dominated by the elected representatives of the LTTE's Indian-backed rival, EPRLF.

Following the attempt by the Chief Minister of NEPC in March 1990 to draft a Constitution of the Eelam Democratic Republic, that would lead to Unilateral Declaration of Independence the following year, the Provincial Council Amendment Act 28 was passed in Parliament in July 1990 which empowered the Centre to dissolve a Provincial Council if one half of the total membership disavowed obedience to the Constitution. Following the November 1988 Provincial Council Elections the NEPC was dissolved. From its inauguration, the NEPC had been unable to exercise any meaningful power. As the Indian Forces departed and the LTTE established military control in the north, the provincial council's chief minister Varadarajah Perumal and other EPRLF leaders fled to India, where many were later believed to be assassinated by the LTTE.

Mangala Moonesinghe Parliamentary Select Committee - 1991

Following the abortion of the experiment in provincial autonomy, and attacks on Muslim devotees praying in two mosques in Kattankudy in the Eastern Province in July 1990 together with the mass expulsion of Muslims from the Northern Province in October of the same year, Mangala Moonesinghe of the Opposition SLFP, moved a motion to set up a Parliamentary Select Committee (PSC) to 'recommend ways and means of achieving peace and political stability in the country'. Parliament adopted the motion unanimously and the PSC commenced sittings on August 20, 1991. Mangala Moonesinghe was duly appointed as its chair.¹⁰⁵ It was mandated to look into the following issues and how they might be addressed:¹⁰⁶

1. The disintegration of the nation;
2. The killings of innocent civilians, members of the Armed Forces and the youths fighting for a cause;
3. The increased militarization and the culture of violence in the country;
4. The achievement of peace and political stability and utilize the reduced defence expenditure for rapid economic growth and national development.

¹⁰⁵ *ibid.*

¹⁰⁶ Loganathan, K. (1996). *Sri Lanka: Lost Opportunities, Past Attempts at Resolving Ethnic Conflict*. Colombo: CEPRA, University of Colombo. p. 168.

The Mangala Moonesinghe Select Committee failed because it was deliberating on ways and means of evolving a political solution to the Ethnic Question. Constitutional lawyer Edirisinghe in his analysis of the PSC stated,¹⁰⁷

Although the select committee ultimately failed to forge a credible political consensus, there were some positive developments arising from its deliberations. The Tamil parties, other than the LTTE, presented a joint memorandum to the committee. They also negotiated with the Sri Lanka Muslim Congress (SLMC) on methods to safeguard the identity and security of Muslims in the north and east, who had recently fallen prey to LTTE attacks. Due to cross-party cooperation and chairman Moonesinghe's perseverance, various ideas were also developed to deal with the complex and sensitive issue of the (de)merger of the north and eastern provinces.

The so-called 'Option Paper' presented to the committee by Mr. Moonesinghe proposed the creation of a Northeast Regional Council with specified powers and a single governor. The regional council was to consist of all members of separate Northern and Eastern Provincial Councils which would sit independently to consider other areas of government. The chief ministers of the respective provinces would alternate as chief minister of the region. While the Option Paper was rejected by the Tamil parties, it was, at least by Sri Lankan standards, a creative attempt to bridge the gap between the various parliamentary parties.

General Elections held on 16 August 1994 led to a major electoral defeat for the UNP, which had governed for over 17 years. Even though the victory was by a narrow margin, the People's Alliance government of Chandrika Bandaranaike Kumaratunga was largely elected on a campaign promise to end the civil war. Having campaigned on a peace platform, the new government took immediate steps to initiate dialogue with the LTTE. On 9 November 1994 Chandrika Bandaranaike Kumaratunga, Prime Minister, won an impressive victory in the presidential elections particularly with record turnouts in Tamil districts and clear majority support in the South. Her mandate for peace was unprecedented and seemed unshakable at that time. Events however, did not support the seeming expressed desire for peace as we will see in the following section.

I will now focus on conflict resolution and conflict transformation efforts from 1995 and the events leading up to the signing of the Ceasefire Agreement in February 2002. I will also analyse the involvement of Norway in the Sri Lankan peace process. Despite not being a major military or economic power Norway was chosen as facilitator. This development will also be reviewed in this chapter in order to build on the analysis of their involvement in subsequent chapters.

1994-1995 Negotiations and Devolution Package

The election of the People's Alliance (PA) on a peace platform, led by Chandrika Kumaratunga, in 1994 brought new hopes for a peace settlement. Four rounds of talks were held in Jaffna between October 1994 and April 1995.¹⁰⁸ It was reported that the

¹⁰⁷ *op.cit.*

talks lacked seriousness, evident from the composition of delegations sent both by the government and LTTE. While the government was represented by its officials close to the President, the LTTE deputed four of its second-and-third rung leaders. It was inconceivable that the two bitter rivals would be able to resolve their conflict through such limited peace talks.¹⁰⁹ However, early in the talks it was clear that there were substantial differences in the process which those at the table did not have the mandate to address.

The Sri Lankan President and the LTTE chief signed a formal declaration to cease hostilities on January 5, 1995, which came into effect 72 hours later. In a situation of cessation of hostilities, marked by the absence of violence, both combatants could remain fully armed and alert. The declaration proposed to set up peace monitoring committees with members drawn from various walks of life and four representatives from Canada, Norway, the Netherlands and ICRC. The declaration was valid for an indefinite period from which either party could withdraw giving 72 hours advance notice of termination.¹¹⁰

Relations between the government and the LTTE began to sour in the immediate proceeding months. Elements within the government began to doubt the good faith of the LTTE while the LTTE accused the government of failing to fulfil its promises to relieve socio-economic hardship in the north. There were problems from both Sinhalese nationalists and LTTE hardliners, and negotiations broke down after the LTTE withdrew from the talks. By 19 April 1995, all goodwill had lapsed and Eelam War III, as it came to be called, had begun.

LTTE renewed its violent campaign, asserting that the government had failed to meet its demands including the withdrawal of army camps in the northern Jaffna area. War began again, and the government pursued a twin-track strategy of political devolution (a proposal which granted a large degree of autonomy, but not a separate state, to the Tamils) and military operations (with the objective of bringing the LTTE to the negotiating table in a weakened position). This was known as 'war for peace', or 'peace through war'. In the years that followed guerrilla actions and conventional battles were fought over territory variously lost and gained by both sides, and during which both sides displayed scant respect for international humanitarian and human rights norms.

*Devolution proposals*¹¹¹

Having failed in its attempts at negotiation, the government embarked on a new strategy for resolving the armed conflict which was at once highly ambitious and deeply controversial.

On the one hand, a full-scale military assault was launched with the purpose of eliminating LTTE control of the north and east. On the other, the government sought

¹⁰⁸ Sahadevan, P. & Devotta, N. (2006) *Politics of Conflict and Peace in Sri Lanka*, New Delhi: Manak Publications Pvt. Ltd, p. 255.

¹⁰⁹ *ibid.* p. 256.

¹¹⁰ *ibid.* p. 259.

¹¹¹ Edirisinghe, R. (1998). *Trying times: constitutional attempts to resolve armed conflict in Sri Lanka*, Conciliation resources, <http://www.c-r/our-work/accord/sri-lanka/trying-times.php>. [Accessed on 25/01/2008]

to devise a devolution package behind which all constitutional political parties could unite. Seeking to engineer peace while continuing hostilities with a powerful and determined adversary was a novel and high-risk strategy. The PA government pressed ahead, however, and published the first of three versions of its devolution proposals on 3 August 1995.

Seeking to redefine 'the constitutional foundation of a plural society within a united and sovereign ... Sri Lanka', the proposals set out a basic framework for the structure of devolution, for government finance, for law and order, land, education, the administration of justice and the civil service. They also suggested a specific government commission on devolution and a division of powers based on just two lists of functions; one Regional, one 'Reserved.

Unprecedented in their recognition of Tamil grievances and aspirations, the 1995 proposals were welcomed by many persons and groups committed to substantial devolution. They were fiercely opposed, however, by sections of the Sinhalese majority community. Considering their parliamentary majority of only one, the government was nervous of this opposition. It was not surprising, therefore, that when the proposals were spelled out in greater detail, various changes were included to appease majority opinion. Along with the ongoing war against the LTTE, these changes did much to undermine the promise of the original August 1995 proposals.

The GoSL then refused to engage in direct negotiations with the LTTE; instead it proposing its own devolution package while it simultaneously launching major military campaigns to suppress the Tigers. Even though it provided, among others, for the merger of the northern and eastern provinces, a long-time demand of the LTTE, the Tigers rejected it. It also drew broad opposition from segments of the majority Sinhalese community and political parties including the UNP. Any devolution package would require the support of opposition parties to be enacted into law.

Government's Proposals on Constitutional Reforms – Developments from 1995¹¹² to 2000

A Parliamentary Select Committee on Constitutional Reform was setup in 1995. The UNP, though part of the PSC, did not take a proactive role in it, and did not propose any alternative ideas.¹¹³ The Draft constitution was presented by the PA alone. The Preamble of the draft constitution was: 'These proposals seek to redefine the constitutional foundation of a plural society within a united and sovereign Republic of Sri Lanka based on the following principles:'

¹¹² The draft 1995 constitution is available at http://www.voiceoflanka.net/constitution/legal_documents/devolution_proposal_080395.html

¹¹³ Please see *Whither PA-UNP Consensus?* available on the CPA website, www.cpalanka.org

1. A vision of Sri Lanka where all communities can live in safety and security and their human dignity is valued and equality of treatment is an accepted norm of public life;
2. all communities be given the space to express their distinct identity and promote that identity including the right to enjoy their own culture, profess and practice their own religion, and nurture and promote their own language including the right to transact business with the State in the national language of their choice;
3. all persons may fully and effectively exercise all their human rights and fundamental freedoms without any distinctions and in full equality before the law.
4. recognition given to Sinhala and Tamil as official languages and also recognizing English as a link language; effective constitutional framework provided for the sharing of power with the regions based on an internationally consistent and coherent value system. There would be clarity and consistency in the distribution of power between the centre and the regions and the scheme would be one which is capable of effective implementation and include structures for the just and equitable resolution of centre region disputes;
5. all communities participate fully in the life of the nation whether it be at the national, regional or local level, thereby encouraging the regions and the communities which inhabit them to become constructive partners in a stable and pluralistic democracy.

At the end of 1997, the government challenged the opposition UNP to support the draft constitution or put forward its own devolution proposals. If the UNP did not deliver, the government proposed a referendum on the draft constitution. In late January 1998, UNP officially announced that it was opposing the government position and a few months later presented proposals which contained only marginal improvements on existing constitutional arrangements. The main positive features were the in-principle acceptance of a second chamber (with 'adequate' representation for minorities) and the principle of the supremacy of the constitution.

A bipartisan accord brokered by Liam Fox, Junior Minister of the Foreign and Commonwealth Office of the United Kingdom, was reached between President Chandrika Kumaratunga and Prime Minister Ranil Wickremesinghe. Foreign Minister Lakshman Kadirgamar called the agreement "an important and valuable step" to bring peace in Sri Lanka and went on to say that "this is a step in a long road". The text of the agreement (April 4, 1997) was as follows:¹¹⁴

I believe that we both recognize that the resolution of the ethnic conflict will restore peace in Sri Lanka and lead to the development, progress and prosperity of the country and its people. It is an issue transcending partisan politics. The development of a genuinely bi-partisan approach to the resolution of the ethnic conflict is vital to the achievement of a permanent solution to the conflict.

¹¹⁴ Edirisinghe, R. (1998). *Trying times: constitutional attempts to resolve armed conflict in Sri Lanka*, Conciliation Resources, <http://www.c-r/our-work/accord/sri-lanka/trying-times.php>. [Accessed on 25/01/2008]

The PSC publicly released the first 18 chapters of the draft constitution, with no mention of the devolution proposal. As the year wore on, the debate regarding devolution seemed to have come to a stalemate. Upon the release of the draft constitution in November, which included the devolution package, the PA government asserted that they would take the matter to a referendum if they did not receive the support of the UNP. In August 2000, the government shelved its long-heralded constitutional solution to the ethno-political conflict. The LTTE had already rejected the proposals. A salient feature of the PA's constitution reform process was the reformulation of the Sri Lanka state from a unitary to a united state. Edirisinghe sums up succinctly the relationships between ruling state and opposition parties within the Sri Lankan government as follows:¹¹⁵

A major obstacle to a negotiated and peaceful resolution of the Sri Lankan conflict is the inability of the government and the opposition parties to work together on conflict resolution. Opposition parties have almost always mobilized populist sentiment against government peace initiatives, scuttling any chance of substantial political reform.

It was perhaps in recognition that the resolution of the Sri Lankan conflict would require a skilled professional approach to conflict resolution that during the period of 1998-1999 confidential contacts began between the LTTE and the GoSL with the object of the Royal Norwegian Government being invited to act as a third party facilitator. Norway was acceptable to both sides because of a variety of factors. It lacked of geo-political, ex-colonial or economic agendas in Sri Lanka and its previous experience in peacemaking (particularly through the Oslo Accords) was respected. There was also a respect for their previous development activities in Sri Lanka and Norway was supported by India. Norway was prepared to commit a high level team to the project, including its Foreign Minister.

The LTTE made a unilateral declaration of a month-long ceasefire in December 2000, which was extended by them on three occasions. Given the track record of the LTTE in abrogating ceasefire agreements, the Government was reluctant to seize the opportunity offered by the LTTE. De-escalation leading to ceasefire is an indispensable component of any meaningful process that aims at a negotiated settlement.

2001 -2002

The Norwegians (1999-2001) had been working to promote a peace process, through their 'shuttle' facilitator, Eric Solheim. Whilst supported in principle by the PA, UNP and the LTTE leadership, there was considerable opposition to this process from Sinhalese political and religious chauvinistic groups. Bradman Weerakoon, Senior Civil Servant and Secretary to Prime Minister Wickremesinghe, writing on initiating the peace process stated that there would also be formidable opposition from within his party to contend with those who always stated that there should be no compromise with terrorism or of armed

¹¹⁵ *ibid.* [Accessed on 25/01/2008]

¹¹⁶ Weerakoon, B. (2006). Initiating and Sustaining Peace: Origins and Challenges 2002-2004, in, Rupesinghe K (Ed) *Negotiating Peace in Sri Lanka - Efforts, Failures and Lessons*, Volume 2, Colombo: Foundation for Co-Existence, Sri Lanka, p.1.

insurgency against the state.¹¹⁶ The arrival of Norway as facilitator in 1999 heralded a major new initiative. Norway's facilitation was acceptable to India both because its key role as a regional power was respected, it was to be kept informed at every stage, and that Norway was also acceptable to both Colombo and the LTTE.¹¹⁷

In July 2001, the LTTE carried out its most audacious attack on the Sri Lankan Air Force base at Katunayake and the international airport nearby and a six hour offensive. Three Sri Lankan Airlines aircraft were destroyed and three damaged whilst eight Sri Lankan Air Force aircraft were destroyed or impaired. It was not just these military reversals that spurred the politicians in the South to seek a way to end the war. The economy was in crisis, with a drop in GDP in 2001 of 1.5% and the drain of military expenditure undermining financial stability.

President Kumaratunga could no longer command a majority in parliament, and held fresh elections in December 2001. After General Elections marred by extensive violence, a new Government consisting of UNP, SLMC and defecting PA MPs was elected. It led to the formation of an uneasy cohabitation between the President and the Prime Minister of the SLFP and the UNP respectively.

There was widespread war weariness, and both sides were ready for a new approach. It has also been argued that both sides were in a position of a 'mutually hurting stalemate' and event of 9/11 put pressure on the LTTE. The Government wanted to reinvigorate the economy while the LTTE wanted time to regroup and try to gain some political recognition. In order to push the peace process to a fruitful end Prime Minister Ranil Wickremasinghe quickly initiated a new round of peace negotiations based around the reinvigorated Norwegian process.

The LTTE showed proactive interest in the peace process by announcing a unilateral ceasefire on 24 December 2001, to which the GoSL reciprocated positively. Even though the decision to cease hostilities was not bilateral, both parties strictly adhered to it by suspending the war. It was reported that the government showed greater interest in formalizing the unilateral ceasefire with the help of Norway whose facilitation role now gained more credibility and importance. The result was that after a series of meetings events moved quickly and by December 21, 2001 there was a temporary ceasefire in place which was followed by a full Ceasefire Agreement (CFA), brokered by the Norwegians, that was signed by Prime Minister Wickremasinghe and LTTE leader Prabhakaran on February 22, 2002 and came into force two days later.

As a major confidence-building measure, the Prime Minister lifted the economic embargo on most of the goods to the North. Clearly, there was greater demonstration of seriousness in the peace process by both parties which led to the longest period of peace since the 1980s, which will be discussed in the following section.

¹¹⁷ Sorbo, G et al. (2011). *Pawns of Peace, Evaluation of Norwegian peace efforts in Sri Lanka, 1997-2009*, Oslo: Norwegian Agency for Development Corporation, p. 32.

¹¹⁸ Sahadeven, P. Devotta, N. (2006). *Politics of Conflict and Peace in Sri Lanka*. New Delhi: Manak Publications, p. 266.

It would seem that the search for peace has taken many forms; from the government strategy of 'War for Peace' and elimination of terrorism by the Sri Lankan military, to a war of liberation as espoused by the LTTE. The perception of the 'other', the Sinhalese of the Tamils, the Tamils of the Sinhalese, the Tamils and Sinhalese of the Muslims, further reinforced by religious differences, have all contributed to suspicion and distrust between and among the different ethnic and religious communities. Grievances felt by all sides are heavily loaded by history and, it would seem, manipulated by ethnically motivated interests to keep these grievances alive and to maintain the polarized and vindictive narrative.

Over the past 50 years several political initiatives within Sri Lanka have tried to address the root causes of Tamil discontent with attempts at reform. The BC Pact (1957) and the DC Pact (1965) tackled the issues of resettlement of Sinhalese on lands that the Tamils considered traditionally theirs. Some devolution of power was instituted to Tamil speaking regional councils, and Tamil was recognized as a national minority language. On both occasions the agreements were never implemented effectively by any government, causing anger and increased frustration among the Tamils. Their response was non-violent campaigns of civil disobedience. Progress was made with the proposal for the District Development Councils as described in Annexure C proposals to the Constitution (1983). However, later in 1983 events took a turn again for the worse when the UNP government of the time added the 6th Amendment to the Constitution, imposing a ban on all political parties and which imposed a ban on all political parties and individuals that advocated separatism.

The talks at Thimpu, the capital of Bhutan, in 1985 under the auspices of the Indian Government, also failed. However, India continued to facilitate talks, and as a result of the Indo-Sri Lankan Accord (1987) an Indian Peace Keeping Force (IPKF) was dispatched to Sri Lanka. The IPKFs objectives were supervising a ceasefire between the LTTE and the Sri Lankan Army, accepting the surrender of LTTE and other militants' weapons and policing the North-East whilst an interim administration was established to prepare for elections for a North Eastern Provincial Council (NEPC). This would then enable some devolution of power from Colombo to the predominantly Tamil regions. Three years later the IPKF was forced to leave Sri Lanka after suffering military defeats by the LTTE, and also because the GoSL no longer wanted their presence on the island.

The talks between the United National Party (UNP) and the LTTE held in Colombo towards the end of the IPKF presence also failed. Since then there were direct negotiations between GoSL and the LTTE. In 1994 the People's Alliance (PA) Government under President Kumaratunga was elected on a peace platform, but despite early enthusiasm her position was undermined both by opposition from within her own Government and from the UNP opposition. On the other hand all but one of the Tamil political parties, despite their many differences, accepted LTTE to negotiate on behalf of the Tamil people. Whilst there was mutual recognition that neither side could achieve a military victory, the concept of military dominance (by both sides) persisted.

THE SRI LANKAN PEACE PROCESS FROM 2002-2008

In February 2002 the GoSL and LTTE signed a Ceasefire Agreement (CFA)¹¹⁹, brokered by the Norwegian facilitator. It was a significant step forward in ushering peace to the war-torn island. A group of five authors actively working on conflict transformation work in Sri Lanka succinctly introduced the CFA as follows: Democracy introduced by the British was a majoritarian system in which the Sinhalese would always control Parliament, and which did not give minorities, including Tamils, real protection against majority Sinhalese rule. Later changes in the constitution gave a pre-eminent position to Buddhism and the Sinhala language (the 1956 Official Languages Act - the "Sinhala-Only" Bill - of Prime Minister S.W. Bandaranaike). This affected all areas of life including education, government services, and the security forces. Political analyst Loganathan, defined how the legislation affected the Tamils as follows:¹²⁰

It reflected a willingness on the part of the GoSL and the LTTE to temporarily forfeit the military option. It further reflected the acknowledgement of the LTTE by the GoSL, as the predominant actor in the Tamil polity and the de facto administration of areas in the North East under its control. The CFA also expressed the confidence of the LTTE to enter into a serious engagement with the GoSL even after a series of military victories. International factors such as the post-September 11 environment and the pressure of the International Community also played a part in bringing the parties to the negotiating table.

In this section, I will highlight major events and different stages of this peace process from 2002-2008 in order to set the backdrop for systemic analysis in the following chapters. Due to personal experience in the process, access to original material, and my ability to travel and engage with participants and stakeholders in different parts of Sri Lanka.

The Norwegian government announced on February 22, 2002 that Prime Minister Wickremasinghe and Tiger leader Prabhakaran had signed the CFA and both parties had agreed to find a political solution to the problems:¹²¹

The CFA would facilitate attempts to commence peace talks. Both parties had agreed to cease hostilities. They had accepted the Monitoring Mission headed by Norway. They had taken bold decisions to enter into the CFA. They had embarked on a long journey to achieve peace and that path is not going to be an easy one. They would have to boldly face the obstacles.

The CFA was an instrument created to place the two warring parties under a structured set of obligations, which were more or less uniform and monitored by a third party, so as to ensure military disengagement by both sides. The CFA was valid for an 'indefinite period'. Its important provisions could be grouped under two categories – cessation of military operations and confidence building measures.

¹¹⁹ See Appendix 7

¹²⁰ Ropers et al. (2004). *The Sri Lankan Peace Process at Crossroads*, Lessons, Opportunities and ideas for Principled Negotiations, & Conflict Transformation, Colombo: p. 5.

¹²¹ Virakesari, Tamil Daily, 23 February, 2002

As in other instruments drawn up for similar purposes, they contained elements that reflected the worldview and interests of the parties that initialled the document - the United Front (UNF) and the LTTE – but which were nevertheless based on principles needed for a sustained, durable cessation of hostilities. The CFA coming into effect saw rapid moves towards normalization in the North and East, roads that were closed for long were reopened, checkpoints and military barriers were removed and goods and people started moving back and forth across the front lines. Above all the CFA ended most of the regular outbreaks of violence and tit-for-tat killings. The CFA was greeted enthusiastically in Colombo. One could visibly see 'peace breaking out'. The National Peace Council of Sri Lanka (NPC) in a Press Release issued on March 7, 2002 stated,¹²²

We appreciate the courageous initiative taken by the Prime Minister and its positive reciprocation by the LTTE leader who put their signatures to this agreement after seven years of escalating war in which vested interests promoting war seemed to have won the upper hand. The Ceasefire Agreement and the role given in it to the Norwegians as a third party, is a testimony to the trust that the two sides have placed in its non-partisan and constructive role.

The NPC also highlighted the inherent dangers that were visible when the statement pointed out,¹²³

At this early stage of cessation of hostilities, extremist nationalist sections are seeking to misdirect the people and increase the sense of apprehension and threat.

We are also very much concerned about the wavering stance of the People's Alliance Opposition as regards the ceasefire agreement. The PA paved the way for the present peace process during its period in government and its co-operation will provide a solid platform on which to build a principled bipartisan approach to conflict resolution.

The CFA left large tracks of territory in the North and East under LTTE control. The government retained control of key towns – Jaffna, Trincomalee and Batticaloa but most of the interior in the North, known as Vanni, and large rural areas in the east were fixed as LTTE areas or as the government termed them, 'uncleared areas'. Within these areas the LTTE further developed its own nascent institutions, including police, a judiciary and even a bank. But most services continued to be provided by the government, rather undermining the LTTE claim to be running a de facto state. However, government institutions in the region under LTTE control (and in some areas ostensibly under government control) had little choice but to comply with the demands of LTTE political officers.¹²⁴ This gave credence to another source of opposition to the CFA, a politically powerful, Sinhalese nationalist group, who viewed the agreement as tantamount to diplomatic recognition of the

¹²² Snapshots of Peace Building (2007). *Commentaries on War and Peace in Sri Lanka 1995-2007*. Colombo: National Peace Council of Sri Lanka, p. 108.

¹²³ *ibid*.

¹²⁴ Sri Lanka: (2006). *The failure of the Peace Process*, International Crisis Group, Asia Report No: 124, p. 5

¹²⁵ *ibid*, p. 6.

Tigers and feared it would eventually lead to a separate LTTE state.¹²⁵ Opposition political parties and groups with various agendas, began to impinge on the peace process leading to conflict among important political actors in the South. The fact that the International Community proactively supported the peace process leading gave further confidence to all the stakeholders who supported a non-military solution to the conflict.

The CFA was successful in bringing some normalization to the lives of people in the North and East. Transport corridors, such as the main A9 road to Jaffna, were reopened for the first time in many years leading to economic revival. However the major early achievement of the CFA was the no-war situation which helped save lives and improved living conditions of people throughout the island. A civil society organization, 'The Peace Support Group'¹²⁶ (PSG) of which I was a member and which focused on the promotion of peace and human rights, recognized one weakness in the CFA and called for the respect of human rights and humanitarian norms in the implementation and monitoring of the CFA.¹²⁷ The PSG statement

While welcoming the CFA between GoSL and LTTE, and particular their recognition that a negotiated solution to the ongoing ethnic conflict in Sri Lanka is the overall objective of the peace process, any permanent cease-fire negotiated between the two Parties must be based on the firm foundation of respect for human rights and human dignity. This will reinforce civilian confidence in the peace process. The Government of Sri Lanka and the LTTE have on many occasions reiterated their commitment to international human rights standards and international humanitarian law. Only a commitment to international human rights and humanitarian law will ensure a long lasting ceasefire acceptable to all sections of Sri Lankan society. The PSG statement continued that a ceasefire should not be limited to the interests of the armed combatants alone, but must protect and strengthen the rights of the civilian population and also define the relationship between the combatants and the civilians. It concluded that fairness, transparency and a respect for rights during the course of the cease-fire will only strengthen the viability of any final political solution. Therefore, in the implementation of the Agreement, respect for human rights and humanitarian norms should be given the highest priority.

A multinational monitoring force, the Sri Lanka Monitoring Mission (SLMM), was established as part of the provisions of the CFA, with some 70 personnel from Scandinavian countries based in offices around the North and East. Local monitoring committees for the SLMM were established in Jaffna, Mannar, Vavuniya, Trincomalee, Batticaloa and Amparai. Each committee consisting five members, two appointed by the Sri Lankan government, two by the LTTE and one international monitor appointed by the Norwegian head of mission. It is important to note that although the MOU designated a Vanni liaison office for the SLMM, there was no local monitoring committee in either Killinochchi or Mullaitivu - key LTTE political and military strongholds.

The SLMM was tasked with recording CFA violations and its crucial responsibility was to take 'immediate action on any complaints made by either party, and to 'enquire into and

¹²⁶ Along with Kethesh Loganathan, I was one of the initiators of the formation of the PSG.

¹²⁷ Media statement, 28th February, 2002, <http://www.cpalanka.org/psg/psg.html>, [Accessed on 22/03/09]

assist the Parties in the settlement of any dispute' arising out of such complaint. In order to resolve all disputes as expeditiously as possible, and at the lowest possible level, a communication link was proposed to be established between the army commanders and LTTE area leaders.

Finally it was stated that the CFA could be amended and modified by mutual consent of both the parties and provided for its termination after a required 14 day advanced notice. According to Sahadevan, the CFA was more comprehensive and structured than the one which President Kumaratunga signed with Prabakaran in 1995. It is likely that this was due to the significant role played by the Norwegians, who did not want to leave issues ill-defined or ambiguous, and had the main aim to achieve military disengagement, between the Sri Lankan army and the LTTE, before commencing peace talks.¹²⁸

Peace Talks

Even though the implementation of the CFA began in earnest, the process encountered many difficulties causing a six month delay in peace talks. There were concerns raised by the LTTE with regard to non-implementation of some of the clauses of the CFA by the government. At the General Elections of December 2001 the political parties, which got the majority of votes in the North and East agreed that the LTTE would be the sole representative of the Tamil people in the Peace Talks. The government's ban on the LTTE remained an obstacle to this democratic recognition as it was felt that mutual recognition of each other's legitimacy was important in ensuring parity of status of the negotiating parties. The Government de-proscribed the LTTE on 4th September paving the way for the Peace Talks in Thailand beginning in 16th September. The de-proscription was significant for both the LTTE and the Sri Lankan state as it signalled a possible cohabitation between the President and the Prime Minister.

Between September 2002 and March 2003 GoSL and LTTE held six rounds of talks in different locations in Asia and Europe which will be discussed in the following sections. The aim of these talks was to build on the CFA and arrive at a negotiated settlement of the conflict. Adopting an incremental approach to conflict resolution the entire peace process was planned to have three phases: stabilization (Round 1), transitional (Round 2), and post transitional (Round 3). In the stabilization phase, both the parties were encouraged to build mutual confidence and trust necessary for negotiating the core political issues.¹²⁹

First Round of Talks

The first round of talks was held in the Sattahip Naval Base, Thailand from 16-19 September, 2002. The negotiation strategy was pitched at two levels - existential and political. The existential issues were the urgent and immediate day to day problems caused by a set of bans and restrictions put in place by GoSL. The political issues were the rights and aspirations of the Tamils, examining the root causes and working out an acceptable solution. The LTTE focused on a 'stage by stage approach' while the Government took a 'one step at a time' approach. This gradualist approach seemed acceptable to both parties.

¹²⁸ Sahadevan, P. Devotta, N. (2006). Politics of Conflict and Peace in Sri Lanka. New Delhi: Manak Publications, pp. 269 – 270.

¹²⁹ *ibid.* p. 277.

The first session resulted in an agreement on two crucial issues: By agreeing to tackle the humanitarian issues jointly the Government and LTTE both sought to create an impression that they had established an equal partnership in the task of reconstructing the war ravaged region. 'In all these, the LTTE was expected to play a responsible and constructive role with an ultimate aim of restoring normalcy and facilitating a permanent settlement. That it showed initially to be a responsible party did not convince many.'¹³⁰

The outcome of the first round of peace talks was more successful than anticipated. 'The two delegations displayed to the world that despite their long period of enmity characterized, by mutually destructive behaviour, they were partners at peace and not military rivals.'¹³¹ Both delegations struck a note of optimism on the eventual success of the peace process. At the conclusion of the talks the LTTE made a clear statement of its willingness to accept regional autonomy and a self-governing unit within a united Sri Lanka. In turn the government acknowledged the LTTE as a partner in the administration and economic development of the North and East. As highlighted in the Norwegian statement at the end of the first round of talks, among important matters on which agreement was reached was a joint committee to deal with the problem of high security zones and the resettlement of displaced people. Another important matter, on which the two parties came up with a creative agreement, was the establishment of a Joint Task Force by which official government funds and international aid flows to the North and East could be jointly administered with the LTTE. This seemed to be an example of a consensual and win-win approach to conflict resolution. Uyangoda expressed his academic optimism as follows:¹³²

It is very likely that the next few rounds of talks between the government and the LTTE will mainly focus on the issues of reconstruction and economic development in Sri Lanka's conflict zones. The LTTE will obviously seek a direct role, in partnership and in par with the government, in the formulation and implementation of policies pertaining to those tasks. In the process, the LTTE will also get an opportunity to transform its structure of administration and control into institutions of autonomy from below. However, the question of the political and constitutional framework within which the incremental change can occur will, sooner or later, have to come to the center of the negotiation agenda.

A press statement made by Norwegian Deputy Minister Vidar Helgesen captured the essence of the outcome of the first round of peace talks.¹³³

I said at the outset of this peace talks on Monday that the parties have shown the courage and leadership. They have continued over the last 48 hours to do so not only in words but also deeds not only talking at the table but also agreeing on practical steps forward. They have been working in spirit of togetherness, and in a spirit of

¹³⁰ *ibid.* p 281.

¹³¹ *ibid.* p 279.

¹³² Liyanage, S. (2008.) *One Step at a Time – Reflections on the Peace process in Sri Lanka 2001-2005*. Colombo: South Asia Peace Institute, p. 87.

¹³³ www.peaceinsrilanka.org. [Accessed 22/03/2009]

seeking solutions and finding solutions. That is why the key message of our statement is that the parties are off to a promising start and we are taking practical steps for peace to bring the process forward.

However, despite many attempts by a range of civil society human rights and peace activists, the issue of a human rights framework found no mention in the communiqué issued, despite incidents of human rights abuses being reported from the North and the East. NPC and PSG with others highlighted that by agreeing to a human rights framework and with a monitoring mechanism, the peace process and the parties involved in it would gain greater legitimacy and acceptance in the eyes of the people.

While the Norwegian statement highlighted the need for the 'people Sri Lanka to build peace from below' in the statement of parties at the Thailand talks there was no mention of a role for civil society. In a press statement issued subsequent to the talks, the NPC highlighted: The peace process needs to be founded on social acceptance as much as on political will. The government and the LTTE need to recognize that a greater involvement of civil society would provide a broader foundation on which the peace process can be built.

Second Round of Talks

The second round of talks was held from October 31 – November 3, 2002 at the Rose Garden Resort in Thailand. According to a media release of the NPC at this meeting the two sides prioritized issues and engaged in joint problem solving as partners rather than as enemies.¹³⁵

They agreed to set up three joint committees to deal with economic, security and political issues and agreed to a set of measures to improve the security situation, inter-ethnic cooperation and respect for human rights in the North and Eastern Provinces. In this context, the parties emphasized in particular their commitment to accommodate the needs and aspirations of all three communities in the east - Tamils, Muslims and Sinhalese.

The three sub-committees established were:

- (1) The sub-committee on Core Political Affairs (SPA): To research of other peace processes, political solutions to ethnic conflicts, models and systems of government, issues of post conflict transition, co-ordination of international assistance, and reconciliation processes. This to be done with relevant experts and practitioners.
- (2) The sub-committee on De-escalation and Normalization (SDN): Whilst accommodating the security concerns of each party, the SDN was to examine how to ensure resettlement, the resumption of economic activities and the return of private property in HSZs. The SDN was to include high-level civilian and military personnel from both sides and would also look at issues of PTA detainees.

¹³⁵ *ibid.* p 94.

(3) The sub-committee on Immediate Humanitarian and Rehabilitation Needs (SIHRN) replaced the Joint Task Force. SIRHN was to identify humanitarian and rehabilitation needs, prioritize implementation of related activities, decide on consequent allocation of financial resources, and then determine implementing agencies. Financial resources for SIRHA, were to come from the North-East Reconstruction Fund (NERF). This fund was to be set up, agreed and financed by a number of donor governments, with the World Bank as its custodian. However, both SIRHN and NERF were not preceded by a dialogue between the parties on basic policy framework. Humanitarian and rehabilitation tasks were politically charged and linked to LTTE's demand for an interim administration. SIRHN also lacked the legal status to receive and disburse funds.

NPC again highlighted some areas of concern which needed to be addressed. It stressed that, whilst recognizing that GoSL and LTTE need to retain their ability to move forward in the peace process, the parties should accommodate other actors and stakeholders to transform the process into a more inclusive one. NPC stressed that the long term sustainability of the process would hinge on their ability to mobilize and enlist the support of other actors.¹³⁶

Despite the initial euphoria that was generated during the second round of talks, none of the committees produced lasting results. Following an energetic start, SIHRN did not effectively get off the ground because the LTTE began to see it as just another bureaucratic government machine. GoSL wanted the funds to flow through the Treasury, while the LTTE wanted a separate channel. The most significant Sub-Committee, SPA, never met.

International Donor Conference on Sri Lanka

Prior to the third round of talks, the Norwegian Government organized an international donor conference in support of the Sri Lankan Peace Process and on behalf of GoSL and LTTE. Besides a large delegation from the GoSL and the LTTE twenty two countries were represented at this conference held on November 25, 2002 in Oslo.¹³⁷ The Norwegian Foreign Minister Jan Petersen expressed financial and political support, while commending the GoSL and LTTE for their bold initiatives. Emphasizing the need for financial assistance to war torn Sri Lanka the Minister said the peace process would succeed if there was sustained popular support. The support would come in when people saw tangible benefits of peace in their daily lives which would not be possible without significant international assistance. He therefore pleaded for financial assistance to undertake rehabilitation and reconstruction work. The goal was to mobilize political support for the peace process, and garner economic assistance to address the evident and immediate needs and contribute to the realization of a peace dividend by the whole population of Sri Lanka. A broader donor conference was planned for 2003 to raise assistance in larger amounts for the longer term when the peace process had advanced. He stressed for the peace process to succeed, popular support had to be sustained. People must see tangible benefits of peace in their daily lives. Without significant international assistance, this opportunity would be lost.¹³⁸

¹³⁶ *ibid*

¹³⁷ <http://www.peaceinsrilanka.org/insidepages/Internationalsupport/OsloMeeting/Delegates.asp> [Accessed on 25 March 2009]

¹³⁸ <http://www.satp.org/satporgtp/countries/shrilanka/document/papers/oslo2.htm> [Accessed on March 25, 2009]

After its deliberations, the international community present at the conference pledged US\$70 million in immediate humanitarian assistance. Japan, European Union and the USA joined Norway to mobilize support for the Sri Lankan peace process. These developments were consistent with GoSL strategy to mobilize an international 'safety net', however this raised LTTE's suspicion. Liyanage asserted that 'this excessive internationalization had swung the pendulum in favour of GoSL's step-by-step approach. The Oslo Donor Conference could be said to mark a turning point finally leading to the LTTE to withdrawal from the negotiation process.'¹³⁹

Third Round of Talks

The third round of talks were held from December 2nd to 5th, 2002 at Radisson SAS Plaza Hotel, Oslo. The main thrust of the discussion at this third round of talks were the core political issues. Based on the LTTE chief's call for a political solution based on the principle of internal self-determination in the areas of historical habitation of the Tamil-speaking peoples, both the government and LTTE delegations agreed to explore a federal solution, acceptable to all communities, as the basis for permanent peace. They also agreed to develop an action plan for children affected by war. This involved the LTTE's collaboration with UNICEF in releasing its under-age recruits. At the ground level, even though the number of children released by the LTTE increased, continued recruitment of children to the movement continued.

It was reported that the third round of talks was a very satisfying occasion with substantial achievements which straddled three major areas, namely political matters, consolidation of CFA and humanitarian and rehabilitation issues.¹⁴⁰ In view of the seriousness of this development, and perhaps, because it was the highest point in the negotiations between the two parties with the facilitation of Norway, and aptly titled *Oslo Declaration*.

A prominent journalist and analyst of the Sri Lankan conflict commented as follows:¹⁴¹

Although the progress achieved in the first three sessions of the well-structured peace talks had created euphoria in the island and abroad, doubts were raised in some quarters about LTTE's seriousness in offering to accept a federal solution. Similarly the ability of the Sri Lankan government to evolve a federal structure was also suspected.

The commitment by the two sides not to go back to war as a means of achieving their political goals indicates their willingness to make compromises for the sake of peace. NPC commented that this willingness to make compromises needs to encompass the political opposition that has unfortunately become marginalized in the peace process.¹⁴²

¹³⁹ Liyanage, S. (2008) *One Step at a Time – Reflections on the Peace process in Sri Lanka 2001-2005*. Colombo: South Asia Peace Institute, pp. 96-97.

¹⁴⁰ Appendix 8

¹⁴¹ Comments of Jeyaraj D. B. S. (2003). *A Tactical Shift, Frontline*, December 21, 2002, pp 58-60, in Sahadeven P, Devotta N. (2006) *Politics of Conflict and Peace in Sri Lanka*. New Delhi: Manak Publications, p. 282.

¹⁴² *Snapshots of Peace Building*, (2007) *Commentaries on War and Peace in Sri Lanka 1995-2007*. Colombo: National Peace Council of Sri Lanka, p. 93.

Without the backing of the opposition, and a two-thirds majority in Parliament, it would be difficult to ensure changes to the country's constitution that would permit and create confidence that a lasting political solution has been reached. It would be unrealistic to expect that LTTE to make a full transition from a military organization to a political one in the absence of a bipartisan political consensus on the future constitution of Sri Lanka.

Part of the statement issued at the end of the session included the phrase "the parties agreed to explore a solution based on the principle of internal self-determination in areas of historic habitation of the Tamil-speaking peoples, based on a federal structure within a united Sri Lanka". This was interpreted by many observers to mean that (1) the LTTE had at last formally shifted from its position demanding a separate state to one of accepting a federation, and (2) that the GoSL had also overcome its reservations about such a structure. However since then the LTTE offered an alternative interpretation of this (as evidenced in the book by LTTE's Anton Balasingham (*War and Peace*) where the significance of the communiqué was played down, and the LTTE position re-affirmed in that it is still thinking "within the overall framework of the right to self-determination with its internal and external aspects".¹⁴³ It was also reported that Prabhakaran was opposed to giving up Tamil Eelam for which the LTTE had struggled for so many years. The Oslo declaration was considered a significant political breakthrough and provided a potential start to more substantive negotiations, but follow-up was lost.

Fourth Round of Talks

The fourth round of talks was held Thailand from January 6th to 9th, 2003. The Oslo declaration was considered a significant breakthrough and acted as a stimulus to constructive discussions at the fourth round of talks which largely focussed on resettlement and human rights issues. With persistent disagreements on the issue of HSZs, both GoSL and LTTE decided to work towards making tangible improvements in the daily life of people. A decision to postpone discussions on HSZs until an independent expert opinion was obtained was a pragmatic measure. The parties stressed the need to move from the stage of planning to implementation of the humanitarian and rehabilitation schemes. To this effect they agreed on an accelerated resettlement programme for the Jaffna District. The action plan was to be implemented in two phases; the first covered the resettlement of displaced persons living outside of the HSZ and second in areas within the HSZ. SIHRN was to seek participation in implementing the action plan along with UNHCR. In addition it was decided to establish a North East Reconstruction Fund (NERF) for speedy disbursement of international assistance. A significant decision was taken to prepare a schedule on human rights issues with the assistance of an acclaimed human rights advisor, Ian Martin, and set up an independent mechanism, with the assistance of ICRC, to verify the cases of persons missing in action and involuntarily disappeared. The Parties also viewed the increasing incidents of violence with concern and decided to hold tripartite discussions along with the SLMM on a monthly basis and report the findings to successive sessions of peace talks on progress made on this issue. A committee on gender issues

¹⁴³ Balasingham, A. (2004). *War and Peace, Armed Struggle for Peace Efforts of Liberation Tigers*. Micham: Fairmax Publishing Ltd., pp. 400-401.

was also established, facilitated by a Norwegian nominee to ensure gender issues in the peace process. A significant decision was also made to invite a Muslim delegation to peace talks at an appropriate time. The fourth rounds of talks was successful from the perspectives of implementing decisions made at previous talks and also by incorporating issues neglected earlier.

However, despite the agreements reached between the two sides it remained to be seen whether the Sri Lanka military would honour the government's pledge. He pointed out that there are two [rival] centres of power in the South. The Tamils have a bitter experience of broken promises by Sri Lankan governments.¹⁴⁴ Voicing similar sentiments the NPC, cautioned:

The National Peace Council regrets to note that the opposition has been looking at the issue of high security zones and many other matters connected to the peace process in a pessimistic manner. This has been increasing the apprehensions of the people about the stability of the peace process. It would be more constructive if the opposition were to propose an alternative and practical approach to resolve the conflicting interests at stake.

We also note the present peace process taking place between the government and LTTE is, by and large, an exclusive one with little opportunity for other parties and civil society to either participate in, or contribute towards, the decisions being taken by the two main parties. This is giving rise to resentment and suspicion. ... We also call for a more inclusive process in which those parties in the opposition can be constructive participants.¹⁴⁵

The Fifth Round of Talks

The fifth round of talks was held at the Norwegian Embassy, Berlin Germany from February 7 & 8, 2003. The report prepared by General Satish Nambiar on HSZs had been leaked to the media before it was submitted to the fifth round of talks. He proposed the following:¹⁴⁶

Any review of the scope and content of the HSZs will only come about if the LTTE deposits its weapons to neutral supervision and indicates measures to withdraw from frontline positions into nominated areas. ... Any dismantling of the HSZs or the forward defences of the Sri Lankan Defence Forces (SLDF) will have to be matched by simultaneous dismantling of LTTE operational military positions.

It was reported that the LTTE disregarded this suggestion by saying that any attempt to link the immediate humanitarian needs of the internally displaced people with de-mobilization of LTTE's fighting formation was not acceptable to them.¹⁴⁷ Just before the talks began there was a serious incident in the Delft islands when a boat trying to smuggle arms and ammunitions was intercepted. Three Tiger cadres reportedly blew themselves and their boat. Back channel communications and intense diplomacy reportedly prevented sinking of the Berlin talks.¹⁴⁸

¹⁴⁴ www: TamilNet, January 07, 2003

¹⁴⁵ op.cit. p. 92.

¹⁴⁶ Liyanage. S. (2008). *One Step at a Time – Reflections on the Peace process in Sri Lanka 2001-2005*. Colombo: South Asia Peace Institute, p. 106.

¹⁴⁷ ibid

¹⁴⁸ Ibid. p. 107.

The momentum generated in the previous rounds of talks was maintained during this round with progress made on resolving humanitarian issues. The implementation of the action plan was evaluated and both parties reiterated their resolve to complete the process of resettlement of people in an expeditious manner. The parties agreed to set up three committees in the Eastern Province to address land and other issues of mutual concern. The members of the committees, however, were drawn from persons linked to the LTTE and the Muslim community only. One other significant decision made during the talks was to invite the former Secretary General of Amnesty International, Ian Martin to draw up a roadmap for addressing human rights issues relevant to the peace process. The main issues identified for inclusion in the proposed roadmap were, substantive human rights activities with effective monitoring mechanisms with human rights and humanitarian law training for both LTTE GoSL officials including police and prison officers. It was hoped that the proposed human rights roadmap would help reduce recurrent serious human rights abuses. While noting that the LTTE had already set up a Political Affairs Committee, the parties also agreed to explore issues relating to alternative power sharing structures, including fiscal devolution at the next round of talks. In a significant development the LTTE pledged to stop underage recruitment but released 350 children to UNICEF. At this point I wish to share my experiences in engaging with LTTE leadership over a period of several years to bring an end to their practice of child recruitment.

The writer himself was monitoring the UNICEF project which was partly funded by CIDA, I was pleased with this outcome. This was as a result of several years of engagement. One experience I wish to share was how I confronted LTTE leadership when they constantly denied that they recruited children. I provided two sets of evidence. The first was photographic evidence of tombstones of child soldiers from LTTE Heroes Cemeteries. Many carried dates of birth and deaths of combatants which indicated that there were many child soldiers among them. The response from LTTE for this intervention was to obliterate the dates of birth of all combatants. The other evidence I provided was newspaper clippings of commemorative notices that gave dates of birth and death of combatants that were inserted by family members mourning the death of their children. The response from LTTE was to prevent such publications. Finally, when I taught a module on Human Rights on the Diploma Program conducted by the University of Bradford in Kilinochchi, LTTE participants identified child recruitment as being one of the most serious human rights issues in areas under their control.

The Sixth Round of Talks

The round of talks was held in Tokyo from March 18 -21, 2003. Norwegian deputy Foreign Minister Vidar Helgesen and Japan's special peace envoy to Sri Lanka, Mr. Yasushi Akashi chaired the opening session. The parties met amid growing security concerns following recent incidents on land and at sea. While they acknowledged that parallel progress was needed on security, economic and political issues, the parties left no doubt that they must now give top priority to improving the security particularly at sea.

On the first day, the two sides discussed the incident of a LTTE vessel being sunk off the Mullaitivu coast and how effective safeguards could be implemented to prevent the recurrence.¹⁴⁹ The Royal Norwegian Government and the Head of the Sri Lanka Monitoring Mission

¹⁴⁹ Based on Press Release issued by SCOPP on March 18, 2003, <http://www.peaceinsrilank.com>

(SLMM) prepared a meeting with military leaders on both sides. The parties agreed their naval units would exercise restraint and avoid provocative actions, and strengthen the mandate and capacity of the SLMM. This was to include the SLMM approve procedures for handling prisoners of all parties.¹⁵⁰

The progress of SIHRN was reviewed including process in establishing NERF. The World Bank announced procedural matters relating to the NERF had been finalised and the Fund operational. With this development, donors were now in a position to make contributions facilitating SIHRN.¹⁵¹ Ian Martin presented a conceptual road map on addressing issues of human rights and the parties agreed a declaration on human rights principles was needed and acceptable monitoring mechanism.¹⁵²

Talks concluded after deliberations on political issues relating to power sharing and fiscal devolution. The parties reiterated their commitment to a federal system based on internal self-determination with a united Sri Lanka. The parties recognize that a considerable amount of time would be required to address federal solution structures including geographical regions and the division of powers between the centre and regions. The parties invited the Forum of Federations, a Canadian-based international organization, to participate as consultants at the seventh session of talks.

The LTTE reported on the formation of a Political Affairs Committee which was to study federalism over the course of the next three months building the capacity of LTTE for political transformation. The LTTE and Rauf Hakeem agreed to arrange a meeting between Muslim leaders and the leadership of the LTTE in Kilinochchi to discuss political matters and the participation of a Muslim delegation in negotiations at plenary sessions. The parties approved the proposal submitted by the Sub-Committee on Gender Issues to establish secretariats in Kilinochchi and Colombo.¹⁵³

Ian Martin was also asked to develop three aspects of the proposed roadmap for adoption at the seventh session of talks.¹⁵⁴ It would, in summary, include; drafting of a Declaration on Human Rights and Humanitarian Principles reflecting international human rights and humanitarian standards, which both parties would undertake to respect and apply; a programme of human rights training for LTTE cadres and government officials, and of human rights education for the population. UNICEF, UNHCR and ICRC coordinated by the Office of the UNHRC would offer programmes of capacity building related to their mandates; finally proposals for strengthening the weak capacity of the Human Rights Commission of Sri Lanka were agreed which would involve international assistance of OCHA and other sources.

¹⁵⁰ Based on Press Release issued by SCOPP on March 21, 2003, <http://www.peaceinsrilank.com>

¹⁵¹ Based on Press Release issued by SCOPP on March 20, 2003, <http://www.peaceinsrilank.com>

¹⁵² Based on Press Release issued by SCOPP on March 19, 2003, <http://www.peaceinsrilank.com>

¹⁵³ Based on Press Release issued by SCOPP on March 21, 2003, <http://www.peaceinsrilank.com>

¹⁵⁴ Ibid.

¹⁵⁵ Sahadeven, P. & Devotta, N. (2006). *Politics of Conflict and Peace in Sri Lanka*, New Delhi: Manak Publications, pp. 286-287.

All seemed on the surface to be going well, although rehabilitation efforts and parallel political issues required greater attention. Sahadevan captures the essence of the talks as follows:¹⁵⁵

Many of the decisions constituted significant confidence building measures. Given the intense hostility between the two parties and the complexity of the conflict, the progress made in the peace talks within a short duration has surpassed the expectations of Sri Lanka's liberal peace constituency and surprised the sceptics and bitter critics of the process. One could not have expected more results that what all the six sessions have produced.

He also recognizes the constraints when he states:¹⁵⁶

Of course, issues such as security, resettlement and reconstruction, sharp differences have persisted between the government and the LTTE. There has also been a huge gap between what they have agreed and how much they have implemented. Herein lies the main problem encountering the peace process.

Referring to the LTTE he adds:¹⁵⁷

The LTTE has sought to link every issue with the other as a bargaining strategy. In the process, it has showed its willingness to sacrifice the cumulative gains of settling some issues on the ground that others have remained unresolved. The bargaining strategy is not unusual in negotiations to end civil wars. Whatever the merits of the issues raised by the LTTE, its absolutely rigid position to impair the peace process has created doubts about its genuine commitment to political solution.

A group of five authors actively working on conflict transformation in Sri Lanka, and quoted in the opening section of this chapter, have analysed the achievements and shortcomings as seen by the parties as well as outsiders and analysts, as follows:¹⁵⁸

Achievements

- The no-war situation has saved lives and helped to improve living conditions throughout the island.
- The majority of the people supports the ceasefire and is in favour of moving towards a positive and stable peace.
- The suspension of the violent conflict has prevented a severe crisis of the existing political and social system in the south, which re-emerged in the second half of 2001.

155 Sahadevan, P. & Devotta, N. (2006). *Politics of Conflict and Peace in Sri Lanka*, New Delhi: Manak Publications, pp. 286-287.

156 *ibid* p. 287.

157 *ibid*.

158 Ropers et al, (2004). *The Sri Lankan Peace Process at Crossroads, Lessons, Opportunities and ideas for Principled Negotiations, & Conflict Transformation*, Colombo: Berghof Foundation, pp. 3-4.

- The peace process has helped to revitalize the overall economy, which has been in a state of severe crisis.
- There have been improvements in relief and the delivery of some rehabilitation and reconstruction services in the NorthEast.
- The peace process has offered an opportunity to de-link the ethnic conflict from war and violence.
- The effective mobilization of women's efforts for peace has culminated in the recognition by parties at the Track One level of the importance of gender concerns in the peace process. The establishment of a Sub-committee on Gender Issues (SGI) is particularly significant in this regard.
- The peace process has attracted the international community to take an active interest in Sri Lanka and to mobilize additional resources for rehabilitation, reconstruction and development.
- The peace process has generated significant common ground on which a political settlement could be founded, as embodied in the Oslo Communiqué that enunciated the framework of internal self-determination within a united federal Sri Lanka.
- The peace talks has demonstrated that the interlocutors of the parties managed to develop a good working relationship with each other and that it was possible to find solutions to some difficult issues.

Shortcomings

- There was no common, consistent and transparent strategic framework guiding the peace negotiations.
- The benefits arising from the no-war situation have been distributed in a highly imbalanced way. The people of the NorthEast are still waiting for: a substantial peace dividend, the normalization of the living conditions, the return of refugees and Internally Displaced Persons (IDPs) to their homes, and a comprehensive rehabilitation and reconstruction programme in the war-affected areas.
- The disputes in the South concerning the approaches to the peace process have been largely linked to partisan agendas of political parties.
- The parties that were excluded from peace negotiations have expressed concerns and reservations while questioning the legitimacy of the entire peace process.
- The overall mobilization towards pro-peace goals has been and remains relatively low.
- The negotiating parties failed to create joint institutions to nurture and foster the peace process. The two peace secretariats worked completely independent from each other and contributed little to the substance of the talks.
- The parties did not initiate a constructive public discussion on how to reconstruct the Sri Lankan state through the implementation of the Oslo Communiqué.

They believed that a closer look at the first phase allowed lessons and conclusions with relevance to the next phase of the peace process. The talks focused more on 'negative peace' issues; that is technical matters related to re-construction, monitoring committees, and on development and humanitarian aid, rather than on 'positive peace' looking at the deeper and more substantive issues relating to changing economic and political structures, about power sharing and interim administrations, and about the very nature of 'unitary' Sri Lanka. So, in this phase of 'no-war, no-peace' a space was opened for infrastructure reconstruction programmes such as the A9 road project. Economic activity was kick-started enabling people to move about more freely, a political dialogue to begin, and for some normalisation to occur.

The parties agreed to hold three more sessions during 2003, in Thailand Japan and in Europe.

Fragmentation and Crisis

LTTE Withdraw from Talks

In April 2003 the LTTE withdrew from the peace talks giving reasons including the fact that they were not invited to a donor conference held in Washington early that April. This reinforced their perception that they were still not viewed as equal negotiating partners. The LTTE remained proscribed as a terrorist organisation in the U.S., and continued recruitment of child soldiers and targeted assassinations of opponents, did not encourage review of this ban. The LTTE were also displeased with proposals put forward for an Interim Authority for the North and East, and the High Security Zones were still occupied by Sri Lankan Armed Forces. They argued that economic aid was slow in reaching the North and that the problem of displaced persons was not being tackled urgently enough. All stakeholders recognized that the CFA had many limitations and may have to be renegotiated when face-to-face talks resume. Prime Minister Ranil Wickremasinghe in his letters to the LTTE maintained that GoSL had played no role in the US government refusal to extend an invitation to the LTTE taken within the purview of American Law, and regretted the exclusion of the LTTE. He also underlined the need to renew the joint efforts and commitment of both parties to normalize the situation in the Northeast and assured the LTTE that there was no intention on the part of his government to exclude it from the development policy planning and implementation process. Ranil Wickremasinghe's pro-peace, pro-reform and pro-western outlook was well received by the donors. They saw Sri Lanka as a potential liberal peacebuilding success story with limited risks attached. He signed agreements with the IMF, World Bank and other donors. On the surface this converged with LTTE's call to address the needs of the Tamil people. The preparatory meeting for the Tokyo Donor Conference was held in the margins of a World Bank summit in Washington DC.

The LTTE remained unconvinced and refused to resume talks until all its concerns and issues raised had been addressed.

In May a delegation of the Tamil National Alliance (TNA) met the political leadership of the LTTE to review the situation in regard to the peace process. The LTTE expressed its view that before it participates in the Tokyo Aid Conference in June, the administrative, financial and other structures with adequate powers needed to be established in order to reconstruct the northeast and restore normal civilian life.¹⁵⁹

The Tokyo Donor Conference

Despite LTTE withdrawal from peace talks, the Tokyo Donor Conference went ahead as scheduled on 9-10 June 2003. It was well attended: participants included the Sri Lankan and Japanese Prime Ministers, the Norwegian Foreign Minister, the U S Deputy Secretary of State, and the President of ADB, besides senior representatives from several countries and international agencies.

The LTTE did not participate in the Conference. 'The international community pledged \$4.5 billion over the period of four years to support the GoSL's efforts to address the immediate and long term needs of the Northeast. Most was in grant and the balance on flexible interest terms. The conference inter alia urged both the GoSL and LTTE to move expeditiously to a lasting and equitable political settlement based on human rights, democracy and the rule of Law.'¹⁶⁰

It is important to note that the linkage between donor support and the peace process was articulated in the Tokyo Conference Declaration:¹⁶¹

Assistance by the donor community must be closely linked to substantial and parallel progress in the peace process towards fulfilment of the objectives agreed upon by the parties in Oslo. The Conference encourages the Government of Sri Lanka and the LTTE to enter into discussions as early as possible on a provisional administrative structure to manage the reconstruction and development aspects of the transition process. The process would need the expeditious development of a roadmap with clear milestones indicating the path towards a mutually acceptable final political solution. With this in view, the international community intends to review and monitor the progress of the peace process closely, with particular reference to objectives and milestones.....

Specific mention was made of compliance criteria such as, strict respect with the CFA establishing effective mechanisms for humanitarian assistance and inclusion of other groups, such as Muslim, in the peace process. The Donor community made emphatic that monitoring and review of the Declaration's terms was clearly linked to progress in the peace process.

According to the Strategic Conflict Assessment carried out by the governments of Netherlands, Sweden, and the United Kingdom in association with the Asia Foundation and the World Bank,¹⁶²

¹⁵⁹ For the full text of the press release please see: <http://news.tamilnet.com/art.html?artid=8981&catid=13>

¹⁶⁰ For the text of the declaration see <http://www.peaceinsrilanka.com>

¹⁶¹ *ibid*

¹⁶² Burke, A. & Mulakala, A. (2005) *Donors and Peacebuilding in Sri Lanka 2000-2005*, Colombo: The Asia Foundation, pp. 18-20.

The language of the Tokyo Declaration struck most observers as donor conditionality rather than a loose linkage. The former suggests “no aid unless peace,” while the latter suggests, “If peace, then increased prospects and opportunities for aid.” There is a qualitative distinction between the two. The latter position was the actual position while the former was the unfortunate misinterpretation. The result: confusion and ambiguity.

The six months following the Tokyo conference confirmed the donor’s predicament. Peace talks remained on ice, the NERF never evolved beyond a piece of paper, and there was little progress agreeing on administrative structures for the North-East. The ambiguity of the Tokyo Declaration led to ad hoc responses, with some donors holding off on their assistance to the North-East while continuing their assistance for the South. ... High level monitoring visits by special peace envoys and co-chair meetings offered statements that consistently condemned the human rights abuses by the LTTE and urged both sides to return to the negotiating table, but had little impact. Political parties dangled the carrot offered by the Tokyo conference as a way of criticizing each other’s approach to the peace process. Donor confidence began to wane.

However, it must be stressed that the CFA survived many political and operational challenges and remained the main lifeline in the peace process at that time even though it seemed obvious that it marked the end of the first phase of a highly internationalized peace process.

Interim Self-Governing Authority (ISGA)

Liyanage highlights that in the first and second round of talks, both parties reached a compromise rather than a consensus that the issue of interim administration should not be taken up at that stage of negotiations, even though the idea of interim administration was included in the UNF election Manifesto. Instead the two parties agreed to set up sub committees to perform the functions which were expected to be allocated to an interim administration. The argument put forward by the chief government negotiator against the immediate setting up of an interim administration was succinctly summarized by the leader of the LTTE delegation as follows: ¹⁶⁴

The central argument was that the present entrenched constitution could not provide space for the institutionalization of such an administrative structure. Even if such an administrative mechanism was created, it would violate the constitution and the President, as well as the Chief Justice, would never allow such a measure... To embark on such a futile exercise would offer the President an opportunity to interfere and stall the peace talks.

In any event not much credence could be given to this position as the constitutionality of the CFA itself was questionable although neither the President nor Sinhala extremists sought a Supreme Court opinion. The UNF government did not apply the same principle

¹⁶³ Liyanage, S. (2008). *One Step at a Time – Reflections on the Peace process in Sri Lanka 2001-2005*, Colombo: South Asia Peace Institute, 2008. p. 122.

¹⁶⁴ Balasingham A. in, Liyanage, S. (2008). *ibid.* p 123.

to an interim administration for Northern and Eastern Provinces and could have introduced it as there was a great deal of support for the CFA. The UNF government went ahead and itself submitted a proposal for an interim administrative mechanism after April 2003 when the power configuration was not in its favour. ¹⁶⁵ ‘It is quite interesting that both the government and the LTTE downplayed the importance of the idea of an interim administration,’ ¹⁶⁶

In mid-2003 the government offered three possible models of an interim administration for the North East largely in an attempt to bring the LTTE back to the negotiating table. These were designed as a basis for negotiation than a final settlement. ¹⁶⁷ The LTTE rejected all three proposals as neither adequately met nor consistent with its demands. Liyanage asserts that according to the LTTE there were three main defects in the proposals, namely, ¹⁶⁸

First, they would set up a development rather than administrative structure. But the LTTE wanted participation and control not only of development related activities but also of the day to day functions of the two provinces.

Secondly, LTTE’s role within the structure was ambiguous.

Thirdly, with regard to implementation, the proposals gave primacy to governmental administrative structure in a manner that constrained the space for LTTE rank and file to participate.

In October 2003 the LTTE put forward a comprehensive set of proposals for an Interim Self-Governing Authority (ISGA), ¹⁶⁹ on which they would have a majority of members and thus control. They insisted that these should be starting point for further talks. The ISGA proposals supported the view of many in the south that the LTTE’s real intent was constructing a separate state. The ISGA was deeply problematic: it posited an LTTE dominated government which would lay claim to all land and sea resources, and included little in the way of democratic provisions and offering no space for development of more pluralism. The proposed five year period of the ISGA would presumably end with either an independent state or at least an extreme form of confederation. ¹⁷⁰ It was seen by some as a direct threat to unity of Sri Lanka. The Muslim and Sinhalese communities, who make up 60% of the population living in the Eastern regions, were afraid of the consequences of living under an LTTE controlled ISGA. The proposals incorporated the first three Thimpu Principles envisaging legislative, executive and judicial powers over the entire Northern and Eastern Provinces. Article 9.1 reads as follows:

The ISGA shall have plenary powers for the governance of the NorthEast including powers in relation to resettlement, rehabilitation, reconstruction and development, including improvement and upgrading of existing services and facilities, raising revenue, levies and duties, law and order over land. These powers shall include all powers and functions in relation to regional administration exercised by GoSL for the Northeast.

¹⁶⁵ *Ibid.*

¹⁶⁶ Uyangoda and Perera, in, *ibid.* p. 125.

¹⁶⁷ International Crisis Group, (2006) Sri Lanka: *The Failure of the Peace Process*, Brussels, p. 8.

¹⁶⁸ Liyanage, S. (2008) *op.cit.* pp. 127-128.

¹⁶⁹ See Appendix 9

¹⁷⁰ *ibid.*

New Political Crisis and Norway Withdraws From Peace Process

The ISGA proposal was met with uproar by much of the Sinhalese media and political elite. At first the government seemed ready to use it as a basis for further negotiations but President Kumaratunga moved swiftly and on November 5, 2003 President Kumaratunga, stating the need to protect national security and the unity of Sri Lanka which was under threat, dismissed three Cabinet Ministers (from the Ministries of Defence, Information and Interior) declared a state of emergency and suspended Parliament for two weeks, sparking a crisis and creating a political vacuum in Sri Lanka. Wickremasinghe withdrew from talks with the LTTE stating that the peace process was no longer under his control. President Kumaratunga's exclusion from the peace process ensured that her support for the government's efforts was always limited. Because of the lack of clarity about who was holding political authority in the country, Norway concluded that there was no space for further efforts to assist in the peace process, and suspended its role as facilitator. After forming an alliance, United Peoples Freedom Alliance (UPFA) with the JVP, Kumaratunga dissolved Parliament on February 12, 2004, and set elections for April 2004. The ISGA seemed to be the last gambit in the peace talks. Once it was rejected by the government, and President Kumaratunga moved to reassert her constitutional powers, the LTTE adopted a more belligerent stance.¹⁷¹ However, the CFA still technically remained in force.

The frustration of those who supported the peace process was expressed succinctly in a press release issued by the National Peace Council:¹⁷²

The escalating confrontation between the government and opposition has turned the people's hope and optimism for the future into one of tremendous anxiety, both of a breakdown in the peace process and a loss of economic development and reconstruction prospects. We note that the President, Government and LTTE have all been separately reiterating their commitment to the peace process, but the situation of political turmoil will prevent progress being made in the peace process.

.....We also appeal to all groups who are committed to a peaceful resolution of ethnic conflict, both local and international, to bring influence to bear on Sri Lanka's political leaders to arrive at a bipartisan approach to the peace process even at this very late stage.

The Karuna Defection

The LTTEs fear of the peace process was confirmed in a dramatic fashion in March 2004, when its eastern commander, Vinayagamoorthy Muralitharan, more commonly known as Colonel Karuna, also a member of the LTTE negotiating team, announced that he was forming a breakaway rebel faction claiming that the specific interests of the eastern province were being neglected in the war to carve out a Tamil homeland.

Unwilling to compromise on the split, the LTTE attacked the Karuna group in a bloody confrontation in April 2004 which ended swiftly with Karuna after disbanding his troops,

¹⁷¹ *ibid.*

¹⁷² *Snapshots of Peace Building – Commentaries on War and Peace in Sri Lanka 1995-2007.* Colombo: National Peace Council of Sri Lanka, May 2007, p. 78.

sending hundreds of child soldiers home and fleeing with a small group of his supporters. There was no provision in the CFA for coping with the defection of part of the LTTE. But Karuna was only temporarily defeated. His supporters gradually reasserted their influence in the East, and the continued existence of the Karuna faction became a major obstacle in restarting the peace talks, with the LTTE insisting that the government disarm it, as demanded by the CFA. Karuna's defection not only reduced the LTTE's sway over the east but also considerably reduced the power of the LTTE. Many believe that the defection of Karuna Amman as the Eastern Commander, and disbanding of young combatants in the east, set the stage for the complete eviction of the Tigers from the Eastern Province.

The Boxing Day Tsunami of 2004

The tsunami affected about one million people initially and devastated over two thirds of Sri Lanka's coastline. It claimed 35,322 human lives, injured 21,441, and left 1500 children without parents. Social networks were disrupted, assets were destroyed and water and electricity supplies were severely affected. Remote coastal areas were not accessible for several days. It was an enormous challenge to address the multifaceted problem of providing immediate relief whilst facilitating recovery and reconstruction. The demonstration of human solidarity and kindness during and the immediate aftermath after this immense disaster was particularly exemplary given the context of the conflict. The devastation was widespread and all three groups were affected, though primarily the Muslim and Tamil populations of Ampara and Mullaitivu Districts were worst hit.

There was a massive outpouring of assistance from civil society (private individuals, clubs, societies, local and international organizations), who provided shelter in temples, churches and other locations, mobilized to clear roads, search for survivors and transport injured to the hospitals and other safe locations. The international community responded with humanitarian aid including rescue teams, supplies, equipment and personnel.

The highly charged political stalemate around the peace process was temporarily put to one side, and there appeared to be a window of opportunity to rebuild trust between the two parties. It was hoped that like many other natural disasters, the tsunami would have a 'social compacting' effect and potentially act as a catalyst for the peace process. The President and the LTTE exchanged letters on how to proceed with rescue and relief operations in the north and east. In addition, the security forces and the LTTE rescued the cadres of each other during the time of calamity. In addition to the ceasefire, these contacts facilitated delivery of humanitarian relief. There were heart-warming stories of the military saving Tamil lives in the north and co-operation among divided communities.

However, 'normal politics' did not remain suspended for long. Though the tsunami itself did bring people together, the response reflected and accentuated pre-existing tensions. Politics returned with a vengeance and with it the potential for renewed conflict. Like the peace process itself, the tsunami response heightened the political and economic stakes, acting as a lightning rod for wider tensions and grievances..... 173

¹⁷³ Goodhand, J. *et al.* (2005). *Aid conflict and Peacebuilding in Sri Lanka, 2000-2005*, Colombo: The Asia Foundation, p. 58.

The uneven distributional effects of aid have exacerbated a range of ethnic, political and social tensions. The tsunami response became increasingly ethnicized. Whilst the Tamils felt excluded, even obstructed by the government, there was the perception in the South that communities in the Northeast were receiving a disproportionate amount of assistance. The Muslims felt left out by both parties, though they were possibly the worst affected community.¹⁷⁴

*The Post Tsunami Operational Management Structure (P-TOMS)*¹⁷⁵

When the tsunami hit, it came at a time when the peace process was at low ebb. There was little dialogue between the two parties to the conflict and political killings were increasing. The response to the tsunami was powerful: Tamils, Muslims, Sinhalese helped each other; Christians helped Hindus; Buddhist priests opened the temples to all. No one asked who belonged to which group.

In the early stages of the relief and recovery effort, the GoSL and the LTTE worked together to address immediate needs. Negotiations between the respective Peace Secretariats began in January and by May, President Kumaratunga had put all her authority behind the resulting "Post-Tsunami Operational Management Structure (P-TOMS)", between the two parties. It is significant that the P-TOMS agreement won consensus amongst the main Sinhala party, the UNP.

P-TOMS provided a structure of three committees at the national, regional and district levels to oversee the distribution of assistance, and mandated the creation of a Regional Fund to finance recovery and reconstruction projects that would be accessed by these committees. The committees would be made up of representatives of the Government, the LTTE and the Muslim community. This would have been the first joint working system between the parties to the conflict since the collapse of the SIHRN in 2003. It was anticipated that this mechanism could create an environment conducive to the revival of the peace process. Many external partners expressed support for the mechanism and their willingness to put resources into the regional fund.

The constitutionality of the P-TOMS was immediately challenged in the Supreme Court by the JVP. While it was deemed to be constitutional, certain elements were put on hold in July 2005 by the Supreme Court pending clarification, specifically the regional fund and the location of the regional committee in Kilinochchi. The JVP, a coalition partner of the government, resigned over the issue and campaigned against it. Representatives of the Muslim community, withheld support for its implementation as the agreement only made a symbolic representation of their interests. Finally, there was no support from the non-LTTE Tamil parties as they were only given a subordinate place in the structure.

¹⁷⁴ *ibid.* p. 56.

¹⁷⁵ Appendix 10

Goodhand *et al* assert that:

Although both the government and LTTE from the outset sought to make negotiations over P-TOMS distinct from the peace process, many hoped that progress on the former would re-energize the latter. Over time the two were drawn closer together, to the extent that negotiations over P-TOMS almost exactly mirrored the dynamics of the peace process. Talks around P-TOMS ultimately boiled down to the question of governance, just as six rounds of peace talks were reduced in the end to the single issue of an interim administration.¹⁷⁶

On August 12, 2005 Foreign Affairs Minister Lakshman Kadirgamar an Oxford educated Christian Tamil from Jaffna, was assassinated in Colombo. This was a serious blow to the stalled peace negotiations and to Sinhala-Tamil reconciliation. He was a symbol that ethnic identity is not the only factor that should determine policy. He was an eloquent and forceful speaker at the United Nations and in other multilateral meetings against the LTTE and considered a prime assassination target. The LTTE denied being responsible, but if they did not did not organize the assassination then the killing is one more sign of the fractured nature of Sri Lankan society with many different groups working from the shadows.

Presidential Elections of November 2005

The Presidential Election of November 2005 was crucial in determining the future course of the CFA. Even though the two main contending political parties in the South agreed to P-TOMS, it failed, and nearly led to the collapse of the peace process. A strange alliance of interests between extremists in both the Sinhala and Tamil camps, namely the JVP and the LTTE ensured a slender majority of Mahinda Rajapakse, the SLFP candidate. The JVP mounted a strong campaign to elect Rajapakse whilst the LTTE prevented the North and East Tamils from casting their votes for Wickremasinghe, overwhelmingly supported by the Tamil community for being a co-signatory to the CFA. Mahinda Rajapakse became the fifth Executive President of Sri Lanka and ended Wickremasinghe's version of the peace process.

Referring to the peace process in his inaugural address, President Rajapakse said:¹⁷⁷

Throughout the election campaign we stressed that we would be working to achieve an honourable peace in the country. During the Presidential election the overwhelming majority of the people said that the country should not be divided. Today it is the common national aspiration of the people. It is this aspiration that would be the basis of my policy for achieving peace. I intend to begin a peace process based on this premise. War is not my method. I will initiate a new round of talks with all those who have a stake in the solution of the National Question.....

¹⁷⁶ *ibid*

¹⁷⁷ http://www.president.gov.lk/speech_arc_19_11_2005.asp, [Accessed on April 1, 2009]

¹⁷⁸ www.tamilnet.com, excerpts of speech translated into English from Tamil.

The LTTE chief in his annual Heroes Day Speech on November 27, 2005 responded as follows:¹⁷⁸

We have now reached the critical time to decide on our approach to achieve the objective of our struggle. At this crucial historical turning point a new government under a new leader has assumed power in the Sinhala nation.....

Our people have lost patience, hope and reached the brink of utter frustration. They are not prepared to be tolerant any longer. The new government should come forward soon with a reasonable political framework that will satisfy the political aspirations of the Tamil people. This is our urgent and final appeal. If the new government rejects our urgent appeal, we will, next year, in solidarity with our people, intensify our struggle for self-determination, our struggle for national liberation to establish self-government in our homeland.

The International Crisis Group in its analysis described the developments under President Rajapakse as follows:¹⁷⁹

The new government did not withdraw from the peace process, however, nor did it end Norway's role as facilitator, despite rhetoric against the CFA and Norway's role during the campaign. Instead, a new twin-track process emerged, in which a more hard-line military strategy mixed uncomfortably with a political strategy attempting to build a southern alliance, develop a consensus around a political settlement and renew peace talks. But the political strategy seemed for the most part to be subordinate to the new military strategies, who were apparently convinced that a harsh counter-terrorist campaign, combined with aerial supremacy and conventional ground forces, could seriously weaken the LTTE. Thus, although the CFA was preserved and the Norwegians continued their thankless task, the Rajapakse approach to the LTTE was significantly different from his predecessor's.

In the first such meeting in three years GoSL and LTTE agreed to meet once again in Geneva. It is interesting to read the opening Remarks by Urs Ziswiler, Political Affairs Director, Swiss Federal Department of Foreign Affairs on February 22, 2006:¹⁸⁰

It is exactly four years ago today since the Cease Fire Agreement was signed. In the meantime the conditions of life of the people of Sri Lanka have certainly improved in comparison with those during the war. But we still have a no-war-no-peace situation in Sri Lanka. Let me ask the question: How will things look in February 2010, in another four years from now? Because in the end, this must be the crucial goal: to jointly ensure the human security of ordinary Sinhalese, Tamil and Muslim people in Sri Lanka and their prospects to live "free from fear" in freedom, peace and with the chance to determine and develop their lives according to their wishes within a multi-ethnic, multi-cultural and multi-religious Sri Lanka.

The talks were deemed to have been a success as highlighted by Liyanage for the following reasons:¹⁸¹

¹⁷⁹ Sri Lanka: *The Failure of the Peace Process*, Brussels: International Crisis Group, November 2006, p.10.

¹⁸⁰ <http://peaceinsrilanka.org>

¹⁸¹ Liyanage, S. (2008), op.cit. p. 157.

- Parties agreed to meet one again in April 19-21;
- The GoSL would ensure that no armed groups except GoSL security forces would operate in GoSL controlled areas;
- Both parties agreed to take "all necessary measures to ensure that there be no intimidation, acts of violence, abductions and killings";
- The LTTE would agree that there will not be acts of violence against GoSL security forces.

The Road to War

In London on March 29, 2006, LTTE chief negotiator Anton Balasingham met Eric Solheim and conveyed LTTE's willingness to participate at the second session of peace negotiations in April 2006, provided that the Tamil Tiger negotiating team's safe passage through Colombo was guaranteed. He stressed that the peace process could not move forward until paramilitaries were disarmed and their violent activities brought to an end. He stressed that the agenda for the second round of talks had to definitely focus on this subject

On April, 24th a suicide bomb attack at the army headquarters in Colombo seriously injured the Army Commander and killed 10 and injured 28 others. It happened when the Norwegians were making a special effort to bring GoSL and the LTTE to the negotiating table. Following this, the air force and naval craft began bombarding LTTE-held areas in the East, which reportedly killing many civilians and thousands becoming displaced. It seemed obvious that both sides were not willing to abide by either the letter or the spirit of the CFA.

The Council of the European Union (EU) decided on 29 May 2006 to include the LTTE on the list for specific measures to combat terrorism.¹⁸² It called on both sides to curb violence and demanded the government to stop the culture of impunity, ensure law and order for all citizens of the country. The Karuna group was mentioned as effectively a third party to the conflict. One immediate fall out of the EU ban were difficulties in staffing the SLMM, which had EU members from Sweden, Denmark and Finland. For the LTTE this made their continued participation in the monitoring process untenable.

The talks originally scheduled for April 2006 were delayed to June 8, 2006 in Oslo. In the immediate aftermath of the listing of the LTTE by the EU these talks were crucial. It was hoped that the talks would improve the ground situation and allay the fear and sufferings of the people. However, the LTTE delegation did not meet with either the GoSL delegation, or the SLMM or several other parties who were expected to meet together in Oslo.

A decision by the LTTE to turn off water from a sluice gate, in Mavil Aru in the Eastern province, started a new phase of the conflict. For the first time since 2001, the government forces and the LTTE engaged in sustained fighting. The LTTE justified their actions as being the peace loving Tamil people, living the areas of their control, want. Their position was that the government should build a water scheme in the neighbouring LTTE controlled area, which the previous government had promised. They also argued that the government should not block the flow of cement, steel and other building materials into the areas that they control and where tsunami reconstruction was taking place. The National Peace Council in their statement on this issue stated:¹⁸³

¹⁸² http://www.negotiatedpeace.com/doc_en/news/euban_statement.pdf , [Accessed on April 2, 2009]

¹⁸³ Snapshots of Peace Building, (2007), *Commentaries on War and Peace in Sri Lanka 1995-2007*, National Peace Council of Sri Lanka, May 2007, p 26

The government has claimed humanitarian justification for its military offensive against the LTTE positions. The LTTE's decision to block the water and the government decision to proceed with air bombardment even while the international monitors of the SLMM were negotiating with the LTTE cannot be condoned. From a humanitarian perspective it would have been preferable if the government had negotiated with the LTTE regarding the re-opening of the water lock. But now there is a brutal conflict that is harming both the civilian population as well as the combatants on both sides....

The confrontation between the government military forces and the LTTE spread to other parts of the district. The LTTE counter attacked in Muttur, government controlled and Muslim. It took control of that nearby town for several days until forced out when the entire population fled. The International Crisis Group described the situation as follows:¹⁸⁴

This was now a full-scale war, with both sides using artillery and the government making use of its air monopoly. There seemed to be little effort to avoid civilian casualties but what caught wider attention was an atrocity in Muttur, where seventeen local employees of the French aid organization, *Action Contre le Faim (ACF)*, were shot, apparently at point blank range. The government blamed the LTTE but the SLMM blamed the government forces.

Investigations into the murders, including one by a Special Presidential Commission of Inquiry (Col), assisted by the International Independent Eminent Persons Group (IIGEP) made little or no progress.

In August 2006, following the proscription of LTTE, the monitors from the three member states of the EU were withdrawn. The LTTE said that it no longer could guarantee their safety. After their withdrawal the SLMM was staffed by members from Iceland and Norway. By 1 September 2006, the mission was reduced by half, from 60 to about 30 monitors.

During his visit to New York to take part in the UN General Assembly meeting in early September 2006, President Rajapakse said that the government was willing to resume peace talks provided LTTE was prepared to commit themselves to cease using violence. The President also said that he was prepared to take a flexible political position and would continue to seek the facilitation of Norway and the international community in the conflict resolution process. The LTTE leader Prabhakaran also gave his commitment to negotiations in a message through the Norwegian facilitators. The reality on the ground was different. The previous two months had seen intense hostilities between the government and the LTTE in different parts of the North and East. The head of the SLMM described the nature of the ongoing violence as shocking.

Talks scheduled for October 28 in Geneva offered one more opportunity for the parties to change their approach to de-escalate the undeclared war that continued to make a mockery of the CFA. Despite high level international engagement there appeared no genuine commitment either party which could prevent a slide into unrestrained violence.

¹⁸⁴ Sri Lanka: *The Failure of the Peace Process*, (2006) Brussels: *International Crisis Group*, p.11.

¹⁸⁵ http://www.slmm.info/ABOUT_THE_SLMM/Organisation [Accessed on April 2, 2009]

The concluding remarks of the opening statement made by the head of the Sri Lankan delegation Minister Nimal Siripala de Silva was optimistic as seen below:¹⁸⁶

The Government is committed to giving the highest priority to launching a reinvigorated peace process to usher in a sustainable peace, which will provide a lasting solution to the country's national question. The political solution needs to be based on a consensus reached through dialogue among all parties. The primary aim is to end the decades of conflict and internal strife and to build a state that upholds the aspirations and rights of all sections of our society.

In a statement issued by the LTTE on the 5th anniversary of the CFA, highlighted the following in respect of the October 2006 talks:¹⁸⁷

At this critical juncture, we accepted the international community's request and participated in a second round of talks with the GoSL in October 2006 under the auspices of the Royal Norwegian Government and hosted by Government of Switzerland. In this second round of talks in Geneva, we demonstrated utmost flexibility and in agreeing to hold talks on the core issues even while the humanitarian crisis of the Tamil people have not been improved.

.... At the talks the GoSL while refusing to discuss humanitarian plight of the Tamil people, it insisted on discussing the core issues relating to the national question. However when it was asked for its proposal, there was none, claiming that it had only recently signed the Memorandum of Understanding (MOU) between the two main parties in Colombo which it described as a "significant step" to find consensus in southern Sri Lanka. Today this much touted MOU has achieved nothing having been undermined by the GoSL itself.

At the end of the two day consultations between the GoSL and LTTE representatives the following statement was released by the Norwegian facilitator on October 29, 2006:¹⁸⁸

The consultations took place in Geneva on 28-29 October 2006 following requests by the Government of Sri Lanka and the LTTE to meet to discuss humanitarian issues and political questions. At the Co-chair meeting in Brussels on 12 September, the Tokyo co-chairs (EU, Japan, USA and Norway) encouraged the parties to meet for consultations. Parties deserve recognition for accepting this call by the co-chairs, coming for these consultations at a time when conflict is more apparent than peace in Sri Lanka.

The parties agreed that the peace process will need to address the three following areas:

1. Human suffering
2. Military de-escalation and reduction of violence
3. Political components leading up to a political settlement

¹⁸⁶ Opening Statement by Minister Nimal Siripala de Silva, Head of Delegation, GoSL - Geneva Talks October 28,29, 2006, GoSL Media Release

¹⁸⁷ <http://Tamilnation.co/conflictresolution/tamilelam.norway/061028/solheim.htm>. [Accessed November 2010]

¹⁸⁸ <http://www.tamilnet.com/cat.html> [Accessed November 2010]

The Government presented the political process between the UNP and the SLFP. The international community has welcomed this initiative. The GOSL also made a reference to the work of the All Party Conference.

Discussions were also held on the urgent humanitarian situation and the need to address the plight of a very large number of civilians. Several issues were discussed. The LTTE requested the A9 to be opened. The Government refused to do so at this point. No agreement was reached between the parties on how to address the humanitarian crisis.

The Geneva talks failed to yield a positive outcome and came as a blow to the directly victimized by the conflict in the North and East. 'Without demonstrating flexibility and creativity in the pursuit of a mutually satisfactory outcome to their negotiations, the government and LTTE adopted rigid and confrontational stances that doomed the talks.'¹⁸⁹

In July 2007, following pitched battles with the LTTE, the Sri Lankan army declared the liberation of the east from militant control and began concentrating on the Vanni, a swath of territory in north that has traditionally been a Tamil stronghold. On October 22 2007, the LTTE attacked a major airbase near Anuradhapura destroying a number of aircraft. The GoSL air force suffered a big setback, this in the context of a much publicized re-establishment of the government authority in the east. Towards the end of 2007 the security forces tried to break through the LTTE defences in the north while the GoSL prepared the ground politically, diplomatically and militarily for what it claimed would be the final offensive.

Abrogation of Ceasefire Agreement

The government announced on January 3, 2008 that it will abrogate the CFA. For the past two years the government and LTTE had been engaging in a level of hostilities tantamount to war, including the overrunning of forward defence lines, capture of territory, artillery, sea and air bombing, and large scale displacement of people and violations of human rights.

Sri Lankan Foreign Minister Rohitha Bogollagama told reporters that the end of the CFA did not mean an end to Norwegian facilitation. He added that Norway had a structured role which needed to be re-defined. Cabinet Spokesman Priyadarshana Yapa said that the measure taken by the Government did not in any way rule out a negotiated and peaceful solution. "We will seriously and anxiously pursue a peaceful end to the issue in terms of the All Party Representative Committee (APRC) proposals which are due in February," he said.

The National Peace Council in a media release stated that it was also likely that the role played by the SLMM will also come to an end. Although the international monitors of the SLMM were unable to prevent acts of war and human rights violations from taking place, they were able to be physically present in the conflict zones and record incidents and report them to the conflicting parties and the international community.

¹⁸⁹ Snapshots of Peace Building – Commentaries on War and Peace in Sri Lanka 1995-2007. Colombo: National Peace Council of Sri Lanka, May 2007, p. 17.

Responses from the International Community on the abrogation of the CFA

The international reactions to the abrogation of the CFA were not muted. Key international actors including the UN, the US, Canada, the Scandinavian countries, Japan, India, Australia and France expressed disappointment and regret, while highlighting the unfeasibility of the military option. The Scandinavian bloc statement made the most comprehensive analysis of the benefits of the CFA.

Liberal Canadian Foreign Affairs Critic Bob Rae, who was associated with the peace process on talks on federalism said the abrogation of the CFA should not be ignored by the world community. He said it is precisely when the parties seem most determined to find a military solution that the United Nations, the Commonwealth, and donor countries – should be doing more to find political solutions instead.

India believed that any step leading to a reduction in violence and human suffering in Sri Lanka was welcome but only violence, tension and conflict was evident. At the same time, it recognized that a settlement needed to be within the framework of united Sri Lanka agreeable to all communities. India strongly believed that there was no military solution to the issue.

The CFA had a number of positive consequences. During the first three years, conflict related casualties almost dropped to zero, which meant that as many as 10,000 lives may have been spared. The CFA allowed for greater freedom of movement for all people, and provided an opening for economic development. However, violations were particularly numerous.

The Nordic countries, like most international actors, believed that only a political solution that addressed the grievances of all the ethnic groups in the country could provide a sustainable peace.

The GoSL Secretariat for Coordinating the Peace Process (SCOPP) expressed regrets at the statement of five Nordic Foreign Ministers and called on them to assist both in confidence building measures amongst all ethnic groups in the country, and in promoting a sustainable peace through discussions and democratic practices that will ensure peaceful development for all.

Presidential Adviser Jayantha Dhanapala resigned from his post following the abrogation of the CFA. He had earlier held the post of the head of SCOPP. Although he had stated personal grounds, many analysts believe that his resignation was a consequence of the Government's abrogation of CFA showing its amateurishness in international diplomacy.

Erik Solheim said that Norway was willing to carry on as mediator at peace talks as long as it enjoyed the confidence of the parties to the conflict. He said that the SLMM would have to be withdrawn as its presence in Sri Lanka was based on the CFA. Mr Solheim said he feared that the Government's decision to end the ceasefire would lead to an escalation of violence.

DEVELOPING A MORE SYSTEMIC CONFLICT ANALYSIS ON THE SRI LANKAN CONFLICT

This section will attempt to reduce the multi-layered complexity of the protracted Sri Lankan conflict and develop an understanding of how the conflicting parties conceptualize. Then we might more clearly see how outside observers could integrate into a system of conflict transformation. I hope that the study could contribute to bringing about changes enabling the conflicting parties to find a permanent solution to this so far intractable conflict.

By taking a systemic approach, this chapter will grapple with issues that could potentially move to a conflict transformation mode, shift root and proximity causes of conflict to interaction and independence, and to help focus analyses on solution rather than just reflecting on problems and options for change. It will be seen that systems thinking is a powerful tool in uncovering root causes illuminating the non-obvious interdependencies among complex organizational (and external) factors.¹⁹⁰

We will build on the previous sections of this chapter by answering these three questions:

1. Who are the conflict parties or stakeholders, by which criteria are they characterized and what are the relationships among them?
2. What are the conflict *issues* with respect to the positions, interests, and values and needs of the parties?
3. What is the *history* of the conflict and how far can its features explain the genesis and dynamic of hostilities?

It is often said that the road to hell is paved with good intentions. One reason for this is that complex systems tend to seduce people into taking actions that achieve short-term benefit but often make matters worse in the long run. Thinking systemically helps people recognize how they are in part responsible for the problems they are trying to solve. They can learn how their well-intentioned actions often produce unintended consequences that actually reduce their effectiveness in the long run. Effective leaders know that the goal of taking responsibility is not to allocate blame, but to take back the power that organizations surrender when they inaccurately assume that problems are caused by forces beyond their control.¹⁹¹

I will begin this section quoting the summary of Ropers who analyses who the conflict parties and stakeholders are and expand on this analysis in the sections that follow:¹⁹²

The main conflicting parties are the government of Sri Lanka (GoSL), or rather the parties forming the government, the Liberation Tigers of Tamil Eelam (LTTE) and all other political parties and movements who define themselves as stakeholders in the conflict. The Muslim parties, as the third group with a distinct ethnopolitical (and not only religious) identity, should be mentioned in particular here.'

¹⁹⁰ Stroh, D. (2000). "Leveraging Change: The Power of Systems Thinking in Action", Reflections. Vol. 2, No. 2.

¹⁹¹ *ibid.*

¹⁹² Ropers N. (2008). in, A Systemic Approach to Conflict Transformation Exploring Strengths and Limitations, Berlin: Berghof Handbook Dialogue Series, No 6, p.19.

Overall, Sri Lanka is multiethnic in character, comprising a Sinhala majority of nearly 75% and three substantive minorities (Sri Lankan Tamils, Muslims, Indian-origin Tamils) that form regional majorities in different parts of the country (68% Tamils in the Northeastern Province)

The main conflict parties are strongly marked by the ethnopolitical identities. These identity concepts are the result of the two competing projects of Sinhalese and Tamil nationalism, which have made it difficult to embrace a unifying Sri Lankan civic identity. They are also influenced by the proximity of India, particularly the neighbouring state of Tamil Nadu with 62 million inhabitants, i.e. three times the population of Sri Lanka (leading to the often quoted statement that the Sinhalese are a 'majority with a minority complex' and the Tamils a 'minority with a majority complex'). Muslims and Indian-origin Tamils have their own ethnopolitical identities, but the parties which primarily represent them have not been directly involved in the military conflict.'

In order to gain an understanding of the stakeholders I would proceed to analyse the conflict stakeholders, I will trace the history of the development of ethnic nationalisms associated with them. I will begin with an analysis of Sinhala nationalism and then proceed to Tamil nationalism and argue that their individual expressions of nationalistic viewpoints over a period of time were the main contributory factors for the conflict. From this perspective they are the two main stakeholders. The Muslims became stakeholders after they were expelled by the LTTE from Jaffna and Mannar districts in October 1990 as they were perceived not to come within LTTE's political and military goals. Even though the Plantation Tamils may not actively support the LTTE, particularly separatism, their identity has been shaped by violence they often experienced in their day-to-day life in Sinhala-dominated areas.

Initially, I will highlight the growth of Sinhalese nationalism and analyze their conflict issues, interests, values and their features and proceed to explain the genesis and dynamic of hostilities. Similarly, I will focus on Tamil nationalism which is the other main conflict stakeholder. This will be followed by the analysing the emergence of Muslim nationalism which could be classified as a later incarnation. As far as the Tamils on Indian origin are concerned it was more of the desire for an identity rather than promoting an Indian Tamil nationalism *per se*. In adopting this strategy it will be possible to also glean key conflict issues and also trace the history of the conflict.

Sinhala Nationalism

It can be argued that the discourse for Sinhalese nationalism begins with the question 'who came first' to the Island. From this perspective, a matter for archaeologists has become a clarion call to justify Sinhalese nationalistic ideology.

Ferks and Klem succinctly describe this phenomenon, 'archaeology seems to be political science in Sri Lanka.'¹⁹³ Consolidation of this argument is adopted mainly to deflect the traditional homeland theory articulated by the Sri Lankan Tamils.

¹⁹³ Ferks, G. Klem. B. (eds) (2004) *Dealing with Diversity Sri Lankan Discourses of Peace and Conflict*, Netherlands Institute of International Relations. the Hague: 'Clingendael', p 15.

'Given that claims to a historical homeland help solidify nationalist aspirations, it is not surprising that both the Sinhalese and the Tamils declare themselves to be the island's original settlers.' The Sinhalese point to a mythical account in the Mahavamsa – a historical chronicle apparently written to legitimate Buddhism's prominence in the island – and claim that their North Indian/Aryan ancestors were the first to reach Sri Lanka's shores almost 2,500 years ago.¹⁹⁴

What is more important is history of Buddhism extensively described in the ancient chronicle, the Mahavamsa which describes the succession of Sinhalese kings from the 6th century BC to the 4th century AD. What is important in this chronicle is the role assigned to Buddhist kings for protection and conservation of Buddhism. 'Their guardian responsibilities are directly linked to invasions from the Indian peninsula. The heroic resistance and victory of king Dhutthagamani in the face of these invasions is archetypical for Sri Lankan Buddhism.'¹⁹⁵ This role has been taken over by the Sangha.¹⁹⁶ Suranjith Gunasekera describes this clearly:¹⁹⁷

'In the sixth century, when the country faced the threat of invasion from the Cholas of South India, Bhikkus came forward to meet the challenge. The monks protected the Sinhala nationality. These efforts were especially relevant during the Duthagamani and Elara War and they are commemorated until today. These efforts of the Bhikkus to protect Buddhist heritage continue until modern times.'

In tracing the history of the Sinhalese Richardson, drawing on Sri Lankan historian K M de Siva, summarizes succinctly their history,¹⁹⁸

The majority Sinhalese began migrating to the Island from North India in about 500 B.C. and settled in the northeastern or dry zone. Buddhism came to the island in the third century B.C., and became an integral part of Sinhalese culture. Sri Lanka became 'the island of the Dhamma' (*Dhammadipa*) a place of special sanctuary for Buddhism. A revered giant Bhodi tree in the ancient capital of Anuradhapura is said to be from a sapling of the original tree under which the Buddha obtained enlightenment, more than 2,500 years ago. Sinhalese identity, Buddhism and the 'island of the Sinhalese people' (*Sinhadipa*) remain inextricably linked in Sinhalese traditions, even though some Sinhalese are Christians. For many Sinhalese, Sri Lankan 'national identity' is part of this mix as well. This makes defining a national identity that embraces non-Sinhalese Sri Lankan citizens more difficult.

Deeply rooted identification with the island as a whole persisted despite invasion from Tamil Nadu that left it divided, politically. Eventually, the seat of the Sinhalese government was established in Kandy, located in the central highlands, while Tamils

¹⁹⁴ Devotta, N. (2006). *Ethnolinguistic Nationalism and Ethnic Conflict in Sri Lanka*, in; Sahadevan, P. & Devotta, N. *Politics of conflict and Peace in Sri Lanka*, New Delhi: Manak Publications, p.33.

¹⁹⁵ *ibid*, p. 9.

¹⁹⁶ Sangha refers to the total community of Bhikkus or Buddhist Monks, in the broadest and the most abstract sense; the sangha is composed of all Buddhist sects and residential communities and is traditionally the Buddhist elite.

¹⁹⁷ Gunasekera, S. in *op.cit* p.76.

¹⁹⁸ Richardson, J. (2005). *Paradise Poisoned*, Kandy: International Centre for Ethnic Studies. p 22.

controlled the north and east. Protected by mountains, the Kandyan kingdom retained its independence during the early colonial period, when Portuguese and Dutch forces conquered the island's periphery, but fell to the British in 1815. Thus, Kandyan Sinhalese in the highlands were free of colonial domination for nearly 200 years during which lowland Sinhalese were subject to Portuguese, Dutch and then British rulers. Kandyans still represent a conservative force in Sri Lankan politics and regard themselves as protectors of Sinhalese-Buddhist traditions against modernizing encroachments, not only from foreigners and Tamils, but also from the more cosmopolitan lowland Sinhalese.

The above account can also be taken to highlight the emergence of Sinhala nationalism. Another factor that needs to be taken into account is the perception of Buddhist monks about their own destiny as caretakers of country, people and religion. In a study commissioned by the Marga Institute, de Silva and Bartholomeusz examine the nuances within the dominant views among Buddhist monks and the socio-political contexts in which such views emerged, explore the organization of the *sangha* and determine the degree to which traditional monastic education has shaped negative perceptions of Sinhala-Tamil power sharing which is at the heart of the Sri Lankan conflict.¹⁹⁹ They contend that special obligations of monks towards Sinhala people seem to have existed from the time of the sixth-century mytho- historical chronicle, the *Mahavamsa*. Most monks saw seeking the path to liberation and caring for the spiritual welfare of lay Buddhists as their main obligation and not always linked to fortunes of the Sinhala ethnic group. It was Anagarika Dharmapala, among others, who published his vision of the Sinhala people, a people with a special mission to preserve in Lanka the pristine form of Buddhism. However, some contemporary Buddhist monks committed to a particular interpretation of the *Mahavamsa*, reflect a bond between the island, Buddhism, and the Sinhala people. A negative fall-out of universal franchise in 1931 was that western-educated Sinhala politicians scrambling to establish links with the Sinhala electorate, saw Buddhist monks as a useful political instrument. De Silva and Bartholomeusz highlight:²⁰⁰

Since at least the mid-1950s, thus, the *sangha* has been dominated by monks who, shaped by fundamentalist readings of the past, have pressed for reforms that would strengthen the relationship between the *sangha* and the state, thereby asserting their *bhumiputra* (sons of the soil) status. Indeed, since independence, many Buddhist monks have perpetuated fundamentalist principles in their sermons and teachings

Skandaram in his analysis asserts that the Sinhala people truly believe that the entirety of the island belongs to Sinhala Buddhists. He adds that their literature beginning from the *Mahavamsa*, through the pronouncements of Anagarika Dharmapala and the current teachings of the Mahanayakes have affirmed that Sri Lanka is a Sinhala Buddhist state. He argues that it is the *mindset* (emphasis mine) of Sinhala leaders that 'Sri Lanka is a Sinhala Buddhist country' and even some liberal Sinhala thinkers do not contradict this viewpoint.²⁰¹

¹⁹⁹ De Silva C, R. & Bartholomeusz. (2001). *The Role of the Sangha in the Reconciliation Process*, Colombo: Marga Institute, pp 2 -3.

²⁰⁰ *ibid* P 5

²⁰¹ Skandaram, R. (2006). *Mindset – the Foremost Obstacle to Peace*, in, Rupesinghe k (Ed) *Negotiating Peace in Sri Lanka - Efforts, Failures and Lessons*, Colombo: Foundation for Co-Existence, pp 305-306

However, De Silva Wijeyeratne in his analysis highlights that,²⁰²

the *Mahavamsa* has been drawn up by post-Independence Sinhalese Buddhist nationalism not only as anti-Tamil rhetoric but as a claimed pattern for political-governmental ordering and installed as the official history of the island even at the level of basic education.'.....'Protestant Buddhism secularized the ethical framework of Buddhism and through it the Buddhist revivalist movement was able to look to the past for evidence for their faith, provided an effective base for action in the modern world. Myths, customs, and rites which all had localised origins were thus transformed into the emblem of a *unified* ethnic identity.'.... Sri Lanka's post-colonial education system has been an important vehicle for propagation of the account of Sinhalese identity in both the village schools of the Sinhalese heartland as well as the middle class Buddhist schools of Colombo.'.... 'The rich existential claims of Sinhalese myth should be unpacked as something which can be interpreted in its own terms, rather than as something which represents the origins of the Sinhalese people.

Michael Roberts, in his paper *Sinhala-ness and Sinhala Nationalism*,²⁰³ highlights some of the privileges enjoyed by the westernised elites pre-1956, These included Christians of all ethnic groups getting undue preferences; British economic interests in the plantation and import-export trades; adjunct minority trading communities who benefited from the British-created economic order; the disproportionate share of white collar jobs for Ceylon Tamils in the private and public sectors; Catholics who were Sinhalese, Bharatha, Tamil, Burgher and other affiliation who had an undue influence on white collar job markets in key areas. Buddhism, the religion of the majority, and regarded as the civilisational-cum-historically supreme religion of the island; and neither were the two vernacular languages in general and the Sinhala language in particular. Roberts concludes that²⁰⁴, 'the emphasis on the Buddhist religion and the Sinhala language coalesced with an explicit programme of cultural regeneration. The cultural nationalism that all these strands added up to had a considerable streak of indigenist purism.' Continuing on 1956, Roberts adds:²⁰⁵

Moreover, perhaps implicitly rather than over statements, the Sinhala cultural nationalism expressed by the 1956 forces was challenging the Ceylonese nationalism of the trans-ethnic, all island variety that had dominated the scene from the mid-nineteenth century and had negotiated the process of constitutional devolution that secured independence in 1948. This is central. In 1956-and-beyond one witnesses the processes that have effected a decline in the strength of Ceylonese/Lankan nationalism through its displacement by various Sinhala and Tamil nationalisms that have nurtured each other in conflictual ways.

²⁰² De Silva Wideyretne, B. R. (2006). *States of Mind and States of History: The Future in Sri Lanka Can Be Decentered*, in: *Envisioning New Trajectories for Peace in Sri Lanka*, Sri Lanka: Centre for Just Peace and Democracy, pp. 334-338.

²⁰³ Roberts, M. (2001.) *Sinhala-ness and Sinhala Nationalism*, Colombo: Marga Institute, pp. 15 & 16.

²⁰⁴ *ibid* p. 16.

²⁰⁵ *ibid*. pp. 16 & 18.

The indigenization and economic nationalism associated with 1956 were carried through into the insurrections of the Janata Vimukthi Peramuna (JVP), both in 1971 and 1987-90 who were, according to Roberts, 'the children of 1956'.²⁰⁶ Perhaps now the most significant change in the political landscape of the south has been the emergence of the JVP as a political force given the history of their violent past. The JVP has picked up the baton of extreme Sinhala nationalism, dropped at least temporarily by the SLFP and UNP. Both the JVP and Jathika Hela Urumaya (JHU) benefited from, and mobilised around anxieties in the South generated by the peace process. Even though the entry of the JVP into mainstream politics was a positive development their role in relation to the peace negotiations was the opposite being a contributory factor for its failure.

According to President Kumaratunga, the Bandaranaike – Chelvanayagam Agreement (referred to in Chapter 2) which would have devolved certain powers to the Tamils could not be implemented due to opposition by the Buddhist clergy.²⁰⁷ Since 1994, Kumaratunga ventured to garner support for devolution proposals; Buddhist monks critiqued her competency, on occasion arguing that the *sangha* should be given the imprimatur of the state to lead the Sinhala people.²⁰⁸ Another monk went further alluding to the *bhumiputra* theory when he claimed ownership of all land in Sri Lanka stating that a 'grave injustice would be done to Sinhalese who constituted the majority race of Sri Lanka.'²⁰⁹

President Kumaratunga's two-pronged proposal being devolution based on political negotiations and a war 'war for peace' did not find favour with the three main Buddhist *nikayas* (monastic fraternities) who favoured war as the only alternative to the ethnic crisis which was simply 'a terrorist problem'. By this they underwrote the Buddhist just

war and challenged the *Buddhaputra* ideology which demanded non-violence. However, even though they publicly supported a united Sri Lanka, in which all citizens will have equal rights, they viewed inter-ethnic tolerance as conditional on the acceptance of an inferior position by the minority.²¹⁰

The competing ideologies of *Buddhaputra* and *bhumiputra* which claim ownership to the entire island, one monk advocated President Kumaratunga's devolution package as it would preserve Buddhist archaeological remains in Buddhist temples in the North damaged by the war. He argued that historic sites of the North can only be preserved if peace is ushered through negotiations, rather than through war.²¹¹ Drawing upon the myths of the *Mahavamsa*, another monk compared the army general at that time to the glorious Buddhist warrior king who tradition claims ousted an ancient Tamil presence in the island bringing glory to the *dhamma* and became embodiment of Sri Lankan Buddhist ideology about war.²¹² Traditional Sinhala Buddhists grow up hearing the sagas of brave Buddhist

²⁰⁶ *ibid*. p. 6

²⁰⁷ De Silva C R. & Bartholomeusz. (2001). *The Role of the Sangha in the Reconciliation Process*, Colombo: Marga Institute, Sri Lanka, p 6

²⁰⁸ *ibid* p. 7.

²⁰⁹ *ibid*

²¹⁰ *ibid* pp. 7-8.

²¹¹ *ibid* pp. 9-10.

²¹² *ibid* p. 11.

warriors, both at home and in formal education, which plays a major role in shaping attitudes about Sinhala-Tamil relations.²¹³ It is indisputable that monks are a key factor in the formulation of attitudes of lay Buddhists. There are reportedly over half a million Buddhist children who attend *daham* (Buddhist Sunday) schools. The teachers include both lay persons and Buddhist monks and the text books contents clearly perpetuate the *bhumiputra* ideology.²¹⁴

Despite these realities there are prominent bikkhu advocates for a political solution to the ethnic crisis. At a gathering on 1500 monks in the heart of Colombo a senior monk emerged as a spokesperson for reconciliation openly supporting the 2000 devolution proposals of the government.²¹⁵

S W R D Bandaranaike altered Sri Lanka's political landscape forever by advocating an overtly populist, pro-Sinhalese and pro-Buddhist political agenda. The two main Sinhala political parties, UNP and SLFP have found it extremely convenient to increase their vote banks based on Sinhala nationalistic rhetoric.

Richardson asserts that 'the race-based politics launched in 1956 enabled the two major political parties to take political advantage by making populist appeals to Sinhalese-Buddhist nationalism and they continue to do so.'²¹⁶ He adds:

Ethnic ideology are effective because they call forth deeply rooted identities and fears in the Sinhalese community. In addition to its sacrosanct status in Theravada Buddhist beliefs, the island of Sri Lanka is the only home for the Sinhalese race. For many, the epic struggles of Sinhalese heroes against Tamil invaders from the north are more than ancient history – they are living realities.²¹⁷

This, perhaps highlights the oft quoted phrase, 'Sinhalese are a majority in Sri Lanka with a minority complex' *vis a vis*, the Indian state of Tamil Nadu.

Following an extensive search in the library of the University of Peradeniya Ranaweera Banda and Upul Abeyratne, contextualize current conflict solutions by analysing the positions of those political parties active in Sinhalese majority areas.²¹⁸ The UNP, which adheres to a capitalist ideology, identifies the conflict as an obstacle to economic growth and development and prefers a political solution. The SLFP, although adopting an anti-power-sharing position opted for a political solution to the crisis since 1994. The moderate left wing parties have always adopted that minority grievances needed to be addressed by power-sharing. The position of the radical left-wing JVP is that there are no grievances specific only to the ethnic minorities and they want to preserve the unitary state. Banda and Abeyratne add:²¹⁹

²¹³ *ibid* p. 12.

²¹⁴ *ibid* p. 22.

²¹⁵ *ibid* p.10.

²¹⁶ Richardson, J. (2005). *Paradise Poisoned*, Kandy: International Centre for Ethnic Studies. p, 27.

²¹⁷ *ibid*

²¹⁸ Ranaweera Banda. R. and Abeyratne, U. in: Frerks G, Klem, B, (eds) op.cit. pp. 59-60.

²¹⁹ *ibid* p. 60.

There are two ethnically-based political parties claiming to represent the Sinhala community: the Sihala Urumaya and the Sinhalye Maha Sammatha Bhumi Puthra Party. Both these parties disclaim the existence of an ethnic conflict in Sri Lanka. Instead, they see the current conflict as an agenda for destroying the real owners of this land. According to these parties, the Sinhalese alone have the right to inherit the country. Because of their tolerance the Sinhalese have allowed the Tamils and Muslims to settle down on this land. Now those two minority groups have engaged in violent activities against the Sinhalese with the intention of destroying them.

The authors conclude that there is no single hegemonic discourse on the causation of the Sri Lankan conflict and ways to resolve it. The diversity of viewpoints and multiple approaches they posit constitutes a challenge to the Southern body politic in arriving at a consistent and well-founded practical approach to conflict resolution.²²⁰

In 1956 S.W.R.D. Bandaranaike became Prime Minister after an election heavily influenced by the broader nationalistic movement. He gathered the support of the Sinhala majority of the country, who were underprivileged compared to the Christian elite. Bandaranaike began a rapid Sinhalaisation of all parts of government culminating the adoption of the "Sinhala only" policy by his government. Military contacts with Britain were diminished and the last British military base removed. Ceylon headed towards a more socialist form of economy.

These acts had a combined impact on elites and minorities. The officer corps of the army in the 1950s was three fifths Christian, Tamil and Burgher; Bandaranaike moved to balance this by increasing the number of Sinhalese officers. The post of Inspector General of Police went to a Buddhist over three other more senior Christian officers. By 1961 Christian resentment was building. They felt that they were being systematically replaced. It came to light that senior forces personnel planned a military coup inspired by the example of Gen. Ayub Khan's military coup in Pakistan. The coup plot revealed by a senior police officer who had been taken into confidence by a coup leader, and the conspirators were taken into custody. Since no shots were fired and no troops deployed, the conspirators couldn't be charged. They were held in solitary confinement in hope of getting a confession. All the 26 charged with the conspiracy were Christians, 12 being Sinhalese, six Tamils and six Burgher among them. The remaining were not prosecuted due to lack of evidence.

The primary result of the coup attempt was Sirimavo Bandaranaike's distrust of the military. Funding for the services was cut affecting its growth and disabling its defensive abilities. The military was therefore under strength and ill-equipped to deal with the 1971 JVP Insurrection. The lasting impact the attempted coup was a highly ethnicized Sinhala Army with the proportion of Tamils in the armed forces dwindling from 40% in 1956 to a mere 1% by 1970.

The Army developed from its ceremonial role to more active interventions functions when the state deemed it necessary. These were evident when the Federal Party called for a *satyagraha*, and the plantation workers in the estates sector came out in a sympathy strike, and successive governments to curb trade union strike actions. The Sri Lankan Army's intervention,

²²⁰ *ibid* pp. 68-69.

in Sinhala-Tamil conflicts from 1953 to the 1983 ethnic pogrom, an ethnically defined role *vis-a-vis* Tamil dissent. De Mel highlights that the military's ethnicization was evident in regimental name reflecting the Sinhala royal and military history above.²²¹ With the background of the ethnic conflict taking a cultural approach, De Mel focuses on militarization, from 1980s to 2005. Using a wider variety of sources she draws on cultural, feminist, psychosocial, anthropological, film, theatre and political economy studies and highlights how militarization works through popular media, advertising, theatre, film, literature and memorialisation to represent

war and martial virtue as valour.²²² She highlights how the ideology of militarism is shaped and shared in a manner that makes militant solutions to conflict a part of institutional structures and mind-sets. There are compelling strategic reason for mapping ideology of militarism is a material practice and how a dominant anthropological discourse on Sri Lanka since the 1980s has marked it predominantly as violent space.²²³ Using case studies of military advertising, disabled soldiers, children in the conflict zones, the LTTE female suicide bomber, censorship, and archiving; she illustrates how militarization represents war and martial virtue as valour, heroism and masculine pride, and categorizes their opposites as cowardice, treason and feminization.

Sinhala nationalism goes back to the British period, when it was part of a broader anti-colonial, anti-foreign movement, accentuated by Buddhist revivalism. It grew stronger with independence and electoral democracy. Sinhala nationalism has long been recognized as an obstacle to the resolution of the ethnic conflict. With society divided along caste, class and political lines, it has been a powerful unifying force, giving radical parties a platform for populist agitation and established politicians a diversion from their failure to address economic weakness, social concerns and pervasive corruption. Nationalist parties have consistently opposed to any significant devolution of power to Tamil areas of the North and East. This was also reflected in the UPFA government's hard line stance on the CFA.

The search for a political solution has repeatedly foundered as a result of competition between mostly Sinhala parties in the south as well as excessive Tamil demands. The SLFP and the UNP have never been able to agree on power sharing with the Tamil community. Instead, they have engaged in recurring bouts of ethnic outbidding, with each undermining the other's devolution policies. Opposition from more overtly nationalist parties, notably the left-wing JVP and JHU, has helped sustain this pattern. Both have flourished in opposition to the 2002 CFA and oppose any political settlement involving devolution to the predominantly Tamil regions.

Sinhala nationalism has also spawned violent offshoots but has mainly been channelled through political parties, which have used it to mobilise popular support. The competition between the two major parties, the UNP and the SLFP, has led to destructive "ethnic outbidding", as each claims authentic representation of the majority. Both major parties also have faced repeated challenges from smaller groups agitating in the name of the Sinhala people's endangered rights. Sinhala nationalism and opposition to foreign interference were

²²¹ De Mel, N. (2007). *Militarizing Sri Lanka, Popular Culture, Memory and Narrative in the Armed Conflict*. New Delhi: Sage Publications. pp 60-61.

²²² *ibid* p. 13.

²²³ *ibid* p. 28.

central to the revolutionary program of the JVP in its 1971 and 1987-1989 uprisings. In addition, the JHU, a politically organised section of the Buddhist clergy has formed, with activist laymen, has formed an

even smaller but influential minority. Their frequent interventions in the name of the Sinhala Buddhist majority have had major political effects and sustains the dynamics of the conflict.

Tamil Nationalism

I will initially focus on Tamil nationalism with reference to the Sri Lankan Tamil population of the North and East. Reference will be made later in this section to Tamils of recent Indian origin, largely from the Hill Country, also known as Plantation Tamils or Malayiyaha Tamils in the context of the ethnic conflict.

Writing on Tamil Nationalism in the Marga Monograph Series on Ethnic Reconciliation Nesiah defines nationalism as 'the ascriptive membership of a politically organized community bound by history, ethnicity, and association with an identified territory, and which demands loyalty and sacrifice.'²²⁴

On the pre-nationalist phase Nesiah asserts that Sri Lankan Tamils have always believed that they were among the earliest inhabitants of this island, and Jaffna the coastal areas of Mannar, are one of the oldest habitation sites in lower South Asia. He notes that archaeological excavations conducted in Chunnakam in the Jaffna peninsula in 1970 yielded radio-carbon samples dating from c.1200 B.C. to the first century B.C. indicating the settlement may therefore date from the end of the second millennium B.C. Excavations carried out ten years later by the University of Jaffna brought to light similar evidence pointing to settlements in several parts of the peninsula and the islands. He asserts that it stands to reason that a country which was only 30 miles from India, and visible to Indian fishermen would have been occupied by those who understood how to sail.²²⁵ Nesiah adds:²²⁶

The dispute as to who came first, the Sinhalese or Tamils, agitates many but, in fact, this is a non-issue; ethnic identities have changed over the centuries. Both communities have lived together for over two millennia in this Island which has been referred to in Sangam period (1st & 2nd Century A.D.) and in Tamil literature as Eelam. There has been significant Tamil (Hindu and Buddhist) and Sinhalese (Buddhist) presence and interaction in this island even prior to the Sangam period. In fact, as Pathmanathan (1999:2-2) has pointed out, 'from the earliest times and until the 14th century a substantial proportion of the Tamils living in the island were Buddhists.

Nesiah highlights some other historical insights which he says disprove some of the early assertions of the Sinhalese as mentioned in this paper. He asserts:²²⁷

²²⁴ Nesiah, D. (2001). *Tamil Nationalism*, Marga Monograph Series on Ethnic Reconciliation. Colombo: Marga Institute. p. 6.

²²⁵ *ibid* pp. 6-7.

²²⁶ *ibid* p. 7

²²⁷ *ibid*.

The tradition reflected in the Dutugemunu story as recorded in the Mahawamsa and in other subsequent Sinhala chronicles, and sustained over the centuries through both oral and literary media, of fundamental hostility between Sinhalese and Tamils from South India is not reflected anywhere in the Tamil classic (spread over two millennia) or in the folk tradition (South Indian or Sri Lankan) of any period. The absence of such a tradition among the Tamils (both South Indian and Sri Lankan) suggests that such hostility has virtually no historical foundation but is a political construct created for a specific purpose at a particular time of history. Despite almost uninterrupted friendly co-existence between the Sinhalese and Tamil populations, this tradition (of conflict) had been kept alive, from time to time, used by the leadership of the Sinhalese for political purposes.

Nesiah also highlights the perception of Tamil identity in post 16th century writings that inspire a sense of attachment to the four regions occupied by the Tamils, namely, Trincomalee, Jaffna, Vanni, and Batticaloa. He also notes that anti-Western; anti-Christian movement among the Sri Lankan Tamils reached its peak earlier than among the Sinhalese. In contrast, he highlights that the movement led by Anagarika Dharmapala was blatantly hostile to the Tamils, and to Hinduism and Islam. He contends that the Sri Lankan Tamil society was not liberal but their prejudices during that period were focused more inward on caste and religion.²²⁸

Wilson in his analysis of the rise of Tamil nationalism in Sri Lanka says that it evolved gradually as a defensive reaction to two phases before reaching its climax in the demands expressed in the armed struggle for a separate state. He argues that from the beginnings of British rule in 1796, the Tamils of Ceylon remained a community apart and retained their separate civilization even when many of them migrated to southern parts of the island. They did not wish to be assimilated and maintained their group consciousness as a separate community and civilization with their own language, culture, and territory and Hindu faith as their distinguishing characteristics. Even Tamil Christian converts, maintained their indigenous Hindu culture and traditions despite embracing Christianity. According to Wilson, this group consciousness became transformed into national awareness and was maintained under British rule.²²⁹ From the mid-1920s onwards Tamil national awareness became transformed into a new phenomenon, Tamil National Consciousness. This implied a heightened sensitivity to protect the interests of the Ceylon Tamil community, where earlier the more passive state of national awareness was sufficient.²³⁰ In order to protect Tamil interests and those of other minorities in the State Council a leading Tamil politician postulated the principle of equal representation, i.e. that half of the seats in the legislature and executive should be reserved for the minority communities as a defence mechanism against the possibility of the Sinhalese adopting a dominant posture.²³¹ This was not acceptable to the British who had to consider the demands of the rival Sinhalese leadership in protecting Britain's strategic

²²⁸ *ibid* pp. 8-9

²²⁹ Wilson A, J. (2000). *Sri Lankan Tamil Nationalism*. New Delhi: Penguin Books. pp 1-2.

²³⁰ *ibid* p. 3.

²³¹ *ibid*.

commercial interests. Following failure of attempts at co-operating with first UNP post-independence government the Federal Party (FP) in 1956 under the leadership of S J V Chelvanayakam was formed. All attempts at resolving political differences failed, until the FP coalesced with other Tamil political groupings under a new name, the Tamil United Liberation Front (TULF).

Wilson describes the emergence of more recent Tamil nationalism.²³²

Tamil national consciousness was brought to fever pitch under the leadership of Chelvanayakam and the FP. Chelvanayakam's consociational pacts with the conservative Sinhalese leadership in 1957, 1961, and 1965 were not honoured by the latter, and the Tamil Federal Party therefore resorted to extra-constitutional civil disobedience campaigns. These were suppressed by military action under a state of emergency, and the Sinhalese leadership continued to humiliate the Tamils through various discriminatory policies outlined below.

After twenty years of parliamentarism, younger members of the Ceylon Tamil community decided to adopt different tactics, ignoring the plea of their experienced parliamentarians. They were militant, and their principal movement, the Liberation Tamils of Tamil Eelam (LTTE), led by Velupillai Prabhakaran (there were other Tamil militant formations, which were mostly eliminated by the LTTE), became the vehicle of Tamil nationalism, defensive and reactive. Their objective was to achieve the goal of a separate Tamil state comprising the Northern and Eastern provinces, where the majority are Tamil speaking, notwithstanding the ambivalence of the Tamil-speaking Muslims there. The Tamil Tigers have stated that they will consider an acceptable alternative such as confederation, which concedes the substance of a Tamil state without a Sinhalese-dominated Sri Lanka committing political suicide.

Even though from the mid-1970s Tamil militancy takes over in articulating Tamil nationalism, the activities of the Jaffna Youth Congress (JYC) in the 1920s onwards should be highlighted, particularly their emphasis for early independence for a united Sri Lanka. The membership of the JYC comprised largely of young men, mostly school teachers, in their early twenties and students in their late teens. Their allies in India were the Indian National Congress led by Gandhi and Nehru and not the Dravidian movement in Tamil Nadu. In southern Sri Lanka their allies were the Marxist leaders and not the UNP and their allies. They were also alienated from sectarianism both in Tamil Nadu and the Tamil Congress (TC) that espoused this ideology in Sri Lanka in the mid-1930s, but they could not avoid being marginalized by the dominance of TC at that time. It would be appropriate to quote extracts from a book written during the pre-independence period by a JYC activist and quoted by Nesiah:²³³

Ceylon has a recorded history reaching back to at least the famous sixth century before Christ. But the two main streams of tradition that have irrigated her historical development go further back and derive their source from India, and are in fact

²³² *ibid* pp. 4-5.

²³³ *op.cit.* pp. 9-11.

drawn from the same great cultural reservoir from which the Eastern half of the world yet draws its inspiration. Of these two streams of tradition the one owes its birth to Siddhartha Gautama Buddha, India's great spiritual genius and one of the world's greatest sons. The other tradition is older still and represents Hindu culture as developed in the schools of Southern India. Each of these traditions developed a distinctive individuality in Ceylon, and in fact the Buddhist tradition attained such perfection here, both in philosophy and practice, that when Buddhism disappeared as a separate faith from the land of its birth, Ceylon came to be regarded by all Buddhist lands as the spiritual home of the religion of the Middle way.Sinhalese literature entered upon its golden age in the fifth century in the spacious times of King Parakrama bahu VI.....

The Hindu tradition was no doubt connected both with early Buddhism and the early history of the Sinhalese, but its characteristic development in Ceylon as in South India, was in the Saiva religion and the Tamil language.....This language is one of the earliest of the known speeches of man and the vehicle of a literature that is among the highest literary achievements of the human race.....the fifteenth century witnessed not only the greatest epoch of Sinhalese poetry but also the most flourishing period of Tamil poetry in Ceylon.

To make anything of the future we must possess the confidence that can only be born of a consciousness of our priceless inheritance..... a willingness to enter into a harmonious relationship with members of all communities as is shown by the fact that Sinhalese and Tamils, Moors and burghers, live side by side and show a toleration for one another that is hardly equalled in other parts of the world.

The JYC maintained links in the South outside of its Jaffna peninsula base and sustained its Gandhian inspiration by linkages with him and his associates. Among those who accepted invitations from JYC participated in their activities included Mahatma Gandhi and Nehru among others and did not include anyone from the separatist Dravidian/separatist movement from Tamil Nadu.²³⁴

What is not commonly known in the South is that the JYC led a campaign for the use of the national languages in education and in governance. The JYC succeeded in getting virtually all the leading schools in Jaffna to teach Sinhala as a compulsory subject at the secondary level. At a time when the Sinhalese were prepared to do without Sinhala, the battle for Sinhala was fought by Tamil leaders. However, the teaching of Sinhala in Jaffna was terminated after the introduction of Sinhala as the only official language in 1956.²³⁵

Up to the time of Independence, the Tamil leadership was virtually unanimously and uncompromisingly in favour of a unitary Sri Lankan state. Even though the concept of federalism was introduced subsequently it gained ascendancy following the introduction of the Sinhala Only policy in 1956. Gradually political factors that united Sri Lankan Tamil population over caste and other prejudices that had kept them divided. However, separatism

²³⁴ *ibid.* pp. 11-12.

²³⁵ *ibid.* p. 12.

remained peripheral up to the mid-1970s. Nesiiah highlights the position taken by the All Ceylon Tamil Congress (ACTC) in rejecting the 1972 Draft Constitution when compared with the Indian Constitution that ensures that even the minorities are well represented and where the characteristic Indian concepts of consensus and accommodation are applied with great effectiveness:²³⁶

We too in Lanka have inherited the self-same values. If Lanka is to be true to herself, those who are charged with the solemn duty of writing her Constitution should pay heed to our heritage both in the approach to constitution making and in what they write into it. Our children and our children's children should be able to say, with one voice Lanka is our great motherland, and we are one people from shore to shore; we speak two noble languages, but with one voice; and this Constitution which our fathers fashioned together in times of yore shall serve as the nation's charter for the years to be.

Despite the fact that the drafting of the 1972 constitution was an exercise undertaken by the Sinhalese parties, the above statement reflected a reconciliatory sense of Sri Lankan nationalism as articulated by the JYC. This was a sub nationalism contained within a Sri Lankan nationalism. Even at that time in the early seventies, Tamil nationalism as articulated by the Federal Party (FP) did not espouse separatism. However, the non-inclusion of minorities in the drafting of the constitution meant it was widely seen by them that their concerns were not taken seriously by the majority community. The fall out of this was seen five years later in the Vaddukoddai resolution in favour of separation. The TULF Manifesto which received unanimous support in the 1977 Parliamentary Elections highlighted ten reasons for setting up a secular state of Tamil Eelam, a brief summary of which is given below:²³⁷

1. Citizenship Laws: The citizenship laws of this country were made within six months of the transfer of political power to the Sinhalese in 1948. As a result of this legislation, the Tamil labourers of the tea and rubber plantations were rendered stateless.
2. Colonisation: The planned colonisation by the Sinhalese governments has been drastic and grave. State aided colonisation schemes by which lakhs and lakhs of Sinhalese people were planted in the homeland of the Tamil Nation that was once ruled by the Tamil kings.
3. Language: Before the attainment of independence, a resolution was passed in the State Council, the legislature, in 1944 that Sinhalese and Tamil shall be the official languages. Every Sinhalese political party at that time accepted this policy.
4. Religion: Buddhism has been given pre-eminence in the constitution and declared to be the only religion that would enjoy state protection.

²³⁶ *ibid.* pp. 13-14.

²³⁷ For full manifesto Please see http://www.sangam.org/FB_HIST_DOCS/TULFManifesto77.htm

5. Culture: Though the Tamils and Sinhalese have lived in this country for over two thousand years, yet the Tamils have continued to preserve their individual culture based on their language. This culture and the traditions were nurtured even under Portuguese, Dutch and British imperialistic rule.
6. Education: In the sphere of education, it was in the university admissions of 1970 that the gravest injustice was perpetrated against the Tamil speaking students. Large number of Tamil students qualified to gain university admission to the medical, engineering and science faculties that year were shut out through an inequitable device, designated ted standardisation.
7. Employment Opportunities: The very same discriminatory policies pursued in the sphere of education are being pursued in a worse manner in the field of employment.
8. Economic Development of Tamil Eelam: The state owned factories in Tamil Eelam today were set up 20 years ago. Every single factory that was set up in this country, with foreign aid, was set up only in the Sinhalese Districts.
9. Racial Terrorism: For the last twenty years, racial terrorism has been let loose in this country, against the Tamil and Muslim population in a manner that reminded them that they were slaves who were not entitled to any rights or protection.
10. Imposition of a New Constitution on the Tamil Nation: Drafting a new constitution and its imposition on the Tamil Nation was the climax of the dictatorial actions. Importantly minority safeguards incorporated in the Soulbury Constitution, Section 29, was deleted from the new Republican constitution of 1972.

In conclusion, their manifesto made the following declaration:

There is only one alternative and that is to proclaim with the stamp of finality and fortitude that “we alone shall rule over our land that our fore fathers ruled. Sinhalese imperialism shall quit our Homeland”. The Tamil United Liberation Front regards the general election of 1977 as a means of proclaiming to the Sinhalese Government this resolve of the Tamil Nation. And every vote that you cast for the Front would go to show that the Tamil Nation is determined to liberate itself from Sinhalese domination.

The Vaddukoddai Resolution resulted in two impacts. Firstly, the Tamil youth took the declaration seriously and launched a separatist struggle that developed into a civil war within a decade. Secondly, it provided ammunition for the Sinhalese leaders who organized the anti-Tamil violence of 1977, 1979, 1981; and the island wide pogrom of 1983 which in turn acted as a catalyst consolidating Tamil nationalism.

On the crisis of Tamil nationalism following the ghastly events of July 1983, Nesiiah writes:²³⁸

²³⁸ op.cit

The pogrom of 1983, in which sections of the ruling party were clearly involved, was followed by the effective disenfranchisement of the Tamil people with the expulsion of their leaders from Parliament for failing to make a humiliating declaration renouncing secession in the immediate wake of the pogrom. This led to an extended break in the democratic process among the Sri Lankan Tamils. Inevitably, militant groups filled the vacuum created by the absence of Tamils Members of Parliament.

Some critical factors in the development of Tamil nationalism need to essentially begin with displacement of civilians from 1983 onwards. In a paper written by me for the South Asia Forum for Human Rights in 2001, I stated as follows:³²⁹

Internally Displaced Persons (IDPs): ‘A never-ending saga of people forced into nomadic existence, fleeing the areas of active conflict in search of a more secure and settled existence, has continued since then. Waves of displacement in various degrees of intensity have often coincided with military operations that have taken place since then. These operations that have not only seen shifting of control of territory between areas held by the Sri Lankan security forces and the Liberation Tigers of Tamil Eelam (LTTE), but have also been a contributory factor forcing civilians to flee their habitual places of residence for safety. Loss of lives, including that of breadwinners, severe and permanent disability suffered by civilians, destruction of personal and productive assets, loss of income, psychological trauma, accompanied by alienation and isolation along with enduring sense of uncertainty which are often the scars of war go deep to produce a sociological reality and complexity in Sri Lanka that is staggering in its social, economic, and psychological dimensions. Some persons have now spent over two decades of their lives as displaced persons, living in extremely difficult, stressful and inhuman conditions. Many children and youth have not experienced life other than a life of displacement. The Sri Lankan Government is committed to providing essential humanitarian supplies to IDPs, including those in rebel held areas. However, a blockade on the transport of a range of goods and the military retaining final authority on the movement of essential supplies to these areas, have often meant that IDPs have had to endure immense humanitarian suffering as pointed out frequently by a variety of UN agencies and international and local NGOs. As a result of this blockade and selective manner in which the food rations and other supplies are distributed by the government agencies, the people in the north and eastern region of Sri Lanka constantly face tremendous scarcity of food, medicines, clothing and other essential goods.

Even though my paper was not on Tamil nationalism, on reflection I can now state that IDPs, a majority of whom are Tamils, are a contributory factor for the growth of Tamil nationalism.

The Tamil Diaspora is also a consequence of the July 1983 pogrom and other phases of the Eelam Wars. Cheran, in a study on the Sri Lankan Tamil Diaspora highlights the following issues which have reinforced Tamil nationalistic feelings in several ways:²⁴⁰

²³⁹ William. J. (2001) *Internally Displaced Persons in Sri Lanka*, in, Bose T. & Manchanda, R. States, Citizens and Outsiders, the Uprooted People of South Asia, Kathmandu: South Asia Forum for Human Rights. pp 316-331.

²⁴⁰ Cheran, R. (2003). *Diaspora Circulation and Transnationalism as Agents for Change in the Post Conflict Zones of Sri Lanka*, Toronto: Department of Sociology and Centre for Refugee Studies, York University.

The Tamil diaspora is largely made up of refugees and former-refugees. According to UNHCR, from 1980 – 1999, 256,307 people of Sri Lankan origin applied for asylum in Europe, one of the top ten groups of asylum seekers during this period. (UNHCR, 2001). Between 1987- 2001 Sri Lanka was among the top three source countries for refugee claimants in Canada (Citizenship and Immigration Canada, 2003). Large numbers of Tamils have been granted some form of residence status in their host country. The acceptance rate for Tamil refugee claimants has been consistently high in Canada. This perhaps explains why Toronto has become the epicenter of Tamil diaspora.

Tamil diaspora consists of an estimated 700,000 people settled in Canada, Europe, India and Australia (Cheran, 2001, Fuglerut 1999). It is likely therefore that one in every four Sri Lankan Tamils now lives in the diaspora. There is a long tradition of Tamil migration from the Jaffna peninsula. Elite and dominant groups among the Tamils of Sri Lanka have had a long history of temporary emigration for education and employment, usually to Britain and Malaysia. Sustaining a society under stress, strain and displacement has been the most important function of the Tamil diaspora. However, the signing of the cease-fire agreement between the state and the LTTE in January 2002 has made heavy inroads in redefining the role of the Tamil diaspora. There are six macro themes worthy of further exploration:

1. Remittances: The major contribution of the diaspora is remittances. They are important for sustaining the society in the NorthEast as well as sustaining the nationalist struggle. The Sri Lankan government estimates that international fundraising by the LTTE approaches \$80 million a year. However Tamil leaders in the diaspora dispute these figures.Whatever the amount, the crucial point remains: remittances are the key.
2. Return: Departing from the conventional view of remittance as obligation to nation/ family/ society, I suggest that remittances should be seen as returns from investment; Often, people invest all their savings and assets to send a member of the family-mainly a male into the diaspora. Then the one who was sent takes on the responsibility of bringing other family members, thereby setting in motion a process of chain migration. For diasporas, it is argued, that return or hope of return to the homeland is a major defining moment. However, as diaspora communities transform themselves into transnational communities and gain power and wealth, the mythical concept of return gives way to much more practical return: return from their investments. Wealthy diasporas actively contribute to projects of investment in the homeland.
3. Political support and lobbying: This is a major activity of the diaspora in host countries. With the increase in numbers and the change from refugee claimants to citizenship or permanent resident status, Tamil diasporas begin to be influential factors in the host country as well.....
4. Re-imagination and re-construction of nation in the Diaspora. Given that there are several strands of identity formations in the diaspora, the "Homeland" has different mappings and images. The plurality of diaspora / national imaginations are striking. This paves the way for the emergence of multiple identities in the context of social and political democracy in the host countries.

5. *Circulation and Alternative models of development*: Groups within the Tamil diaspora have been instrumental in building village hospitals, schools and community centers.For the diaspora groups, transnational networks and ties permit them to function within the national context with minimal dependence on state process, regulation or the need for concessions. Likewise their non-dependence on statist institutions has enabled these groups to be relatively immune from the coercive and hegemonizing power of the state. ... Their work has been effective in addressing unmet needs in the conflict zones of Sri Lanka.
6. *Circulation*: It is highly unlikely that the majority of members of the diaspora will return to the homeland on a permanent basis. The most probable scenario is that members of the diaspora will circulate if/when conditions in both host and home countries are conducive for such circulation.

Cheran's paper was not on Tamil nationalism either, but as seen from his analysis it is clear that the diaspora contributed greatly not only towards rebuilding areas in the North and East devastated by the conflict, but also helped in a variety of ways to forge Tamil nationalistic thinking by the above strategies and equally importantly through the effective use of the internet.

Definition of Tamil Nationalism is articulated in the *Thimpu Principles* highlighted earlier in this chapter.

1. Recognition of the Tamils of Ceylon as a nation;
2. Recognition of the existence of an identified homeland for the Tamils in Ceylon;
3. Recognition of the right of self-determination of the Tamil Nation;
4. Recognition of the right to citizenship and the fundamental rights of all Tamils in Ceylon.

These key principles espoused by all Tamil political parties in the Northern and Eastern provinces, including the LTTE. However, these demands were unacceptable to the GoSL negotiators. The first three of the four principles, still remain divisive issues. The failure to incorporate the interests and needs of the minority identity groups, systematic discrimination, and the attitude of chauvinistic elements within the majority community has further strengthened Tamil nationalism. Quoting an interview with Anton Balasingham, the LTTE theoretician he suggests that Tamil political parties interpret the Thimpu Principles not in a nationalistic perspective but within a democratic perspective He believed they were not an obstacle to a negotiated settlement and advocated a more accommodative approach from the Sri Lankan Government and the Sinhala political parties.²⁴¹

Loganathan who was a member of the Tamil delegation at the Thimpu Talks highlights:²⁴²

²⁴¹ Liyanage, S. (2006). *Rereading Thimpu Principles: An Integrative Perspective*, In: Rupesinghe K (ED) *Negotiating Peace in Sri Lanka, Efforts, Failures and Lessons*, Volume 1, Colombo: Foundation for Co-Existence, p.1.

²⁴² Loganathan. K. *Indo-Sri Lanka Accord and the Ethnic Question: Lessons and Experiences*, in *ibid.* p. 73

that in order not to be seen as intransigent and unreasonable by the outside world, in general and India, in particular, the Tamil delegation in their Joint Statement, hinted that while their struggle was for an 'Independent Tamil State' and that 'different countries have fashioned different systems of Government to ensure these principles.

Finally we come to the emergence of *Tamil youth militancy* which further strengthened Tamil nationalism.

The LTTE, formed in 1976 from the Tamil New Tigers, considered themselves to be the sole representatives of Sri Lankan Tamils, after systematically decimating all other militant groups, the remnants being forced many of them to link with GoSL. This was mainly for their own security, for political patronage whilst undermining the single minded nationalism advocated by the LTTE.

Several state instruments gave the GoSL considerable powers during 'emergencies'. The Sri Lankan Constitution (Article 155) and the Public Security Ordinance (No. 25 of 1947) empower the President to declare a state of Emergency, and in July 1979 the Prevention of Terrorism (Temporary Provisions) Act of 1979 (PTA) was enacted. This is still in force. The PTA has allowed successive Sri Lankan Governments to arrest and detain people without proper judicial inquiries. Prisoners have been subjected to torture, inhuman and degrading treatment, and many have 'disappeared', and some analysts have argued that this Act is the 'engine of state terrorism'.²⁴³

The PTA was among the methods used by President Jayawardene to crush the youth movement in 1979, which led to arbitrary arrests, torture, murder and maiming of Tamil youth. Wilson assessed that 'Unfortunately it had precisely the opposite effect to the one intended, and succeeded only in stiffening the Tamil resistance movement.'²⁴⁴

The LTTE were highly motivated, well organized, and extremely adaptable, and moved from guerrilla actions to conventional battles at different stages of the war. From 1996 onwards was a full-fledged military conflict between GoSL security forces and the LTTE during which period vast areas of the Northern and Eastern provinces came under the latter's control. They maintained a naval arm, the 'Sea Tigers' and a suicide force, the 'Black Tigers'. Capable of both guerrilla actions and also large conventional battles the LTTE had a tight organizational structure (military and political) under the control of one person. It was supremely disciplined and ran a parallel government with a police force, judicial system, taxation and other structures in territories they controlled. The LTTE in reality controlled a '*de facto*' State in Kilinochchi, where the Tamils could live in safety and dignity. Tamil nationalism was further consolidated by this ground reality.

²⁴³ Lewer, N. & William, J. (2002). in, Meckenkamp M, Tongoren P (eds) *Searching for Peace in Asia & The Pacific*, European Centre for Conflict Prevention, London: Lynne Rienner Publishers. pp 483 – 490.

²⁴⁴ Wilson, A. (2000). *Sri Lankan Tamil Nationalism*: New Delhi: Penguin Books, p. 124.

Tamil nationalism has also been strengthened by the LTTE's single mindedness and consistency. It was the only militant organization that consistently stood for the right of national self-determination of the Tamil people as defined in the Vaddukkodai Resolution (1976), and mandated by some 85% of the Tamil speaking population in the 1977 General Election. It has consistently demanded that the GoSL offer an alternative to a separate state (based on the 1985 Thimpu Principles), which various GoSL failed to address. But, whilst it had secessionist ambitions and a political perspective, the LTTE never clearly articulated its own alternative to Tamil Eelam.

It had broad support from Tamil people living in Sri Lanka, and from the Tamil Diaspora. An effective publicity and propaganda programme, was able to rapidly mobilize political, economic and financial support from the Tamil Diaspora. It had extensive international linkages and created a worldwide business empire. The LTTE had extensive shipping interests used for the delivery of weapons to its terrorists, in addition to medical supplies and other commodities.

TTE fostered a culture of martyrdom symbolized through the wearing of a cyanide capsule worn by its fighters. It was proscribed as a terrorist organization in Sri Lanka mainly for acts of terror carried out within the island, following the attack on the Dalada Maligawa home of the sacred tooth relic of the Buddha and after various acts of terror throughout the island.

It was designed as a terrorist organization in India for the assassination of Rajiv Gandhi. The LTTE was also proscribed in the US, EU, Australia for acts of terror and for the use of children in combat, even though it never targeted foreigners.

Providing an insider's view, Chandrakanthan traces some of the events which have strengthened, 'Eelam Tamil Nationalism'.²⁴⁵

As seen in other parts of the world, any nationalism seeking to spread its influence needs to root itself in its own contemporary history, myths, symbols, heroes, legends and other collective experiences with bloodstained memories. ...The Tamils do not need to look back far into the past to justify their claim for separation. Several events contemporaneous to the Tamil community's tryst for survival in the post-colonial period are over-crowded with these experiences.

Chandrakanthan adds that almost all pogroms against the Tamils were unleashed with the connivance of the government, its police and military. He writes of what he witnessed on the morning of June 1, 1981, recounting what had taken place the previous night. The burning of the Jaffna Library a repository of over 90,000 rare volumes and precious manuscripts, he terms 'cultural genocide'. The IPKF intervention he calls it 'Indian Adventurism' seen by Tamils as adding fuel to the flames. He describes the exodus of nearly half a million

²⁴⁵ ibid pp. 160-163

²⁴⁶ ibid pp. 160-163

people from Jaffna into the Vanni in December 1995 when the military took control of Jaffna peninsula from the LTTE. He adds that the LTTE leadership interpreted these events as the painful price for redemption and quotes Prabhakaran's customary Martyrs' Day message in November 1995, 'our people are determined to live as free beings with dignity and prepared to face any form of suffering to be independent rather than subjugating themselves to domination by the aggressor.'²⁴⁶

There have been few credible attempts to bring genuine elected representatives from the North and East into mainstream politics. The TULF was effectively disenfranchised with the introduction of the Sixth Amendment to the Constitution in 1983. This happened on the heels of the 1983 July pogrom in which thousands of Tamils were killed and maimed by state backed Sinhala mobs. This Amendment saw the TULF giving up its seats in Parliament and going into exile in India. This party was elected to Parliament in 1977 with an overwhelming mandate to establish a separate state for Sri Lanka Tamils. In August 1983 in a written by the Secretary General of TULF and Leader of the Opposition to President Jayawardene highlights the events since 1977 and the apparent failure of the government to seriously address Tamil concerns. Relevant provisions of the 6th Amendment are given below: See Appendix (5).

Article 157 A (1) No person shall, directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of a separate state within the territory of Sri Lanka.

(2) No political party or other association or organisation shall have as one of its aims or objects the establishment of a separate state within the territory of Sri Lanka.

Under this law - 157 A (4) - any person may make an application to the Supreme Court for a declaration against an organisation espousing the cause of establishing a separate state in the island. Upon such declaration by the SC that the organisation has violated Article 157 A (2), then that organisation "shall be deemed, for all purposes to be proscribed". Any member of such an organisation shall cease to be a Member of Parliament. Any person who is a member of such an organisation after the date of the SC declaration "shall be guilty of an offence and shall, upon conviction by the Court of Appeal" would be stripped of his or her civic rights for a period not exceeding seven years; and his or her movable and immovable property would be seized.

Sieghart in his report on behalf of the International Commission of Jurists commented on the Amendment as follows:²⁴⁷

The freedom to express political opinions, to seek to persuade others of their merits, to seek to have them represented in Parliament, and thereafter seek Parliament to give

²⁴⁷ Sieghart. P. (1984). *Sri Lanka-A Mounting Tragedy of Errors* - Report of a Mission to Sri Lanka in January 1984 on behalf of the International Commission of Jurists and its British Section, Justice, March 1984. <http://www.tamilnation.org/srilankalaws/83sixthamendment.htm>. [Accessed on April 14, 2009]

effect to them, are all fundamental to democracy itself. These are precisely the freedoms which Article 25 (of the International Covenant on Civil and Political Rights) recognises and guarantees - and in respect of advocacy for the establishment of an independent Tamil State in Sri Lanka, those which the 6th Amendment is designed to outlaw.

It therefore appears to me plain that this enactment constitutes a clear violation by Sri Lanka of its obligations in international law under the Covenant ...before the 6th Amendment was passed, the Tamil United Liberation Front was the largest opposition party in Parliament, and its effect has therefore been to increase the (ruling) United National Party's majority from the previous 83% to 93%.. Accordingly, the President can now hardly be surprised if his opponents, both within the country and outside, regard the 6th Amendment as nothing more than a piece of political chicanery, designed to move Sri Lanka even further towards a one party State..."

Tamil nationalism began as a peaceful movement for minority rights, partly in reaction to Sinhala control of the state. Failure to achieve a political settlement eventually led to armed militant movements. The Tamil nationalist movement came to be dominated by the LTTE. Even though Sinhala nationalism has waxed and waned in response to the political context, at times, there was strong Sinhala support for a negotiated settlement but competition between the two main parties and their inability to neutralise smaller nationalist parties prevented governments from compromising with Tamil nationalists. The LTTE also blocked the elusive "southern consensus". Its violence and intransigence provided political ammunition for the most extreme Sinhala nationalist elements.

The Sri Lankan Muslims

Sri Lanka's conflict has primarily been a struggle between minority Tamils, seeking autonomy or a separate state, and the majority Sinhalese, who reject this. However, there are many other social fractures and ethnic divisions that are vital to a proper understanding. One of the most significant issues is the history and status of Muslim communities. They have been the target of discrimination, political violence, massacres and ethnic cleansing since the fighting began in the early 1980s. Unless the problems faced by Muslim communities are resolved, a viable, long-term peace settlement will be difficult to achieve.

Unlike the Tamils and Sinhalese, who have an ethnic identity based on language and history, the Muslims claim a separate ethnicity based predominantly on their adherence to Islam. The Muslim community is possessed of several ethnic identities, from a mixture of Arab, Persian, Indian and Malay origins. In the national census they are listed separately, as "Moors", reflecting European colonial usage. Arab settlers often intermarried with local Tamils and Sinhalese, while retaining their traditional faith and separate identity. They

²⁴⁸ Ali Ameer. (2001). *Political Identities and Political Choices of the Muslim Community*, Marga Monograph Series on Ethnic Reconciliation, Colombo: Marga Institute. pp 1-2.

²⁴⁹ *ibid* P. 2.

were mainly traders, sailors, travellers and physicians. Muslim communities appear to have come to Sri Lanka via India over a long period, some as late as the early twentieth century. Ameer Ali highlights that none of them came to conquer territory or proselytize pagans but all of them were attracted to the shores of *Serendib* by the abundance and value of its spices, pearls, ivory and gems. They all belonged to the *Sunni* sect of Islam.²⁴⁸

In the absence of any significant conflict of interest, between the host communities, i.e., the Sinhalese and Tamils, and the guest community, the Muslims, mutual respect prevailed and contributed to political harmony and societal peace.²⁴⁹ The early Arab settlers were traders, and before the Portuguese colonial rule, Muslims were said to control much of the commerce within the island and externally through Colombo and Jaffna harbours. With the decline of Arab dominance over the Indian Ocean with increasing challenge from Europe in the 15th and 16th centuries, there was an increase in migration to the island from the Indian sub-continent. Ameer Ali argues that the majority of Muslims living in Sri Lanka in the 16th century were not of Arab origin but were from the Indian sub-continent. Called Moors by the Portuguese, a misconception developed that all Muslims in Sri Lanka were descendants of the Arabs.²⁵⁰

Malays, also Muslim, originated in Southeast Asia. Their ancestors came to the country when both Sri Lanka and Indonesia were colonies of the Dutch. Most of the early Malay immigrants were soldiers, posted by the Dutch colonial administration to Sri Lanka, who decided to settle on the island. Other immigrants were convicts or members of noble houses from Indonesia who were exiled to Sri Lanka and who never left. The main source of a continuing Malay identity is their common Malay language (Bahasa Melayu), which includes numerous words absorbed from Sinhalese and the Moorish variant of the Tamil language. Like the Moors, they predominantly follow the Shafi school of thought within Sunni Islam.

Sri Lankan Muslims remained indifferent to being identified as Moor till the 1880s. In a speech, a Tamil member of the Legislative Council attempted to prove that Sri Lankan Muslims were actually Tamils by ethnic origin. This was when the British were contemplating appointing a Muslim to representative to the Legislative Council. The Muslim community successfully campaigned against the Tamil legislator proposal and their nominee was finally appointed. Ameer Ali asserts that by this Muslims were clearly disclaiming that they were of Tamil origin. He says that this should be kept in mind when analysing the current discord between the Tamil militants and the Muslim community.²⁵¹

Anti-Muslim riots in 1915, in which Sinhalese gangs attacked Muslim traders, were the first major communal disturbance in modern times. The causes were complex but partly

²⁵⁰ *ibid* p. 4.

²⁵¹ *ibid* p. 5.

²⁵² International Crisis Group, *Sri Lanka's Muslims: Caught in the Crossfire*, Crisis Group Asia Report N°134, 29 May 2007, P. 4.

attributed to rising Sinhalese nationalism conflicting with the traditional Muslim control over commerce. They drew inspiration from Sinhalese nationalists such as Anagarika Dharmapala.²⁵² These were the first modern manifestation of the ethnic fissures that have plagued the country since independence. The British viewed the unrest as anti-colonial but it seems to have been caused by inter-racial disputes over resources and trade.

The first two decades following independence were characterised by quietist approach by the Muslim elites. They tended to support the most capitalist-friendly national party, the UNP. Muslim parliamentarians generally downplayed community grievances and supported general policies that favoured the broader business class. Many Muslims in the north and east, predominantly farmers and fishermen, felt unrepresented by this mercantile leadership.

The rise of Sinhalese and Tamil nationalism from the 1950s had an inevitable impact on Muslim political culture. Muslim leaders were often divided on how to respond: while some supported the Sinhala-only language legislation of 1956, others opposed it. The Tamil Federal Party attracted some Muslim support and elected two Muslims to parliament in 1965, but they defected to the ruling party shortly thereafter. This was considered a betrayal at a time when stronger support was anticipated from them on the language issue. However when Tamil militant groups were getting organized, some Muslims in the North and East joined them in solidarity with common concerns over language, land issues, grievances of minority communities and the conciliatory attitudes of their leaders. The LTTE overtly supported Muslim concerns over land acquisition by Sinhalese settlers as a way of gaining their support for the separatist movement. Ameer Ali believed that LTTE think tanks never considered Sri Lankan Muslims as a separate ethnic group but simply Islamic Tamils. It was a difficult choice, either support the militants or to totally identify themselves as Muslims and face the wrath of the militants.²⁵³ The former would have made life difficult for Muslims living outside of the North and East, the latter would have meant that they would have had to deal with the Tamil militants as unequal partners despite their recognition of the genuine grievances of the Tamil youth. By the 1970s, greater educational opportunities began to produce a nascent eastern Muslim intelligentsia. Ameer Ali adds:²⁵⁴

Without forming a political party of their own like the Tamils, but by playing politics with the existing national political parties, the Muslim leadership of post-independent Sri Lanka shrewdly guided their community to attain a level of progress, which is unique in the history of any contemporary ethnic minority.' This was described by historian Kingsley de Silva as 'politics of pragmatic adaptation.

However this position changed in the mid-1980s. It was a combination of unaddressed grievance and the rise of eastern Muslim leaders that contributed to the birth of the country's first Muslim political party in 1986. The Sri Lanka Muslim Congress (SLMC) was led by a young lawyer, M. H. M. Ashraff and transformed Muslim politics. His confrontational

²⁵³ Ali Ameer. *op.cit.* pp. 9-10.

²⁵⁴ International Crisis Group, *Sri Lanka's Muslims: Caught in the Crossfire*, Crisis Group Asia Report N°134, 29 May 2007. pp. 5-6

²⁵⁵ *ibid* p. 6.

approach and his desire to establish a separate party did not win over all Muslims. Gradually his espousal of Muslim grievances, and his refusal to follow the accommodating politics of the community's traditional leaders, gave him a following, notably in his eastern homeland, where Muslims were increasingly under threat from the growing conflict. The SLMC took most Muslim seats in the North East Provincial Council elections in 1988 and successfully contested national elections the next year. Since then it has dominated Muslim politics in the east.

SLMC was further advanced by the collapse in support among Muslims for Tamil radicalism. Already in the late 1980s clashes were developing between Tamil militants and Muslims. The attacks by the LTTE on Muslims in 1990 made any further involvement in the Tamil nationalist movement untenable. Many young people in the east switched their support to the SLMC. During the 1990s, the SLMC developed as a political force, using its parliamentary seats to form alliances that lent it political influence beyond its limited vote base.²⁵⁵

The Muslims of the Northern Province were profoundly affected by the conflict. The LTTE forced an estimated 100,000 Muslims living in the North to leave the area within forty-eight hours in October 1990. Northern Muslims were engaged in agriculture, fishing and business. As a result of this eviction, they suffered loss of economic assets, houses and household equipment and vehicles. Prior to their eviction, Northern Muslims were the second largest community in the North East. It was reported that the LTTE called all men to a meeting whilst cadres raided their homes, the men were instructed to leave their valuables behind and vacate their homes within two hours. Similar events happened with varying levels of brutality in the five other districts of the Northern Province. People lost their possessions, livelihoods, communities, and personal histories in a day. With it went their community their sense of Sri Lankan citizenship. The LTTE and other Tamil nationalists have different levels of justification for this expulsion. Some speak of security issues, others speak of Muslims as traitors to the Tamil-speaking nation. A generation of children, unable to complete their education, lost their futures. Many still remain in welfare centers in Puttalam nearly two decades later. Internally displaced Tamils whose houses were destroyed or taken over by the military occupy land and buildings owned by Muslims in several areas of the north. Returning Muslims to their original homes could well be delayed till there is a permanent political solution to the conflict, but small groups have already started to return.²⁵⁶

Muslims were never a party to negotiations between Tamil and Sinhalese leaders. When the CFA was signed, the Muslim community was on the side-lines. It had no armed units but it was unable to persuade the two main parties to agree to a separate Muslim delegation to the. The SLMC leader, Rauf Hakeem, had attended the early rounds of the peace talks as part of the government delegation. Muslims sought to maintain an independent position and pressed for a separate delegation. Neither the government nor the LTTE wanted to deal with the Muslim issue separately.

²⁵⁶ Hanifa F. *Muslims in Sri Lanka's Ethnic conflict*. ISIM Review, Spring 2007, pp. 52-53.

²⁵⁷ Mohideen, M. (2006). *Sri Lanka Peace Process and the Muslim Question*, in Rupesinghe K. (Ed). *Negotiating Peace in Sri Lanka*. Colombo: Foundation for Co-Existence. Sri Lanka. Pp. 317-8.

²⁵⁸ *ibid* p. 319.

Muslim leaders attempted to talk directly to the LTTE and on 13 April 2002 the SLMC's Rauf Hakeem and five of his colleagues had an unprecedented meeting with Prabhakaran and senior LTTE leaders. They reached what seemed to be a significant agreement, promising the right of return for Muslims to LTTE-controlled areas, an end to LTTE extortion of Muslim business in the east and access for Muslims to their lands in LTTE-controlled areas. It was decided to establish a joint committee of representatives of LTTE and the SLMC to facilitate the resettlement. As the SLMC had obtained the majority support of the Muslims, it was agreed that matters pertaining to the Muslims in the North East would be discussed with the SLMC.²⁵⁷ The Hakeem-Prabhakaran deal produced no changes in LTTE behaviour, and local talks also failed to achieve a breakthrough. Mohideen asserts that the LTTE's politico military strategy was to weaken the economic strength of the Muslim community. To achieve this the LTTE had targeted economic ventures and business places of the Muslims.²⁵⁸

After signing the CFA Prabhakaran announced that the expulsion of Muslims from the North was a political blunder; and the Muslims of North could return to their homes, wherever they lived prior to 1990. This was the first open declaration of the acceptance of responsibility for the series of military operations the LTTE had mounted on the mass of Muslims. Many Muslims made many genuine attempts to get back to their homes, a few succeeded.

The failure to obtain independent representation at the peace talks and continuing LTTE violence contributed to a crystallisation of Muslim national identity. This process was not led by national leaders but by grassroots movements, particularly among youth. The Oluvil Declaration in January 2003 by Muslim activist groups ran ahead of many national Muslim political parties in setting out community demands for autonomy and separate status. It was reminiscent of the Vaddukkoddai Declaration of 1976, and although attracting as many as 20,000 people at its launch, it was largely ignored by Colombo-based Muslim leaders. More recently this type of civil activism has decreased, possibly as a result of a more active Muslim civil society and other Muslim political groups taking up many of the demands more strongly.²⁵⁹

When the GoSL and the LTTE were discussing an interim administration for the north and east, the Muslims were largely forgotten. Similarly, when the P-TOMS, was being devised the enormous destruction that the tsunami had wreaked on Muslim areas was largely ignored. The tsunami took a devastating toll on Muslims, or one percent of the

²⁵⁹ International Crisis Group, *Sri Lanka's Muslims: Caught in the Crossfire*, Crisis Group Asia Report N°134, 29 May 2007, pp. 9-10.

²⁶⁰ Hanifa, F. *op.cit* ISIM Review, Spring 2007, p. 53

²⁶¹ Hanifa, F. (2009). *CFA and the Peace Secretariat for the Muslims*, in Keethaponcalan S I, & Jayawardene R, *Sri Lanka: Perspectives on the Ceasefire Agreement of 2002*, Colombo: South Asia Peace Institute. p 268

²⁶² McCgilvray, D. *Sri Lankan Muslims: between ethno-nationalism and the global ummah, Nations and Nationalism*, in *The Journal of the Association for the Study of Ethnicity and Nationalism*, Department of Anthropology. Boulder: University of Colorado, pp. 45-64. <http://onlinelibrary.wiley.com/doi/10.1111/j.1469-8129.2010.00460.x/pdf>, [Accessed on 08 05 2011]

Muslim population having perished. A large portion of the affected area was controlled by the LTTE. The Muslims argued that the arrangement to address the devastation of the tsunami produced as an agreement without the participation or consultation of Muslims. While a representative of the Muslim parties was to be part of the apex body, other tiers of administration were weighted heavily in favour of the LTTE, which had a veto power over. Many Muslims also considered the P-TOMS association to the peace process was a precedent for future exclusion of Muslim parties from the process. Muslim agitation compelled the government to address Muslim concerns but that became irrelevant when the Supreme Court found sections of the P-TOMS unconstitutional.²⁶⁰

One major breakthrough for the Muslim community during the peace process, was the creation of a Peace Secretariat for Muslims (PSM), which played a useful role in developing political ideas among community activists. Inaugurated in the aftermath of the Tsunami, the PSM provided much needed infrastructure for Muslim approaches to the conflict. PSM itself was a product of the CFA's failure to take cognisance of all stakeholders to the settlement of the conflict. Haniffa asserts that neither the PSM nor its constituent parties adopted a position that rejected the CFA.²⁶¹ It felt that the government's efforts at peacemaking should be supported but to ensure that Muslim interests were included. Unfortunately PSM was beset by internal differences, party politics and rarely acted in unison.

The Middle Eastern Influence

The Journal of the Associations for the Study of Ethnicity and Nationalism highlights large numbers of Sri Lankan Muslims, both men and women, are now employed on labour contracts in the Middle East.²⁶² The resulting increase in prosperity of Sri Lankan Muslims has also led to higher numbers of pilgrims making the Hajj.

These factors and the expansion of global electronic media has given many Sri Lankan Muslims a heightened awareness of their global identity.

A self-conscious turn toward Hijab, especially among younger and more urban Muslim women is visible with the parallel growth in the adoption of male Islamic styles. Muslim girls' school uniforms are now designed to include a face covering (niqab) that can be folded down when girls are walking between home and school; while boys' Western-style school uniforms include a Muslim cap. Amongst older Muslim women, the sari is still worn in customary Muslim fashion. The wholesale demolition and reconstruction of historic older-style mosques in accordance with imported models of Islamic architecture is another highly visible mark of pan-Islamic influence.

The Indian Tamils

We will now consider a brief analysis on Tamils of recent Indian origin, Plantation Tamils who are also identified as Hill Country Tamils, Malayaha Tamils or Upcountry Tamils in the context of the ethnic conflict.

As a school boy and a former teacher this writer has the experience of observing Plantation Tamils in the estates and possess an intimate knowledge of the squalor in which they live

and their relatively deprived economic and, political conditions. Living mainly in the central hills, the Plantation Tamils have been referred to as 'coolies' not only by the Sinhalese but even by the Sri Lankan Tamils. They were also identified as '*kalla thonies*' or illegal boat people. This community had been oppressed by successive governments since independence. The Tamils of North and East and Central Plantations speak the same Tamil language, are mostly Hindus, but are two communities separated by history.

Imported by the British in the 19th century from South India the first batch of Tamil labourers came around 1823. They have completed close to two centuries of habitation in Sri Lanka. They have toiled on the tea, rubber and coconut plantations and help develop the Island's economy. These indenture labourers, an agreement to serve the master condemned to largely slavery conditions. This was first under the British and subsequently by indigenous plantation managers.

These people were housed in 'labour lines', long single story buildings divided into family dwellings of one room even for large families of five or six children.

They had common toilets and water taps and men and women had to bathe in the open. Health and educational facilities were also deficient whilst there were dispensaries but no doctors. Schools were only up to the fifth standard and the vast majority lived in abject poverty and ignorance. Although improved in recent decades their lives have not advanced when compared to other Sri Lankans.

At the conclusion of the first General Election in 1947, the anti-UNP opposition were able to win 34 seats in a Parliament of 95 members. In contrast the UNP secured 46. The Left included seven elected representatives of the plantation workers. The UNP government decided that the most effective way of neutralizing this threat at a future election was to disenfranchise the plantation workers. It is noteworthy that this did not polarize Sinhala and Tamil opinion, even though it led to the birth of the Federal Party as highlighted earlier, though leading to the birth of the Federal Party. Tamils such as G. G. Ponnambalam and his section of the Tamil Congress, voted against the first 1948 Citizenship Bill but supported the second Bill, when Ponnambalam and his group had accepted portfolios in the UNP government. Of the 52 MPs who voted for the Bill eight were either Tamil or Muslim from the North and East. Of the 32 who voted against, only S J V Chelvanayakam, and two others, were from the North and East. But there was clearly a racist element in these Bills. The trend towards national integration was halted when politicians decided that party politics was more important than communal harmony.²⁶³ Dr. N.M.Perera's and UNPs S.W.R.D Bandaranaike's speeches on the debate on the Citizenship Bills are appropriate even today and the Citizenship Bills sowed the seeds of ethnic conflict in the country: ²⁶⁴

²⁶³ An unending saga of missed opportunities, <http://www.island.lk/2009/04/18/features2.html>. [Accessed on April 20, 2009]

²⁶⁴ *ibid*

²⁶⁵ Richardson, J. (2005). *Paradise Poisoned*, Kandy: International Centre for Ethnic Studies. p. 30.

²⁶⁶ Makenthiran, S, *Uprooted Plantation Tamils in Sri Lanka*, <http://www.worldsikhnews.com/20%20February%202008/UPROOTED%20Plantation%20Tamils%20in%20Sri%20Lanka.htm?1=YES>, [Accessed, April 20, 2009]

Consequent to passing this legislation, Senanayake envisioned their repatriation to India. This was opposed by Indian Prime Minister on the grounds that they had lived in the country for several decades as a result they became stateless. In 1964 the then Prime Ministers of India and Sri Lanka provided for the repatriation of 525,000 to India and granting Sri Lankan citizenship to 300,000. The remaining 150,000 were to be the subject of continuing negotiations.²⁶⁵ Around 400,000 repatriated to India feeling there was no future for them in Sri Lanka, subsequently reinforced by incidents of ethnic violence in 1956 culminating in the 1983 pogrom. The suspension of the ferry service to India soon afterwards effectively stopped repatriation.

In 1960 and 1965 Thondaman representing the Ceylon Worker's Congress (CWC) was appointed Member of Parliament to represent the stateless Tamils as they had been earlier disenfranchised. Constitutionally, it was possible to appoint members from unrepresented peoples. When the number of Tamils registered as citizens increased, their influence in elections was felt. In 1971, after 30 years, he again won an election through Tamil votes in Nuwara Eliya. In 1978 he was appointed as cabinet minister of Rural Industries. From then on, he invariably held a ministerial post till his death. He used his ministerial position to uplift the economic position of the Plantation Tamils and to regain lost rights. In 1994 the CWC secured nine seats in Parliament and became a force to reckon with.²⁶⁶

Thondaman and CWC were successful in improving their civic rights. Wages were increased as a result of trade union action. Success came mostly Thondaman was a master strategist using cabinet position to obtain concessions. He used the strength of the CWC trade unions to pressurize the government and estate employers. The Tamil vote bank in local, parliamentary and presidential elections. CWC voting power in Parliament influence the formation of governments which led to Thondaman being regarded as king maker, much to the chagrin of die-hard Sinhalese leaders.

A bill to grant citizenship to 168,141 stateless Plantation Tamils in the Sri Lankan Parliament was unanimously passed in October 2003. The Parliament was finally able to reverse an unfortunate decision fifty years later.

Although education and employment opportunities have improved since the 1970s the majority of Plantation Tamils have had their identity shaped by life in the estates. Not all plantation Tamils continue to live on the Estates. Many have migrated to Sinhala dominated south for employment opportunities. Due to deteriorating economic conditions and generalized violence against the community in the 1970s several hundred thousand Plantation Tamils migrated to the North East. Despite these over 80% of the Plantation Tamils still live, if not work, on the estates.²⁶⁷

²⁶⁷ Bas, D. (2001). *Landscapes of Malaiyaha Tamil Identity*. Colombo: Marga Institute. Sri Lanka, p. 3.

A key reason for many youth remaining on the estates despite the lack of job security, is the periodic ethnic violence from 1958 to 1983. A significant number of Plantation Tamils were killed, many losing land and personal property or suffering physical assaults with resulting mental and emotional trauma. They face discrimination, suspicion and harassment if they go to work in the cities, this being the key reason they return to Estates which they consider safe havens.

The disenfranchisement of Plantation Tamils could be defined as the Original Sin of postcolonial Sri Lanka. The Sinhalese and Tamil leaders have done little to resolve their political differences despite their social camaraderie and the Plantation Tamil community has fallen between the cracks. For decades the plantation community had very little to do with the national struggle but been targets of Sinhalese mob violence.

With recurring ethnic violence many Plantation Tamils had taken refuge in the North East where they could not be prevented from throwing in their lot with the LTTE and other militant groups. Many fought and died. Those who have survived are some of the most vulnerable people living in the war affected areas.

Those who remained in the plantation areas were largely prevented from joining the armed rebellion by the astute political leadership of Sathyamoorthy Thondaman, and other plantation Tamil leaders. They aligned themselves with whichever was the ruling majority political parties of the time. An armed rebellion in the central highlands would have had far reaching consequences.

Despite some improvements, it is no understatement to state that Plantation Tamils have not yet emerged from slavery. Their socio-cultural level is much lower than the national level and in education, housing, health and employment, they are at the bottom. Plantation workers, largely tea pickers are considered as outsiders by the majority community. The price of tea is negotiated and fixed on the commodity market and the bulk of the money is pocketed by middle men and plantation owners. The plantation community needs a massive affirmative action to prevent the emergence of a new tier of violent conflict.

Concluding Remarks

The Sinhalese-Tamil controversy over who arrived first in Sri Lanka and has the better claim to be its 'founding race', has done much to contribute to the bitterness of inter-communal tensions which, in July 1983, erupted into the civil war. It can also be argued that the traditional hostility between the two races, reflected in the Mahavamsa, was a political construct used by the Sinhalese leadership for political purposes.

Primordial violence rooted in nationalist and ethnic identities, legitimized by ethno-nationalist political rhetoric in mainstream political discourse, reinforced by hate speech contributed to corrosive ethnic

interaction and contributed to ethnic conflict in Sri Lanka. Systemic analysis of the Peace Process will follow in the next chapter.

CHAPTER 4

SYSTEMIC ANALYSIS OF THE PEACE PROCESS FROM 2002 TO 2008

In this chapter, I will use systemic thinking to analyse the peace process from 2002 to 2008 based on events recorded in the previous chapter on political processes and earlier conflict resolution attempts. I will begin by answering three additional questions as proposed by Ropers:

1. What are the *structural and contextual features* which influence the character of the conflict and determine its dynamic?
2. What are the *parties' understanding* of the conflict and their needs for conflict resolution?
3. How can the *conflict resolution preferences and options* be framed in a way which supports a constructive transformation of the conflict?

The structural and contextual features which influence the character of the conflict and determine its dynamic.

Ropers analyses the contextual features of succinctly:²⁶⁸

Numerous overlapping processes shaped the emergence and escalation of the conflict: developing failures, deprivation of marginalized communities in the Northeast and South, majoritarian politics and structures of governance, exclusion of non-Sinhalese communities from participating in and getting services from state institutions, appeals to ethnicity and religion for the sake of electoral mobilization, mob violence, state-sanctioned violence and rise of anti-state militant movements, particularly in the form of the LTTE and their use of terrorist methods.

There is relatively broad consensus in the historical and social scientific discourse on key factors and turning-points, such as the 'Sinhala Only Act' from 1956 (which established Sinhala as the single official language, the Constitution of 1972 and 1978 (which gave prominence to Buddhism and established the 'Unitary State' respectively and various waves of anti-Tamil riots culminating in those of July 1983 and the LTTE attack on a group of soldiers in Jaffna. Differences in opinion relate to the early history (who has which legitimate claims on the 'ownership' of the island?),

²⁶⁸ Ropers, N. (2008). *Systemic Conflict Transformation: Reflections on the Conflict and Peace Process in Sri Lanka*. In A Systemic Approach to Conflict Transformation Exploring Strengths and Limitations, Korppen, D et.al. Eds. Berlin, Berghof Handbook for Conflict Transformation, Dialogue Series No. 6, p 20

the role of religion and the responsibility of the governments of the day for the various outbreaks of mob violence.

The structural dimensions of conflict in Sri Lanka can be divided into security, political, economic, and social factors. It is argued that the constellation of factors that contributed to the outbreak and sustenance of violent conflict - including the nature of the state, its political culture, the institutional framework of policy, uneven development patterns, and competing nationalisms - remain largely unaffected by the peace process. In many respects the "peace" that followed the signing of the CFA has had the effect of freezing the structural impediments to conflict resolution. On the other hand, there have been significant changes in the external context at both the regional and international levels. These include the global "war on terror," growing international engagement in "post conflict" contexts, and Sri Lanka's integration into a dynamic and increasingly assertive wider Asian region. These factors together helped create the preconditions for peace negotiations.

Security dimensions of the conflict

The civil war that plagued Sri Lanka since 1983 was one of the world's most protracted and brutal armed conflicts. Although the main theatre of war was in the North and East and on the surface there was a deceptive normality in the rest of the country. Militarized violence became an island-wide problem, and had a corrosive effect on Sri Lanka's political, economic and social institutions. The inflow of arms to Sri Lanka played an important role in escalating the conflict into a civil war and thereafter, fuelling it. Arms supplies provided by international suppliers directly and indirectly contributed to human rights abuses and possible war crimes in Sri Lanka that included shelling of civilian targets, the use of civilians as human shields, arbitrary arrests, forced recruitments and enforced disappearances. Violence, human rights abuses and impunity enjoyed by the perpetrators contributed to deepening the conflicts and enemy images in Sri Lankan society. These made it more difficult to solve the underlying issues that caused and perpetrated the war. 'The arms trade and the availability of arms created and sustained a war economy, in which a number of actors had vested interests in continued armed conflict'.²⁶⁹ The war contributed to poor use of limited resources, where the welfare of the people was compromised for the benefit of national security.

Increased arms spending by government

The armed forces grew from being ceremonial nature with 12,000 personnel in 1983 to a fighting force with 200,000 personnel in less than 20 years. Military expenditures accounted for 6% of GDP in the 2000 budget squeezing development budgets and placing a growing burden on the economy. Military expenditure in Sri Lanka was much higher than education and health care for most years since 1990. Arms purchases and spending on the armed forces did not contribute to sustainable social and economic development, and the war contributed to regionally uneven development in the country, which further fuelled

²⁶⁹ Lindberg, J et al. (2011). *Arms Trade with Sri Lanka – Global Business, Local Costs*. Stockholm: Swedish Peace and Arbitration Society. P. 17.

²⁷⁰ *ibid*.

ethnic grievances. Without the war and defence spending, Sri Lanka could have continued on its path towards successful development.²⁷⁰

LTTE building up stocks of weapons

LTTE had a profound influence on national and regional insecurity. Their international network reportedly operated in 40 countries and included a large number of illegal businesses such as drug peddling, gun running and human trafficking. Through developing a discourse of grievance they were also able to mobilise much greater levels of commitment than government forces consolidated by political and social exclusion of large sections of the Tamil community. In addition the militarised LTTE also had political aspirations with popular support legitimised due to political and social exclusion. The conflict did not result from purely 'greed' or 'grievance' but a complex synergy of the two. LTTE grew into a highly effective fighting force of over 5,600, and a further 1,500 through a civilian militia. They were highly motivated and well organised and proved to be infinitely adaptable, moving from guerrilla to conventional warfare at different stages of the war. They maintained a naval arm, the 'Sea Tigers' and a suicide force, the 'Black Tigers'. They also had a political and civil administration, which assumed quasi state-like functions in the north east including a taxation system and law courts. The use of terror and show killings was part of their psychological war effort.

LTTE was helped by lax law enforcement in various countries which enabled them to raise funds among the Tamil diaspora and procure weapons – in countries in Europe and North America with a large Tamil diaspora and countries in Southeast Asia from where arms were smuggled. This enabled LTTE to become one of the world's most forceful and lethal groups.²⁷¹

Human rights abuses by military actors on both sides

Human rights violations attributed to GoSL and LTTE is a major area of study and research. This section will only highlight some of the causes and consequences of these violations. Due to limited controls on military actors widespread human rights abuses were attributed to them. LTTE with acts of terror fighting one of their strategies were not far behind their Sri Lankan military counterparts in violating human rights. Both Sri Lankan armed forces and LTTE systematically used civilians as human shields during the war. A key strategy for LTTE was to hide themselves among civilians. This tactic was advantageous because it gave LTTE protection and because the civilian casualties resulting from the attacks by the Sri Lankan forces could be used in LTTE propaganda to show how cruel the enemy was. Likewise the Sri Lankan armed forces blended with civilians by using villages to protect army camps and hiding among civilians when moving from one place to another.

Emergency Regulations (ERs) were promulgated by the government from time to time and specifically reintroduced on August 13, 2005. ERs had the effect of removing judicial oversight in relation to arrest and detention and suspending provisions of normal law. ERs also gave wide powers of preventive detention to the Defence Secretary, and allowed confessions to the police or any other person admissible as evidence in court and suspend the relevant provisions of the normal law. On 6 December 2006, the President issued additional Emergency Regulations that gave a very wide definition of "terrorism" and were clearly intended to curtail legitimate democratic activities and constitutionally protected

²⁷¹ *ibid* p, 7.

rights of the people, organizations and the media. Individuals and civil society organizations engaged in promotion of peace could only carry out these activities with written approval from the Competent Authority, as otherwise they would be accused of engaging in terrorism.

As per the Clause No: 2.12 of the Ceasefire Agreement (CFA) '*The Parties agree that search operations and arrests under the Prevention of Terrorism Act shall not take place. Arrests shall be conducted under due process of law in accordance with the Criminal Procedure Code.*'

However on 6 December 2006, the President also announced that the Prevention of Terrorism Act (PTA) will be used, and new arrests under this law gave rise to grave concern.

The CFA provided in Article 2.1 that '*The Parties shall in accordance with international law abstain from hostile acts against the civilian population, including such acts as torture, intimidation, abduction, extortion and harassment.*' Despite this provision, killings were taking place in the north-east region, as well as in Colombo and other parts of the country.

A large number of Tamils were arrested by the Sri Lankan security forces in the north-east and southern areas. The security forces also carried out cordon and search operations in the hill country and arrested many hill country Tamils. Tamils arriving in Colombo from the hill country and Tamils travelling from one area to another had also been taken into custody. Many people were being taken into custody on allegations that they failed to produce documentation to establish identity. Those arrested were held at various detention centres and prisons. Detainees were not provided legal advice and legal representation.

The number of disappearances increased dramatically in the north-east between December 2005 and January 2007. Abductions were often witnessed by people but security forces later denied the arrests or the relatives were unable to find the places of detention. The persons abducted included journalists, students and women. According to eye witnesses, many abductions were carried out by persons arriving in white vans without number plates, which in the past had been linked to government security force death squads.

More than half a million people were displaced in north-east Sri Lanka. The government failed to provide adequate protection or adequate relief to the displaced people. The government also imposed restrictions on international and national humanitarian agencies and unreasonably and without cause criticized some international agencies working in the north-east. Restrictions imposed by the security forces on fishing and other legitimate activities adversely affected the entire population of these areas.

In addition to innumerable acts of terror perpetrated by the LTTE, some of the violations of human rights attributed to the group included the recruitment and use of child soldiers throughout the conflict. Child recruitment created panic among Tamil parents in the north-east and was one of the reasons for civilians fleeing to India. Hundreds of parents complained to the Sri Lanka Human Rights Commission, UNICEF and the Sri Lanka Monitoring Mission that their children had been taken away by force. LTTE's lack of tolerance for political dissent, which made it one of the most feared terrorist organizations in the world prior to the ceasefire, did not undergo any change in the post CFA period.

These violations continued with impunity, and as the success of the CFA depended on good faith of both parties, there was a growing consensus on the need for a separate human rights agreement to supplement the CFA.

Tamil paramilitary groups

There was also a growth of paramilitary groups fighting on the government side who were only loosely controlled by the state. Violence in effect became franchised out to such groups who performed intelligence gathering, terror and counter-insurgency functions. The paramilitary groups linked to the government, namely the Eelam People's Democratic Party (EPDP) and the Tamil Makkal Viduthalai Puligal (TMVP) a breakaway group led by the former LTTE commander of the East, Colonel Karuna were responsible for many of the human rights abuses, including disappearances and abductions. They continued to recruit children, often by using force even after the group joined the government side in the conflict. EPDP, with the support of the government, took control of the islands off Jaffna peninsula after the Tigers withdrew in 1995 and used the islands as its base to control Tamil civilians living in Jaffna imposed taxes Tamils on living even in Colombo and extorted money.

Army deserters in the south increased law and order problem

The figure of army deserters varied from 35,000 in 2002 to 58,000 in 2003.²⁷² These men trained in using a variety of assault weapons in armed combat were frustrated men, probably with arms in hand or access to arms, ready to commit any crime for their own personal or group needs and existence. Proof of it was in the rising crime rate and involvement of army deserters in crimes.²⁷³ Increasingly violence became normalised and often a routine, not only in the north and east but in the rest of the country. Election violence and violent crime attributed to army deserters became endemic.

Political dimensions of the conflict

The current conflict is much more complex than a straightforward confrontation between a once well-entrenched minority - the Sri Lanka Tamils - and a now powerful but still insecure majority - the Sinhalese. These two groups constitute the principal, but not the only, players. They have two conflicting perceptions. Most Sinhalese believe that the Tamil minority has enjoyed a privileged position and that the balance must shift in favour of the Sinhalese majority. The Tamils for their part claim that they are now a harassed minority, victims of frequent acts of communal violence and calculated acts and policies of discrimination especially in the areas of employment, education and land distribution. Most Tamil fears and insecurity stem from the belief that they have lost the advantageous position they enjoyed under British rule in many sectors of public life in the country.

The most intractable problem of all in addressing the above concerns which can be termed as being the root causes of the conflict revolves around devolution of power. Differences of opinion over devolution have proved to be more difficult to resolve than any other issue despite establishing a second tier of government under the 13th Amendment to the Constitution brokered by the Indian Government in 1987. Politicians are caught between the Sinhalese electorate's deep-rooted suspicions about the political consequences of

²⁷² De Mel, N. (2007). *Militarizing Sri Lanka*. Colombo: International Centre for Ethnic Studies. pp. 71-72.

²⁷³ <http://blog.srilankacampaign.org/2011/01/50000-army-deserters-trained-to-be.html>. [Accessed 26 July 2011]

devolving more power to the provinces, and the Tamils' insistence on transferring greater power to the provinces or regions at the expense of the central government. Tamil demands range from the creation of a large Tamil-dominated North-Eastern Province, to the establishment of a federal political structure with a weak centre and more powerful provinces or regions. This is quite apart from LTTE's insistence on a separate state as a non-negotiable demand.

Devolution has proved to be an insuperable obstacle to practical political management because it touches on some of the most durable fears, suspicions and prejudices that divide the country. The resistance to transferring greater power to the provinces in Sri Lanka springs from such fears. The proximity of the Jaffna region in northern Sri Lanka to Tamil Nadu in southern India, formerly a reservoir of Tamil separatist sentiment in India (and a region that has encouraged, nurtured and protected Tamil separatist groups from Sri Lanka) presents one major concern. Devolution of power to provincial councils is suspect, even when it has been introduced, because of fears that it could spur separatist pressures in the north and east of the island. Large sections of the Sinhalese view the Tamils' pressure for devolution of power as the first step in an inevitable progression to separation of the Tamil majority areas of the country from the Sri Lankan polity. In any event devolution of power to the Northern and Eastern Provinces, which was one of the main reasons for the enacting the 13th Amendment to the Constitution is yet to be implemented.

Pressure for decentralization of administration is limited to the Tamils, and largely to the Tamils living in the north and east of the island, where they are either a majority or form a substantial minority. The demographic profile of the Eastern Province, where the Tamils are a minority remains a critical stumbling block in the long drawn out negotiations on the creation of a province or region amalgamating the Northern Province with parts or the whole of the Eastern Province.²⁷⁴

In a synthesis of eight studies on development and conflict in Sri Lanka sponsored by Netherlands Institute of International Relations, 'Clingendael', Bart Klem succinctly captures the essence of political dimensions of the conflict by highlighting that the ethnic issue was manipulated most clearly in the political realm, and that it was politics that failed to resolve the antagonism between Tamil and Sinhalese movements.²⁷⁵ Some other issues highlighted were:

The 'ethnic' nature of the conflict has to be seen as a result of political manipulation and ill-designed government policies; the conflict seen as a 'complex political emergency' but essentially a political conflict; Sri Lanka's centralized state had no structure for allowing for political power-sharing between ethnic groups. Various checks and balances [balanced distribution of seats in parliament, clauses in the constitution preventing privileges to the majority] adopted after independence to safeguard the rights of minorities in the strongly centralized state have slowly eroded and turned ineffective. In fact these checks and balances were actively carved out.

²⁷⁴ Democracy and Deep-Rooted Conflict Case Study: Sri Lanka, http://www.cibera.de/fulltext/2/2664/publications/democracy_and_deep_rooted_conflict/ebook_cs_sri_lanka.htm. [accessed July 20, 2011]

²⁷⁵ http://www.clingendael.nl/publications/2002/20020400_cru_proc.pdf. [Accessed on July 20, 2011]

Moreover, prior to the war and during the past twenty years, dual party politics have proven to be an obstruction to a peaceful resolution of the conflict. There will be no resolution of the war between the LTTE and the SLA until there is a resolution of war [sic] between the UNP and PA. The 1983 riots are generally accepted as the event that set off the conflict, but these can in fact be attributed to a considerable extent to the 'factions and power dynamics with the ruling UNP. The success of ethnically-based political parties in manipulating the formal political rule of the game in ways that excluded the participation of the Tamil minority should also be viewed as the failure of the existing political institutions to protect minority rights.

Even though a democratic structure has been in place in Sri Lanka, the state has failed to adapt to the multi-ethnic identity of the country, which has contributed to the escalation of violence; in effect, the state has failed to create strong defences against ethnic exclusivity in politics.

The anomalous nature of Sri Lanka comes to the fore here. Fifty years of well-functioning Sri Lankan democracy are difficult to reconcile with the continuing cruel war, electoral violence and a deteriorating human rights record on both the LTTE and government sides. In order to solve this paradox, a distinction should be made between state collapse and state failure. Even though the state is still in place as a functioning democracy, it has failed to function properly, manifested in human rights abuses, the persistent nature of repetitive electoral violence and the institutional failure to manage properly the many ethnicised problems within the country.

Regional geopolitical interests (India)

In the early 1980s when Sri Lanka under a pro-western Government began to look to the West in its war against the Tamil rebels, India acted quickly by arming and training the Tamils to exert pressure on Colombo. As highlighted in Chapter 3, New Delhi was able to persuade Colombo to sign the Indo-Sri Lanka Accord recognizing India's pre-eminence as the regional power. As a result Colombo remained within India's orbit despite the northeast of the island coming under the control of the fiercely independent and single-minded Tamil Tigers.

The close links that were established in more recent times between Tamil political groups ranging from the TULF to various separatist groups with the government and opposition in the southern Indian state of Tamil Nadu, have naturally aggravated the situation; the establishment of training camps in Tamil Nadu as indicated earlier for separatist activists making forays into the northern and eastern coastal regions of Sri Lanka has further exacerbated this. The result is that decentralization which was, and should be, a purely Sri Lankan matter has taken on a cross-national dimension; India's role as mediator in the political negotiations between the Sri Lanka Government and representatives of Tamil opinion in the 1980s, particularly the signing of the Indo Lanka Accord in 1987, is the most conspicuous feature of this dynamic.

Majoritarian democracy

In a paper prepared for the Project on State of Democracy in South Asia, titled Working and Outcomes of Democracy in Sri Lanka, Uyangoda highlights the emergence of majoritarian democracy and consolidating a Sinhala Buddhist State in Sri Lanka and minoritarian responses to majoritarian democracy in the Island. In summary they were:²⁷⁶

²⁷⁶ Uyangoda. J. <http://www.democracy-asia.org/qa/srilanka/Jayadeva%20Uyangoda.pdf> [Accessed on August 1, 2012]

State institutions in post-colonial Sri Lanka worked within the general institutional framework of parliamentary democracy, yet this process, took the character of an ethnic majoritarian democracy.Sinhalese nationalists developed the idea immediately after independence that the policies of the independent state should be devised in order to address the 'historical grievances' of the majority community. They argued that since the political independence did not result in the restoration of the pre-colonial Sinhalese-Buddhist state and that independence was an incomplete project, the way to complete the political independence was to transform the new state into one committed to correcting the historical injustices of the majority community. ...This meant that the state policies should specifically serve the Sinhalese language, Buddhist religion and the Sinhalese-Buddhist culture.

In 1956, a new coalition – *Mahajana Eksath Peramuna* – MEP or People's United Front -- came into power committing itself to implement the Sinhalese nationalist political agenda. One of the first policy measures implemented by the MEP coalition of 1956 was the making of Sinhalese, the language of the majority community, the official language, amidst much opposition from the minorities.

The First Republican Constitution of 1972 altered the constitutional foundations of the Sri Lankan state in a manner that brought the state to comply with the Sinhalese nationalist vision of a nation.Among these minority protection institutions that the 1972 Constitution abolished were the Second Chamber, or the Senate, the independent Public Service Commission, the Judicial Service Commission, and the limited facility of judicial review of legislation.

The Tamil minoritarian response to Sinhalese majoritarian appropriation of the Sri Lankan state initially took the form of a demand for federalising the state....During the constitutional debate in the mid-1940s, the primary demand of Tamil leaders was to ensure equal representation to minorities in the national legislature and constitutional safeguards so that the 'majority' rule would not be a 'tyranny of the majority.'

The Tamil leaders formed the Federal Party in 1952 to campaign for regional autonomy to the Sri Lankan Tamils. The unit of regional autonomy was to comprise of Northern and Eastern provinces which the Tamil nationalists considered as the 'traditional homeland' of the Tamil community. The federalist demand made by the Federal Party contained the ideological assumption that the Tamils in Sri Lanka constituted a separate nationality and that a bi-national polity required a federal constitutional framework.

Failed attempts at constitutional change

In the sphere of institutional innovations and democratic governance, Sri Lanka's experience during the post-independence years has been a mixed one. The constitutional changes have been primarily in two directions: establishing the Sinhalese majority control over the state power and concentrating governmental power in the hands of the leaders of the executive branch of state, first the Prime Minister and then the President.

There were indeed opportunities for greater and more democratic institutional innovation in the spirit of pluralism and multi-ethnicity in 1972 and 1978 when new constitutions were promulgated, but the Sinhalese political class, that dominated the reform process, was not very keen to widening the democratic-pluralistic foundations of the state. The reform ideas in which they believed in both occasions of constitutional reform were simply about strengthening the state in a framework of unitarism and centralism.²⁷⁷

The United Front (UF) government, when it contested the parliamentary elections held in July 1970, sought a direct 'mandate' from the people to abolish the then existing Soulbury Constitution and replace it with a new constitution drafted by a Constituent Assembly. The UF government resorted to the setting up of a Constituent Assembly (CA) in order to avoid the consent of the British parliament for the new constitution making process. The CA consisting members of parliament who were elected at the parliamentary elections, deliberated for about a year constitutional proposals and adopted the new constitution. The CA totally rejected the proposal for a federal constitution made by the Federal Party.

The 1972 constitution brought the public service as well as the judiciary within the sphere of control of the legislature and the cabinet, and merely listed 'fundamental rights' in the constitution making them explicitly unjusticiable. In retrospect, all these were negative innovations.²⁷⁸

The 1978 Constitution carried out the process of negative innovations when it altered the basic constitutional framework of the Sri Lankan state by introducing what has been a presidential system conceived within the de Gaullist authoritarianism in France. President J. R. Jayewardene, who was the architect of the 1978 Constitution, held the view that the framework of government that had been designed along the pure Westminster model could not create in Sri Lanka what he saw as 'political stability' in adequate measure. He also believed that in order for Sri Lanka to achieve rapid economic growth, the pre-existing development model of 'state capitalism' with social welfarism had to be immediately abandoned.

That in Jayewardene's thinking required on the part of the political leadership the ability to make unpopular policy decisions and their rapid implementation with no regard for popular opposition. Under the new system of government, the President, directly elected by the people, became the centre

of state power. Being the head of state, head of government, head of the cabinet and head of the ruling party, the President could wield enormous power, totally unaccountable to parliament or the judiciary. The only occasion of presidential accountability was to be a presidential election.²⁷⁹

Another key innovation under the 1978 constitution was the introduction of Proportional Representation (PR) in place of the traditional first-past-the-post system of elections. Sri Lanka is the first South Asian country to opt for the PR system. Jayewardene's justification of abolishing the pre-existing electoral system was twofold. Firstly, he argued

²⁷⁷ *ibid.*

²⁷⁸ *ibid.*

²⁷⁹ *ibid.*

that the first-past-the-post system did not accurately reflect the overall voting pattern in the country, resulting in the distortion of the outcome when a party with a lesser percentage of the total votes would still obtain a majority number of seats in parliament. Secondly, he argued that the existing system could not ensure governmental stability and had led to unstable coalition governments. The PR system, in contrast, was to ensure an accurate reflection in parliament the overall voter preference in the country while ensuring government stability.

With the latter in mind, Jayewardene initially introduced 12.5 per cent cut off point for political parties to qualify for seats in parliament. The objective clearly was to eliminate smaller parties from parliament so that the two or three major parties will have domination in the legislature. However, this cut off point was later reduced to five percent in response to the pressure from a newly formed Muslim party, Sri Lanka Muslim Congress.²⁸⁰

As an institutional innovation, Sri Lanka's PR system has produced both positive and negative outcomes. With this change, Sri Lanka's parliament now represents almost all the important shades of political opinion. The PR system has also created conditions for coalition government involving one major party and many smaller parties. Because of this new dynamic, major parties have begun to form both pre-election and post-election coalitions, thereby strengthening the importance as well as the bargaining capacity of the smaller and ethnic minority parties.

Among the negative outcomes of the PR system is the weakening of the relationship between the MP and the voter. This is due to the fact that the MPs no longer represent a specific electorate, but are elected to an electoral district which may contain a number of traditional electorates. Because of the fact that candidates are now compelled to campaign throughout an electoral district with a number of traditional electorates, election campaigns under PR system have become extremely costly. This has led to two negative consequences. Firstly,

candidates with wealth and resources to finance expensive campaigns have a better chance of winning. Secondly, candidates often begin to depend on rich businessmen thereby making corruption an integral dimension of electioneering.

There has been a major argument in Sri Lanka for reforming the PR system. Uyangoda highlights the following reasons:

Firstly, the fact that the PR system has forced major political parties to form coalition governments is seen in Sri Lanka in a negative light. Some argue that it has created political instability, instead of envisaged stability. Some others argue that the smaller parties have gained an undue advantage over major parties, because the latter is compelled to depend on the former for survival. Sinhalese nationalists have added strength to this argument pointing out that the two main Sinhalese political parties, the UNP and SLFP have been forced to make dangerous compromises with relatively small Tamil and Muslim parties for sheer survival in power.²⁸¹

²⁸⁰ *ibid.*

²⁸¹ *ibid.*

Another key institutional innovation is Provincial Councils (PCs) which were established in 1987 as a measure of provincial autonomy and devolution of power. The political objective of the PCs was to provide an institutional framework for a political solution to Sri Lanka's ethnic conflict. They were set up under the 13th Amendment to the 1978 constitution. All the nine provinces in Sri Lanka were to be turned into elected provincial councils, except the northern and eastern councils, which were to be merged after a referendum. The rationale for the merger of the north and east came from the notion that the two provinces constituted a unified 'homeland' of Sri Lankan Tamil people. Interestingly, the Provincial Councils were created in 1987 not on the free will of the Sri Lankan government or the ruling elites, but due to the diplomatic and military pressure brought on them by the Indian state through the Indo-Lanka Accord of July 1987.

Anti-PC election violence spread countrywide. In the South, the violence was mobilised by the Janatha Vimukthi Peramuna (JVP) on the argument that the system of devolution and PCs were a part of an Indian-led conspiracy to territorially disintegrate Sri Lanka. In the North and East, the LTTE unleashed violence to disrupt the PC elections on the argument that devolution was a part of the Indian government strategy to weaken the Tamil liberation struggle. Meanwhile, the SLFP, the main opposition political party, boycotted the PC elections in 1988 because the party opposed to any measure of regional autonomy deviating from the unitary state structure.²⁸²

There is however an irony in the evolution of provincial councils in Sri Lanka. Although it lacked political legitimacy at the beginning, the provincial council system is now an integral part of the constitutional as well as state structures in Sri Lanka. The JVP that opposed the inauguration of the PC system through a violent anti-state rebellion as well as the SLFP that opposed the devolution process have now accepted it. Both parties have joined the PC process, even controlling some of them.

Ethnicisation of political institutions

From the above analyses, Sinhala nationalism can be understood as a socio-political representation of Sri Lanka in which the territory, state and nation constitute a bounded unity revolving around a majoritarian axis of Sinhala Buddhist religion, language, culture and people. This social representation consistently reproduces a hierarchy, placing Sinhala nation at the apex with Sri Lanka's minority communities in a position of subordination. It would appear that Sinhala nationalism has gradually assumed a hegemonic position in Sri Lanka.

Economic dimensions of the conflict

Unlike those countries whose conflict dynamics are fuelled by lucrative natural resources, Sri Lanka cannot be labelled a 'resource war'. There are no economic resources to serve as primary motivating factors driving militant violence or state kleptomania in comparison to the Democratic Republic of Congo, Afghanistan or Sierra Leone. Sri Lanka's struggle

²⁸² *ibid.*

is cast in an entirely different mould, economic factors neither providing a rationale for the separatist violence nor encouraging overt transnational involvement in its war economy.

The economic dimensions of Sri Lanka's civil war are features that continue to be neglected. Perhaps the primary reason for this is that it appears to bear little resemblance to the warring environments analysed as part of the greed and grievance debate. A cursory glance at Sri Lanka through the framework of this dichotomy seems to indicate that it is a classic example of a grievance driven ethno-political conflict. According to my former colleague, Nicola Palmer,²⁸³ The primary motivations for its protracted character seem evident in the minority - majority struggle over the political capital embedded in the country's North-East. Consequently, the resource specific lens separates the Sri Lankan conflict from those wars driven by local, national and international interests in lucrative natural assets. This separation means that the complex set of economic motivations that constitute part of the reason why conflicts like Sri Lanka's remain intractable. Ongoing concentration on the political but not the economic dimensions of the war are not innovative in searching for potential win-win solutions in the area of fiscal power-sharing, distributive justice, development and humanitarian work.

The defining character of Sri Lanka's war economy can be analysed at multiple levels. Nearly three decades of donor inspired liberal development strategy have shaped the country's economy. Sri Lanka is an apt demonstration that economic activities are not halted by conflict; rather, they influence conflict dynamics, they adapt to the conditions of armed violence, and they diversify.

For Sri Lanka to find solutions that may transform its conflict, economic dimensions must be appreciated for their political significance, and so must the connections between economic strategies and socio-political histories be factored into conflict analysis. The relationships between the post-colonial political classes, donor supported economic liberalisation, and GOSL's refusal to consider anything other than fiscal centralisation all have a major influence on the likelihood of conflict transformation. Similarly there are connections between the history of injustice toward minorities and the link of the Sinhala peasantry to the state.

In terms of non-state economic activity, the growth and strength of diaspora-funded Tamil resistance is a primary economic reason why the Tigers have succeeded in becoming the hegemonic face of Tamil resistance. For instance, many Tamil families in the north-east of the country depend on remittances from the extensive and wealthy Tamil diaspora to survive. This remittance flow is largely controlled and sustained by the LTTE, meaning that survival for poor communities through access to remittances often depends on support for the LTTE.

Some military personnel staffing the checkpoints dividing the north-east from the south and west of the country have long been involved in extortion and other criminal activities

²⁸³ Palmer, N. (2005). *Defining a Different War Economy: The Case of Sri Lanka*. Handbook Dialogue Series No.3 on Transforming War Economies: Challenges and Strategies, Berlin: Berghof Research Center for Constructive Conflict Management.

in order to profit from the war-imposed restriction of the movement of goods and people across the country. The majority of the Sri Lankan armed forces hail from the poor south of the country. Although this area is not war-affected to the same extent as parts of the north-east, most villages have experienced the loss of sons to the war, as well as to brutal southern political insurrections in these areas. Extorted 'black market' money and part of the military salaries now flows home subsidising life in southern villages and makes up part of the coping economy. This flow of money is made possible by the state's investment in its armed forces, the attractive salary offered to new recruits and the targeting of poor, often illiterate southern Sinhala youth by recruitment drives. The knock-on effect of this situation is that support for the 'war for peace' in the south is driven by an economic dimension that mirrors the north-east Tamil peasantry's reliance on the parallel LTTE system for remittances.

Whilst any mapping of stakeholders' economic rationale within Sri Lanka should include consideration of the political class and its management of the economy, it should also take care to avoid the popular assumption that this conflict is bi-polar. Although GOSL and LTTE are its primary protagonists, there are many other groups with invested economic interests in either the continuation of war or the transition to peace. The Muslim stakeholders, the Sinhala nationalist parties and the 'hill-country' or Indian Tamil population all have economic motivations to drive their interest in, or disruption of, any peace process.²⁸⁴

A deeper appreciation of the political economy of Sri Lanka's conflict could have led to a more nuanced approach to conflict transformation activities, both in their own interventions at a macro-level and in their support for programmes on the ground. What is certain is that the political propaganda made effective use of the southern sentiment that all attention was on the north-east's development.

Similarly, there is a growing number of Muslims in the east who feel that their interests are not being served by the latest attempt to find a solution to armed conflict. Land ownership and local resource control (predominantly of paddy cultivation, fishing rights and timber access) remain the dominant dividing issues in the heavily Muslim populated east, fuelling some of the most volatile situations in the country. LTTE taxation in Muslim areas as well as Muslim trade links to the western province and the wider South Asia region are contributing factors to tensions there. There are few economic motivations for Muslims to support a process that threatens to take away rather than increase their political and economic standing in the country. Instead, what has become an alternative is a steady increase in hard-line voices calling for Muslim political and economic self-determination within a breakaway eastern state.

The hill country Tamil population remains the least analysed of the three, but constitutes the largest contributor to Sri Lanka's formal economy. Although these workers have historically maintained the island's tea-estate industry, they are treated, by both the LTTE and the state, as imported workers with little or no political or economic rights and certainly no voice in the peace process. Their Indian Tamil origin has left this community in a difficult position. The Sinhala chauvinist state has consistently denied their citizenship, only very recently changing its policy to allow hill-country Tamils the right to be Sri Lankan, whilst the LTTE have not recognised them as part of the Sri Lankan Tamil struggle for Eelam.

²⁸⁴ *ibid.*

Without significance in either the rebel struggle or the government's 'war for peace', neither side considered their support important, which has resulted in an identity built on alienation, exclusion and poverty.

It would be more helpful to gain a deeper understanding of the variety of ways in which political economic factors pervade all conflict systems. This sort of conflict analysis links an understanding of economic dynamics with an understanding of politics. Sri Lanka's conflict remains resistant to durable solutions especially when little attention is focused on the economic dimensions of the conflict.

Interpretation of the conflict by the parties.

Basic interpretation of the Sri Lankan conflict is again highlighted by Ropers as follows:²⁸⁵

For less consensual than the scholarly discourse are the interpretations which have captured the imagination of the general public and which are shaped by the opinion makers of different societal and political groupings in the country. Some would even question the notion the 'conflict' in the Sri Lankan case, arguing that the core issues is one of terrorism by a 'fascist organization' (the LTTE) and not one of more or less legitimate claims by two or more groups.

- The dominant, opposing discourses can be identified. They have been developed over decades by the ruling political and intellectual classes and are now part of the collective conscience and focal points for the media
- The primary discourse among Sinhala Buddhists would argue that it is the historic mission of Sinhala Buddhism to preserve the character of the island (based on the Mahavamsa chronicles) and redress the grievances of the Sinhalese people (firstly because of their unfair treatment by the British colonists and not because of the 'terrorism' of the LTTE)
- The primary Tamil discourse centres on neo-colonialism, state terrorism and the claim for a 'homeland' in the Northeast. This discourse is in itself bifurcated between the supporters and sympathisers of the LTTE and their Tamil opponents who question the LTTE's claim to be the 'sole' or 'authentic' representatives of the Tamil people

Uyangoda in his study on the changing dynamics of the ethnic conflict argues that Sri Lanka's ethnic conflict and the difficulties in its termination are embedded in the non-negotiability of the vital question of state power. The parties have so far not found, either through war or through talks, options for a compromise on this vital question of state power, thereby making the conflict both intractable and protracted.²⁸⁶

With regard to the Sinhalese, Uyangoda captures their position as follows:

²⁸⁴ *ibid.*

²⁸⁵ Ropers. N. (2008). *Systemic Conflict Transformation: Reflections on the Conflict and Peace Process in Sri Lanka*, in A Systemic Approach to Conflict Transformation Exploring Strengths and Limitations, Korppen D et.al Eds, Berlin: Berghof Handbook for Conflict Transformation, Dialogue Series No. 6, pp. 20-21.

²⁸⁶ Uyangoda. J. (2007). *Ethnic Conflict in Sri Lanka: Changing Dynamics*. Washington DC, East West Center, p. viii.

In the politics of electoral competition, as well as of radical anti-establishment nationalist mobilizations in Sinhalese society, there has been repeated resistance in power-sharing proposals on the ground that deviation from the unitary state framework would facilitate minority secession.²⁸⁷

He adds, "for the Sri Lankan state, however, war has been the key way to maintain the existing unitary state, with or without reforms, while defeating the LTTE's state making project."²⁸⁸

With regard to the LTTE, Uyangoda sums up their position as follows:²⁸⁹

Similarly, the LTTE, which is support to represent the grievances of the Tamil community, seems preoccupied with the priorities of state-building in what they see as the Tamil "homeland." As a result it has become somewhat clear that the ethnic war in Sri Lanka, as opposed to the ethnic conflict, is not primarily concerned with addressing issues of discrimination, everyday identity needs, or even structural problems of poverty and inequality. For the LTTE, war-making has been a process of state-making.

Without going into dynamics of Sinhala nationalism that have been covered in the earlier chapters it must be stressed that this has been a relatively constant and persistent force in Sri Lankan politics. Sinhala nationalism needs to be understood as a socio-political representation of Sri Lanka in which the territory, state and nation constitute bounden unity revolving around a majoritarian axis of Sinhala Buddhist religion, language, culture and people. Due to external pressure, there was a brief shift towards devolution and pluralist political reform between 1994 and 2003 during the Chandrika Bandaranaike Kumaratunga administration and the Ranil-Chandrika cohabitation. This was weakened by the ultra-nationalist groups such as the JVP and the Jathika Hela Urumaya (JHU) due to their ability to promote Sinhala identity politics through propaganda and mobilization. This revived Sinhala nationalism that appeared to have dropped by the mainstream political actors. Since 2005, the Mahinda-led UPFA government, in a series of political manoeuvres wrested the nationalist baton. His manifesto, the *Mahinda Chinthana 1* represented an attempt to wrest back what was perceived as a loss of sovereignty and control over international and global currents that were represented as a threat to the nation and the unitary framework of the state, including specifically a commitment to reinvigorating the rural-focused settlement schemes of the past as well as a security oriented strategy in the north and east.

Much of the country's politics in the last three decades has revolved around the LTTE, with successive governments attempting to wipe out or negotiate with the Tigers. The preservation and protection of the unitary framework of the state, the commitment towards a tightened 'security net' in the east and an emphasis on 'development' when dealing with problems in the north and east was incompatible with a peace process based on political negotiations with the LTTE who also appeared to be intent on seeking self-determination and advancing this cause through a return to war rather than negotiations.

²⁸⁷ *ibid.* p.10.

²⁸⁸ *ibid.* p.10.

²⁸⁹ *ibid.* p.10.

Framing of conflict resolution preferences and options

The conflict in Sri Lanka arises from the irreconcilable goals of the Sinhalese political elite and the leadership of LTTE. Seen from this angle, it can be seen that the conflict is between a Sinhalese political elite fighting for a Sinhalese unitary state and the LTTE leadership fighting for a Tamil unitary state. Neither is willing to share power with minorities in their area of jurisdiction or with the majority of their own community. Their goals are therefore irreconcilable not only with each other but also with democracy.

The majority of people in all communities would, on the contrary, benefit from constitutional changes that strengthen democracy and there is therefore no conflict between their interests on the basis of ethnicity. The great virtue of spelling out the idea of constitutional change in this manner is that it then becomes clear that it is not something that is just in the interests of Tamils – and that too, only those in the north-east, leaving out hill country Tamils and others living in the south – but a change that would empower the vast majority of people in Sri Lanka: all but the small elite who currently controls all the power.

Ropers succinctly summarizes the conflict resolutions and options as follows:²⁹⁰

The polarization of discourse about the conflict has also led to a polarization of the ways in which the parties envision a solution to the conflict. While the primarily Sinhala mainstream parties in the South emphasize the need to prevent any division of the island and want to preserve the 'unitary' character of the state or at least ensure a 'united' Sri Lanka with moderate levels of power-sharing, the majority of the Tamil parties argue for genuine power-sharing in the form of symmetric federalism or secession. The other minority parties take positions in between, but also plead for some kind of substantive power-sharing arrangement. The gap between the two positions has widened during the course of the conflict is increasingly framed as a win-lose scenario.

A Sinhala-speaking half-Burgher Tamil from the south, who is also a labour activist and women's rights activist proposes a possible solution - a return to a democratic constitution:

Most members of the political elite in Sri Lanka have spent their time undermining democracy and looting the country for the last 60 years, and are incapable of resolving the ethnic crisis. Sri Lankans should be allowed to make an informed decision on constitutional change as it will be in favour of democracy. Politicians should understand that the electorate will reject them if they put obstacles in the way of a democratic constitution. That is the only solution to Sri Lanka's ethnic crisis.²⁹¹

²⁹⁰ *op.cit.* p. 21.

²⁹¹ Hensman. R. (2008). *Democracy as Solution to Sri Lanka's Ethnic Crisis*, Economic & Political Weekly, August 9, pp 46-49

SYSTEMIC THINKING TO ANALYZE THE PEACE PROCESS FROM 2002 to 2008

The writer will proceed to look at inbuilt difficulties of the Sri Lankan peace process within a protracted conflict where significant forces have opposed moderation, compromises and concessions vis-à-vis the other side. This has been described as an 'archetypical peace process pattern' because most conflicts will generate forces that have vested interests in the prolongation of hostilities and policies which justify a high level of military preparedness, if not of ongoing wars.

The 'systems archetype' concept was popularized by Peter Senge and his team who identified a series of recurrent patterns in management contexts.²⁹² He asserts that 'systems thinking' is not composed of separate unrelated forces. However, individuals have difficulty seeing the whole pattern. He continues with the assertion that systems thinking is a conceptual framework, a body of knowledge and tools that has been developed over the past fifty years, to make the whole pattern clearer, and to help see how to change things *effectively* and *with the least amount of effort* - to find the leverage points in a system.²⁹³

- seeing interrelationships rather than linear cause-effect chains, and
- seeing processes of change rather than snapshots

The practice of systems thinking starts with understanding a simple concept called 'feedback' - that shows how actions can reinforce or counteract (balance) each other. It builds to learning to recognize types of 'structures' -that recur again and again. Eventually, systems thinking forms a rich language for describing a vast array of interrelationships and patterns of change. Ultimately, it simplifies life by helping us to see the deeper patterns lying behind the events and the details.²⁹⁴

Ropers introduces the concept of *archetypes* in the application systemic thinking to analyze peace processes to draw attention to patterns which time and again have scuttled past attempts at conflict resolution in Sri Lanka. This interpretation will be used in the study of the peace process after the 2002 CFA and their main failures would be analyzed under the following seven discourses as identified by Ropers:²⁹⁵ They are:

- (1) *Ethnic Outbidding*
- (2) *Mutual Disappointment*
- (3) *Avoiding Core Issues*
- (4) *Limits of Bilateralism*
- (5) *Dilemmas of Asymmetry*
- (6) *Repercussions of Even-Handedness and*
- (7) *Paradoxes of International Safety Nets.*

²⁹² op.cit. p. 17.

²⁹³ <http://home.nycap.rr.com/klarsen/learnorg/senge.html>, [Accessed February 4, 2008]

²⁹⁴ <http://www.rtis.com/nat/user/jfullerton/review/learning.htm>, [Accessed February 4, 2008]

²⁹⁵ op.cit. pp. 20-25.

1. *Ethnic outbidding:*

Intra-party resistance fuelled by the political calculation that appealing to ethno-nationalistic sentiments will help the opposition to replace the government which is trying to embark upon a peace path. It will be observed from the earlier chapters that Sri Lanka's political, civic, and religious leaders have failed - or refused - to see that their actions have poisoned inter-ethnic relations and engendered a stubborn and cruel civil war. DeVotta highlights ethnic outbidding process as being one of the main causes of the protracted ethnic conflict in Sri Lanka:²⁹⁶

The cancer that eats at Sri Lanka's political life is "ethnic outbidding": the auction-like process whereby Sinhalese politicians strive to outdo one another by playing on their majority community's fears and ambitions. This "outbidding" has plunged the Sinhalese government in Colombo and the Tamil rebels who control parts of the northeast into a protracted conflict. There is no peace, and democracy has been reduced to a hollow shell. Democratic forms and institutions have been preserved for appearance's sake, while the essentials of true constitutional liberalism—the rule of law; limited government; free and fair elections; and the freedoms of assembly, speech, and religion—have been perverted, crippled, or destroyed in an atmosphere of ethnic hatred.

Many analysts have argued that colonial rule privileged Tamils who had been over represented in the state administration and bureaucracy. This cannot be put down to favouritism by the British but due to specific development and conditions in Jaffna, the heartland of Tamil culture and politics and the presence of Christian missionary English medium schools. Tragically, soon after independence was won, Sinhalese leaders began to justify Tamil fears by taking advantage of their community's overwhelming numbers, the first-past-the-post electoral system, and a unitary state structure with no substantive minority guarantees. The 'ethnic outbidding' was legitimized through a discourse of redressing Sinhala grievances and resulted in the entrenchment of ethno-nationalism, exclusion and polarization. The first step was to disenfranchise the country's Indian Tamils. This manoeuvre meant that the Sinhalese composed more than four fifths of the electorate thereafter. As highlighted in earlier chapters, Sinhala nationalistic sentiments emerged as a politically elite-driven process fused with Sinhala Buddhist ideology towards the state as protector and benefactor of the Sinhala peasantry. This provided access to Sinhala rural elites to state power, enabled ethnic scapegoating and exerted pressure from below as a result of which the state became increasingly Sinhalized. Beginning in the mid-1950s Sri Lanka's politicians from the majority Sinhalese community resorted to ethnic outbidding as a means to attain power and in doing so systematically marginalized the country's minority Tamils. Discriminatory policies were enacted in the fields of language, university admission, state employment, land ownership, among others and symbolically important measures in fields of religion, national flag and the singing of the national anthem. Each Sinhalese political party began seeking victory in the island's hypercompetitive political arena by trying to take the most truculently pro-Sinhalese, anti-Tamil stance.

On the state of democracy in Sri Lanka DeVotta makes the following remarks:²⁹⁷

²⁹⁶ DeVotta. N. *Illiberalism in Sri Lanka*, Journal of Democracy Volume 13, Number 1 January 2002 <http://web.centre.edu/orihm/devotta.pdf>. [Accessed August 31, 2012]

²⁹⁷ *ibid.*

Under normal circumstances, universal-suffrage elections, party politics, and elite competition are crucial for democracy. In Sri Lanka, however, misguided or malicious leaders have used these democratic mainstays to perpetrate ethnic conflict and gain politically. While in formal terms Sri Lanka may be a consolidated democracy, having managed the requisite two peaceful turnovers of power more than four decades ago, the actuality is sadly different. For if we ask whether the rules governing formal democratic processes are consistently observed by all parties, we can see just how badly ethnic particularism and outbidding have dominated the country's politics since the mid-1950s and undercut democratic consolidation.

As highlighted above, Sri Lanka's constitutional structure lent itself to ethnic outbidding. What the island needed was a setup that encouraged consensus politics and multi-ethnic coexistence. What it got was the opposite that propelled the country towards possible secession.

A protracted conflict requires a protracted process of political transformation. Since the question of state power is at the core of the conflict, a credible short-term path to peace should begin with negotiations that aim at, and lead to, reconstituting state power along ethnic lines. This will require a grand ethnic compromise among Sinhalese, Tamil, and Muslim elites, backed by the people in the three main ethnic formations. Ropers articulates a strategy that could have been followed:²⁹⁸

The implication of this archetype is that any sustainable peaceful settlement needs parallel efforts to accommodate intra-party resistances in one way or the other. A key insight from systemic thinking is that this factor is often underestimated, because its effects may only appear after a delay and can thus easily be side-lined by the dominant political attitude of "first things first". A better strategy would build in intra-party accommodation right from the start of any peace process.

2. *Mutual Disappointment:*

Initiatives addressing protracted conflicts have to be initiated, implemented and sustained in an environment characterized by mistrust and scepticism, if not hostility, on both sides. According to Ropers, the Sri Lankan case provides two examples of systemic intricacies where the use of this concept is particularly useful. Firstly, with respect to the 'second thoughts' with which both negotiating parties had started the process in 2002 and secondly, with respect to the archetype of 'mutual disappointment' which had been burdening the process increasingly from the beginning of 2003. This pattern regularly appears in post-war situations shaped by deep mistrust and the expectation among all parties that now they deserve something in return from the other side(s) after laying down their arms.²⁹⁹

Through a process of reflection, dialogue and consultations on Systemic Conflict Transformation in Sri Lanka from 2007 onwards, Ropers defined mutual disappointment on the Sri Lankan Peace Process as follows:³⁰⁰

²⁹⁸ op.cit. p. 21.

²⁹⁹ Ropers, N. (2005). *Peace Processes as Corridors for Systemic Change: Insights from Sri Lanka 2002–2005*, Colombo: Berghof Foundation

³⁰⁰ op.cit, p. 21.

Initiatives addressing protracted conflicts have to be initiated, implemented and sustained in an environment characterised by mistrust and scepticism, if not hostility, on both sides. First agreements, such as the CFA in Sri Lanka, are always documents of compromise, often made possible only because of creatively ambiguous wording. Therefore it is not surprising that the signatories interpret the agreement in different ways: For the GoSL, for example, the CFA was primarily a measure to end the war and to engage the LTTE in a political process, hoping that it could moderate its positions step by step. The LTTE, on the other hand, saw the CFA as recognition of its military might and the starting point for a "normalisation" of the life of the Tamil people, hoping to gain further legitimacy and power as their "authentic representative."

During the following year, both sides found several of their expectations and hopes dashed. The GoSL was frustrated because, notwithstanding the CFA, the LTTE was blamed for being involved in the killing of informants and for showing no willingness to engage in any de-militarisation without political agreements. The LTTE was frustrated because the "normalisation" happened at a much slower pace than expected and the GoSL seemed to be in no hurry to make any concessions regarding substantive co-administration of the Northeast.

Such mutual disappointments are normal in peace processes. What is needed, therefore, are mechanisms which help to identify them right from the start and deal with them in the same problem-solving manner that led to the agreement in the first place. To achieve this, the parties have to consider some kind of institutionalised structure, not only for monitoring the agreement's implementation, but also for addressing grievances and sorting out differences.

A year after the CFA was signed, both sides found several of their expectations and hopes dashed. The government was frustrated because LTTE showed no willingness to engage in any de-militarisation without political agreements, providing ample arguments to critics of the peace process who claimed that the LTTE was just taking the government for a ride. LTTE was frustrated because the promised 'normalisation' happened at a much slower pace than expected. All of this happened while their constituencies were eager to see a tangible peace dividend after so many years of war and personal and collective suffering.

The tsunami in December 2004 led to an estimated 35,000 tsunami-related deaths and initial displacement of nearly one million people. The north and east were especially hard hit, registering about 55 percent of the deaths, 65 percent of the initial displacements and about 60 percent of the damage. A massive aid response occurred (over \$3 billion) that many observers had hoped would galvanise the two main protagonists in the conflict to find common ground in providing relief efforts. The Post-Tsunami Operational Management Structure (P-TOMS) was proposed between the government and the LTTE to manage the relief however proved inoperable as mistrust between political parties led to legal objections and suspension of the arrangement. It became highly controversial and led the JVP to leave the Government in mid-2005, gravely weakening it. The Supreme Court eventually ruled that the proposal was unconstitutional on the grounds that it gave a role to an organisation that was committed to secession.

Then, in August 2005, the Minister of Foreign Affairs, Lakshman Kadirgamar, was assassinated in Colombo. The LTTE denied responsibility, but many were unconvinced. The authorities promptly re-introduced emergency regulations, under which people could be detained for three months at a time, and up to 18 months if suspected of being connected to any unlawful activity.

In November 2006, the International Crisis Group offered this summation of how and why the peace process foundered over the preceding five years:³⁰¹

The peace process was a brave attempt to break through an apparently intractable conflict. The 2002-2006 interlude brought a measure of normalisation to people's lives in the north and east for the first time in over a decade. But the conflict is enormously complex, and the peace process ignored many of the hard questions. It was always going to be difficult to bring together a factionalised Sinhalese polity with a semi-totalitarian armed movement in the north and produce a political settlement respectful of democracy and human rights.

It was clear that a ceasefire agreement would include the two parties which controlled the means of violence; in that sense the bilateral approach was inevitable. As soon as talk of a political settlement began, however, all the excluded political actors began to make their presence felt and undermine progress on a political settlement. And as soon as the glimmer of a political settlement appeared, the problems of allowing any territory to be ruled by the LTTE – which showed no sign of embracing democratic values – became rapidly apparent. At the same time, the shift after December 2005, the increasing influence of chauvinist and militarist elements on government policy and the appalling human rights abuses that have become apparent in 2006, severely undermined any trust in the state to protect minority rights. As usual, it has been civilians – Tamil, Sinhalese and Muslims – caught between LTTE oppression and security force brutality who bear the brunt of the violence.

There were moments during the process when more progress might have been achieved with greater government initiative. There were certainly points where some LTTE flexibility could have kept the process on track. But by 2004 the rebels' interest seemed to be waning. They no longer trusted the process to produce an acceptable political result, and the military inactivity was undermining their cohesion and limiting diaspora funding. Karuna's defection in 2004 and his subsequent alliance with the Government was a double blow, weakening their military capability and strengthening those who saw the talks as a 'peace trap' as well as encouraging Sinhalese politicians who believed peace was only possible by military victory.

3. *Avoiding Core Issues:*

This is based on the observation that it will be difficult to address the key contentious issues in the first place. Most conflict parties will therefore be tempted to shift them to later stages in the peace process. The CFA was signed with a genuine intention to create space to work for a sustainable peace in the country. The UNF believed in sharing power which will contribute towards the sustainable development of the CFA was a productive instrument to pave the way.³⁰²

³⁰¹ International Crisis Group Asia. *Sri Lanka: The Failure of the Peace Process*, Report N°12428 November 2006

³⁰² Jayasakera. D. (2009). in: Keethaponcalan & Jayawardene, eds., *Sri Lanka: Perspectives on the Ceasefire Agreement*, Colombo: South Asia Peace Institute, p.77.

There were many risks involved and the UNF leadership was aware of them. One of the main constraints was the unhealthy cohabitation between the UNF Administration and the PA Executive in which the former did not enjoy full control of the State and was not in a position to provide a framework for political solution that would deal with the core issues that were the root causes of the conflict. The PA view was that the process of finalizing the CFA and the peace process that followed was not definitely an inclusive one. The CFA seemingly did not receive formal Cabinet approval nor was it discussed with President Kumaratunga, who remained constitutionally Head of State, Head of Government, Head of the Cabinet and perhaps more importantly the Commander in Chief of the Armed Forces.³⁰³

Under these circumstances it was not surprising as Ropers contends:³⁰⁴

The archetype of "avoiding core issues" is based on the observation that it will be difficult to address the key contentious issues in the first place. Most conflict parties will therefore be tempted to shift them to later stages in the peace process. In Sri Lanka, it was explicitly agreed that first there should be a set of interim arrangements to prepare the ground for dealing with the "ultimate issues". A closer analysis of the interim arrangements, however, shows that even within these mechanisms, the dominant trend was to avoid addressing the core issues, which meant avoiding the key question about who should share power over what and with whom.

The peace talks that commenced in September 2002 were not sustained. President Kumaratunga and her advisors held the view that avoiding the core issues was LTTE's approach at the negotiations. LTTE's argument was focused on the need to settle immediate humanitarian issues – consequences of the war to be the first step. Their argument was the need to deal with humanitarian issues and normalization of civilian life to create conditions conducive to an eventual peace agreement. LTTE also stressed that it was a measure for confidence building between GoSL and the Tamil community.

The debate on an interim administration between the UNF administration and the LTTE from May–October 2003 also indicated that even as an interim solution, the so-called core issues of the ethnic conflict, which the LTTE and UNF had avoided, had to be comprehensively addressed. The Interim Self Governing Authority (ISGA) proposal, surprised the UNF as it proposed a framework for interim self-rule, for which the UNF was totally unprepared.

The proposed Interim Self Governing Authority (ISGA) respected Sri Lanka's sovereignty and unity, but assigned wide-reaching autonomy to the northeast. This proposal brought to a head a simmering cohabitation struggle between Prime Minister Wickremasinghe of the UNP and President Kumaranatunga of the SLFP. The latter, having been largely excluded from negotiations, asserted her authority by declaring a state of emergency, taking over key ministries, including defence and media portfolios, and thereby paralysed the UNF administration.

³⁰³ Pieris. H., in *ibid*, p 62

³⁰⁴ *op.cit*, p. 21.

Ropers stresses:³⁰⁵

One of the reasons for avoiding core issues is the perception among parties that only a win-lose constellation is possible with respect to what they see as their inalienable preferences. The parties are encouraged to look at processes which allow all possible solutions to be tested and to accept that “solutions” are never “final” but always steps in a process of accommodating different views.

4. *Limits of Bilateralism:*

The CFA of 2002 was catalysed by and constructed upon a particular balance of power. The UNF administration won the election on a peace platform in 2001 and for the government it was meant to get the war out of the way leading a political settlement. For the LTTE it was the international campaign against terrorism following the September 11 events in the United States and also to formalize the political consolidation of recent military gains. It was mutually beneficial for the GoSL and the LTTE declaring a cessation of hostilities.

It was clear that a ceasefire agreement would include the two parties which controlled the means of violence; in that sense the bilateral approach was inevitable. One of the driving factors in many ethno political conflicts is the fact that the peace process is shaped and dominated by two parties and that these two actors may have diametrically opposed views on how to solve the conflict.

The CFA halted the fighting between the government security forces and the LTTE. It was made possible for the two main parties to the conflict entering into a process of dialogue to negotiate a political settlement despite the deep gulf between the positions of the two parties. Those opposing the CFA within Sri Lanka, mainly the political parties in the opposition, Muslim, Indian origin Tamils and anti-LTTE Tamil parties, focused on the lack of inclusivity and argued that their exclusion would hinder a just and acceptable solution that will be build a sustainable peace. These parties believed that a predominantly bilateral peace process will not be acceptable.

Liyanage argued that bilateralism was tested to its limits with the LTTE presentation of the Interim Self Governing Authority (ISGA) proposal. The Sinhala nationalists viewed it as being a launching pad for secession, the Tamil nationalists saw it as being consistent with the idea of self-determination, and the Muslim nationalists saw it as being Tamil dominance over them in the northern and eastern provinces.³⁰⁶ Uyangoda, however took a more pragmatic view and argued that the ISGA proposal should be viewed as a positive and innovative contribution to the federalist discourse.³⁰⁷

The political conflict in Sri Lanka, that has assumed an ethnic form due to the marginalisation and exclusion of ethnic minorities, cannot be resolved with a mind-set of an already defined majoritarian state. Nor can a distinct Tamil political identity

³⁰⁵ op.cit, p. 21.

³⁰⁶ Liyanage. S. (2008). *One Step at a Time*, Colombo: South Asia Peace Institute. p. 132

³⁰⁷ ibid. p. 133.

in the north-eastern region be recognised, without ensuring equality to other ethnic and religious minorities, territorial integrity of the state and stopping human rights violation from all sides and guaranteeing the rights of minorities.

In the interim, the Ceasefire Agreement of 2002 could have been strengthened to meet the urgent needs of the people of the war zone, including the minorities. This necessitated the establishment of an interim administrative structure, unfortunately it was not meant to be.

Ropers contends:³⁰⁸

If the peace process is only shaped by the parties who have been the main drivers of the conflict, they are tempted to frame it simply in terms of achieving their aims with non-military instead of military means. The inclusion of one or more third parties enhances the likelihood that other perspectives are brought into the process, that cross-cutting alliances emerge and that the search for peaceful solutions is broadened.

The conclusion need not be that in peace processes all stakeholders have to be assembled for all purposes around one big table. What is needed are intelligent combinations of various arrangements, tracks and layers of interaction which allow all of them to become co-owners of the process of transformation.

5. *Dilemmas of Asymmetry:*

A characteristic of most protracted conflicts is their asymmetric structure with respect to the status of the parties, their powers, resources and means of warfare. In the Sri Lankan case, it was the need to legitimize the non-state party and to legitimize their status.

The issue of asymmetry was highlighted in the Evaluation of Norwegian peace efforts in Sri Lanka, 1997-2009:

Norway has usually been a mediator in conflicts between a state and non-state actor, based on an approach of even-handedness and addressing issues of asymmetry. The Sri Lankan case highlights the difficulties of following such an approach in the context of the war on terror. This suggests a need for careful reflection on whether it is possible for Norway to square the circle of showing a united front with other international players on countering terrorism, whilst attempting to talk with ‘terrorists’ in order to bring peace.³⁰⁹

The Norwegian government had facilitated communications between the two sides since 2000, and the ceasefire enabled direct negotiations to start. The LTTE began to discuss possible federal solutions, no longer insisting on an independent Tamil state. The asymmetries had not changed significantly, but the hurting stalemate had taken its toll and

³⁰⁸ op.cit. p. 32.

³⁰⁹ Sorbo. G. et.al. (2011). *Pawns of Peace, Evaluation of Norwegian peace efforts in Sri Lanka, 1997-2009*. Oslo: Norwegian Agency for Development Corporation, p xviii.

new options began to seem more attractive. Moreover, the global mobilization against terrorism, after the 11 September 2001 attacks, contributed to increase international engagement and pressure to end the violence in Sri Lanka. For both sides, a different course seemed preferable to the fighting.

Ropers analyses the situation as follows:³¹⁰

The issue of status is closely linked to the question of legitimacy. For the LTTE, being acknowledged on the basis of parity of status was one of the pillars on which the peace process was built. Their goal was to gain more legitimacy in this process vis-à-vis their own constituency as well as with respect to the international community. For them, parity of status was not confined to the negotiation table but a basic feature which all the other actors should respect accordingly. The dilemma they faced, though, was that while they wanted to be acknowledged as an equal-status partner, they had difficulties giving up features of their militant struggle (e.g. with respect to the presumed killing of informants and other human rights violations). The GoSL, on the other hand, faced the dilemma that it wanted to engage the LTTE in substantive negotiations, yet was determined not to allow the recognition of the LTTE as a partner in the peace process to lead to a significant legitimisation in other contexts or in the international arena. Neither the LTTE nor the GoSL managed to find convincing answers to their dilemmas. Instead, in the end, the unresolved dilemmas undermined the legitimacy of the process itself.

For meaningful negotiations and interactions to take place, the parties therefore have to move towards some kind of parity of status. The issue of legitimacy should be used in a constructive way to address the two dilemmas mentioned. This could be done by explicitly addressing and dialoguing on the interests and implications connected with legitimacy. Finally, a more “legitimised status” cannot just be used for empowerment in the political struggle, but also as a means of insisting on accountability and respect for human rights and humanitarian standards.

6. *Repercussions of Even-Handedness:*

The contribution of third parties in their efforts to appear neutral or impartial often subscribe to the attitude of even handedness in their comments and judgments so that one conflict party is criticized significantly more than the other. This may be well-intentioned but undermine the legitimacy of the peace process if it leads to a superficial equalization of parties' violations of core principles on which the success of the process is built.

As in the previous section on asymmetry I would like to quote from the Evaluation of Norwegian peace efforts in Sri Lanka, 1997-2009, which highlights the constraints of the Norwegian facilitators:³¹¹

Norway has usually been a mediator in conflicts between a state and non-state actor,

³¹⁰ op cit. p 33.

³¹¹ op.cit. Gunnar Sorbo et al. p. xvii.

based on an approach of even-handedness and addressing issues of asymmetry. The Sri Lankan case highlights the difficulties of following such an approach in the context of the war on terror. This suggests a need for careful reflection on whether it is possible for Norway to square the circle of showing a united front with other international players on countering terrorism, whilst attempting to talk with ‘terrorists’ in order to bring peace.

The Evaluation adds:³¹²

Norwegian mediation internationally has often occurred in conflicts between a state and a non-state rebel group and has involved a twin approach of even-handedness to both parties, combined with addressing the asymmetries inherent in a military struggle between a state and non-state actor. There are tensions between these two strategies because attempts to address power asymmetry may easily invoke accusations of bias towards the non-state actor.

In my official functions working as a Political and Human Rights Advisor to the Canadian Commission in Sri Lanka, a Director of the National Peace Council, Consultant to the Berghof Foundation Peace Support office and an Advisor to the One Text Initiative, I was aware that Norway adopted a policy of engagement with the LTTE and supported their peace secretariat and diplomatic outreach. As a result, Norway was persistently accused of being pro-LTTE and pro-Tamil during the course of the peace process. This was backed up with accusations that Norway too readily turned a blind eye to the LTTE's ceasefire violations in order to keep the group at the negotiation table. With Norwegian support to Berghof Foundation and One Text Initiative Offices it was possible to establish the Muslim Peace Secretariat as well, which further strengthened their focus on being even handed. I also became fully aware that the LTTE benefitted significantly due to the CFA and the resultant truce. The problem was that an even-handed approach became increasingly unsustainable when the power asymmetry between state and the LTTE increased during the course of the peace process.

The key turning point, however, was the Karuna split. From then on the power balance turned decisively in the government's favour.³¹³

Writing on Repercussions of Even-Handedness, Ropers adds that while the previous archetypes mainly relate to the behaviour of the conflict parties, this section focuses on the contribution of third parties, i.e. outside support for peace efforts through other means such as facilitation, mediation and other services or support from civil society groups not directly involved in the peace process. He adds:³¹⁴

In their efforts to appear “neutral” or “impartial” they often subscribe to the attitude of “even handedness”, meaning that they try to “balance” their comments and judgements so that no one conflict party is criticised significantly more than the

³¹² ibid. p. 138.

³¹³ ibid.

³¹⁴ op cit. pp. 33-34.

other. This may be well-intentioned, but can undermine the legitimacy of the peace process if it leads to a superficial equalisation of parties' violations of core principles on which

the success of the process is built. This point was made, for example, with respect to the downplaying of individual human rights violations by the LTTE or their equalisation with the violation of collective human rights by the government of Sri Lanka at the beginning of the peace process.

Requirements for a sound peace process therefore should not have to be framed in an "even-handed" or "neutral" way by all intermediary parties at all times. This raises the important question as to which different and complementary roles intermediary parties can and must play in peace processes. For purposes of trust- and relationship-building it will be necessary for some intermediaries not to engage in the public chastising of one or the other party. Yet it is all the more important that there are other actors who can play this role, *and* that there is a shared understanding that both approaches have to complement each other.

7. *Paradoxes of International Safety Nets:*³¹⁵

The Sri Lankan peace process is an excellent case study regarding the possibilities and limitations of domestic efforts to mobilize international support, as well as international actors to influence developments in the country.

Initially, both main conflict parties were in favour of internationalizing the process, though each had a different view about the kind and degree of internationalisation that was desirable. For Ranil Wickremesinghe, internationalisation was central to his strategy, which was based upon the belief that the LTTE could not be defeated militarily. First, it provided him with an international 'safety net' or so-called 'security guarantees'. That is, the government extracted US and Indian reassurance they would side with the government in case talks broke down. Second, given his fragile political base – a narrow margin of victory in parliamentary elections and the cohabitation issue – he needed international backing to help push through his dual track policy of peace making and economic reforms. Rapid economic growth would help neutralise electoral opposition to unpopular reforms. Third, given the parlous state of government finances, he needed donor support to fund the infrastructure of the peace process and to help generate a peace dividend, particularly in the northeast. Normalisation and economic take-off would 'blunt the secessionist impulse' and undermine the LTTE's support base. Wickremesinghe was backed strongly by the Colombo business lobby which saw peace as an opportunity to turn Sri Lanka into another Asian Tiger.

From an LTTE perspective internationalization had long been part of their strategy. Its diaspora networks became increasingly important in the 1990s, not only as conduits for

³¹⁵ This section draws heavily on Chapter 7, *The International Dimensions of the Peace Process, Pawns of Peace*, (2011) Evaluation of the Norwegian Peace efforts in Sri Lanka, 1997-2009, Oslo, Norwegian Agency for Development Corporation, pp 69-80

fund raising, but also as a means to influence Western publics, international organisations and policy makers. Their Western orientation grew following the rift with India after the IPKF and Rajiv Gandhi's assassination, which effectively cut them off from a hitherto important source of sympathy and support.

The convergence of the Sri Lankan government and the LTTE around an internationalized peace process papered over major contradictions since they had rather different motivations for seeking foreign support and divergent views on what role international actors should play. The government tended to focus on the economic benefits of internationalization, whilst the LTTE were primarily interested in its political impacts.

International support for the peace process was also driven by major contradictions in interest and outlooks among international actors, although these were publicly downplayed to preserve the positive momentum. International actors wanted to be associated with a success story and both protagonists enjoyed the legitimacy and attention that accrued to them through international engagement.

Norway was chosen as a facilitator, not only for its expertise, but also because it was a small power without geo-strategic interests and colonial baggage. Being a less powerful player, Norway felt it had to consult the US and India, the former as the world's superpower and the latter as the regional hegemon. The Norwegian team understood that without their backing (explicit or tacit) they could achieve little.

Through the co-chairs arrangement that was initiated in Tokyo to extend Wickremesinghe's idea of an international safety net, Norway secured the buy-in of Sri Lanka's biggest donor (Japan) and trading partner (EU) as well as the global superpower (US). Before the EU proscription of the LTTE in 2006, Eric Solheim was persuaded that Norway should make better use of the co-chairs, so that Norway was seen to be part of a wider international alliance. At the co-chair meeting in Oslo in May 2006, which ended with a sharp warning to the parties to avert war and reduce violence, discussions were held about a division of labour between co-chairs with EU having special responsibility for human rights and the US for ceasefire violations. However, wider geopolitical shifts mitigated diplomatic pressure to return to peace talks.

In this context issues of leverage, Norway's strategic reasoning and personal approaches were raised. A key aspect was the quality of interaction with the group of more or less 'likeminded' countries, particularly Norway's "co-chairs" (the USA, the EU and Japan), as well as India, Canada and Switzerland.

Norwegians were facilitators-monitors, a double role which was criticized by many observers, but they were in addition pushed into a more active mediating role. Norway took over several further functions, e.g. development donor and capacity-builder in collaboration with the LTTE, which tainted them as 'biased towards the Tigers'. It did so for the simple reason that other international actors were reluctant to do so, and also legally prevented from doing so with LTTE being labelled as a terrorist organization.

The peace process and particularly its international dimensions had a number of effects

in the south. First, large parts of the polity and the electorate-but Sinhala nationalists in particular - felt the UNP's 'appeasement' of the LTTE threatened the sovereignty and unity of the island. Prime Minister Wickremesinghe's close links to international actors undermined his legitimacy and credibility in the south, which Chandrika Kumaratunga and the JVP exploited. Second, Western actors appeared to be protecting an increasingly illegitimate, particularly in the eyes Sinhala nationalists, peace process at all costs, turning a blind eye to human rights abuses and assassinations. Third, the peace process was linked to deeply unpopular structural reforms, which were partly attributed to international actors such as the World Bank and IMF. These anxieties were heightened by the post-tsunami response, which further strengthened the image of corrupt and neo-colonial aid actors, whilst the negotiations over P-TOMS reproduced the same fault lines and concern as the peace talks, related to sovereignty and foreign interference. Fourth, foreign funded civil society was seen to be elitist and 'rent seeking' – these 'peace vendors' were viewed by many as part of the Western enterprise to weaken and fragment Sri Lanka.

Following the assassination of foreign minister Kadirgamar, Rajapaksa's election in 2005 and the resumption of war in 2006, it became increasingly difficult, both politically and practically, for foreign players to interact with the LTTE. This left Norway increasingly exposed as the sole conduit to the LTTE, contributing to the perception that Norway was biased. The changed international climate caused by the global war on terror worked against the Norwegian model of negotiating with non-state military actors.

Although the Sri Lankan peace process looked very promising at the beginning, and the donor community subsequently put together an impressive aid package of US\$4.5 billion at the Tokyo aid conference in June 2003, the differences between international actors became increasingly clear and the heavy internationalization catalyzed long standing insecurities about foreign meddling. As noted by Mahinda Rajapaksa in his victory speech to parliament after the military defeat of the LTTE on May 19, 2009, there has been no era before this in which the international community has paid as much attention to my motherland as in the present times.

The seven archetypes – and others may be identified – constitute components of fragile and difficult peace processes in cases of protracted conflicts. As may be seen from the above analysis, they partly overlap and partly interact with each other. Their added value needs to be identified in the context of prescribing strategies for effective interventions in such processes. If one applies this principle to the Sri Lankan peace process from 2002-2008 it is obvious that it is caught between periodic outbreaks of violent confrontation, several stages of de-escalation from mitigation efforts to some implementation of CFA provisions.

My interest in using systemic thinking for supporting the Sri Lankan peace process and apply the concept in my own research emerged from my own engagement with civil society organizations in the island during the early stages of the CFA. The organizations I was linked to were focused on supporting the peaceful settlement of the conflict and make maximum use of the space for peace that was created following the CFA and also engage at track 1 and track 3 levels being located at the track 2 level. It was a learning experience for me besides being in a position to apply systemic thinking as a tool for understanding the dynamics of the conflict and peace to explore its potential for guiding and reflecting on practical measures of intervention. Based on the above analyses the following conclusions emerge:

The added value of systemic thinking for understanding and supporting the Sri Lankan peace process can be summarized as follows:³¹⁶

1. The concept of the 'archetypes of fragile peace processes' offers an innovative explanation of the difficulties that peace processes, as well as their internal and external support, face. Its academic advantage is that it allows one to understand the constituent components of peace processes in detail and that it facilitates comparative research. Its practical advantage is that it can be used for more effective strategic planning because it focuses on counterbalancing and less foreseen developments, and on the resistances against transformation in settings of protracted conflict.
2. It helps to overcome the simplistic equation that 'the more pro-peace engagement in a polity and society, the more likely it is that there will be a successful peace process'. In fact, it might be that it is particularly the strength of such an engagement which provokes counter forces to reduce their influence.
3. Systemic thinking helps one to better understand the concept of 'resistances' which is sometimes used to explain why processes of constructive social change are interrupted or confronted by seemingly 'irrational' forces. Systemic thinking helps to focus first on the drivers within the system, which might have quite 'rational' reasons to prevent the intended social change from happening.

There are a number of practical conclusions from this analysis:

- The need to combine inter- and intra-party strategies for peace promotion right from the beginning;
- The need to institutionalise mechanisms that address mutual disappointments in the process;
- The need to overcome bipolar interactions, and to complement bilateral ones in order to generate more creative and multidimensional options;
- The tetralemma is useful as a tool for broadening content-related dialogues and negotiations;
- The need to address the legitimacy/parity of status dilemma in the case of asymmetric conflicts; and
- The need to understand the paradoxes of international support for peace processes.

From the above conclusions I will focus on a systemic tool for framing options for conflict transformation, tetralemma. It is a process tool, which means that we do not know all the positions from the very beginning: they are created and formed through the process of working with the tetralemma. Diamond highlights:³¹⁷

It is a 'tool' which originates in traditional Indian reasoning and Buddhist philosophy and is frequently used today in the fields of family therapy and organisational development to stimulate "thinking outside the box". It aims to break with a bipolar perception of the world, and the perceptions of problems as "di-lemmas". Whereas

³¹⁶ op cit. pp. 35-36.

³¹⁷ <http://berghof-foundation.org/fileadmin/>[Accessed May 1, 2015]

“western” or “European” logic follows a binary view in which “either-or” thinking dominates, it is a crucial proposition of the tetralemma that there exist at least four options on each perceived problem.

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Tetralemma		
None of this – but also not this	Position A	Both A and B
	Neither A nor B	Position B
Tetralemma Illustration		
None of this – but also not this The terms stability and exit mean different things to different people, maybe we need to work on a common understanding of them?	Position A Exit	Both A and B Change of strategy: stay engaged but differently
	Neither A nor B If we focus more on resource issues, the question of exit will not have to be raised immediately	Position B Stay engaged for ever

The fifth position “none of this but also not this” is not easy to understand. It tries to indicate that there are further options and issues that are relevant for the perceived problem but which can only be discovered through a process of action and reflection. In a programme evaluation in South Africa, the tetralemma was used to get different ideas about the future of the programme activities out into the open, including hidden and less conscious issues:

Rather than solving a problem in linear style, as in traditional strategic thinking, the aim is to understand a complex ecology and learn how to operate successfully within it. Ropers has applied the tetralemma to the linguistic dimension of the Sri Lankan conflict.³¹⁹

³¹⁸ Ropers, N., (2008). Systemic Conflict Transformation: Reflections on the Conflict and Peace Process in Sri Lanka, Berlin: Berghof Centre for Constructive Conflict Management, p.19

³¹⁹ Ropers, N., (2008). Systemic Conflict Transformation: Reflections on the Conflict and Peace Process in Sri Lanka, Berlin: Berghof Centre for Constructive Conflict Management, p.19

Different to the binary logic in the European tradition this concept assumes that four alternative views are possible on any controversial issue: Position A and position B, affirmation of A & B and negation of neither A or B. ... The Buddhist philosopher extended this categorization by introducing a fifth position, ‘none of this but also not this’. (Sometimes also called ‘double negation’).

To make the meaning of these categories more easily understood he applied the issues of state power and power sharing in the case of Sri Lanka (See Table below.)

The tetralemma of the conflict on state power (and its negation)

<p>“None of this – but also not this”</p> <p>Avoid any of the solutions; emphasis other dimensions of mutual engagement; or go to war.</p>	<p>Position A Pro Unitary state or moderate devolution only</p>	<p>Both A and B e.g. compromise (genuine power sharing, federalism etc.)</p>
	<p>Neither A nor B e.g. power sharing is not the key issue, more important are genuine democracy, development, good and local governance etc.</p>	<p>Position B High level of autonomy or separate state</p>

Referring to Norbert Ropers, Oliver Ramsbotham states:³²⁰

Whereas a dilemma confronts two incompatible alternatives, a tetralemma envisages four stances on any controversial issue. This kind of approach is needed in the aftermath of the Sri Lankan government’s military victory if recurrence is to be avoided. In intractable conflict it does not yet succeed. And one of the main reasons for this is that the phenomenon of radical disagreement is not represented in the systems map at all.

Radical disagreement does not appear in complex systems maps, however subtle they may be. In a sense, this is because radical disagreements are too *simple* to be recognized within the definitions of complexity adopted by systems theory.

This model provides a sense of context, but it is hard to know what to take away from it other than the fact that everything is related to everything else.

Further reflections on SCT will follow in the next chapter.

CHAPTER 5

³²⁰ The pioneering work of the PTF was captured in NPCs first publication: Perera, J. & Ferdinands, T. Eds. (1995). *Building a People’s Movement for Peace*, Colombo: Sarvodaya Vishva Lekha.

NATIONAL PEACE COUNCIL STUDY 1 –

NPC AND THE LEAD UP TO THE CEASEFIRE AGREEMENT 1995 - 2001

Poster Campaign leads to the Birth of the National Peace Council (NPC)

The Inter Religious Core Group (IRCG), a coalition of groups and individuals drawn from all major religions in Sri Lanka and coordinated by the Socio Economic Development Centre SEDEC (Presently also known as CARITAS Sri Lanka) had been involved in 1993 establishing small inter religious peoples based initiatives for peace, especially addressing the war in the North East. However the escalation in violence in the run up to the General Elections of 16 August 1994 (with 977 violent incidents being reported in the first 19 days of campaigning alone – leading to a total of over 2000 election related incidents of violence and 23 deaths) galvanized the IRCG to respond with an immediate and strategic intervention. With a period of less than three weeks to act, the IRCG launched a publicity and awareness campaign communicating the message against violence in the electoral process and calling on people to desist from and campaign against violence, while at the same time highlighting the tremendous opportunities for children to become “Bridges for Peace”, which led the groups to focus its campaign titled “Peace for Children”.

The trilingual campaign which covered all districts of the island (except for the northern Jaffna Peninsula) included a poster campaign (150,000 posters), 90,000 handbills, 12 television spots (15 seconds) per day on two channels on election day and two days before and two days after polling day. In addition two radio stations carried 8 spots per day for a period of five days and full page colour advertisements were inserted in four newspapers. In addition to the normal scheduling, one TV station repeated the spots at no extra cost.

There was tremendous public response to the campaign with people from all parts of the island coming to collect posters for display in their areas. Eventually reprints of the poster had to be ordered to meet the demand. This overwhelming response from people confirmed the IRCGs hope that the people themselves were willing to be directly involved, responding to an imaginative catalytic idea which in turn set a positive force in motion.

At the same time the Human Rights Coalition set in motion an election monitoring campaign. Led by the Movement to Defend Democratic Rights (MDDR) and joined by groups such as INFORM and the Centre for Society and Religion (CSR). This coalition formed the Movement for Free and Fair Election (MFFE) which undertook an island wide

process of monitoring pre-election campaign activity, the election itself, and post-election violence.

The people's participation in the above two endeavours which arose to reject the repeated past experiences of election fraud and election violence, coupled with the democratic space that opened up after the elections and the subsequent opening towards a negotiated

peace led to the formation of a Peace Task Force (PTF).³²¹

The PTF believed that there was space for a similar peoples movement from the bottom upwards that can demand a just and negotiated end to the war, PTF set in motion a process that sought to organize representatives of the people among workers, farmers, NGO's, professionals, service and business organizations that would come together as an alliance to give birth to a powerful and non-partisan people's movement for negotiated and just peace. PTF set out its founding principles to be:

- Ensuring that there is justice and fairness in process as well as outcome so that the welfare of all communities and society in general will be protected in any solutions that may be arrived at;
- Going beyond the concept of conflict management in which the conflict is contained at a bearable level and conflict settlement in which conflict is suppressed, and seeking conflict resolution in which the roots of the conflict are laid to rest and there is genuine reconciliation and social transformation;
- Working towards creating a social order governed by the ideals of participatory democracy, where the devolution of power and resources, upholding, defence and furtherance of human rights, satisfaction of basic human needs, nurturance of a healthy environment, and tolerance of cultural, religious and linguistic differences are given pride of place.

As a first step the PTF organized a peace march and rally on Sunday 23 October 1994 to be followed by a national peace conference on 24th and 25th of October. The march and rally were successfully completed with the participation of approximately 8000 persons from around Colombo, Batticaloa, Trincomalee, Polonnaruwa, Anuradhapura, Jaffna, Embilipitiya, Galle, Kandy and Chilaw.

Early the next morning the political process in the country (except for sections of the North East) was in turmoil and the peace process thrown into disarray with the assassination of the UNP presidential candidate Gamini Dissanayake and 52 others. A full day curfew on 24 October made it impossible for the intended peace conference to convene as scheduled. The temporary lifting of the curfew on the next day saw 115 (out of the nearly 200 who had registered) individuals and representatives from various organizations turning up at the venue of the conference. The PTF issued a statement condemning the despicable crime and pledged to transform this sorrow into greater resolve to work for peace. The dogged commitment that was thus displayed and the subsequent consensus that was collectively built up by all the participants demonstrated the will for peace even under the most trying and testing circumstances.

The initial objective of this National Peace Conference was to create a lobby while at the same time building a people's peace movement. In this context the coverage given to the

³²¹ Lederach, J.P. The Challenge of the 21st Century, in *People Building Peace*, Utrecht: European Centre for Conflict Prevention, 1999. P. 29.

rally and conference in both the state and private media and the use that was made in the media of the conference deliberations proved that the lobby element of the conference had succeeded in transforming a major setback into a new beginning. This National Peace Conference gave the PTF a mandate to establish the National Peace Council (NPC), with the objective of catalysing a people's movement for peace. The inaugural general assembly of the NPC was held on February 6, 1995. The Primary Objectives of the NPC were defined as follows:

To promote the emergence of a just society in which differences are acknowledged and conflicts arising from them are addressed by peaceful means;

To promote reconciliation both as a goal and a process, by helping build harmonious relationships between previously conflicting parties through a process that includes the search for truth, justice, forgiveness, healing, peaceful coexistence, trust and empathy among others, at the level of individuals, groups and communities as a whole;

To engage in research, advocacy and capacity building to catalyze social and political changes and essential codes of democracy that would contribute to the achievement of durable peace and reconciliation, by accepting the need for sharing of power, creating a climate conducive to human rights and economic justice, and equality before the law;

To facilitate the creation of a people's movement for peace and reconciliation by acting as partners of national and international organizations in carrying out such activities that would contribute to enhancing the realization of the objects of the organization.

The NPC was established in 1995 to build 'a people's movement for peace' with a membership carefully balanced not to give even an impression of bias, critical in a country where political and ethnic lines are clearly drawn. NPC was launched in the context of the ongoing peace talks between the government and the LTTE. Previous attempts to promote peace had concentrated at the top level of leadership. These had collapsed. Agreements reached were often reneged on or manipulated by opposition orchestrated protests.

When the 1995 peace talks, that formed the backdrop to the setting up of the NPC, broke down and hostilities resumed, the organization set about creating an environment for resumption of negotiations. The NPC found itself alone opposing the government's declaration of a 'war for peace'. The government's position was that a genuine effort was made and the LTTE once again betrayed the trust and goodwill that the government had proffered. Many other peace groups agreed with the government's position. NPC however analyzed the breakdown of peace talks differently and made its position clear by stating that the only way to end the war through negotiations is to include the LTTE in the process, and also address the national expectations of the Tamil people.

From 1995 to 2000, the NPC focused on three strategies. They were, Research &

Advocacy, Training, Mobilization & Networking, and Processes & Dialogues. The NPC sought to play a complementary/supplementary and catalytic role within the peace process. Activities carried out by the NPC sought to demonstrate that negotiations were both possible and preferable and targeted three levels of the social pyramid i.e. local communities, middle level catalytic agents and the political elite. This was very much in line with the belief that peacebuilding needed to be carried out in a coordinated manner with multiple activities and support multiple levels, as no activity at one level would be able to deliver and sustain peace on its own. The NPC also believed that peace was not an abstract goal but a process built over a long period of time. The work done by the NPC was also based on the explicit recognition that the resolution of internal conflicts cannot be forged in exclusive conclaves of the leaders of the parties trapped in conflict or only by politicians and bureaucrats. While identifying target groups the NPC generally focused on rebuilding broken relationships across the lines of divisions created through and by the conflict; a setting as popularly described by John Paul Lederach's pyramid of actors, namely grassroots, middle range and the top level leaderships.³²²

Based on the concept of multi-track diplomacy developed by John McDonald and Louise Diamond,³²³ the NPC also focused on engaging on several tracks to ensure their complementarity balancing the difficulties on one track by activities on other tracks. The NPC also believed that there was room for everyone in the arena of peacebuilding, and to empower and create awareness and open minds to new ways of thinking to resolve conflicts peacefully.

Research & Advocacy Strategy

Even though systemic thinking *per se* was not applied at the initial stages, the NPC used systemic insights in the analysis of the Sri Lankan conflict. Activities carried out under this strategy included research, opinion surveys and media campaigns. From a systemic analysis perspective this strategy provided a deeper understanding of the intractability of the conflict.

As part of a long term advocacy campaign, the NPC carried out research on the Cost of the War in 1996 focusing on three main aspects; the economic cost, the human cost and the socio political cost. The objective of the NPC was not only to sensitize the general public on war issues, but above all, mobilize different sectors in a unified campaign against war as a solution.

In 1998, the NPC produced a similar study on a much smaller scale for the national peace delegates' conference. The results of the preliminary research project were published in a popular booklet.³²⁴ The necessity for this type of study became apparent as 20,000

³²² Diamond, L., Multi-track Diplomacy in the 21st Century in *ibid.* pp 82-86.

³²³ National Peace Council of Sri Lanka. (1998) *Economic, Social & Human Cost of the War in Sri Lanka.*

³²⁴ Mendis, P. (1998). *Don't Wage War on our Behalf*, Colombo: National Peace Council of Sri Lanka.

copies were distributed within three months. Requests for the booklets came from various sectors of society, including the Ministry of Education who wished a copy for each school library. The survey highlighted, among others that the Sri Lankan economy as a whole would have grown at a higher rate if not for the war, and nearly 40% more finances would have been available for consumption and investments. Under socio political cost the research highlighted that the war meant the; loss of a sense of security and the freedom of movement intrinsic to the sense of social wellbeing; which could deeply damage and erode the value system and the moral foundations of a society. It could also foster a pervasive culture of violence in the whole of society. Under human cost the survey highlighted that human loss was immeasurable and could not be reduced to economic values. However it highlighted that there were economic costs such as economic life years lost through death and injury, the income earning activities disrupted through displacement, the skills of those who have taken refuge abroad, the cost of maintaining those displaced and rehabilitating them. The Cost of War study concluded as follows:

The economic, human, social and moral cost of war is borne by the whole of Sri Lankan society. It is borne by all the communities, Sinhala, Tamil and Muslim. Both the government of Sri Lanka and the Tamil militant movement mobilize vast financial and human resources and throw them into the holocaust of war. Human beings are killed; the social and economic infrastructure is destroyed, women are widowed and children orphaned, and large numbers of people are deprived of a decent human existence. The fighting goes on. The people are the victims.³²⁵

The NPC also carried out a series of public opinion surveys, the results of which received considerable press coverage and proved to be of great advocacy value. The surveys revealed that a majority of both the Sinhalese and Tamil respondents believed that the war should be ended because of the economic, social, environmental and human costs involved. There was also a significant meeting of minds between the two communities on the question of more devolution of power as a solution to the ethnic conflict, and that civil society had an important role to play in ending the conflict. However, polarization of opinion was evident regarding the efficacy of military action, and foreign assistance in the form of mediation. As anticipated, the survey pointed out that more work had to be done by peace organizations and others in order to prepare the ground for a negotiated political settlement and peace.³²⁶

NPC also recognized that in Sri Lanka the mass media was unable to take a truly multi-ethnic and peace oriented approach to reporting the ethnic conflict. Mono-ethnic reporting tended to be the norm that often reported only one side of the story and not the other, thus providing only partial information. Since the media itself comprised persons belonging to the very communities locked in conflict, media personnel often tended to

³²⁵ Survey undertaken by the National Peace Council on Popular Attitudes towards the Ethnic conflict and its solution, March 15, 1999

³²⁶ Excerpts from, *Saama Yamaya (Time of Peace)*, Special issue of the Newsletter of the National Peace Council of Sri Lanka, 2000

respond more emotionally to their own community. At the same time, the market oriented media culture prompted media enterprises to search for and highlight sensational 'news' in order to compete with each other and retain audiences, which in turn intensified the inter-community conflict. The NPC was also aware that the Sri Lankan mainstream media, which was principally owned by and catered to the larger Sinhala audience, often ignored the plight of minority Tamils. Another serious problem faced by the media was government censorship over battlefield news emanating from the north and east. In addition both print and electronic media often based news coverage on handouts from the Ministry of Defence. The strategy adopted by the NPC was to advocate peace through empowerment of journalists in order to help strengthen the role of media so that they could potentially become catalysts to a negotiated peace process and contribute to de-escalation of the war.

The NPC organized a needs assessment workshop for journalists from the print and electronic Sinhala, Tamil and English language media. The journalists were asked how the war had impacted upon them and issues that it had raised. They were also asked what needed to be done in order to overcome the obstacles to reporting on the war in a constructive manner. Interestingly, the seating arrangements were not made by the NPC but self-selected which revealed the polarized nature of the community of journalists in Sri Lanka. As this was a workshop fashioned in an interactive style, the participants had free seating in a semi-circle with the facilitator in front. At the outset one journalist made the observation that the group had seated themselves in two groups, with one side of the circle being entirely Tamil speaking and the other being entirely Sinhala speaking. Ironically enough, the two groups of journalists had an English language journalist sitting in a seat that separated the two groups from each other. However, in the two days of joint investigation, discussion and problem solving that followed, and the interactive nature of the workshop, these barriers were broken and there was a greater degree of mixing. The workshop identified six areas of priority, censorship related issues, building up associations of journalists, training of journalists, freedom and security for journalists, democratization, and peace talks. A most encouraging feature of the workshop was the evidence of space for civil society unity and dialogue across the ethnic divide.

A six day visit to look at conflict reporting in India was facilitated by the NPC. This was for principal sectors of the media including press, radio and television journalists from both the state and privately owned media, male and female participants, reporting in Sinhala, Tamil and English to look at conflict reporting in India. Besides the NPC representatives the team included a publisher of a newspaper, editors, news and feature editors, anchors and journalists. The first segment was a three-day visit to Delhi which included meetings with senior journalists and Indian Government officials. Besides visiting offices of leading Indian newspapers and television stations, two half-day seminars were conducted by the Centre for Policy Research and the Press Institute of India. A highlight of the visit was a reception hosted by the External Affairs Ministry to which Indian journalists and academics with an interest in Sri Lanka were invited. The Sri Lankan journalists noted both the professionalism and commercial orientation of their Indian counterparts. The Delhi visit was followed by a three-day visit to Chennai during which the delegation

participated in a two-day seminar with local journalists, academics and social activists. The group also visited the office of The Hindu newspaper that reports extensively on the Sri Lankan conflict and also visited an organization that works with Sri Lankan Tamils refugees. Ground arrangements were made by the Indo-Sri Lanka Friendship Society. The Indian visit helped catalyze a process of ethnic understanding among a larger body of journalists and the NPC hoped that this group of journalists would develop their perspectives on the Sri Lankan conflict in the light of what was learned from their brief look at the Indian model.³²⁷

In order to promote bipartisanship across the PA and the UNP in the thirteen Pradeshiya Sabhas in the Matara district, elected representatives and political activists were provided training in conflict resolution skills. They were also taken on exposure visits to North and East to give them an opportunity to see the living conditions in the districts directly affected by the conflict. One outcome of this initiative was a convention in which the PA and the UNP representatives came together on a common platform calling for a negotiated end to the war. This was a launching pad for a long term engagement with politicians from both sides, to help facilitate bi-partisan dialogue, including a visit to the LTTE controlled east to meet local officials.

Another initiative was the introduction of peace education in Schools by assisting the Peace Education Unit of the Ministry of Education to introduce this subject within the 11,000 state schools in Sri Lanka. The NPC's role was confined to resource and capacity building of master teachers in four provinces. With the support of International Alert, the NPC also facilitated the translation and adaptation of the Resource Pack for Conflict Transformation into Sinhala and Tamil. These Sinhala and Tamil resource packs were used by peace education trainers throughout the country.

The NPC believed from its very inception the need for mass mobilization and advocacy to promote a negotiated settlement to the ethnic conflict. Media releases issued by the NPC formed an integral part of its campaign. The reader was given an opportunity to follow unfolding events including a sense of the drama, terror and achievements that took centre stage in the affairs of the country. Most of the media releases were event specific, and focused on major events that either divided or had the potential to polarize society on ethnic lines. Each media release was first circulated as a draft amongst the members of the Governing Council of the NPC for their observations and inputs who deliberated upon the drafts and arrived at a consensual and collective view, often in emergency situations and in a very limited time. As an organization with diverse membership and a Governing Council that reflected that diversity, the NPC's media releases have remained a testament that a consensual view can be obtained even at the most volatile and divisive of times. The values that guided NPC's thinking during the early years were of inclusivity that sought to bring all the main actors into peace process, and problem-solving that sought to

³²⁷ Please see, *Press statement issued by Tapan K. Bose, Convenor/Coordinator, Committee on Initiative on South Asia Peace Charter* <http://ceras.alternatives.ca/12/init.htm>, [Accessed on December 12, 2014].

identify mutually beneficial solutions to all the main parties. The NPC gave pride of place to these values while also being alive to issues of human rights and democracy. On many occasions, the NPC also realized that they were not immune to the conflicting views that existed within the larger society. The achievement of peace in Sri Lanka was considered a work in progress of which the NPC itself was an example.

Mobilization and Networking Strategy

One of the earliest mobilization initiatives undertaken by the NPC in 1995 was a peace rally and peace festival held at Vihara Maha Devi Park, a venue for large scale entertainment events in the heart of the residential area in Colombo. These events were the first of their kind to take place in Sri Lanka and attracted nearly 10,000 people. The program was conducted through a process in which the participants expressed their hopes and fears through creative cultural mediums such as song, verse, narrations, drama along with meditations and reflections. This was followed by a celebratory musical performance by leading artistes culminating in a midnight candle light vigil for peace. A nationwide media campaign was conducted in preparation for the event and many of the participants were those not traditionally not involved in peace issues.

A mass media campaign in the print media, radio and television based on the theme 'Peace for Children – War Will Not Win Peace' won the Sri Lanka Institute of Marketing (SLIM) gold award for social advertising and the bronze award for the campaign of the year in 1997.

In April 1997 the South Asia Forum for Human Rights (SAFHR) based in Kathmandu Nepal, in collaboration with National Peace Council of Sri Lanka, Colombo, conducted a three day consultation on a South Asia Peace Charter. The Initiative of a South Asia Peace Charter was conceived in Strasbourg, France in December 1995 by a group of South Asian human rights activists, including me, who attended a conference on conflict resolution mechanisms in Europe. The meeting in Sri Lanka was the first regional consultation of the initiative which set off a process which culminated in the adoption of a South Asian Peace Charter. As a first step towards conflict resolution it was decided to undertake a study in consultation with likeminded individuals and groups, on the situation of internally displaced persons within Sri Lanka and Sri Lankan refugees in India. The Initiative was to advocate solutions which would create conditions for peace and democratic functioning. Its recommendations were to be widely disseminated to affected communities, concerned governments and international agencies with a view to ensuring that the issues it highlighted were effectively and expeditiously resolved.³²⁸ My contribution to the study on Internally Displaced Persons in Sri Lanka was published by SAFHR.³²⁹

A high point was reached in January 1998 when 1,700 delegates from communities in all 25 districts in the country held a major convention and urged an immediate end to the

³²⁸ William, J. in Bose, T. & Manchanda, R., (Eds.) (1997). *States, Citizens and Outsiders, The Uprooted Peoples of South Asia*, Kathmandu: South Asia Forum for Human Rights, pp. 316-331.

³²⁹ *National Framework for Relief, Rehabilitation and Reconciliation*, Development forum, Colombo, 2002

war. About 1,200 delegates were Sinhalese, 350 Tamil and 150 Muslim. More than half were from areas in the North and East and bordering districts affected by conflict. Among the participants were 50 disabled soldiers. The theme of the Convention was, 'Don't Wage War on our behalf'. Extensive workshop discussions preceded the Convention at district levels over nearly a six-month period, which gave impetus to the Convention's call for radical restructuring of the state along lines that would permit a form of self-government for 'nationalities and communities', within one country. Significantly, the importance of the Convention was highlighted when messages of goodwill were received from H.E. President Kumaratunga, Leader of the Opposition Ranil Wickremasinghe and the International Secretariat of the LTTE. President Kumaratunga in her goodwill message pledged, 'to do everything possible within our power to achieve a political solution with the co-operation of all sections of our society'. Wickremasinghe said the country's war mentality had brought with it hatred and destruction, and added, 'there can be no victors in war'. The message from the LTTE's International Secretariat in a message of goodwill stated, 'any just and fair solution towards ushering in peace in the island was welcome'. In a final resolution the Convention called for a just and honourable peace that would include negotiations between the government and the LTTE. It also called for a restructuring of the state that would include self-government for all nationalities and communities. The demand for equality, dignity and security in the search for peace was one of the key issues for participants, and their main slogan during the meeting expressed their feelings and expectations: 'We reject the logic of peace through war' and as indicated in the theme of the Convention, 'Don't wage war on our behalf'.

The NPC was selected as one of seven partners for a one year campaign titled 'Peace in the City' under the Programme to Overcome Violence of the World Council of Churches. The campaign sought to highlight innovative efforts taken in conflict resolution and peacebuilding. The other locations that were part of this campaign were Belfast, Rio de Janeiro, Boston, Kingston, Suva and Durban. Seven videos of each case study were produced and distributed worldwide, and web pages were constructed as part of this networking and advocacy effort.

Another initiative that linked the NPC with the Government, UN Agencies and local and international NGOs and institutions was the developing policy framework on Relief, Rehabilitation and Reconciliation (RRR) with technical assistance of the World Bank and UNDP. The NPC was invited to undertake a process that would bring in the views of different sectoral groups on this subject. Accordingly it organized a series of three-day residential workshops for persons from ten social sectors that included disabled soldiers, IDPs, NGOs Women's Organizations, Business, Trade Unions, education sectors and religious. The objectives of the workshops were to identify the main issues arising out of the war and its impact on these sectoral groups, assess responses to these issues, i.e. best practices, bottle necks, constraints etc., Then to recommend strategies and procedures to strengthen responses to the issues and how these sectoral groups could contribute to addressing the issues arising out of war and become involved in peacebuilding. The framework had many drawbacks and limitations and there seemed to be a possibility that

the government by going along with this initiative may have simply sought to convey its seriousness of dealing with conflict related issues. In any event the RRR process provided a safe space for people to express their views openly. The potential usefulness of the process was that it was possible for government, multilateral agencies, donor countries, and civil society groups to join in a collaborative activity that raised the visibility of victims and other stakeholders and brought home the point that no one group had a monopoly on suffering. The report and findings of these workshops were handed over to the External Resources Department of the Government and World Bank to assist them in formulating the RRR framework.³³⁰

The success of the workshops can be attributed to the "safe space" provided by the NPC at least partly on account of its transparent agenda, which was promoting the peace process by an exclusive commitment to negotiations and a political solution. These workshops brought together Sinhalese, Tamils and Muslims and offered many of them the first opportunity in years to discuss the problems and perspectives associated with the ethnic conflict with members of the other communities.

In 1999, the NPC helped to set up the People's Peace Front (PPF) to be a network of organizations working for peace. The PPF was provided institutional and financial support for this coalition of about 70 NGOs most of them based in the South. The PPF conducted limited campaigns demanding that the war should be stopped, that there should be a ceasefire and peace negotiations, and that the ban on the LTTE should be lifted. The activities were largely poster campaigns, sticker campaigns, signature campaigns, leaflet distributions, and processions.

Another constituency of the NPC was the clergy and people leading the various religious institutions. Inter-religious Peace Foundation, Inter-Religious Alliance for National Unity, National Conference on Religion and Peace (the Sri Lankan Chapter for the World Conference on Religion and Peace), Dhammavedi Institute (a local Buddhist organization), the National Christian Council, and the YMCA are some of these religious bodies and networks. The NPC also participated and sometimes facilitated the organising of seminars by these bodies, and has been an active part of their peace delegations to the North.

There were single organizations with which the NPC collaborated either in supporting their programmes directly or by providing resource persons to their awareness training workshops. The Association for Disabled Soldiers, Parents of the Servicemen Missing In Action, Up-country Peoples Association and some other organizations where contacts had been maintained or where there is no continued connection. The NPC also engaged with some of the Trade Unions in the course of conducting the sectoral workshops under the World Bank supported programme, in particular with the Tamil Teachers' Union, Nurses' Union and the various unions of political parties.

In the North-East, the Consortium of NGOs of Batticaloa, Ampara Districts and Trincomalee

³³⁰ Ceasefire 2001, Lessons for the Present, National Peace Council of Sri Lanka, 2002

District were brought into closer links with NPC. These bodies have membership of over 120 NGOs and CBOs in these districts. The NPC also worked with theatre groups in the Vanni and Jaffna peninsula performing on social and political issues. In all its activities NPC ensured participation of women in the political arena in the North and East. The emphasis in the North and East was more towards networking the established groups amongst themselves and between them and the Southern constituencies, than raising awareness on the need for peace.

A unilateral ceasefire was declared by the LTTE in 2001. The NPC facilitated a visit to Jaffna for a group of journalists during the period of temporary respite from war. Journalists from the South seldom got an opportunity to visit Jaffna. It was surprising therefore that NPC was able to get the approval of the Ministry of Defence to organize a five day programme for them. The visit was facilitated by the University of Jaffna and one of the NPC's partner organizations, the Centre for Women and Development. The journalists were from both private and state owned print and electronic media. The main message that came from the University of Jaffna, Traders' Association, Bar Association, Co-operative Association and religious leaders, and others was that they wanted peace and did not want violence. The people were acutely conscious of the potential for vast increase in the scale of destruction likely to be incurred if fighting resumed. Many of the groups the team met submitted petitions on their grievances and the NPC agreed to follow up on these matters with the assistance of journalists whenever possible. The North South Journalists Association was formed to foster links between northern and southern journalists. Upon returning to Colombo, the NPC liaised with the Minister of Fisheries, Hon. Mahinda Rajapakse, (the former President of Sri Lanka), to address the grievances of the fishermen presented in a memorandum from a fishermen's association in Jaffna. This resulted in a delegation of Jaffna fishermen meeting with the Minister and government officials in Parliament. A book containing the views expressed by the journalists was published in order to disseminate the reality of the situation in Jaffna.³³¹

Processes & Dialogues Strategy

One of the main lines of action of the NPC was facilitate advocacy at different levels of civil society. These were oriented towards political representatives at both local and national levels. The NPC in collaboration with International Alert carried out a programme among parliamentarians drawn from all political parties. This programme introduced the subject of conflict resolution and sought to impart lessons from similar conflict situations and peace processes around the world. A total of 29 Members of Parliament participated in this process which included visits to Crete (meeting with persons involved in the negotiation process in South Africa), Northern Ireland and Mindanao. During the five days spent by the Parliamentarians in Crete, they studied the peace and reconciliation experience of South Africa. Beyond the lessons learned from the exercise, the residential nature of the programme meant the participants lived together and interacted with one another and

³³¹ *Waging Peace against War, People Building Peace, 35 Inspiring Strategies from Around the World*, Utrecht: European Centre for Conflict Prevention, 2000, p 172

forged personal relationships across the ethnic and political divide. Concepts of conflict resolution and modern negotiating techniques and methods were introduced.

The Members of Parliament (MPs) who visited Northern Ireland was drawn from nine Sri Lankan political parties. They met leaders and representatives of all Unionist and Republican political parties and para-military groups and from the British and Irish Governments. The direct lessons were so sharp, a dramatic step was taken, the MPs deviating from official lines of their respective parties, issued a joint statement calling for an all-party consensus and the need for talks with the LTTE. Such a joint appeal had never previously been issued, and it caused quite a stir. Much intra-party debate resulted, but in the end, some of the parties did use the discussion as a launching pad for changes in their own approaches to the peace process.

The NPC facilitated another trip for MPs to the Southern Philippines island of Mindanao in the Philippines to study the long running Muslim separatist conflict in the island.

The process provided the parliamentarians with a 'safe space' that enabled them to deal with issues in a setting devoid of official protocol and helped them forge all important personal relationships across party lines. The programme succeeded in introducing and highlighting the need for a PA – UNP bi-partisan approach and brought the mediation-facilitation debate into the political discourse resulting in a significant shift in the peace process.

This programme was continued independently by the NPC with a visit to the Chittagong Hill Tracts in Bangladesh by a mixed group of parliamentarians and local level politicians and Buddhist monks. There a Buddhist minority had battled a Muslim dominated state before entering into a peace agreement.

Numerous consultations and conflict resolution skills trainings workshops were conducted for visit participants in Sri Lanka. Advocacy through empowerment was a key strategy used in this work. Negotiations and peace oriented activities were considered empowering process in themselves, target groups engaging in peace oriented options because of their inherent empowerment qualities. These visits offered politicians the opportunity to learn about and be exposed to peace processes in other parts of the world.

Parliamentarian and local government representatives who had otherwise only known each other through verbal battles they fought in Parliament and the political stage, found themselves compelled to interact with each other, building new personal relationships across party lines.³³²

This process facilitated by the NPC created a track two dialogue that addressed an essentially political problem and sought to build political will and capacity for negotiations. The NPC programmes helped create a more informed political debate, enabled those

³³² Gunatilleke, G. (2001). *Cost of the War – Economic, social and human cost of the war in Sri Lanka*, Colombo: National Peace Council

involved to give a more realistic assessment of Sri Lanka's conflict and understand clearly the dynamics of conflict and the price required to be paid for peace. The NPC as a small civil society-based conflict resolution group was able to sustain its programmes due to its composition of ethnically and religiously diverse individuals. Drawn from the various political shades NPCs actors enabled it to gain the acceptance and subsequent co-operation of most political parties. The NPC's own definition of itself also helped. As a civil society based organization, its role was limited to complementary, supplementary and catalytic functions as against being a protest movement. NPC facilitated a process of building the resource capacity of politicians to deal with issues of conflict and its resolution.

Within its first five years the NPC was able to lay important ground work and become an enabling factor in building consensus between the two main Sinhala political parties. The hair splitting issue of whether Sri Lanka should invite a facilitator or a mediator did create a huge controversy but resulted by the parties to the conflict inviting a third party facilitator.

A newsletter titled 'Sama Yamaya' (Time of Peace) was published quarterly in Sinhala, Tamil and English. The newsletter reported on activities and programmes of the NPC along with situation analyses, press releases, and responses from readers. As part of its awareness building work, NPC carried a printed peace slogan on 2 million stamped envelopes issued by the Sri Lankan Postal Department.

In collaboration with the MARGA Institute the NPC undertook another research entitled Study on the Cost of the War in Sri Lanka in November 1997. Excerpts of findings of this study were published in Sinhala, Tamil and English and released on the occasion of the National Peace Delegates Convention in January 1998. The booklet was well received both within and outside of the country and prompted the NPC and MARGA Institute to undertake an extended study on the subject. Around the same time, International Alert was also designing a study on the cost of the war and it was agreed that the initiative be undertaken jointly, bringing the scope of the two proposed studies together in one project.

The comprehensive study, called the 'Cost of the War – Economic, Social and Human Cost of the in Sri Lanka'³³³ an advocacy and peacebuilding tool, was expected to give further impetus to the building of a people's movement calling for an end to the protracted war. The study was to be a resource for those who were primarily engaged in human rights, development, environment and economic performance issues, giving a legitimate and compelling reason to join the debate, and hopefully helping to search for solutions. The intensity and vast extent of human suffering caused by death and injury, homelessness, social and economic deprivation, fear and insecurity, the loss of human and civil rights, plus the growth of a culture of violence, were some of the other costs that were highlighted.

The study pointed out that the statistics of economic loss were impersonal and could

³³³ National Peace Council, A Glimpse of the North – Impressions of Southern Journalists, 2005

not uncover the human costs. The economic, human, social and moral cost of war was borne by the whole of Sri Lankan society. The Government of Sri Lanka and the Tamil militant movement mobilized vast financial and human resources and threw them into the holocaust of war. Human beings were killed; the social and economic infrastructure destroyed, women widowed and children orphaned, whilst a large numbers of people were deprived of a decent human existence.

The study also pointed out that in Sri Lanka the economic cost amounted to 21.3% of GDP in 1996. The government salaries and wages of the security forces and the purchases of various goods and services used for the war amounted to 6% of GDP in 1996. The war created IDPs numbering over 750,000 persons of whom 75,000 were children under five years of age. The annual expenditure to provide minimum survival assistance was estimated to be Rs. 3 billion without taking into account monies spent by humanitarian agencies which could otherwise have been channelled into development activities.

Outflow of human resources to internal refugee camps and outside to India were estimated to be in the region of 150,000 persons. Persons seeking political asylum in countries in Europe and North America were reported to be in the region of 90,000. They included doctors, engineers, academics and professionals of various categories. Over 35,000 people were estimated to have been killed in the conflict by 1996. Many more people have been physically and psychologically damaged.

The heightening of security, the Emergency and the continuing exigencies of war imposed restrictions on people in the enjoyment of their human rights and violated the privacy of their homes. This was particularly true for the minority Tamil community. The war deeply damaged and eroded the value system and the moral foundations of society and fostered a pervasive culture of violence.

It was an ambitious but it was believed that a detailed country study of this nature would result in a vital document both for decision-makers and for citizens who had no access to information of this nature. The study provided a clear motivation to seek an end to the war and usher in peace with justice for all.

NATIONAL PEACE COUNCIL AND THE 2002 CEASEFIRE AGREEMENT

Some Significant milestones of the NPC since the signing of the CFA:

In 2002 NPC expanded its outreach programme through the formation of networks in 10 selected districts of the country to bring about the active participation of women as civil society actors in the peace process. Over 80 civil society groups were mobilized and the NPC worked as the lead organisation in the formation of the National Anti-War Front.

In 2003 the NPC undertook several activities to express the support of civil society for the CFA. Among these was a photographic exhibition consisting over 340 photographs, exhibited in several parts of the country to mark the first anniversary of the ceasefire. The exhibition was also shown in Parliament – the first time a non-governmental organisation had been granted permission to conduct an educational exhibition there. In addition the

NPC carried out a media campaign and peace activities in eight provinces in Sri Lanka.

The general election of April 2004 was called unexpectedly, and provided little time for the people to mobilize themselves and tell the political parties what their aspirations for the future were. The Peace Tables project (People's Forums for Peace, Democracy and Good Governance) reflected both the NPC's response to the changing political situation as well as its long term objective of promoting reconciliation through all strata of society. The NPC mobilized People's Forums in 10 districts to prepare people's manifesto to strengthen the peace process prior to the general election. Gender and peace programmes were undertaken in 4 districts of the north and east and 6 other districts. The objectives of the project were to:

1. Bring together people from key sectors and different walks of life to discuss the main issues pertaining to Sri Lanka's future;
2. To formulate a people's manifesto and disseminate it to the population at large and to the political parties;
3. To identify how civil society can ensure that these principles are adhered to both in terms of the forthcoming election and after the election.

Areas of focused discussions were designed to help participants arrive at proposals for a lasting solution to the ethnic conflict, equal rights and equality of communities, economic peace dividend and economic justice, and the need for responsible government.

In 2005 the NPC organized a photographic exhibition on life along the A9 arterial road to Jaffna, images both from before and after the ceasefire. A media campaign was undertaken based on the product of 18 discussion forums held prior to the Presidential Election to promote the theme of 'Rebuilding Partnerships to Build Peace'. The NPC published a book titled 'A Glimpse of the North – Impressions of Southern Journalists'³³⁴. The book was a compilation of articles by journalists from the South who had visited Jaffna which was under government control and the LTTE controlled Kilinochchi in a programme facilitated by the NPC. After seeing the ground realities in the conflict affected areas many of the journalists continued to give importance to their role as peacebuilders and participated in peace and reconciliation programmes conducted by the NPC. This initiative also helped to deal with negative news coverage further marred by hidden and overt censorship, ethnic bias and sensationalism.

As part of the NPC's efforts of promoting women's participation public life, NPC published a handbook on 'Efforts Towards Representing Women in Politics in Sri Lanka'.³³⁵ The publication was one of the outcomes of the NPC's Gender Unit's programme to mobilize

³³⁴ National Peace Council of Sri Lanka, *Efforts towards representing women in politics in Sri Lanka, 2005*

³³⁵ National Peace Council of Sri Lanka, *The Cost of War – Economic, Social and Human Cost of the War in Sri Lanka*, Second Edition, 2006.

women at the grassroots through a series of training workshops, research and surveys to enhance the leadership and political participation of women. The Gender Unit also published a booklet on 'What Women Should Know About Domestic Violence' for use as a training manual. The NPC also commissioned a study from the Social Indicator, a unit of the Centre for Policy Alternatives (CPA) to improve understanding of political party hierarchies and their attitudes to women. It was also to examine the role and position of women within political parties, to gain an insight into the workings of the political parties and how women interact with male politicians, and to elicit women's own perception of political party structures and assess their capabilities in engaging in politics.

In 2006, after conducting federalism training workshops on power sharing mechanisms, the NPC established twenty District Network Committees. Delegates' conference held on International Peace Day and International Human Rights Day that endorsed people's resolutions calling for an end to war and for a political solution. The Peace Education Unit of the NPC produced and published a Training Manual for Peacebuilding in Sinhala, Tamil and English. The aim of the publication was to introduce it to school children and teachers. In collaboration with Young Asia Television (YATV) the Media Unit produced a documentary in all three languages on consumer culture, conflict, violence and their manifestations in Sri Lanka. In a bid to take the lessons of peacebuilding internationally, a ten-member NPC delegation was represented in the World Social Forum in Karachi, Pakistan. This provided an opportunity to network with a large number of international delegates.

The NPC made a significant contribution in promoting the 'Voice of Youth in the Peace Process' in Geneva, Switzerland during the first round of talks between GoSL and LTTE in February. Students who were war-affected from a multi-ethnic, multi-religious and multi-cultural background between the ages of 18-25 years were chosen. They were accompanied by a university professor in Geneva who closely monitored the peace talks. This exposure and experience opened up a new world opened to many of these young participants.

In June-July 2006, NPC commissioned MARGA Institute to undertake a public opinion survey. The respondents were asked two sets of questions. The first dealt with the opinions of the respondents concerning the current country situation and the second probed the opinions they held on a political settlement and resolution of the conflict. The survey revealed that a large majority of respondents were apprehensive that the present violence would escalate and will lead to war which will not end soon. Many were of the view that the best solution to the present crisis lay in a peacefully negotiated solution and not in war. Only a small proportion opted for war. The survey also revealed that a large majority of all communities wanted the role of the international community in the peace process strengthened. A large majority also favoured a solution that would provide maximum devolution in an undivided country. The responses also revealed considerable mutual distrust which appeared to influence the choice of opinions of a political system most felt likely to resolve the conflict.

The NPC published a second edition of *The Cost of War – Economic, Social and Human Cost of the War in Sri Lanka*.³³⁶ The report provided a range of estimates on the economic cost of the war based on various assumptions. All these showed that the cost to the country's economy and resulting loss in output, consumption and investment were immense. The section on the human cost of the war demonstrated how this was essentially incalculable. It encompassed the suffering to homeless households, the fear and insecurity of families directly involved in the war, the severe social and economic deprivation of people in the war torn areas, the threat of unpredictable acts of terror, the loss of human and political rights and the moral damage caused by the brutal violence and the conditions governing the execution of the war. The study concluded that the pursuit of war in a context when an opportunity for a political settlement is available has no conceivable moral justification.

2006 was a particularly difficult year for the NPC. The events that unfolded undermined many of the gains that the peace movement had achieved over the previous decade. Unfortunately a militaristic approach to conflict resolution was fostered by the parties of the conflict. These led to concerted attacks on those who advocated a negotiated settlement through peace talks. The NPC was amongst those who became targets for attack through both physical against it and through media. It is a source of pride for the NPC that it did not seek to retreat in the face of adverse circumstance, instead it strove to take its work forward with greater commitment to strive for a negotiated political settlement.

In 2007 the NPC faced a further challenging year. Nationalist propaganda in many forms, and on both sides of the ethnic divide, sought to portray those who urged nonviolence and peaceful negotiations as traitors. As a result there was a significant tightening of space for peace work of any type. The NPC was subjected to media attacks and even a Parliamentary Select Committee inquiry.

Despite these challenges the NPC continued to implement its planned activities with more zeal and with a greater degree of visibility. A peace symposium was conducted to mark the 5th anniversary of the Ceasefire Agreement with the theme of '*Two Decade War, 5 Years Ceasefire, What Next?*' Despite the context of threats and harassment experienced by the NPC, the symposium was attended by government and opposition representatives, heads of diplomatic missions and over 300 district representatives.

Despite the negative portrayal of the NPC and other organizations working for peace, in April 2007, the Interfaith Harmony Foundation of India awarded Mr. Jehan Perera, Executive Director of the NPC the *Khwaja Moinuddin Chishti Prize for Peace, Tolerance and Harmony*. This award was in recognition of the NPC's initiatives to restore peace as well as promoting non violent resolution of at an international level.

Another highlight of 2007 was the inspection tour by two groups of southern journalists to the Eastern Province, covering Ampara, Batticaloa and Trincomalee Districts. The main

³³⁶ National Peace Council of Sri Lanka, (2007) *A Glimpse of the East – Impressions of Southern Journalists*.

objective of this inspection tour was to get a clear understanding of the situation in the province. The NPC published a book titled '*A Glimpse of the East – Impressions of Southern Journalists*'.³³⁷ The publication highlighted that the CFA alone was not a final settlement but merely a cessation of hostilities.

February 22, 2007 marked the fifth anniversary of the CFA. The NPC organized a peace symposium on the theme, '*Two Decades of War; Five Years of Ceasefire Agreement*'. 350 participants representing the four major religions and civil society groups spoke on the need for a political rather than a military solution. Government and opposition political parties addressed the gathering in accordance with the theme of the symposium. Heads of missions also took part in the event demonstrating international solidarity with the call from civil society leaders for negotiations, peace and political reform. The NPC called on the government and the LTTE to provide civil society with a conducive environment and encouragement to enable civil society leaders to take the messages from the peace symposium to the larger society and help to extricate the country from the trap of violence and warfare. See NPC newspaper advertisement published after symposium.³³⁸

In 2008 NPC organised a regional conference on 'Pluralism' in South Asia. It was held in Colombo, the seat of government, in order to highlight the importance of minority involvement in political processes and to encourage their inclusion in peace negotiations, especially in Sri Lanka. All the papers presented at the conference were published in a book entitled '*Powers and Limits of Pluralism in South Asia*'.³³⁹

The NPC also published a book titled, '*A Dove Sits on My Shoulder*', an analysis of the continuing ethnic conflict in Sri Lanka 2007-2008 written by NPC's Executive Director.³⁴⁰ The publication provided a unifying theme of opportunities that existed and continue to exist, for a political solution based on principles of conflict resolution, nonviolence and respect for human rights.

The year 2008 however saw an escalation of the war in the North which took centre stage in the affairs of the country. The military defeat of the LTTE took first place in the agenda of the Sri Lankan government, which seemed to pay little respect for International Humanitarian and Human Rights Laws. This in turn created an environment of intimidation which few were willing to challenge. The NPC was one of the organizations that was willing to take up the challenge and engage with a diverse constituency. This included NPC's traditional Track 3 constituency as well as new Track 2 parties, which was a considerable achievement in the context of the deteriorating political situation and the militarization of society.

³³⁷ Please see Appendix 11

³³⁸ National Peace Council of Sri Lanka, (2008) *Powers and Limits of Pluralism in South Asia*.

³³⁹ Perera, J., (2008) *A Dove Sits on My Shoulders*, Colombo: National Peace Council of Sri Lanka.

³⁴⁰ National Peace Council of Sri Lanka, (2007) *Snapshots of Peace Building – Commentaries on war and peace in Sri Lanka, 1995 – 2007*.

A momentous year for Sri Lanka, in a bloody climax 2009 saw the end of the thirty year war. Since its inception in 1995 the NPC strived for an end to the war through a just political solution in Sri Lanka without war. After the war its mission remained to contribute to a political solution in Sri Lanka. Mainstream opinion, moulded by the government and mass media held the view that the end of the war had brought peace. The post-war environment posed its challenges to NPC's educational, mobilization and advocacy-oriented work. Those who believed that peace had dawned, saw no need for an organization like the NPC to exist.

As highlighted earlier since its inception the NPC issued Press Releases on a regular basis, as part of its advocacy strategy. These releases captured the events that took centre stage in the peace process and still provide analytical and reflective insights into ways and means of resolving the conflict. These releases have been widely acknowledged for their illuminating insights whilst always advocating an anti-war stance of NPC. While sometimes earning hostile criticisms, these press releases made NPC's stand on the conflict clear at all times being transparent and open to scrutiny. They also provide an historical record of events that either strengthened or scuttled the peace process. A book containing the entirety of the media releases was published in 2007.³⁴¹

The Norwegian government's effort to facilitate a peace process in 2002 was the last attempt to achieve an end to the conflict through peaceful means. The NPC supported this effort, and it was its profound regret that it never quite achieved the people's movement for peace needed to put pressure on the warring parties not to go back to the battlefield. It was and remains the NPC's conviction that the outcome of peaceful negotiations would have been superior to those of the military solution. Negotiations would have made a smoother transition to peace while providing a political solution. If it had succeeded much human and infrastructure loss would have been avoided.

The efforts made to end the war through peaceful means were necessary and courageous attempts although ultimately failing. The war and terrorism arose out of a long festering ethnic conflict, the roots of which were not adequately addressed. These remain to be addressed even though the war has ended. The Norwegian-facilitated peace process had the goal of a peaceful solution through negotiations, and even reached a point where the government and LTTE agreed to explore a power sharing solution within a united Sri Lanka.

With the focus on building a sustainable peace in Sri Lanka the NPC acted as a watchdog, monitoring events that contributed to its positive outcomes whilst also those that attempted to sever the process in a variety of ways. The year saw an escalation of the war in the North which took centre stage in the affairs of the country.

³⁴¹ Goonetilleke, B. (2006). Sri Lanka Peace Process: What Lies Ahead in Sri Lanka, in Rupesinghe K., *Negotiating Peace in Sri Lanka, Efforts, Failures & Lessons, Volume Two*, Colombo: Foundation for Co-Existence, p. 305.

This section deals with the question of why the Norwegian facilitated peace process failed and seeks to apply the lessons from the failure.

A key reason for the ultimate failure of the Norwegian facilitated process was its original and ongoing failure to retain President Kumaratunga's full engagement. She was not kept informed of the CFA did not respond positively. The Tamils people welcomed the Norwegian role in facilitating the signing of the CFA though the Sinhalese majority remained more sceptical. The Norwegian facilitation was successful in the early stages but this positive development could not be sustained. The CFA was negotiated with Wickremasinghe's majority UNP government during the SLFP Presidency of Chandrika Kumaratunga who largely remained hostile. As expressed elsewhere in this study the President ultimately intervened assuming control of negotiations. Subsequently by Prime Minister then President Rajapakse chose a harsher policy towards the LTTE. Rajapakse believed in a strictly military solution rather than a political one. This ongoing political crisis and the lack of political bipartisanship between the Sinhalese political parties lay at the heart of the Norwegian facilitated failure.

There were however positive outcomes from the CFA. There were clear improvements in the ground situation, enabling some return to normalcy for the population, but the Norwegians faced many constraints over which they had no ultimate control. This is not to say that different strategies might not have improved the potential for broader positive outcome.

Ambassador Bernard Goonetilleke, closely associated with the peace process from its inception, has said that one of the judgemental errors made by both parties was the 'undue haste in which the CFA was negotiated leading to the expectations that cannot be implemented.'³⁴² The priority had been to sign the CFA before the expiry of the third monthly extension of the original informal ceasefire. The Norwegians insisted that their text, which had the benefits of inputs from LTTE, had the best chances of being accepted by them.³⁴³ The armed forces were not given an opportunity to study the text fully and give their observations. They were not in a position to meet the deadlines set for vacating public buildings etc. A better outcome might have been achieved if the draft had been studied thoroughly by all parties resulting in a more workable document.

Norway's impartiality was also questioned by Sinhalese radicals when the LTTE was treated as an equal party to GoSL. The radical parties, primarily the JVP, frequently called on Norway to leave the country. As a consequence, the Norwegian facilitators had to exercise caution in making any statements or carrying out any actions that could provoke Sinhalese nationalists. The Norwegian government replaced Eric Solheim as special

³⁴² *ibid*

³⁴³ Dickwella, R. (2013). Analyzing the Dynamics of Norwegian Mediation: *Lessons from Sri Lanka, International Journal of Education and Research*, Vol. No 6 June. P. 9.

envoy by Jon Hanssen-Bauer possibly as a consequence to Sinhalese objections. The Norwegian facilitation on the other hand, was widely welcomed by the Tamil community.

GoSL campaigned relentlessly to have the LTTE proscribed as a terrorist organization. The LTTE's claim to be freedom fighters lost legitimacy with the international community after the attack on the World Trade Centre in September 2009. The LTTE methods of war were treated as terrorist attacks – not without justification given the groups development of suicide bombing as an instrument of war. The international community, including USA were in sympathy with the goals of the LTTE but not with the methods it used to achieve them. The co-chairs of the Tokyo Donor Conference (TDC), Norway, USA, EU and Japan came to play a major role directly in the peace process. However there was a clear dilemma in sponsoring a peace process in Sri Lanka whilst waging war on terrorism worldwide. Despite the CFA, GoSL launched military and non-military campaigns in the interest of 'national security' adopting the international language, the fight on terrorism. From this perspective, the international context did not help the peace process positively despite the TDCs best interest to do so.

The CFA brought about the suspension of the war for three years. The six rounds of talks yielded mixed outcomes but with successes and failures. The major failure of the 2002/3 period was that the parties did not succeed in signing even an interim political settlement to consolidate the gains of the CFA and the six rounds of talks. They failed to sign Interim Self Governing Authority (ISGA) which was put forward by the LTTE because a number of groups supported the President against the proposal.

The ground conditions on which the peace process was launched in 2002 changed considerably. The original condition of strategic parity had by now considerably altered and any trust that had existed between the GoSL and the LTTE eroded. Norway suspended its mediation activities on two occasions. First, in 2003 following the political crisis in Sri Lanka and second, in June 2006, Norway asked the parties to reiterate their commitment to the CFA originally signed in February 2002. While focusing on domestic politics, GoSL's agenda was also radically modified.

The marginalization of both social and civil society groups as well as political parties was a key obstacle in the peace process obstructed the peace process and resulted in 'spoiler behaviour'. Spoilers here are defined as those who opposing the peace agreement who sought various means to create uncertainty and turmoil within the peace environment. At the same time spoilers were those who have a stake in the peace process but who felt left out. These included political parties like the JVP, JHU, SLMC as well as representatives of the plantation communities.

The CFA was monitored by the Norwegian led Sri Lankan Monitoring Mission (SLMM), which put Nordic observers on the ground in both GoSL and LTTE held areas monitored the CFA. Whilst the main objective SLMM to monitor the implementation of the CFA it was

constantly criticized for turning a blind eye to LTTE violations. According to SLMM the number of violations from February 2002 to December 2006, the LTTE violations stood at 3,827 and the GoSL at 346.³⁴⁴ The SLMM made public its ruling on violations in effect naming and shaming the perpetrators. They were however constrained in their ability to investigate violations, were thus helpless and as a result relatively 'failed in their role of strengthening the peace process'.³⁴⁵ It would appear that the LTTE paid scant regard to the authority and impartiality of the SLMM and their rulings. In an interview with Kumar Rupesinghe, Norwegian peace envoy Eric Solheim highlighted the weaknesses of the CFA stated:³⁴⁶

The basic weakness is a strong and powerful monitoring system that could force the two parties into compliance. That was not possible at that time but is possible now. As I keep saying the success of the peace process lies in the ownership of the two parties.

In analysing the Norwegian mediated peace process, Ranjith Dickwella, Senior Lecturer at University of Peradeniya, commented as follows:³⁴⁷

Norwegian mediated peace process in Sri Lanka, gave a small room of space for civil society voices. But it was the state party – the government – that failed to see the need for an inclusive process. Not only civil society even the Head of State was side tracked. Furthermore, the Norwegian sponsored peace process is very much a bi-lateral one between two major actors, the government and the LTTE. The lack of other parties' support generated anxieties and those who felt threatened or excluded from the process tried to use different tactics to spoil the whole process. Especially the exclusion of Sinhala and Muslim nationalist parties by keeping shut their say from the peace talks has further fuelled volatile activities across the country. According to my analysis, the marginalization of groups and political parties obstructed the peace process; especially hard line political parties (including JVP, JHU, and SLMC) spoiled the peace process.

Jeganathan, Policy Researcher with the Institute of Peace and Conflict Studies made this comment on the role of India in the peace process as follows:³⁴⁸

These efforts should not be overlooked for two reasons: internationalization of the ethnic-conflict in Sri Lanka and marginalization of big regional players such as India, whose intervention in Sri Lanka had been a complete failure. Until 2003 the peace process was effectively handled by Norway and it was only after the 'Col Karuna's

³⁴⁴ *ibid.* p. 10

³⁴⁵ *op.cit.* Interview by Kumar Rupesinghe, p. 346.

³⁴⁶ *ibid.*

³⁴⁷ *ibid.*

³⁴⁸ Jeganathan. J. *Norway in Sri Lanka: A Tale of the Failed Peace Process* http://www.ipcs.org/print_article-details.php?recNo=3534 [Accessed on January 31, 2015]

split' that the peace process started gradually depreciating. It was an unexpected development for the Norwegians.

At the same time, the report downplays India's crucial role in weakening the LTTE that inadvertently contributed to the attrition of the peace process.

The CFA did save thousands of lives and, together with development assistance from the international community, gave the people of Sri Lanka a tangible peace dividend. However, none of the interventions of the peace process succeeded in addressing the root causes of the war and achieving a permanent solution. One of the clear characteristics of all these international interventions was a lack of transparency of the process and its restriction to an elite circle. Lack of communication was also a major factor in the prevailing conflict dynamics and misperceptions tended to dominate the environment.

In September 2011 the Norwegian Agency for Development Cooperation (NORAD) - a directorate under the Norwegian Ministry of Foreign Affairs released a report titled 'Pawns of Peace Evaluation of Norwegian Peace Efforts in Sri Lanka, 1997-2003'.³⁴⁹ This report probed two important questions: what went wrong with Norwegian peace efforts in Sri Lanka? And what lessons does this failed Sri Lankan peace process offer to conflict resolutionists? My research only focuses on the former.

Norwegian peace efforts in Sri Lanka have been the subject of heated debate and controversy, ever since becoming public in December 1999. This debate has spawned many different narratives about Norway's involvement in Sri Lanka, some of them very critical. The report attempts to provide a systematic and comprehensive overview of Norway's role as both mediator, as well as a ceasefire monitor and aid donor, from 1997 and 2009.

Based on a combination of interviews with key protagonists and archival research at the Norwegian Ministry of Foreign Affairs, the report provides a detailed narrative of the rise and fall of the peace process and it draws conclusions and lessons about Norway's involvement. The report criticizes several aspects of this involvement, but it also underscores that the tragic story of Sri Lanka's peace process and the resumption of war that followed. 'It was no more about the Norwegians "failing", than it was about the government "winning", and the LTTE "losing"'.³⁵⁰ The Executive summary of the report highlights:

Norway's involvement contributed to several intermediate achievements, including the Ceasefire Agreement, the Oslo meeting in which both sides expressed a commitment to explore a federal solution, and the signing of a joint mechanism for post-tsunami aid (PTOMS). The ceasefire in particular had positive impacts on the

³⁴⁹ Pawns of Peace. (2011). Evaluation of Norwegian Peace Efforts in Sri Lanka, 1997 – 2009, Oslo: NORAD.

³⁵⁰ <http://groundviews.org/2011/11/12/pawns-of-peace-evaluation-of-norwegian-peace-efforts-in-sri-lanka>. [Accessed on 6/2/2015]

ground situation, but in the end these accomplishments proved to be ephemeral. The peace process reproduced, rather than transformed underlying structural obstacles to conflict resolution. It failed to induce fundamental changes in the disposition of the state and anti-state formations in Sri Lanka, and to some extent it caused a further entrenchment of positions.³⁵¹

The report also highlighted that it would have been unlikely that a different mediator, or a fundamentally different type of intervention would have had an altogether more positive impact. This was due to the structural characteristics of Sri Lanka's minority conflict, the political system, the nature of the LTTE, and the shifts in the international context. Each contributed to determining importance for how the conflict – and the peace process – evolved.

At the outset the report states that Norway's role in the Sri Lankan peace process was a failure in that the mission did not bring an end to the civil war. However, this is too simplistic a conclusion as Norway's role in Sri Lanka's ethnic conflict was quite complex. Even though Norway was invited by the Sri Lankan government and LTTE for a mediation role and its peace initiatives were appreciated as well as acknowledged by external players, its efforts to achieve mutual resolution were derailed.

This report does explore how things could have been done differently which are summarized below:

First, Norway appeared to embark on its role as a peace mediator with insufficient appreciation of the difficulty of the task. There was limited contextual analysis, particularly the failure to read the shifts in domestic politics. A stronger contextual awareness might also have helped counter some of the problems the Norwegian mediators faced in managing the peace process.

Second, stronger and clearer conditions or parameters should have been negotiated from the outset with the key parties and continuously monitored and appraised. Minimal conditions for Norwegian engagement should have been:

The right to talk to whomever they want. The whole of the Sri Lankan government should have been part of the process, particularly bipartisanship between the two major stakeholders – the President and Prime Minister. This was the major reason for the failure of the peace process;

Norway should have had a proactive and robust media strategy to deal with persistent attacks damaging Norway's reputation and the legitimacy of the peace process itself;

The ability to put the engagement on hold or walk away especially after the failure of peace talks in 2006, and escalation of open war. Norway's growing isolation following the Proscription of LTTE by the EU and with both sides maintaining the fiction of the CFA while testing out the potential to gain the upper hand militarily;

³⁵¹ op.cit p. xv.

The capacity of SLMM to move around independently, on land and sea and establish connection between ground level monitoring and the political process.

To conclude follows the summary report of a NORAD seminar, in 2011, at which the Report 'Pawns of Peace' was presented. The key theme of this seminar was 'could Norway have stopped the war'.

According to Gunar Sorbo from the Chr. Michelsen Institute, who led the work on the first report to evaluate the Norwegian peace effort in Sri Lanka, there was little Norway could do to influence the forces that put an end to the peace process and led to the start of a new war.

The evaluation team has had full access to the archives of the Norwegian Ministry of Foreign Affairs and the Norwegian Agency for Development Cooperation (Norad), and to everyone who was involved in the peace process on the Norwegian side. Unfortunately, the team did not have access to all the key persons in Sri Lanka. Many of the most central leaders of the LTTE are either dead or in prison. The team was also not given access to interview the Sri Lankan government. To compensate for the lack of these primary sources, the team used secondary sources such as media, research (also their own research), and unpublished reports. Furthermore, international and national actors, experts and observers were also interviewed.

According to the evaluation, many factors worked against a peaceful solution to the conflicts in Sri Lanka, and Norway alone cannot be held responsible for the failure of the peace negotiations.

The peace process was wrecked by a lack of will to compromise on both sides, by specific traits in the country's political culture and by a series of unforeseeable events.

There was a large gap between that which the Sri Lankan government could tolerate and the demands of the LTTE. Changes in the international climate (e.g. the war on terror) also played a part, because it made it difficult for most Western countries to deal with the LTTE.

The split in the LTTE and its loss of international support shifted the military balance of power in favour of the Sri Lankan government.

The new Sri Lankan government from 2005, managed to mobilize support from China and other Asian countries, and later decided to go for a military solution with the approval from among others China. Norway was not, as a soft power mediator, in a position to counteract or change these factors.

In the absence of a strategic "road map" or a robust network of international actors, the peace process failed to lock the parties into concessions and commitments. According to the report, this can to some extent be attributed to the limitations of the Norway's ownership model, which provided both parties with the space to avoid core political issues, while continuing to pursue incompatible goals.

Several Norwegian contributions to the peace process were recognized in the evaluation. This was particularly true of the CFA, the Oslo communiqué, where the parties agreed to explore a federal solution, and the efforts to bring the parties together again after the tsunami of 2004. These elements of progress did little to transform the underlying structural obstacles to conflict resolution, and they were also in conflict with the changes in national and international conditions mentioned above.

Norway as facilitator should have made a greater effort to avoid being used as a pawn in a political game. For instance, Norway should have placed stronger conditions on its involvement, such as the right to engage with all parties deemed relevant, and preserve public communications channels.

Norway was caught up in a rather passive role as facilitator, and should have had a clearer framework and attached firm conditions to its engagement from the beginning.

Norway should also have seen the importance of a more inclusive peace process, particularly since even the president of Sri Lanka was sidelined for a time.

Norway should have withdrawn from the process as early as 2006, when the talks in Geneva failed.

Norway lost its role only after the Sri Lankan government defeated the LTTE in May 2009.

Norway had several roles in Sri Lanka, not all of them easy to combine. Its role was that of diplomatic broker, arbiter of the ceasefire agreement and actor in humanitarian and aid projects. The experience from the Norwegian efforts in Sri Lanka showed that when multiple roles are combined there was a need to develop a more robust strategic framework which optimized synergies and complementarities between them.

More generally, the evaluation posed the question of whether the Norwegian mediators had sufficient knowledge, resources and networks to handle the complexity resulting from the different roles Norway played in the peace process, and whether enough was done to avoid a situation of isolation from other international actors.

According to Sørbo, the work had been demanding, but also very interesting.

The greatest problem was that the Sri Lankan authorities did not want to talk to the evaluators, and denied their visas. They tried to compensate in various ways, but this probably meant that the voices most critical of Norway's role in Sri Lanka are underrepresented in the study.

Sørbrø believed that the evaluation report will be well received by those who follow the developments in Sri Lanka and are interested in Norwegian peace mediation, because it provides new information, reflection and new analyses. The report also

sought to draw more general lessons. The hope is that they will be considered by those working in the field, both in Norway and internationally.

They tried to be fair in their criticism of the Norwegian mediators, who made a great effort, and they hoped that they can have a constructive debate in Norway without anyone retreating to trench warfare.

In Sri Lanka the report will probably be used for various attacks, on Norway, and probably also on the authors, but knew that there are also many who will read it with open eyes and great interest.

Norwegian politician, Erik Solheim, who became a household name in Sri Lanka as a peace envoy. However he had tried and failed to make peace between the Tamil Tigers and the GoSL. In an exclusive interview with newspaper Ceylon Today in June 2014, said how the war was won at a tremendous cost. He said he would stand as witness before any recognized international tribunal, if asked to do so, on war crimes allegedly committed by GoSL. Excerpts from the interview are given below:³⁵²

Q: Why did the Norwegian peace negotiations fail, you toiled for almost a decade, meeting Prabhakaran more than 10 times?

A: It was wrong to isolate Prabhakaran. As it happened in the past, hardly anyone met Prabhakaran, but the Norwegians did. It would have been much better if a number of international leaders had met him and had impressed upon him the need to compromise and to settle for federalism. Meeting him 10 times was very little since no one else but the Norwegians talked with him. Remember that we met Chandrika, Ranil and Mahinda hundreds of times.

Q: Do you still believe the 30-year war could have been solved through peace talks without military action?

A: Yes! Far too many innocent people died in the war.

Q: Can you explain how that could have been possible?

A: The two main obstacles to the peace process would have had to be overcome, that is, firm pressure on Prabhakaran to accept federalism and, cooperation, not constant infighting, between the SLFP and the UNP.

³⁵² Peace would have been won without bloodshed, Ceylon Today, 08/06/2014

Q: To be a successful State, what should Sri Lanka do in the future?

A: Restore democracy and resolve the Tamil national question. Also, focus on development and economic progress.

In summary the peace process was fragile and failed due to several reasons as articulated earlier. However some of the main reasons are:

The process failed in Track 1, and there was insufficient support for Tracks 2 & 3. Systemic thinking would have been helpful in engaging with the top and bottom layers of the Sri Lankan polity.

The Sri Lankan conflict was looked at from different angles, namely liberal peace, mediation and the Norwegian efforts. Systemic thinking at the beginning would have made it possible to take a more holistic approach.

Opportunities for change, namely the federalism discourse and the joint response to the Tsunami were not used and missed. The example of the success in Aceh without secession was missed in Sri Lanka.

The reasons for the failure of peace process as conveyed to me in confidence by senior Norwegian diplomats are:

The peace process was fragile from the outset as President Kumaratunga was not on board and finally dismissed the UNP government.

LTTE and its leader Prabhakaran focused on more power and control and wanted to negotiate from a position of strength.

President Rajapakse's military strategy and a massive influx of military hardware and support by sections of the international community to wage a 'war on terror' at the local level.

The mediators were made to feel that they were weak by those opposed to the peace process and used the Norwegians as scape goats to meet their own ends.

The pressure exerted by the international financial institutions on austerity where the war affected communities did not experience a peace dividend.

Restoring democracy, resolving the Tamil national question ensuring equitable economic development remain major challenges. This will be dealt within the next chapter examining strategies for supporting the Sri Lankan peace process from the perspective of the National Peace Council.

CHAPTER 6

THE NPC – STUDY 2

OPTIONS FOR SUPPORTING THE SRI LANKAN PEACE PROCESS BY USING SYSTEMIC THINKING AS A TOOL FOR UNDERSTANDING THE DYNAMICS OF CONFLICT AND PEACE.

The core strength of the National Peace Council (NPC) in today's context is its balanced approach and its readiness to engage with all parties, but without compromising on its principles. It has been in existence for nearly two decades has earned ever social acceptability, goodwill and respect due to its commitment to a political solution to the ethnic conflict. The organization also has good relations with fellow NGOs. Its transparent and effective accounting system has contributed to good relations with donors.

The organization's continued and ongoing analysis and comment on the socio-political situation in the country through its press releases, through its newspaper Thulaawa and more recently through its monthly e-newsletter titled Paths to Peace. Its executive director's regular column in the press (English, sometimes Sinhala and Tamil) too has also ensured a continued visibility for the organization by association.

The organization has an experienced multilingual staff with long experience in peace advocacy and long time commitment to this work. It has the ability to conduct programmes tailored according to need. This is complemented by staff with ability to implement projects effectively. The NPC also has a strong grassroots network of peace animators mobilized through its district committees.

This chapter looks at options civil society actors discussed and possible modalities for supporting the Sri Lankan peace process using systemic thinking as a tool for understanding the dynamics of conflict and peace and exploring its potential for guiding and reflecting on practical measures of intervention. For the writer and many colleagues in civil society, systemic thinking was a learning process itself. The challenge was reconciliation of two opposing positions: how to pursue the war as effectively as possible on the one side and how to address the ongoing dispute, hostilities, and mistrust etc. by non-violent means on the other. The following three guiding principles for supporting the peace process emerged to help deal with these realities:

1. The principle of multipartiality as a pro-active approach to understand all stakeholders, based on the assumption that a just and sustainable solution can only be achieved if their interests, needs and fears are sufficiently addressed in the peace process;

2. The principle of constructive-critical engagement which involves developing trustful and reliable relationships in which not only 'like-minded groups of moderate civil society actors but, more importantly, the non-like-minded groups are engaged in a sustained manner;
3. The principle of promoting multiple futures for peaceful solutions in an explicitly process-oriented manner. Using the systemic rationale to build a bridge between the parties acknowledging the emergence of a multiplicity of legitimate solutions that would foster the preparedness of the parties to agree on some kind of compromise or win-win solution.

The above principles will be unpacked in greater detail in this section:

Multipartiality

Multipartiality differs from impartiality in that the facilitator *favours all* instead of *favouring none* in conflict resolution by tending to diverse needs so that all stories may be told and heard. Multipartial strategies for engagement would seek to understand the asymmetry that exists between parties, consider the momentum or distraction facilitators' social identity brings to the process, take responsibility for actively equalizing power, make social identity as a topic, and understand that context is relevant and emphasize creating a safe space.³⁵³ According to Unger and Wills:³⁵⁴

It is widely understood that inclusivity is a key idea in conflict transformation. Hence the challenge in any given setting is to identify creative processes for involving all of the legitimate interests in a peace process. However, it is difficult to involve every voice. For example, it is debatable whether such groups as those that promote brutal warfare, have little support from the local population and/or an undeveloped political programme, actually represent "legitimate" interests that need to be taken into account.

Multipartiality refers to the principle that intervening third parties must engage with all key parties to the conflict. Importantly this entails maintaining an equidistant position with respect to all sides. Protracted conflicts are marked by high levels of polarisation. In this context, the principle of multipartiality is important: it gives the third party a greater degree of legitimacy to engage with the "other side" and to counter those voices who call this betrayal.

Other concepts, such as impartiality – maintaining equidistance between parties, neutrality – equidistance in respect to issues, have been used by parties involved in conflict settings. However, multipartiality in a conflict resolution and peacebuilding setting would provide

³⁵³ <http://www.dso.ufl.edu/sccr/resolution/> [Accessed on September 5, 2012]

³⁵⁴ Unger B. & Wils O. (2006) *Systemic Conflict Transformation, Guiding principles for practitioner and policy makers working on conflict*, Berghof foundation for Peace /support, p 12-13

proactive opportunities to engage with all stakeholders on the assumption that a just and sustainable solution can only be achieved if the needs and fears of the conflicting parties are sufficiently addressed.

The writer's involvement with the 'One Text Initiative' was an effort to be involved in problem-solving initiatives comprising different stakeholders representing one or the other stakeholder in the peace process. The aim of these initiatives was to establish avenues for dialogue to facilitate conflict transformation. There were concerns and resistances against this concept both from the side of the government and the LTTE but the writer's experience was that a non-violent space was created to articulate their different viewpoints on specific issues.

A primary challenge of multipartiality was to create channels of communication and engagement with those parties who refused to make or maintain contact. This was a reality with some Buddhist nationalist parties in Sri Lanka. Another challenge was to deal with legal and technical regulations that prohibited officials and diplomats from engaging with non-state actors or those labelled as terrorist groups. For instance, in Sri Lanka officials from diplomatic missions were prohibited from meeting representatives of the LTTE. Other groups could be classified as being hardliners or spoilers. In order to overcome these dilemmas of multipartiality, third parties could consider working with proxy groups. Another option was to work in close partnership through a division of labour agreement with third parties that both had access to such groups and were not prohibited by international bans.³⁵⁵

One of the reasons for the failure of the peace process could be attributed to the absence of multipartiality and intra-party differences even within the UNF. Very few came forward to mount a consistent and coherent defence of the CFA which ensured that in a situation of crisis there was no stakeholder in a position to salvage it and restore faith and confidence in it as a *sine qua non* for conflict resolution and eventual transformation.³⁵⁶

Principle of constructive-critical engagement

This strategy focused on trust building and empathy for the actors from both sides by engaging with people with whom relationships could be built. The major criteria for those getting involved in this process were openness, transparency and confidentiality, to help build a trusting relationship. The aim of this critical and constructive engagement was also to contribute to the transformation of actors in the conflict and understand their future aspirations.

³⁵⁵ ibid p, 13

³⁵⁶ Ropers, N. (2008). *Systemic Conflict Transformation: Reflections on the Conflict and Peace Process in Sri Lanka*. Berlin: Berghof Handbook Dialogue No. 6, p. 68.

Ropers defined constructive-critical engagement, as being the concept of sustained, value-based relationship-building, empowerment and joint reflections with the aim of supporting political and nonviolent strategies for pursuing the parties' interests.³⁵⁷

The purpose of this type of engagement was to initiate a process of sustained interaction and communication with individuals or groups in order to support a learning and an empowerment process in a non-violent and safe space. This strategy enabled parties to articulate their views on specific issues and generate critical feedbacks from the opposing side. The main focus of this interaction was to try to share, in closed door settings, the concerns of the other side without naming and shaming the other party.

Some of the activities in which the writer was involved that were undertaken in the One Text Initiative were:

Making a clear stand on practices that violate human rights norms:

- 1 Highlighting specific humanitarian challenges, particularly with regard to internally displaced persons;
- 2 Creating safe spaces for interaction;
- 3 Providing feedback on specific political strategies during the negotiating process.

The most important partners for these types of activities were not only to work with like-minded organizations and individuals but more importantly with the non-like-minded ones with a view to working together in a sustained manner. Constructive-critical-engagement was therefore an important task to develop trusting relationships in which one side could begin to understand the positions, motives, interests and attitudes of the other.

The main advantage of this approach was that it created a safe learning space for those involved in the process and explored new thinking, possibilities and strategies. Engagement with people from the 'other side' helped parties to distance themselves from their own way of thinking and start thinking 'outside of the box' – outside of their usual system of reference.

This led to innovative ways of thinking about solutions. Those getting involved as third parties or those facilitating dialogue, were able to establish clear and transparent rules and objectives of engagement and their limits.

Promoting multiple futures for peaceful solutions

This strategy emphasized the need for promoting peaceful solutions in a process-oriented manner in order to prevent working on the basis of 'on or the other' as the only viable or

³⁵⁷ ibid. p. 36.

acceptable solution. The rationale behind this strategy was the acknowledgement of a multiplicity of legitimate solutions and the willingness of parties to agree to a compromise. There was potential here that could lead to what analysts refer to as being a win-win solution and encourage all parties to further develop their positions in order to be able to seriously address the concerns of other parties as well as their own.

The conflict in Sri Lanka was primarily about issues of political power-sharing, so a constructive solution would have potentially contained something that would have looked very much like a federal structure. However the term 'federalism' was not an accepted word in Sri Lanka and terms such as 'power-sharing' and 'multiple-futures' were used in relation to constitutional reforms as a whole. The strategy was to develop forms of cooperation involving a core group of people who shared a common vision and conflict resolution through power-sharing concepts.

As mentioned earlier, the writer was involved as a civil society actor during 2002-2005, when there was still an official peace process ongoing. Though communication between different parties was weak, it was possible to bring academics, political advisors, religious leaders and civil society leaders together to discuss common issues. It was possible to help them develop a common language for discussing these issues, promote mutual understanding and support joint analyses and other collaborative activities. Often this was done by facilitating problem-solving workshops which brought together various stakeholders, often from opposing camps, in one room to discuss common issues. What was critical in this process was that these dialogues took place in partnership with government ministries, the LTTE and affiliated organizations, political party offices and local NGOs.

One example was the facilitation of dialogues between the Association of War Affected Women and other stakeholders that provided a forum in which to explore options for finding solutions to identified issues. Since the participants were grouped according to ethnic, religious and political alignment, the shared learning and understanding helped build channels of communication across these lines of division.

Another example was the work with the Muslims Peace Secretariat and Muslim political parties. Here, the main focus was on creating space for constructive dialogue among Muslim stakeholders with respect to their proposals and interests concerning a sustainable and just settlement of the Sri Lankan conflict. This engagement also helped to build bridges between them and the other main stakeholders.

Another initiative was to support research and policy studies to identify key lessons from the peace process from 2002-2005 by the South Asia Peace Institute. The guiding notion of these publications was on dialogues about multiple futures for a peaceful Sri Lanka.³⁵⁸ Wils *et al* justify the Berghof Foundation's policy in promoting multiple futures in Sri Lanka, as follows:³⁵⁹

³⁵⁸ Space for Peace, http://www.berghof-peacesupport.org/publications/SL_Space_for_Peace.pdf 48-50

³⁵⁹ Wils *et al*. (2006) *The Systemic approach to Conflict Transformation, concepts and Field Application*. Berlin: Berghof Foundation for Peace Support. P. 62.

The starting point here is the fact that negotiations at the official level cannot do justice to the extensive challenges of such a far-reaching constitutional reform. What is required, in fact, is a broad discourse – involving society as a whole – on different power sharing concepts, and a variety of places and forums where this issue can be discussed in detail, i.e. where it can be “developed” as a non-threatening, legitimate and efficient state constitution. Besides the traditional instrument of expert workshops, this will involve a wide range of activities: integration in the training and further education programmes of, among others, lawyers, administration officials, journalists, and teachers, studies on partial aspects and alternative concepts, publications for various target groups, media programmes, public forums and panel discussions etc.

In this chapter we have seen what the application of systemic thinking in conflict transformation work in Sri Lanka meant for framing interaction with and among conflicting parties, as well as with stakeholders in the conflict in the three areas discussed earlier. In summary, first, multipartiality; in elaborating and reviewing processes and structures, the possibility of integrating opposing perspectives and models into an overarching common system of peaceful settlement of conflicts; second, constructive-critical engagement with the stakeholders and the concept of sustained, value-based relationship building, empowerment and joint reflections with the aim of supporting political and nonviolent strategies for pursuing the parties' interests; the third was envisioning of multiple futures and a vision to encourage all parties to further refine their positions in order to be able to address the concerns of other parties as well as their own.

Unfortunately, once the two sides left the high table, there was no one at any other table to keep it alive and be relevant. Likewise, the absence of critical-constructive engagement on the basis of principle, particularly the constituent elements of a democratic peace with human rights, led to the demise of the CFA.

Even though the war ended in 2009, post-war tensions and rhetoric, many imagined, remained even after five years. Despite being scarred by a bitter civil war for nearly three decades, the country failed to reap the benefits that should have accrued to all Sri Lankans in an equitable manner after the end of the war. It was in this context that NPC worked during the year under review.

The NPC believes that building a long-term, viable peace involves establishing or re-establishing communications between former enemies, changing negative stereotypes, building positive images and perceptions, and fostering mutual respect and trust. The NPC also believes that peacebuilding is not about the imposition of solutions from the top, it is about the creation of opportunities, and the expansion of political, economic, and social spaces, within which Sri Lankans can identify, develop and employ the resources necessary to build a peaceful, prosperous and just society.

Currently the NPC focuses its activities on the following four strategic priorities:

Strategic Priority 1: The NPC emphasizes pluralism in its approach as this is a unifying concept not a divisive one. Pluralism is about respecting the right to be different and accepting diversity as the basis of reconciliation. It is not divisive in that it does not focus on the rights of any one group in opposition to another. Given the long and violent history of conflict, true sustainable peace in Sri Lanka is dependent on two correlated processes – (i) political reform that decisively corrects structural sources of grievance, and (ii) a genuine, democratic, process of reconciliation that acknowledges the long social life of violence, and brings divided communities together to forge constructive relationships of pluralistic commonality and empathetic respect.

Strategic Priority 2: Sri Lanka is today a fragmented society. Each group operates in its own sphere. There is also a breakdown of institutions that enables trust. Any process of post-war transformation requires trust building. The NPC is seeking to build trust at all levels, both within and between communities. This will include raising awareness of truth and reconciliation across divided communities, and building support for reconciliatory processes that respectfully address grievance and suffering. The NPC will also support people to meet and interact across conflict divides to break down barriers and stereotypes and nurture deeper understanding, tolerance, and trust, fostering greater acceptance for an inclusive pluralistic national identity founded on shared values and respect for diversity as strength

Strategic Priority 3: Sri Lanka has yet to progress from being a post-war society to being a post-conflict society. There has been no conflict transformational process that has addressed the political roots of the conflict and wounds inflicted by the war. The end of any major conflict also opens up sub-conflicts that are suppressed by the larger one, and these have the potential to further fragment society. It is necessary to pre-empt possible future conflicts by addressing them before they escalate. It is this vulnerability and division – both between communities and within them – that makes a people-to-people approach to reconciliation so necessary at this critical time. National reform measures must genuinely engage community actors across community divides, making the most of surviving sources of community resilience and civic responsibility. If key actors can lead constructive inter- and intra-community efforts that mobilize support for reconciliation processes, and break down barriers to nurture pluralistic commonality, then the new government's reform will be more likely to succeed both as policy and as the social transformations that sustain peace in everyday life.

Strategic Priority 4: The NPC's core strength has always been its balanced approach and readiness to engage with all parties, but without compromising on its principles to sustain the organization. The objective is to develop the NPC into an organisation recognised as a local and international think tank on peace and conflict management and share its experience through various means. To achieve this objective the NPC reviewed its existing administrative structure, including all programme and finance and introduced changes where necessary; strengthened its delivery capacity by building the capacity of staff and motivating them through staff development programmes on latest methods of

conflict transformation and resolution. A memory/resource centre will be set up to provide access to the NPC's learning on conflict resolution for a wider group of interested people, organisations and institutions, nationally and internationally. This will be the repository for all the work and learning in that process. In order to achieve this objective, a strategic plan for the four year period from 2014 to 2017 was developed and parallel to that a comprehensive organizational development plan.

All ongoing, planned and future projects of the NPC will continue to be based on peace, human rights, transitional justice, and reconciliation and sub-topics related to those themes. In the Sri Lankan context, the NPC will further expand its scope towards post conflict reconciliation and implementing the government Lessons Learned and Reconciliation Commission (LLRC) recommendations, transitional justice and domestic solution for reconciliation and ethnic and religious integrity.

In Sri Lanka, one resilient source of peace has been the leaders of the country's vibrant Buddhist, Hindu, Muslim and Christian religious communities. Although religion has been mobilized in the past for conflict – bearing strong affiliations to ethnic identity – religion has also been a site of moral transcendence and civic engagement during times of stress. Religious leaders have continued community service, provided everyday guidance and conflict mitigation, formed inter-community alliances, and have advocated on behalf of their constituencies, providing stability, empowering their communities, and preventing or mitigating conflict. When their natural influence is strengthened by key skills, knowledge, resources, and networks, religious leaders have shown themselves to be effective peace builders, mobilizing shared values and principles to build cohesion across conflict divides and using their moral influence to nurture a sense of common humanity in both practice and thought.³⁶⁰

Outside support to religious leaders as peace builders only succeeds, however, when these actors are “given the lead in identifying needs and designing initiatives from the outset, drawing on their religious assets.”³⁶¹ This has been the guiding principle of the District Inter-Religious Committees (DIRCs), formed by NPC in 2010. This people-to-people initiative A youth-based program Write to Reconcile resulted in two publications. The first was a creative writing project born out of a belief that literature can contribute towards healing wounds and facilitating dialogue in post-war Sri Lanka. It was an anthology of writings by Sri Lankans between the ages of 18 and 29.³⁶² A second Anthology released with the same title was set in the Eastern Province which was not covered in the first publication.³⁶³

³⁶⁰ Hoole, Mariyah, et al, (2013) Religion, Conflict, and Peacebuilding: The Case of Sri Lanka. *In Gods and Arms: On Religion and Armed Conflict*, Kjell-Åke Nordquist ed., Church of Sweden Research Series, Vol. 6. Oregon: Pickwick Publications.

³⁶¹ Hayward, S., (2012) United States Institute of Peace Special Report: *Religion and Peacebuilding: Reflection on Current Challenges and Future Prospects*, p. 6

³⁶² Selvadurai, S.,Ed., (2013) *Write to Reconcile – An Anthology I*, National Peace Council.

³⁶³ Selvadurai, S.,Ed., (2015) *Write to Reconcile – An Anthology II*, National Peace Council.

The NPC also identified women as a powerful and untapped constituency capable of making a change. Women are grossly underrepresented in the political process with less than 6 per cent representation in elected political assemblies. In working with women the NPC used the experiences it had garnered in its work with the district level inter-religious committees it had set up. The government was prepared to give religious clergy more space to engage with the community than it gave to other forms of civil society, especially to NGOs. The NPC supported the inter-religious committees to bring people from different ethnic and religious communities together.

The underlying rationale of the NPC's work with women was the need to bring in more women's participation into the discussion and debate on the way forward for Sri Lanka, and thereby contribute to greater women's participation in governance. It is the NPC's contention that the greater participation of women will contribute to the national reconciliation process. The NPC's intervention seeks to fill the gap by mobilizing grassroots level women to participate in community-level healing. The NPC provided training and education to war-affected women on the transitional justice framework to help them understand the core elements of a conflict transformation process. They were also given training on the role of women and the need for women's voice in a post-war scenario. This work was done within the framework of reconciliation in which participants were encouraged to share their own perspectives but to find a common platform in which truth and justice lead to pluralism, coexistence and national reconciliation.

Another NPC intervention was to build on its participation at the Commonwealth Heads of Government meeting in Colombo in 2013, which linked civil society with the government. It joined a group of NGOs that had participated in that event to dialogue with the Secretary to the Ministry of Defence. This was done to discuss the implications of the government circular restricting the space given to NGOs to engage with the media and to issue media releases and to urge a more positive interaction between the government and civil society. There was concern that the government would pass new legislation further restricting civil society space. The government did not take further action in this regard.

Sri Lanka is a country in transition from post-war to sustainable peace. The ethos that prevailed during the war continued to the end of 2014. This led to a continuing trend of centralization of power and use of the security forces to ensure national security, which was privileged above human security. Several NGO programmes were violently disrupted. The NPC coped with the continuous shrinking in the civil society space that was one of the consequences of the militarized mind-set of the government.

The NPC also continued with its workshops, seminars, conferences, exchange visits and advocacy through the issuance of media releases, commentaries and interviews to the national and international media. This had impacts on increasing the general public's knowledge of pluralistic values, good governance and human rights, providing information on ground reality to opinion formers and decision makers, providing linkage between the religious and ethnic communities through structured interactions, reassuring ethnic and

religious minorities about support for their just causes, upholding consistent stance on issues of inter-ethnic justice and reconciliation and keeping alive an alternative discourse on minority rights issues.

In addition, the NPC brought in international experts through expansion of its partner network in 2014, strengthened its relationship with likeminded organizations in the Asian region, specifically, Initiatives of Change – India, Asia Plateau, Panchgani in India; Asia Justice and Rights in Indonesia and Relief International in Myanmar, shared the NPC's experiences and lessons with the international community. High level delegations from Thailand and Myanmar who visited the NPC received training in transitional justice from the NPC's partners in Indonesia and provided an opportunity for Tamil Diaspora to be involved in activities through the Write to Reconcile project referred to earlier.

The NPC understands that peacebuilding work in complex contexts like Sri Lanka demands a long-term commitment and an adaptive approach that cannot be based upon linear processes of planned change. In order to examine the transformative factors that have shaped the course of the Sri Lankan conflict and their influence, the NPC has identified the various conflict components or stakeholders. This should help the set of actors affected by the conflict and/or affecting its course, as agents of constructive or destructive change or obstacles to change in the transition processes. This exercise goes beyond naming of conflict parties, and individuals and institutions linked to them, it involves identifying the social, political and economic factors following the military defeat of the LTTE in 2009.

Systems analysis is a way of understanding reality that emphasizes the relationships among a system's parts, rather than the parts themselves. The example of a person receiving treatment after a stroke in an intensive care hospital can be linked to systems thinking where a group of diverse medical practitioners work with each other, different medical specialists, nurses, nutritionists, pulmonary specialists, surgeons, physical therapists and others. They work together to increase the chances of the patient's survival. Those in the peacebuilding industry need to think beyond the terms of their own disciplines that would review the situation of the patient as a whole. In Sri Lanka, peacebuilding-related activities also focused on human rights, governance, relief, rehabilitation and development, constitutional reform and language pluralism among others. A systemic analysis offers important additional tools for deeper understanding of the intractability of the Sri Lankan conflict, it offers a set of theory-guided explanations of the Sri Lankan peace process, enriches the various basic principles of conflict intervention and provides insights into their mutual interaction.

A systemic approach to conflict transformation builds on the best practices in the field of peacebuilding and conflict transformation. Given that a great variety of valuable concepts of peacebuilding and conflict transformation already exists, the aim of a systemic understanding is not to reinvent the wheel and present something completely new, but to offer ways forward in challenging areas.

CHAPTER 7

CONCLUSIONS

The concluding analysis will assess the prospects for peace in Sri Lanka and explore the potential for applying systemic thinking for guiding its transformation. The study of Systemic Conflict Transformation (SCT) is an emerging field of scholarly research and practice. Ropers argues that from a systemic perspective:³⁶⁴

All peace processes are processes of collective learning. The conflicting parties explore the possibilities of changing or transforming the conflict system they share with each other, and third parties explore what they can do to engage with relevant persons at the right time on the most critical issues.

Ropers continues that a key test of systemic thinking is indeed that third parties and insider activists become increasingly capable of applying systemic knowledge while supporting peace processes.³⁶⁵ However there are many challenges ahead. Diamond stresses:³⁶⁶

A systemic approach to conflict transformation builds on best practice in the field of peacebuilding and conflict transformation and combines this with systemic methods from family therapy, organizational development and cybernetics. Given that a great variety of valuable concepts for peacebuilding and conflict transformation already exists, the aim of a systemic understanding is not to reinvent the wheel and to present something completely new, but to offer ways forward in challenging areas.

Diamond highlights that multi-level and multi-actor approaches are needed to address the complex nature of protracted ethno-political conflicts. However, comprehensive and holistic approaches to conflict transformation very often develop into overwhelming and over-complex strategies, which tend to lose focus and sight of the essentials. While it is important to reflect on all the key issues and actors in the conflict system and their respective interrelations, the real challenge is to draw meaningful conclusions.

As Peter Senge has pointed out, the art of systemic thinking lies in seeing through complexity to the underlying structures generating change. This seeing through complexity can be supported by tools, but requires also a certain degree of systemic intuition, where one needs to cope with contingency, uncertainty and non-linearity of peace processes. For this reason, from a systemic point of view, peace processes can be modelled only to a limited extent.

Following the introduction to my thesis, in the second chapter, titled Conflict Resolution and

³⁶⁴ Ropers, N. (2008). *Systemic Conflict Transformation: Reflection on the Conflict and Peace Process in Sri Lanka*, Berghof Handbook Dialogue No. 6, Berlin: Berghof Research Centre, p 92

³⁶⁵ *ibid* p. 93.

³⁶⁶ Diamond, L. (2012). Systemic Conflict Transformation, in, Beatrix Austin, Hans J. Giessmann, Uli Jäger Eds, *Berghof Glossary on Conflict Transformation*, Berlin: Berghof Foundation Operations. p, 105.

Systemic Conflict Theory I provided a brief sketch of some best known conflict resolution models and introduced the concept of SCT which is the sub-focus of my research in analyzing the Norwegian-facilitated peace process in Sri Lanka.

In the third chapter, titled Conflict Context and Conflict Actors, I provided a historical overview of the post-independence political processes that generated and sustained the Sri Lankan conflict concluding with the events leading up to the signing of the CFA. I then examined different stages of the peace process, from 2002 to 2008, its collapse and ending with the abrogation of the CFA and proceeded to analyze the conflict parties or stakeholders and the relationships among them; I highlighted embedded conflict issues in respect of their positions, interests and values and traced historical events and actions that contributed to the genesis and dynamics of the parties in conflict.

In the fourth chapter, titled Systemic Analysis of the Peace Process from 2002-2008, in line with SCT, I unpacked the structural and contextual features that influenced the character of the conflict, the needs of the parties and their needs for conflict resolution and how conflict resolution preferences and options can be framed to support a constructive transformation of the conflict.

In the fifth chapter, titled National Peace Council, Study 1, I traced the history of the NPC since its inception in 1995 and described the work of the organization from 2002 – 2008 which was based on the assumption of linear solutions and progression to peace. I highlighted some significant milestones of NPC since the signing of the CFA. I concluded this chapter answering one of my two research questions why the Norwegian facilitated peace process failed and then seek to apply the lessons from such failure.

In the sixth chapter titled, The NPC – Study 2, I looked at the actions of the NPC and discussed possible modalities for supporting the Sri Lankan peace process using systemic thinking as a tool for understanding the dynamics of conflict and peace and to explore its potential for guiding and reflecting on practical measures of intervention.

In chapters five and six, I was able to highlight the work of the NPC and our vision for a peaceful and just country in which freedom, human and democratic rights of all people will be assured. We worked in partnership with different target groups to educate, mobilize and advocate the building of a society of rights-conscious citizens and a political culture that enables a political solution to the ethnic conflict and equal opportunities for all. Guiding principles of multipartiality and inclusivity were operationalized by the NPC within contours of systemic understanding of the Sri Lankan conflict for key stakeholder groups, processes of multi-stakeholder dialogues and other peace support activities.

Multipartiality posed many challenges from Buddhist nationalist parties and engaging with the LTTE designated as a terrorist organization. NPC always understood that inclusivity is a key idea in conflict transformation, but recognized the difficulty in involving every voice, especially those who promoted war as a solution. In retrospect the NPC's actions were

linked to a systemic understanding of the conflict during which it focused on strategic interventions to support processes of positive change within the conflict system.

In order to build constructive engagement, the NPC supported conflict transformation capacities of key stakeholders at political, religious and civil society levels. Individuals from key stakeholder groups and civil society were engaged in dialogue as they had access to decision-makers, were open to peaceful change, recognized the equality of all ethnic groups living in Sri Lanka and who were committed to achieving a just and peaceful resolution of the conflict.

A deeper analysis of the work of NPC from a SCT perspective would highlight that if a holistic nature of systemic approaches was adopted rather than a linear process, it could have contributed to generating efficient and effective interventions within the conflict system. However, given that the NPC is a non-governmental organization, there are obvious limitations to what could have been done within the space available for civil society organizations. Despite these constraints, the NPC was imaginative and creative initiatives that reached the highest echelons in the political spectrum while also reaching communities in remote parts of Sri Lanka. The A9 photographic exhibition referred to in Chapters 5 & 6 is a case in point.

Applying systemic thinking in peacebuilding projects and programmes means framing the interaction with and among the conflicting parties as well as other stakeholders in the conflict region as a 'learning space', which is characterised by three parameters: multipartiality in elaborating and reviewing processes and structures; constructive-critical engagement with the stakeholders, and envisioning multiple peaceful futures. These three parameters are useful guiding principles in the context of long-term processes in which conflict transformation is undertaken as a fundamental system transformation.

It is important to note that SCT does not replace other tools and methods of conflict analysis. Rather, it supplements the traditional conflict analysis methods and has the potential to provide several of the elements missing from them.³⁶⁷ It is important to keep this in mind in dealing with the post-war peacebuilding period in Sri Lanka.

As highlighted in Chapter 6, the post-war phase saw the shrinking of the space for civil society to engage in work in the areas of peace building and good governance. Only a handful of civil society groups, including the NPC, continued in this work in the face of a hostile macropolitical environment.

Six years after the end of the civil war, Sri Lanka is at a crucial moment in its own efforts to consolidate peace and secure its long-term benefits following the defeat of President Rajapakse on January 1, 2015. The newly elected President Maithripala Sirisena and Prime Minister Ranil Wickremasinghe are determined to win that peace. The risks of failed peace are appearing only now, because since 2009, when the war with the LTTE

³⁶⁷ Van Brabant, K. (2010) *PEACEBUILDING HOW? Systems Analysis of Conflict Dynamics*, Interpeace

ended in an enormous spasm of violence, the government led by the former President Rajapakse made only the most half-hearted efforts to bring about reconciliation with the Tamils. Reconstruction of the war-ravaged Tamil districts, as well as other parts of the island damaged by years of fighting has barely begun. The neglect was part of a deliberate strategy by the former President who saw that keeping Sri Lanka on a semi-war footing, and kept the Tamil citizens aggrieved and alienated, was the most effective way of maintaining his iron-fisted rule. Through a divide-and-rule strategy, he gave himself unprecedented amount of power in his own hands. In the January 2015 Presidential Election, Maithripala Sirisena stunned the world by creating a winning coalition of Sri Lankans of all faiths, and ethnicities, who want to rebuild democracy and prevent the slide down the path of authoritarian rule. The NPC, in a statement issued after the elections stated:³⁶⁸

The election of a new President with a mandate for good governance is an opportunity for Sri Lanka to make a fresh effort to achieve the post-war justice and reconciliation that has eluded it... The National Peace Council calls on the new President and political parties that rallied around him, which include political parties dedicated to achieving the interests of the Sinhala, Tamil and Muslim communities, to address the vexed issue of a political solution to the ethnic conflict and to ensure the restoration of land and lost rights to the people and the truth about missing and detained persons is ascertained.

The National Peace Council is hopeful that having engaged in a common struggle to regain democracy, the political parties that form the President's alliance will have developed enough trust and understanding between themselves to reach out to each other and compromise on their differences..... President Sirisena's victory presents an opening for discussion among political parties of different ideological orientations in the background of a joint achievement – the victory of their common candidate and the joining together of political parties and politicians from across the political spectrum in the new government. They are now all on the same side, and this would be the best opportunity to work out a mutually acceptable solution.

A prominent Catholic Priest and a leading member of the Tamil diaspora, writing in a weekend newspaper six years after the end of the war succinctly captures the reality of what happened:³⁶⁹

For the government it was a victory over Tamil Terrorism, end of a war and beginning of peace. But for the Tamils it was the culmination of another mass massacre of militants and civilians and the beginning of incarcerations and further militarization, robbing of lands and missing of persons. One reality gave birth to two entirely different interpretations and consequences.

³⁶⁸ Media Release, www.peace-srilanka.org, January 11, 2015

³⁶⁹ Emmanuel S J, *Beyond Victory Parades and Commemorations*, The Sunday Leader, May 17, 2015

Possible Ways Forward

Civil society actors can only play, at best, a supportive role in peacebuilding. Peacebuilding is an essentially political process and its eventual success or failure is largely determined in the Sri Lankan context by domestic political elites. For this reason, one cannot make a fair assessment of civil society groups and NGOs based on the criteria of the success or failure of the peace process at a national level. In endeavours to resolve the Sri Lankan conflict, the right people would have to be addressed. This would include assorted government and political leaders other societal leaders who shape public opinion such as Buddhist monks and the media and political leaders of minority Tamils and Muslims.

The challenge is not to come up with a single model to deal with the complex dynamics and processes of post-conflict peacebuilding. 'Empowering communities torn apart by armed conflict to build peace from below, marked by recognition of the significance of local actors and of the non-governmental sector and the links with local knowledge and wisdom,'³⁷⁰ is one option. This strategy falls very much in line with the work of the NPC. Based on past and current experience in peacebuilding work in Sri Lanka I feel that one way forward would be to continue to focus on empowering of communities torn apart due to armed conflict to build peace from below. However, this strategy alone would be insufficient as the writer is convinced that the failure of achieving a long and sustainable peace is also dependent to a large degree on Sri Lanka's political leadership and the local media.

No single or collective effort from civil society, media activism and international opinion can fully transform the dynamics of conflict within Sri Lanka itself – this transformation lies in the confluence of such interventions coupled with initiatives to broaden the debate on the post-war peacebuilding in Sri Lanka. Such processes would need to strip away what is currently a top-heavy and exclusive peace process at the political level to make way for inclusive, participatory, open, accountable and transparent dialogues.

The NPC also acknowledges that peace-building is an intensely contested concept in Sri Lanka. There are official and reformist conceptualizations of it. The official government approach under former President Rajapakse was built on the analysis that with the military defeat of the LTTE, the terrorist problem had been resolved; Sri Lanka did not have an ethnic problem as such to address politically and the immediate need was for rapid economic development and political integration of the North and East with the rest of the island, which would mean peace. Several civil society groups, including NPC, did not share the views of this official project of peacebuilding.

On the contrary following a reformist perspective, the NPC believes that despite the military defeat of the LTTE, Sri Lanka has not yet entered a post-conflict phase. The conflict continues in different forms and it may re-emerge if it is not managed politically. Economic and infrastructure development in the North and East, as well as resettlement of

³⁷⁰ Ramsbotham *et al.* (2011). *Contemporary Conflict Resolution*, Third edition, Cambridge: Polity Press Cambridge, p 233.

the IDPs are immediate priorities, but they do not essentially constitute the whole agenda of post-civil war peacebuilding. A political solution needs to be given priority along with the developmental and re-settlement agendas. A political solution is also an integral part of the post-civil war reconciliation process as recommended by the LLRC.

Peacebuilding is consequently a highly sensitive undertaking requiring political transformation and compromise. It is bound to create resistance from many quarters. Peace needs to be forged through transformation of positions and a compromise between different interests and diverging goals. This is the transformation and compromise the NPC is seeking to achieve, placing ourselves in the centre of the peacebuilding pyramid developed by Lederach referred to in Chapter 1 empowering grassroots leadership from below. Currently this is being done by establishing interreligious committees in twelve of the twenty five districts in Sri Lanka. Plans are underway to expand our activities to the other districts as well. The entry point for these activities is peace education, including nonviolent communication (NVC), conducted by experienced resource persons.

We also engage with senior political party leaders from the ruling and opposition parties at the top level of the pyramid. At the middle level we engage horizontally with local level politicians and civil society leaders and network on a range of initiatives. Our focus on the principles of SCT also provides the basis for strategic discussion regarding potential points of intervention, scenario planning, theories of change and methods for addressing conflict dynamics. One other activity that NPC carries out on a regular basis is to issue press releases on a range of current issues. The NPC conducts peacebuilding activities at multiple levels.

As highlighted in Chapter 2, a variety of valuable concepts of peacebuilding and conflict transformation already exists, and of many of these concepts were applied in practice by the NPC over the past two decades. There is no doubt that multi-level and multi-actor approaches are needed to address the complex nature of the Sri Lankan conflict. Diamond points out:³⁷¹

Comprehensive and holistic approaches to conflict transformation very often develop into overwhelming and over-complex strategies, which tend to lose focus and sight of the essentials. While it is important to reflect on all the key issues and actors of the conflict system and their respective

interrelations, the real challenge is to draw meaningful conclusions. The art of systemic thinking lies in seeing through complexity to the underlying structures generating change.... This requires also a certain degree of systemic intuition, where one needs to cope with uncertainty and non-linearity of peace processes.

³⁷¹ Diamond, L., *A Systems Approach to Peacebuilding*, p 106, <http://www.kalliopeia.org> [Accessed on May 1, 2015]

Much work has been done by the NPC in various settings and with trainings to help deal with the Sri Lankan conflict to arrive at a win/win outcome rather than a win/lose outcome. Win/win outcomes have in part contributed to reconciliation, healing, true collaboration, partnerships, and healthy relationship patterns, among others. What is required is to go beyond a win/win strategy; to look beyond the level of resolving disputes is to draw attention to changing the relationships and conditions under which those relationships are shaped. 'Beyond win/win, then, seems to point in the direction of changes within the larger context, or the system, in which the conflict is embedded'.³⁷²

Diamond continues with some practical definitions of beyond win/win through a continuum of transactional and transformational work. According to Diamond:³⁷³

Transactional work is on the problem, the interaction that seeks to get solutions, improve working relationships and provide a framework for ongoing relationship.

Transformational work, on the other hand, seeks not just to resolve the present problem, but to change the dynamics of the relationship and system of relationships that could, if not addressed, insure future and recurring problems of a similar nature. The more entrenched the conflict is, whether in a family system or and inter-communal system, the more need there is for a transformational approach.

Transformational work looks at underlying patterns of assumption, belief and behaviour. It seeks to build relationships that are cooperative and flexible, able to create new forms needed to address problems as they arise. Reconciliation and healing, visioning, partnering, peacebuilding, and leadership development are examples of transformational work.

The differentiation is not a set of polarities, but a true non-linear continuum, in which the peacebuilder may mix and match methods depending on the circumstance. In the general field of conflict resolution and peacebuilding, different practitioners often see themselves as aligned with primarily one approach or the other. This is appropriate, I believe, and fruitful for a field which cherishes as one of its basic values the importance of diversity.

If we, as peacebuilders, are to think and act transformationally, therefore, we need to be able to think systemically. In fact, I would go further and suggest that the very core of our work needs to be rooted in the systemic or ecological view.

Looking at the Sri Lankan peace process from a transformational systems approach the goal of peacebuilding can be articulated at several levels of the system.

As was seen in earlier chapters, the first level of peacebuilding in 2002 was the signing of the

³⁷² *ibid.* p. 2.

³⁷³ *ibid.* pp. 3 & 4.

CFA between the GoSL and LTTE brokered by the Norwegian government. Despite some positive changes and improvement in the quality of life of conflict-affected communities and an air of safety island-wide, the CFA collapsed. It is apparent that something else needed to change, something about relationships – not only between the GoSL and LTTE, but between the people and their leaders, to a degree between ethnic groups, their own histories, the need for their own sense of empowerment to determine their future and their access to resources within the country and from the international community. It is sad to note that a sustainable system of peace in Sri Lanka was not realized with the collapse of the CFA in 2008 and the cataclysm that followed for a year could not be prevented.

What followed was an oppressive regime which was able to win the war with the LTTE militarily but was incapable of winning peace for Sri Lanka. They acquired land from the displaced and above all the dignity of a large segment of war-affected communities. Large-scale infrastructure development was undertaken with little focus on meeting the livelihood and survival needs of communities especially in the North and East of the country. A small number in the political system lived at the expense of the others and began draining the energy of the system. Sri Lanka moved from norms of good governance: certain words (federalism, terrorism, devolution of power,) were expressed far out of proportion to what they really meant; leadership for peace was demonized as traitorous; coercion and repression were used to sustain the conflict and were considered to be patriotic; non-violent options were often ignored, hate speech was tolerated and often encouraged, influential persons including international actors were routinely condemned. The ruling party divided their opponents with financial incentives and ministerial positions. Vast amounts of state money and resources were used for re-election for a third term including the state media for propaganda of Rajapakse's candidature. The Sri Lankan minorities were repressed and alienated post-war. In the former war-theatre of the North and East, the Tamil minority remained a subordinate community with their survival ensured only if they acceded to each and every demand put forward by the military administration which effectively ran civil administration in those areas. The above reality can be defined as being a conflict-habituated system.

Thankfully this was arrested with the Presidential elections of January 2015. It is now the responsibility of peace activists to create systems of peace that fulfil the needs of all parties, and are self-renewing and self-responsible in which sustainable peace can be embedded. Systemic reforms ought to take place for any substantial change to be able to break away from the culture of impunity and corruption of the past decade. 'The tension between the vision and the current reality is what gives a system the energy to change and learn'.³⁷⁴ If a sustainable peace system is the vision, and the conflict-habituated system is the current reality, then the question is how to use the tension in that gap to move the process forward. According to Diamond:³⁷⁵

³⁷⁴ Senge, P. (1990). *The Leader's New Work: Building Learning Organizations*, Sloan Management Review Reprint Series, Volume 32, November 1, p. 9.

³⁷⁵ *op.cit.* p. 21.

An immediate response to that question is to help people become aware of both the vision and the current reality; help them feel that tension for themselves, and describe it in their own words and ways of understanding. This level of understanding requires a deep attentiveness to the patterns of the system, and a strong capacity for systems analysis. Peacebuilders can help various sectors of the system develop this shared wisdom. Being able to look at both directions, from what is to what could be, and weave back and forth between the two, is a potent resource for systems change, and an important skill that provides a strong foundation from which to take action.

From this perspective, some of the conflict-habituated dynamics highlighted above are possible areas of intervention. By bringing a sustained focus on any of these dynamics and looking how to change a particular dynamic a peace activist can make an input that will affect the whole system. Changes in one part of the system can affect the whole. This effort will take time, patience, skill and the assistance of new players from inside and outside of the system. One of the strategies is to help people to gain a systems appreciation and get people to see the big picture.

Interventions for building sustainable peace systems with deep changes necessary to accelerate progress against society's most intractable problems require a unique type of leader – the system leader, a person who catalyses collective leadership. Writing on *The Dawn of System Leadership*, Senge, P et al identify Nelson Mandela as being a system leader, as follows:³⁷⁶

Mandela embodied a system leader, someone able to bring forth collective leadership. In countless ways, large and small, he undertook interventions aimed at bringing together the remnants of a divided country to face their common challenges collectively and build a new nation.

Perhaps the most transcendent example of Mandela as a system leader was the Truth and Reconciliation Commission, a radical innovation in the emotional healing of the country that brought black and white South Africans together to confront the past and join in shaping the future. The simple idea that you could bring together those who had suffered profound losses with those whose actions led to those losses, to face one another, tell their truths, forgive, and move on, was not only a profound gesture of civilization but also a cauldron for creating collective leadership. Indeed the process would have been impossible without the leadership of people like Bishop Desmond Tutu and former President F W de Klerk.

At no time in history have we needed such system leaders more.

The review identifies three core capabilities of system leaders which are needed in order to foster collective leadership:³⁷⁷

³⁷⁶ Senge, P. Hamilton, H., & Kania, J. pp. 1 & 2 http://www.ssurreview.org/articles/entry/the_dawn_of_system_leadership. [Accessed on May 17, 2015]

³⁷⁷ *ibid.* pp. 3 & 4.

The first is the ability to see the larger system. Helping people see the larger system is essential to building a shared understanding of complex problems. This understanding enables collaborating organizations to jointly develop solutions not evident to any of them individually and work together for the health of the whole system rather than just pursue symptomatic fixes to individual pieces.

Secondly, deep, shared reflection is a critical step in enabling groups or organizations and individuals to actually 'hear' a point of view different from their own, and to appreciate emotionally as well as cognitively each other's reality.

The third capability centers on shifting the collective focus from reactive problem solving to co-creating the future. ... This shift involves not just building inspiring visions but facing difficult truths about the present reality and learning how to use the tension between vision and reality to inspire truly new approaches.

Continuing to do what we are currently doing, but doing it harder or smarter is not likely to produce very different outcomes. Real change starts with recognizing that we are part of the system we seek to change. There is a hunger for processes of real change. This is undoubtedly why a person like Mandela strikes such a resonant chord.

The challenge is not to come up with a single model to deal with the complex dynamics and processes of post-conflict peacebuilding. 'Empowering communities torn apart by armed conflict to build peace from below, marked by recognition of the significance of local actors and of the non-governmental sector and the links with local knowledge and wisdom,'³⁷⁸ is one option. This strategy falls very much in line with the work of the NPC and the Centre for Communication Training (CCT) in Colombo where the writer serves as a Director for both organizations.

At the CCT we follow a different strategy; the main focus of our work is to introduce Nonviolent Communication (NVC) skills as promoted by Marshall Rosenberg.³⁷⁹ CCT provides training in Nonviolent Communication. The purpose of NVC is to strengthen the ability of practitioners to inspire confidence from others and to respond compassionately to others and ourselves. NVC guides persons to reframe how they express themselves and hear others by focusing on their consciousness on what they are observing, feeling, needing and requesting. NVC emphasizes compassion as the motivation for action rather than fear, guilt, shame, blame, coercion, threat or justification for punishment. NVC skills assist the practitioner to deal with major blocks to communication such as demands, diagnoses and blaming. In NVC trainings, one learns to express one's feelings without attacking the other, which will minimize the likelihood of facing defensive reactions in

³⁷⁸ Ramsbotham *et al.* (2011). *Contemporary Conflict Resolution*, Cambridge: Third edition, Polity Press. P. 233.

³⁷⁹ Rosenberg M B. (1999). *Nonviolent Communication – A Language of Compassion*, California: Puddle Dancer Press.

others. NVC is a four-step process: *Observation, Feelings, Needs, and Requests*.³⁸⁰ This enables one to express oneself, and hear others, while maintaining respectful and empathetic connections, and become attentive to universal human needs for everyone.

NVC is also called Compassionate Communication or Collaborative Communication. It also focuses on three aspects of communication: *self-empathy* (defined as a deep and compassionate awareness of one's own inner experience), *empathy* (defined as listening to another with deep compassion), and *honest self-expression* (defined as expressing oneself authentically in a way that is likely to inspire compassion in others).

NVC is based on the idea that all human beings have the capacity for compassion and only resort to violence or behaviour that harms others when they don't recognize more effective strategies for meeting needs. Habits of thinking and speaking that lead to the use of violence (psychological and physical) are learned through culture. NVC theory supposes all human behaviour stems from attempts to meet universal human needs and that these needs are never in conflict. Rather, conflict arises when strategies for meeting needs clash. NVC proposes that if people can identify their needs, the needs of others and the feelings that surround these needs, harmony can be achieved.

NVC holds that most conflicts between individuals or groups arise from miscommunication about their human needs, due to coercive or manipulative language that aims to induce fear, guilt, shame, etc. These 'violent' modes of communication, when used during a conflict, divert the attention of the participants away from clarifying their needs, their feelings, their perceptions, and their requests, thus perpetuating the conflict.

NVC trainings conducted by the CCT in the conflict-affected areas have helped resolve local level conflicts with active participation of local-level community and political leaders and public servants. All NVC trainings begin with the trainees and trainers seated in a circle with one in the middle circling a stick to generate friction and vibration on a Tibetan Singing Bowl that produces a sound that contributes to social healing.³⁸¹ This strategy continues to be an effective entry point enabling participants from different religious communities to pray in silence and seen as a first step contributing to healing and reconciliation.

The government's focus on a 'home grown' solution needs to be demonstrated with concrete efforts and movements in a variety of directions. A durable and lasting peace will come about in Sri Lanka only when the reconciliation process is underscored by a broad and truly inclusive dialogue process that addresses the rights and freedoms of Tamil and other minority communities with the support of the international community and all Sri Lankans within and outside that country. It would be useful to remind ourselves that:

Given the levels of polarization of communities, violence and injuries that have been perpetrated during the protracted violent conflict, to reach the transformative levels

³⁸⁰ *ibid.* p. 5.

³⁸¹ For more details on the Tibetan Singing Bowl see, Lederach, J. & A. (2010) *When Blood and Bones Cry Out* New York: Oxford University Press, pp. 89- 110.

of bridging differences and restoring trust requires a capacity for innovation and creative renewal likely to be beyond the capacity of many societies in the aftermath of violence.³⁸²

Ramsbotham *et al* highlight four stages for reconciliation, namely, ending violence, overcoming polarization, managing contradiction and celebrating difference.³⁸³

The first requirement is for some measure of political closure, at least to the point where a return to violence becomes unlikely. It is hard to forgive a defeated enemy, and harder to forgive a finally victorious enemy; it is harder still to forgive an enemy who is still seen as an immediate and potential threat;

The second stage in overcoming polarization is a question of combating what have often been irreconcilable accounts of conflict entertained by rival parties. The deeper processes of reconciliation cannot be reached while dehumanized images of the enemy are current and mutual convictions of victimization are widely believed.

With the third stage, the reconciliation process definitely enters the realm of transformation, as efforts to bridge continuing deep differences by structural, political and economic rearrangements, and by strengthening the psychological possibilities of living together peacefully despite persisting conflicts.

In some people's eyes, only when the fourth and final stage is reached has true reconciliation been achieved. This involves deeper levels of peacemaking and cultural peacebuilding that stretch from revisions of formerly polarized official accounts and media representations, through pluralization of education and stories told in school textbooks, and eventually on to leaving everyday experiences that affect localized transmission of memory within communities and families

Viewed from the above perspectives it is obvious that durable peace cannot be built in Sri Lanka without envisioning how a truly reconciled society will look like.

Amidst the deeply disturbing erosion of basic values of democracy, a growing fear psychosis and the silencing of voices supportive of a just and sustainable peace, there is a need for peace-loving Sri Lankans to continue to stand up against threats to collective futures, lest silence becomes the death knell for the creation of a peaceful Sri Lanka that respects the sanctity of life, celebrates difference and eschews violence. The process of engaging communities in dialogues that open up the space for public support of on-going peace initiatives is not yet a lost cause. It is also the only way in which a non-violent groundswell of opinion can be mobilized to act as a bulwark against the further

³⁸² Ramsbotham *et al.* (2011). *Contemporary Conflict Resolution*, Third edition. London: Polity Press Cambridge, p. 233.

³⁸³ *ibid.* pp. 258-261.

deterioration of democracy in Sri Lanka.

One other discourse that needs to be brought into peacebuilding is the focus on religion and conflict resolution. What has been called the 'ambivalence of the sacred' emphasizes the widely recognized point that within all the great world religions are conditions that can be co-opted to legitimate violence and war, but also deep resources for promoting non-violent conflict resolution and peace.³⁸⁴ This ambivalence of the sacred is part of the Sri Lankan reality, where both promoting violence and peace can be found in the four major religions, in Sinhala, Tamil and Muslim communities.

With the post-war role of Buddhism in inciting or carrying out attacks on Muslim, Christian and Hindu beliefs and places of worship, the ambivalence of the sacred continues. From a conflict resolution perspective, however, the role of religions cannot be ignored. Working toward peace in Sri Lanka will depend on whether the various ethno-religious communities are prepared to engage in critical self-reflection to demystify their own mytho-historic narratives that gave rise to fundamentalist movements not only among Sinhala-Buddhists but also among the Tamils and Muslims of the island. The starting point in the post-conflict period for peacebuilding is also to promote a process of self-reflection in interreligious initiatives that are promoted.

In Annex (12) the writer highlighted the work of several agencies engaged with the BFCS in Sri Lanka in a variety of initiatives adopting a focus on systemic approaches to conflict transformation. The focus on systemic thinking was a non-linear approach that was identified as being a cycle of SCT that included observing the system, working with and within the system and evolving along with the system. Activities included regular analysis, monitoring and assessment to understand the complexities, critical-constructive engagement and understanding of respective roles and constraints, and flexibility and joint learning processes with partners. From this perspective, SCT made an important contribution to establishing a strategic planning framework to coordinate and link different activities, levels of activity and actors.

With my leadership role at the NPC, CCT and other organizations, I feel that it would be necessary to reactivate some of the core elements of SCT to guide post-war peacebuilding in Sri Lanka. These would include, mobilizing agents of peaceful and nonviolent change, systemic analysis of post war realities, strategic planning of systemic interventions, creativity in imagining solutions and planning systemic interventions. These core elements are unpacked in greater detail in the publication to present the promising systemic approach to conflict transformation practitioners³⁸⁵

Sri Lanka has invested and continues to invest heavily on military infrastructure, strategic state of the art thinking, and planning and enormous resources and budgets. However,

³⁸⁴ *ibid.* pp. 340-41.

³⁸⁵ Wils, Oliver *et al.* (2006). *The Systemic Approach to Conflict Transformation, Concept and Field Application*, Berlin: Berghof Foundation for Peace Support. pp. 31-66.

the country has invested

little in peace or conflict prevention planning. What is now required is systemic thinking and systems planning to replace the current half-hearted approaches to peacebuilding and conflict prevention with an infusion of conflict prevention principles, tools and approaches at the national level.

Sustainable security is not possible if marginalized groups, whether religious, ethnic or racial or gender based groups are excluded from the process. The recipe for creating militancy or insurrections is not complex. It involves, in part, singling out a specific group and depriving them of channels of communication by manipulating the media or attacking them on unfounded grounds. There can be no peace without inclusivity.

The protection of human rights is an essential and non-negotiable component of conflict prevention and peacebuilding. In addition, human rights violations such as exclusion and discrimination create a profound fissure in the relationship of human beings with each other and in the relationship between the individual and the state.

It is essential to acknowledge that no single organization, institution, sector or gender regardless of its stature, can be expected to singularly shoulder the enormous burden for creating sustainable peace in any given community. Peacebuilding is, of necessity and by definition, an inclusive, representative and participatory process, and is, in fact, the ultimate collaborative effort.

I consider that the systemic approach I have grappled with in my research has very great potential for networks and other cooperative structures. I will continue my work with further empirical investigations armed with mandates from the NPC, CCT and many partners in our network.

The Need to Promote Concepts of Social Healing

There are many strategies and academic studies on peacebuilding, reconciliation and conflict resolution of which SCT is one approach. I feel my research would be further strengthened with the idea of 'social healing' as articulated by Lederach.³⁸⁶ Moving beyond the area of academic research, how do we deal with voices *when blood and bones cry out from over thousands of marked and unmarked graves that are dotted around Sri Lanka as a result of conflicts and violence over the past three decades?* There will be *no peace* in Sri Lanka unless there is social healing that responds to these cries. There will be *no reconciliation* in Sri Lanka unless there is social healing that responds to these cries. There will be *no justice* in Sri Lanka unless there is social healing that responds to these cries. One challenge is to link SCT to social healing that would resonate more closely with cultural and religious norms in Sri Lanka. Moving from conceptual frameworks there is a need to move towards spiritual underpinnings that have motivated

³⁸⁶ Lederach, J., & A. (2010). *When Blood and Bones Cry Out*. New York: Oxford University Press.

individuals to remain engaged to seek ways and means to bring about a durable peace in Sri Lanka. In summary, Lederach defines social healing in the following terms:³⁸⁷

Social healing lies between the idiosyncratic micro processes of individuals seeking to heal in the midst and aftermath of violence and the more distant macro processes that purport to provide national reconciliation. In our view social healing emerges at community levels, in spaces where face-to-face relationships and interaction take place. These are micro in as much as they refer to individuals and their relationships embedded in local communities. They are macro in that they comprise groups.

Social healing holds the promise of three distinct theoretical contributions. First, social healing creates accessibility. It creates an intermediary space between the individual process and the collective. As such, social healing has greater opportunity to respond to affected people's more immediate concerns and relationships.

Second, social healing offers multi-directionality of impact through vibration. This suggests a potential to create appropriate spaces for meaningful engagement and the development of purposeful action that touches people with reference to felt needs.

Third, the very context of social healing as an interactive engagement of voice; which gives rise to a ripple effect, or social echo. Social echo requires meaningful conversation, the movement out and back of expressed ideas, needs and hopes. Theoretically, social echo has the capacity to touch and move spaces near and far.

I would like to refer to another insight from Lederach in addition to the one quoted by me at the beginning of my introductory chapter.³⁸⁸

The moral imagination requires the capacity to imagine ourselves in a web of relationships that includes our enemies; the ability to sustain a paradoxical curiosity that embraces complexity without reliance on dualistic polarity; the fundamental belief in and pursuit of the creative act; and the acceptance of the inherent risk of stepping into the mystery of the unknown that lies beyond the far too familiar landscape of violence.

In conclusion I would like to stress that a SCT approach is useful and provides an effective conceptual framework for analysis, planning and action can contribute to building sustainable peace in Sri Lanka. SCT tools can be used by intermediary organizations like the NPC and CCT and others that are actively working in the areas of conflict transformation, peacebuilding and reconciliation.

Going back to Chapter 4, I wish to emphasize that the tetralemma of the conflict on state

³⁸⁷ *ibid.* pp. 198-234.

³⁸⁸ Lederach, J.P. (2005). *The Moral Imagination – The Art and Soul of Building Peace*. New York: Oxford University Press, p. 5.

power still remains a reality despite recent changes in the Sri Lankan political firmament. Even though the LTTE is out of the picture in position B, the aspirations of the Tamil nationalists continues to elude them. The 5th position in the tetralemma seems to be the option that is open to provide movement on the positive side to explore with an emphasis on commonalities of all communities living in Sri Lanka. The negative side of this option is more conflicts at many different levels.

For instance, in the immediate aftermath of the presidential election former President Rajapakse blamed the Tamils for his electoral defeat. Reportedly with the intention returning to parliament following the general elections by winning Sinhala votes, he claims that government policies are paving the way for the re-emergence of the LTTE terrorism. The argument is that he should come back to power to protect the motherland from the Tamils. He and his supporters want an iron grip on the Tamil population. Any conciliatory measures by the government towards the minorities will be depicted as a sell-out of the motherland. Rajapakse politics, if successful, will slow down real peace and ethnic reconciliation. The chances of a durable peace in Sri Lanka will be slim as long as feuding politicians use the unresolved conflict as part of their political arsenal.

One needs to be mindful of the fact that it is essential from an SCT perspective to understand the whole picture by working at multiple points across that whole. These multiple points can be at a geographical, structural or ethno-political levels. Specific actions are also as important as dialogue. Walking together while talking can make an immense difference in building relationships. At the outset it must be realized that stakeholder consensus needs to be achieved to generate a constructive systems change. There is also a need to identify adequate support structures to traverse the SCT route.

I would be first to admit that this thesis is an early step and more needs to be done as systemic concepts and tools require further testing in the field of conflict transformation.

Some of the best minds I have encountered are those who are emotionally and passionately connected to the conflict and its transformation, who believe in peace without appeasement, peace with justice, peace with human dignity, and peace without erasing the past. These are inspiring individuals, whose love for their work far exceeds, perhaps foolishly, considerations of their personal safety and any financial recompense. Others continue to struggle against a seemingly endless barrage of denigration to continue, as best they can, work that builds the capacity of communities to promote a peaceful and reconciled Sri Lanka.

“True justice is the harvest reaped by peacemakers from seeds sown in a spirit of peace.” (St. James Ch. 3:18)

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APPENDIX 1

Bandaranaike - Chelvanayakam Pact

The Pact was signed between SWRD Bandaranaike, Prime Minister of Sri Lanka and SJV Chelvanayakam, Tamil leader on 25 July 1957. It was later abrogated, within less than a year, on 9 April 1958.

Reproduced below is the text of the Pact.

Representatives of the Federal Party had a series of discussions with the Prime Minister in an effort to resolve the differences of opinion that had been growing and creating tension.

At an early stage of these conversations it became evident that it was not possible for the Prime Minister to accede to some of the demands of the Federal Party.

The Prime Minister stated that, from the point of view of the Government, he was not in a position to discuss the setting up of a Federal Constitution, or regional autonomy or take any step that would abrogate the Official Language Act.

The question then arose whether it was possible to explore the possibility of an adjustment without the Federal Party abandoning or surrendering any of its fundamental principles or objectives.

At this stage the Prime Minister suggested an examination of the government's Draft Regional Council Bill to see whether provision could be made under it to meet, reasonably, some of the matters in this regard which the Federal Party had in view.

The agreements so reached are embodied in a separate document.

Regarding the language issue, the Federal Party reiterated its stand for parity but in view of the position of the Prime Minister in this matter they came to an agreement by way of adjustment. They pointed out that it was important for them there would be a recognition of Tamil as a national language and that the administration of the Northern and the Eastern Provinces should be done in Tamil.

The Prime Minister stated that as mentioned by him earlier it was not possible for him to take any steps that would abrogate the Official Language Act.

After discussion it was agreed that the proposed legislation should contain recognition of Tamil as the language of the national minority of Ceylon and that the four points mentioned by Prime Minister should include provision that, without infringing on the position of the Official Language as such, the language of administration of the Northern and eastern Provinces be Tamil, and that any necessary provision be

made for the non-Tamil speaking minorities in the Northern and eastern Provinces.

Regarding the question of Ceylon citizenship for the people of Indian descent and the revision of the Citizenship Act, the representatives of the Federal Party put forward their views to the Prime Minister and pressed for an early settlement.

The Prime Minister indicated that the problem could receive early consideration.

In view of these conclusions the Federal Party stated that they were withdrawing their proposed *satyagraha*.

Part B

1. Regional areas to be defined in the bill itself by embodying them in a Schedule thereto.
2. That the Northern Province is to form a regional area whilst the Eastern Province is to be divided into two or more regional areas.
3. Provision is to be made in the Bill to enable two or more regions to amalgamate even beyond provincial limit; and for one region to divide itself subject to ratification by Parliament. Further provision is to be made in the Bill for two or more regions to collaborate for specific purposes of common interest.
4. Provision is to be made for the direct election of regional councillors.

Provision is to be made for a delimitation commission or commissions for carving out electorates. The question of MPs representing districts falling within regional areas to be eligible to function as chairman is to be considered. The question of Government Agents being regional commissioners is to be considered. The question of supervisory functions over larger towns, strategic towns and municipalities is to be looked into.

5. Parliament is to delegate powers and to specify them in the Act. It was agreed that regional councils should have powers over specified subjects including agriculture, cooperatives, lands and land developments, colonization, education, health, industries, fisheries, housing, social services, electricity, water schemes and roads.
6. It was agreed that in the matter of colonization schemes the powers of the regional councils shall include the power to select allottees to whom land within their area of authority shall be alienated and also power to select personnel to be employed for work on such schemes. The position regarding the area at present administered by Gal Oya Board in this matter requires consideration.
7. The powers in regard to the regional council vested in the Minister of Local Government in the draft bill to be revised with a view to vesting control in Parliament whenever necessary.
8. The Central Government will provide block grants to the regional councils.

The principles on which the grants will be computed will be gone into. The regional councils shall have powers of taxation and borrowing.

APPENDIX 2

Senanayake—Chelvanayakam Pact

The Senanayake—Chelvanayakam Pact was signed between Dudley Senanayake, the Prime Minister of Sri Lanka and S.J.V Chelvanayakam, Tamil leader on 24 March 1965. Reproduced below is the text of the Pact.

Mr. Dudley Senanayake and Mr. S. J. V. Chelvanayakam met on 24 March 1965 and discussed matters relating to some problems over which the Tamil-speaking people were concerned, and Mr. Senanayake agreed that action on the following lines would be taken by him to ensure a stable government:

(1) Action will be taken early under the Tamil Language Special Provisions Act to make provision of the Tamil Language of Administration and of Record in the Northern and Eastern Provinces.

Mr. Senanayake explained that it was the policy of his party that a Tamil-speaking person should be entitled to transact business in Tamil throughout the island.

(2) Mr. Senanayake stated that it was the policy of his party to amend the Languages of Courts Act to provide for legal proceedings in the

Northern and Eastern Provinces to be conducted and recorded in Tamil.

(3) Action will be taken to establish District Councils in Ceylon vested with powers over subjects to be mutually agreed upon between two leaders. It was agreed, however, that the government should have power under the law to give directions to such councils under the national interest.

(4) The Land Development Ordinance will be amended to provide that citizens of Ceylon be entitled to the allotment of land under the Ordinance.

Mr. Senanayake further agreed that in the granting of land under colonization schemes the following priorities be observed in the Northern and Eastern provinces:

(a) Land in the Northern and Eastern provinces should in the first instance be granted to landless persons in the district.

(b) Secondly, to Tamil-speaking persons resident in the northern and eastern provinces.

(c) Thirdly, to other citizens in Ceylon, preference being given to Tamil citizens in the rest of the island.

Signed

Dudley Senanayake

S. J. V. Chelvanayakam

24.3.1965

APPENDIX 3

Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979

PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA PREVENTION OF TERRORISM (TEMPORARY PROVISIONS) ACT No. 48 of 1979 [Certified on 20 July 1979]

AN ACT TO MAKE TEMPORARY PROVISION FOR THE PREVENTION OF ACTS OF TERRORISM IN SRI LANKA, THE PREVENTION OF UNLAWFUL ACTIVITIES OF ANY INDIVIDUAL, GROUP OF INDIVIDUALS, ASSOCIATION, ORGANISATION OR BODY OF PERSONS WITHIN SRI LANKA OR OUTSIDE SRI LANKA AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS the Parliament of the Democratic Socialist Republic of Sri Lanka continues to affirm that men and institutions remain free only when freedom is founded upon respect for the Rule of Law and that grievances should be redressed by constitutional methods:

AND WHEREAS public order in Sri Lanka continues to be endangered by elements or groups of persons or associations that advocate the use of force or the commission of crime as a means of, or as an aid in, accomplishing governmental change within Sri Lanka, and who have

resorted to acts of murder and threats of murder of members of Parliament and of local authorities, police officers, and witnesses to such acts and other law abiding and innocent citizens, as well as the commission of other acts of terrorism such as armed robbery, damage to State property and other acts involving actual or threatened coercion, intimidation and violence:

AND WHEREAS other democratic countries have enacted special legislation to deal with acts of terrorism:

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Prevention of Terrorism (Temporary Provisions) Act, No 48 of 1979, and shall come into operation in respect of all or any of its provisions on such date or dates as the Minister may appoint by Order published in the Gazette.

PART I

OFFENCES

2. (1) Any person who -

(a) causes the death of any specified person, or kidnaps or abducts a specified person, or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term of imprisonment of not less than seven years; or

(b) causes the death of any person who is a witness to any offence under this Act, or kidnaps or abducts or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term of imprisonment of not less than seven years; or

(c) commits criminal intimidation of any special person or a witness referred to in paragraph (b); or

(d) commits the offence of robbery of the property of the Government, any department, statutory board, public corporation, bank, co-operative union or co-operative society; or

(e) commits the offence of mischief to the property of the Government, any department, statutory board, public corporation, bank, cooperative union or co-operative society or to any other public property; or

(f) without lawful authority imports, manufactures or collects any firearms, offensive weapons, ammunition or explosives or any article or thing used, or intended to be used, in the manufacture of explosives; or

(g) possesses without lawful authority, within any security area, any firearms or any offensive weapon, ammunition or explosives or any article or thing used, or intended to be used, in the manufacture of explosives; or

(h) by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups; or

(i) without lawful authority erases, mutilates, defaces or otherwise interferes with any words, inscriptions, or lettering appearing on any board or other fixture on, upon or adjacent to, any highway, street, road or any other public place; or

(j) harbours, conceals or in any other manner prevents, hinders or interferes with the apprehension of, a proclaimed person or any other person, knowing or having reason to believe that such person has committed an offence under this Act, shall be guilty of an offence under this Act.

(2) Any person guilty of an offence specified in -

(i) paragraph (a) or (b) of subsection (1) shall on conviction be liable to imprisonment for life, and

(ii) paragraphs (c), (d), (e), (f), (g), (h), (i) or (j) of subsection (1) shall on conviction be liable to imprisonment of either description for a period not less than five years but not exceeding twenty years.

(3) In this section -

(i) "proclaimed person" means any person proclaimed by the Inspector-General of Police by Proclamation published in the Gazette to be a person wanted in connection with the commission of any offence under this Act; and

(ii) "security area" means any area declared by the Minister by Order published in the Gazette to be a security area if he is satisfied that by reason of any unlawful activity there is in such area a reasonable apprehension of organised violence.

(2) Any person who -

(a) does any act preparatory to the commission of an offence; or

(b) abets, conspires, attempts, exhorts or incites the commission of an offence; or

(c) causes the death of any person, or commits any attack upon any person whomsoever in the course of committing any offence under this Act, which act would, under the provisions of the Penal Code, be punishable with death or with a term of imprisonment of not less than seven years,

shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a period of not less than five years but not exceeding twenty years where the offence is one specified in paragraph (a) or (b), or to imprisonment for life where the offence is one specified in paragraph (c).

4. Where any person is convicted by any court of any offence under section 2 or section 3, then, in addition to any other penalty that the court shall impose for such offence -

(a) all property movable and immovable, of that person shall, by virtue of such conviction, be deemed to be forfeited to the Republic; and

(b) any alienation or other disposal of such property effected by such person after the date of coming into operation of this Part shall be deemed to have been, and to be, null and void.

5. Any person who -

(a) knowing or having reasonable cause to believe that any person -

(i) has committed an offence under this Act, or

(ii) is making preparation or is attempting to commit an offence under this Act, fails to report the same to a police officer; or

(b) having in his possession any information relating to the movements or whereabouts of any person who has committed or is making preparations or is attempting to commit an offence under this Act fails to report the same to a police officer, shall be guilty of an offence and shall, on conviction be liable to imprisonment of either description for period not exceeding seven years.

PART II

INVESTIGATION OF OFFENCES

6.(1) Any police officer not below the rank of Superintendent or any other police officer not below the rank of Sub-Inspector authorised in writing by him in that behalf may, without a warrant and with or without assistance and notwithstanding anything in any other law to the contrary -

- (a) arrest any person;
- (b) enter and search any premises;
- (c) stop and search any individual or any vehicle, vessel, train or aircraft; and
- (d) seize any document or thing, connected with or concerned in or reasonably suspected of being connected with or concerned in any unlawful activity.

(2) Any person who obstructs or hinders any police officer lawfully exercising any power conferred on him by or under subsection (1), shall be guilty of an offence and shall on conviction be liable to imprisonment of either description or a period not exceeding seven years.

7.(1) Any person arrested under subsection(1) of section 6 may be kept in custody for a period not exceeding seventy-two hours and shall, unless a detention order under section 9 has been made in respect of such person, be produced before a Magistrate before the expiry of such period and the Magistrate shall, on an application made in writing in that behalf by a police officer not below the rank of Superintendent, make order that such person be remanded until the conclusion of the trial of such person: Provided that, where the Attorney-General consents to the release of such person before custody before the conclusion of the trial, the Magistrate shall release such person from custody.

(2) Where any person connected with or concerned in or reasonably suspected to be connected with or concerned in the commission of any offence under this Act appears or is produced before any court other than in the manner referred to in subsection (1), such court shall order the remand of such person until the conclusion of the trial: Provided that, if an application is made under the hand of a police officer not below the rank of Superintendent to keep such person in police custody for a period not exceeding seventy-two hours, the Magistrate shall authorise such custody and thereupon the order of remand made by the Magistrate shall remain suspended for the period during which such person is in police custody.

(3) A police officer conducting an investigation under this Act in respect of any person arrested under subsection (1) of section 6 or remanded under subsection (1) or subsection

(2) of this section -

(a) shall have the right of access to such person and the right to take such person during reasonable hours to any place for the purpose of interrogation and from place to place for the purposes of investigation; and

(b) may obtain a specimen of the handwriting of such person and do all such acts as may reasonably be necessary for fingerprinting or otherwise identifying such person.

8. Any police officer may at any stage of an investigation or trial produce before any Magistrate any person conversant with any fact relating to the commission of any offence under this Act, and the Magistrate shall thereupon record the statement of such person upon oath.

PART III

DETENTION AND RESTRICTION ORDERS

9.(1) Where the Minister has reason to believe or suspect that any person is connected with or concerned in any unlawful activity, the Minister may order that such person be detained for a period not exceeding three months in the first instance, in such place and subject to such conditions as may be determined by the Minister, and any such order may be extended from time to time for a period not exceeding three months at a time: Provided, however, that the aggregate period of such detention shall not exceed a period of eighteen months.

(2)

(a) At any time after an order has been made in respect of any person under subsection (1), the Minister may direct that the operation of such order be suspended and may make an order under subsection (1) of section 11.

(b) The Minister may revoke any such direction if he is satisfied that the person in respect of whom the direction was made has failed to observe any condition imposed or that the operation of the order can no longer remain suspended without detriment to public safety.

10. An order made under section 9 shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise

11.(1) Where the Minister has reason to believe or suspect that any person is connected with or concerned in the commission of any unlawful activity referred to in subsection (1) of section 9, he may make an order in writing imposing on such person such prohibitions or restrictions as may be specified in such order in respect of -

(a) his movement outside such place of residence as may be specified; or

(b) the places of residence and of employment of such person; or

(c) his travel within or outside Sri Lanka; or

(d) his activities whether in relation to any organisation, association or body of persons of which such person is a member, or otherwise; or

(e) such person addressing public meetings or from holding office in, or taking part in the activities of or acting as adviser to, any organisation, association or body of persons, or from taking part in any political activities, and he may require such person to notify his movements to such authority, in such manner and at such times as may be specified in the order.

(2) Where the Minister makes a restriction order in respect of any person while an order of detention in respect of such person is in force, such restriction order shall, unless otherwise specified, take effect upon the expiry of the detention order.

(3) Every order made under subsection (1) shall be in force for such period, not exceeding three months, as may be specified therein: Provided, that the Minister may, by order in writing, extend such period from time to time for periods not exceeding three months at a time so however that the aggregate of such periods does not exceed eighteen months.

(4) Where an order is made under subsection (1), the Minister may by notice in writing served on the person to whom such order relates, vary, cancel or add to any prohibitions or restrictions imposed by such order on such person and the prohibitions or restrictions so varied or added to shall, unless earlier cancelled, continue in force for the

unexpired portion of the period specified in such order or the period as extended under subsection (3).

(5) An order made by the Minister under subsection (1) shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise.

12. Any person who contravenes or acts in breach of any prohibition or restriction imposed on him by an order under section 11 shall be guilty of an offence and shall on conviction be liable to a term of imprisonment of either description for a period of five years.

PART IV

ADVISORY BOARD

13.(1) There shall, for the purposes of this Act, be established an Advisory Board consisting of not less than three persons appointed by the President.

(2) Any person in respect of whom any detention order or restriction order has been made shall be informed of the unlawful activity in connection with which such order has been made and such person or any other person on his behalf may make representations to the Advisory Board.

(3) Every meeting of the Advisory Board held to consider such representations shall be presided over by a Chairman nominated from among the members by the Minister and it shall be the duty of the Chairman to advise the Minister in respect of such representations.

(4) The Minister may make rules in relation to the hearing and disposal of any representations that may be made by any person in respect of any such order.

PART V

PROHIBITION OF PUBLICATIONS

14.(1) Notwithstanding any Order made under section 1, the provisions of subsection (2) shall come into operation only upon an Order made in that behalf by the Minister from time to time and published in the Gazette for such period as may be specified in the Order.

(2)(a) No person shall, without the approval in writing of a competent authority, print or publish in any newspaper any matter relating to -

(i) the commission of any act which constitute an offence under this Act or the investigation of any such offence; or

(ii) incitement to violence, or which is likely to cause religious, racial or communal disharmony or feeling of ill-will or hostility between different communities or racial or religious groups.

(b) No person shall, without the approval in writing of a competent authority, distribute or be concerned in the distribution of any newspaper printed or published in Sri Lanka or outside Sri Lanka in respect of any matter the printing and publication of which is prohibited under paragraph (a).

(3) Any person who commits any act in contravention of any of the provisions of subsection

(2) shall be guilty of an offence and shall on conviction be liable to imprisonment of either description for a period not exceeding five years.

6.(1) Any police officer not below the rank of Superintendent or any other police officer not below the rank of Sub-Inspector authorised in writing by him in that behalf may, without a warrant and with or without assistance and notwithstanding anything in any other law to the contrary -

(a) arrest any person;

(b) enter and search any premises;

(c) stop and search any individual or any vehicle, vessel, train or aircraft; and

(d) seize any document or thing, connected with or concerned in or reasonably suspected of being connected with or concerned in any unlawful activity.

(2) Any person who obstructs or hinders any police officer lawfully exercising any power conferred on him by or under subsection (1), shall be guilty of an offence and shall on conviction be liable to imprisonment of either description or a period not exceeding seven years.

7.(1) Any person arrested under subsection(1) of section 6 may be kept in custody for a period not exceeding seventy-two hours and shall, unless a detention order under section 9 has been made in respect of such person, be produced before a Magistrate before the expiry of such period and the Magistrate shall, on an application made in writing in that behalf by a police officer not below the rank of Superintendent, make order that such person be remanded until the conclusion of the trial of such person: Provided that, where the Attorney-General consents to the release of such person before

custody before the conclusion of the trial, the Magistrate shall release such person from custody.

(2) Where any person connected with or concerned in or reasonably suspected to be connected with or concerned in the commission of any offence under this Act appears or is produced before any court other than in the manner referred to in subsection (1), such court shall order the remand of such person until the conclusion of the trial: Provided that, if an application is made under the hand of a police officer not below the rank of Superintendent to keep such person in police custody for a period not exceeding seventy-two hours, the Magistrate shall authorise such custody and thereupon the order of remand made by the Magistrate shall remain suspended for the period during which such person is in police custody.

(3) A police officer conducting an investigation under this Act in respect of any person arrested under subsection (1) of section 6 or remanded under subsection (1) or subsection (2) of this section -

(a) shall have the right of access to such person and the right to take such person during reasonable hours to any place for the purpose of interrogation and from place to place for the purposes of investigation; and

(b) may obtain a specimen of the handwriting of such person and do all such acts as may reasonably be necessary for fingerprinting or otherwise identifying such person.

8. Any police officer may at any stage of an investigation or trial produce before any Magistrate any person conversant with any fact relating to the commission of any offence under this Act, and the Magistrate shall thereupon record the statement of such person upon oath.

PART III

DETENTION AND RESTRICTION ORDERS

9.(1) Where the Minister has reason to believe or suspect that any person is connected with or concerned in any unlawful activity, the Minister may order that such person be detained for a period not exceeding three months in the first instance, in such place and subject to such conditions as may be determined by the Minister, and any such order may be extended from time to time for a period not exceeding three months at a time: Provided, however, that the aggregate period of such detention shall not exceed a period of eighteen months.

(2)

(a) At any time after an order has been made in respect of any person under subsection (1), the Minister may direct that the operation of such order be suspended and may make an order under subsection (1) of section 11.

(b) The Minister may revoke any such direction if he is satisfied that the person in respect of whom the direction was made has failed to observe any condition imposed or that the operation of the order can no longer remain suspended without detriment to public safety.

10. An order made under section 9 shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise

11.(1) Where the Minister has reason to believe or suspect that any person is connected with or concerned in the commission of any unlawful activity referred to in subsection (1) of section 9, he may make an order in writing imposing on such person such prohibitions or restrictions as may be specified in such order in respect of -

(a) his movement outside such place of residence as may be specified; or

(b) the places of residence and of employment of such person; or

(c) his travel within or outside Sri Lanka; or

(d) his activities whether in relation to any organisation, association or body of persons of which such person is a member, or otherwise; or

(e) such person addressing public meetings or from holding office in, or taking part in the activities of or acting as adviser to, any organisation, association or body of persons, or from taking part in any political activities, and he may require such person to notify his movements to such authority, in such manner and at such times as may be specified in the order.

(2) Where the Minister makes a restriction order in respect of any person while an order of detention in respect of such person is in force, such restriction order shall, unless otherwise specified, take effect upon the expiry of the detention order.

(3) Every order made under subsection (1) shall be in force for such period, not exceeding three months, as may be specified therein: Provided, that the Minister may, by order in writing, extend such period from time to time for periods not exceeding three months at a time so however that the aggregate of such periods does not exceed eighteen months.

(4) Where an order is made under subsection (1), the Minister may by notice in writing served on the person to whom such order relates, vary, cancel or add to any prohibitions or restrictions imposed by such order on such person and the prohibitions or restrictions so varied or added to shall, unless earlier cancelled, continue in force for the unexpired portion of the period specified in such order or the period as extended under subsection (3).

(5) An order made by the Minister under subsection (1) shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise.

12. Any person who contravenes or acts in breach of any prohibition or restriction imposed on him by an order under section 11 shall be guilty of an offence and shall on conviction be liable to a term of imprisonment of either description for a period of five years.

(4)(a) Where any person is convicted of an offence under this section, the court may, in addition to the punishment it may impose for that offence under subsection (3), order that no person shall print, publish or distribute or in any way be concerned in the printing, publication or distribution of any such newspaper for such period as is specified in such order and that the printing press in which such newspaper was printed shall, for such period as shall be specified in such order, not be used for any purpose whatsoever or for any such purpose as is specified in the order.

(b) Where any proceedings have been instituted against any person for the commission of any offence under this section, it shall be competent for the court to make an interim order that the printing press in which it is alleged that such newspaper or publication was printed shall not be used for any purpose whatsoever or for any such purpose as is specified in the order, until the conclusion of the trial.

15. (1) Every person who commits an offence under this Act shall be triable without a preliminary inquiry, on an indictment before a Judge of the High Court sitting alone without a jury or before a High Court at Bar by three Judges without a jury, as may be decided by the Chief Justice. The provisions of sections 450 and 451 of the Code of Criminal Procedure Act, No. 15 of 1979, shall, mutatis mutandis, apply to the trial of offences under this Act by the High Court at Bar and to appeals from judgements, sentences and orders pronounced at any such trial held by the High Court at Bar. [The above sub-section was introduced by Amending Act 22 of 1988]

(2) Upon the indictment being received in the High Court against any person in respect of any offence under this Act or any offence to which the provisions of section 23 shall apply, the court shall, in every case, order the remand of such person until the conclusion of the trial.

15A.(1) Where any person is on remand under the provisions of sub-section (2) of section 15, or section 19(a), notwithstanding any other

provision of this Act or any other law, the Secretary to the Ministry of the Minister in charge of the subject of Defence may, if he is of the opinion that it is necessary or expedient so to do, in the interests of national security or public order, make Order, subject to such directions as may be given by the High Court to ensure a fair trial of such person, that such person be kept in the custody of any authority, in such place and subject to such conditions as may be determined by him having regard to such interests.

(2) Any Order made by the Minister under sub-section (1) shall be communicated to the High Court and to the Commissioner of Prisons and it shall be the duty of such Commissioner, to deliver the custody of such person to the authority specified in such order and the provisions of the Prisons Ordinance shall cease to apply in relation to the custody of such person. [Note: Section 15A was inserted by Amending Act 10 of 1982 w.e.f. 24 July 1979]

PART VI

TRIAL

16.(1) Notwithstanding the provisions of any other law, where any person is charged with any offence under this Act, any statement made by such person at any time, whether -

(a) it amounts to a confession or not;

(b) made orally or reduced to writing;

(c) such person was or was not in custody or presence of a police officer;

(d) made in the course of an investigation or not;

(e) it was or was not wholly or partly in answer to any question, against such person if such statement is not irrelevant under section 24 of the Evidence Ordinance: Provided, however, that no such statement shall be proved as against such person if such statement was made to a police officer below the rank of an Assistant Superintendent.

(2) The burden of proving that any statement referred to in subsection (1) is irrelevant under section 24 of the Evidence Ordinance shall be on the person asserting it to be irrelevant.

(3) Any statement admissible under subsection (1) may be proved as against any other person charged jointly with the person making the statement, if, and only if, such statement is corroborated in material particulars by evidence other than the statements referred to in subsection (1).

17. Notwithstanding anything to the contrary in any other law, the provisions of sections 25, 26 and 30 of the Evidence Ordinance shall have no application in any proceedings under this Act.

18.(1) Notwithstanding anything to the contrary in any other law -

(a) a statement recorded by a Magistrate, or made at an identification parade by a person who is dead or who cannot be found, shall be admissible in evidence notwithstanding that such person is not present or cannot or has not been cross-examined; and

(b) any document found in the custody, control or possession of a person accused of any offence under this Act or of an agent or representative of such person may be produced in court as evidence against such person without the maker of such document being called as a witness and the contents of such document shall be evidence of the facts stated therein.

(2) If in the course of a trial for an offence under this Act, any witness shall, on any material point, contradict either expressly or by necessary implication a statement made by him and recorded by a Magistrate or a statement made by him at any identification parade, it shall be lawful for the presiding Judge-

(a) to act upon such statement; and

(b) to have such witness at the conclusion of such trial arraigned and tried on an indictment which shall be prepared and signed by the Registrar of such court, for intentionally giving false evidence in a stage of a judicial proceeding.

(3) At any trial referred to in subsection (2)(b), it shall be sufficient to prove that the witness made the contradictory statement and it shall not be necessary to prove which of the statements is false.

19. Notwithstanding the provisions of any other written law -

(a) every person convicted by any court of any offence under this Act shall, notwithstanding that he has lodged a petition of appeal against his conviction or the sentence imposed on him, be kept on remand until the determination of the appeal;

(b) any order made under the provisions of subsection (4) of section 14 shall, notwithstanding any appeal made against such order, continue in force until the determination of such appeal: Provided, however, that the Court of Appeal may in exceptional circumstances

release on bail any such person referred to in paragraph (a) subject to such conditions as the Court of Appeal may deem fit, or vary or suspend any order referred to in paragraph (b).

20. Notwithstanding anything in the Code of Criminal Procedure Act, No 15 of 1979 -

(a) the provisions of section 303 of that Act shall not apply in the case of any person who is convicted;

(b) the provisions of section 306 of that Act shall not apply in the case of any person who pleads or is found guilty, by or before any court of any offence under this Act.

21. Every court shall give priority to the trial of any person charged with, or indicted for, any offence under this Act and to the hearing of any appeal from the conviction of any such offence and sentence imposed on such conviction.

PART VII

SPECIAL PROVISIONS

22. Any person who has committed any offence under section 296 or section 297 or section 300 of the Penal Code prior to the date of coming into operation of Part VI of this Act or has abetted or has conspired to abet the commission of any such offence prior to such date, in relation to any person who is a specified person or a person who was a witness to any offence which if such offence had been committed after the date of coming into operation of Part I of this Act

would have constituted an offence under this Act shall, notwithstanding the provisions of any other law to the contrary, be triable without a preliminary inquiry, on an indictment before a Judge of the High Court sitting alone without a jury.

23. The provision of sections 8, 16, 17 and 18 of this Act shall, mutatis mutandis, apply to and in relation to any act, or the trial for the commission of an offence in respect of any act, committed before the date of coming into operation of Parts I, II and VI of this Act, which act would, if committed after such date, have constituted an offence under this Act: Provided, however, that no statement referred to in any such section shall be admissible unless such statement was made after the coming into operation of the aforesaid Parts of this Act.

24. Any person who commits an act in or in relation to any vessel or aircraft registered in Sri Lanka shall, if such act constitutes an offence under this Act, be guilty of an offence under this Act.

PART VIII

MISCELLANEOUS

25. Where an offence under this Act is committed by a body of persons, then if that body of persons is -

(a) a body corporate, every director and officer of that body corporate; or

(b) a firm, every partner of that firm; or

(c) a body unincorporate other than a firm, every officer of that body responsible for its management and control, shall be deemed to be guilty of such offence: Provided that no such person shall be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

26. No suit, prosecution or other proceeding, civil or criminal, shall lie against any officer or person for any act or thing in good faith done or purported to be done in pursuance or supposed pursuance of any order made or direction given under this Act.

27.(1) The Minister may make regulations under this Act for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette be brought before Parliament for its approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation is deemed to be rescinded shall be published in the Gazette

28. The provisions of this Act shall have effect notwithstanding anything contained in any other written law and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail.

[Section 29 was repealed by Amending Act 10 of 1982, w.e.f. 24 July 1979]

30. The Proscribing of Liberation Tigers of Tamil Eelam and Other Similar Organisations Law, No 16 of 1978, is hereby repealed.

PART IX

INTERPRETATION (This section has been deleted)

APPENDIX 4

Annexure C Proposals, 1983

Subsequent to the Ethnic Riots in July/August 1983, Indian Prime Minister Indira Gandhi sent her representative, Mr. G. Parthasarathy for discussions with Sri Lanka. The proposals which emerged as a result of discussions between the Government of India and the Government of Sri Lanka during August/November 1983 were presented as Annexure "C" to a statement submitted by President Jayawardene to the All Party Conference on the 1st of December 1983. However, the Government of Sri Lanka failed to adopt these Proposals at the All Party Conference discussions which commenced in December 1983 and ended inconclusively in December 1984.

Text

In terms of paragraph six of the President's statement of December 1st, 1983, the following proposals which have emerged as a result of discussions in Colombo and New Delhi are appended for consideration by the All Party Conference. These proposals are in the context of the unity and integrity of Sri Lanka and will form the basis for formulating the Agenda of the All Party Conference.

(1) The District Development Councils in a Province be permitted to combine into one or more Regional Councils if they so agree by decisions of the Councils and approved by Referendum in that district.

(2) In the case of the District Councils in the Northern and Eastern Provinces respectively, as they are not functioning due to the resignation of the majority of Members, their union within each province to be accepted.

(3) Each Region will have a Regional Council if so decided. The convention will be established that the leader of the party which commands a majority in the Regional Council would be formally appointed by the President as the Chief Minister of the Region. The Chief Minister will constitute a Committee of Ministers of the Region.

(4) The President and the Parliament will continue to have overall responsibility over all subjects not transferred to the regions and generally for all other matters relating to the maintenance of the sovereignty, integrity, unity and security and progress and development of the Republic as a whole.

(5) The legislative power of the Region would be vested in the Regional Councils which would be empowered to enact laws and exercise executive powers in relation thereto on certain specified listed subjects including the maintenance of internal Law and Order in the Region, the Administration of Justice, Social and Economic Development, Cultural matters and Land Policy. The list of subjects which will be allocated to the Regions will be worked out in detail.

(6) The Regional Councils will also have the power to levy taxes, cess or fees and to mobilise resources through loans, the proceeds of which will be credited to a Consolidated Fund set up for that particular Region to which also be credited grants, allocations or subventions made by the Republic. Financial resources will be apportioned to the Regions on the recommendations of a representative Finance Commission appointed from time to time.

(7) Provision will be made for constituting High Courts in each Region. The Supreme Court of Sri Lanka will exercise appellate and constitutional jurisdiction.

(8) Each Region will have a Regional Service consisting of (a) officers and other public servants of the Region and (b) such other officers and public servants who may be seconded to the Region. Each Region will have a Regional Public Service Commission for recruitment and for exercising disciplinary powers relating to the members of the Regional Service.

(9) The armed forces of Sri Lanka will adequately reflect the national ethnic position. In the Northern and Eastern Regions, the Police forces for internal security will also reflect the ethnic composition of these Regions.

(10) A Port authority under the Central Government will be set up for administering the Trincomalee Port and Harbour. The area which will come under the administration of the Port Authority as well as the powers to be assigned to it will be further discussed.

(11) A national policy on land development and the basis on which the Government will undertake land colonisation will have to be worked out. All settlement schemes should be based on ethnic proportions so as not to alter the demographic balance subject to agreement being reached on major projects.

(12) The Constitution and other laws dealing with the official language Sinhala and the national language, Tamil, be accepted and implemented as well as similar laws dealing with the National Flag and Anthem.

(13) The Conference should appoint a committee to work out constitutional and legal changes that may be necessary to implement these decisions. The Government would provide its Secretariat and necessary legal offices.

(14) The consensus of opinion of the All Party Conference will itself be considered by the United National Party Executive Committee and presumably by the executive bodies of the other parties as well, before being placed before Parliament for legislative action.

APPENDIX 5

Sixth Amendment to Sri Lankan Constitution

(Certified on 8th August, 1983)

AN ACT TO AMEND THE CONSTITUTION OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

WHEREAS Sri Lanka is a Free, Sovereign, Independent and Unitary State and it is the duty of the State to safeguard the independence, sovereignty, unity and the territorial integrity of Sri Lanka:

AND WHEREAS the independence, sovereignty, unity and the territorial integrity of Sri Lanka has been threatened by activities of certain persons, political parties and other associations and organisations

AND WHEREAS it has become necessary to prohibit such activities and to provide punishments therefor:

Now be it therefore enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:

This Act may be cited as the Sixth Amendment to the Constitution.

2. Article 101 of the Constitution of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as "the Constitution") is hereby

amended in sub-paragraph (h) of paragraph (1) of that Article by the substitution for the words " by election or otherwise; and ", of the words and figures " by election or otherwise or where a recognised political party or independent group has been proscribed under Article 157A; and ".

3. The following Article is hereby inserted after Article 157, and shall have effect as Article 157A, of the Constitution:-

Prohibition against violation of territorial integrity of Sri Lanka

157A. (1) No person shall, directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of a separate State within the territory of Sri Lanka.

(2) No political party or other association or organisation shall have as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka.

(3) Any person who acts in contravention of the provisions of paragraph (1) shall, on conviction by the Court of Appeal, after trial on indictment and according to such procedure as may be prescribed by law,—

(a) be subject to civic disability for such period not exceeding seven years as may be determined by such Court;

(b) forfeit his movable and immovable property other than such property as is determined by an order of such Court as being necessary for the sustenance of such person and his family ;

(c) not be entitled to civic rights for such period not exceeding seven years as may be determined by such Court, and

(d) if he is a Member of Parliament or a person in such service or holding such office as is referred to in paragraph (1) of Article 165, cease to be such Member or to be in such service or to hold such office

(4) Where any political party or other association or organisation has as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka, any person may make an application to the Supreme Court for a declaration that such political party or other association or organisation has as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka. The Secretary or other officer of such political party or other association or organisation shall be made a respondent to such application.

(5) Where the Supreme Court makes a declaration under paragraph (4) in relation to any political party or other association or organisation, in pursuance of an application made to it under that paragraph

(a) that political party or other association or organisation shall be deemed, for all purposes to be proscribed and any member of such political party or other association or organisation who is a Member of Parliament shall be deemed to have vacated his seat in Parliament with effect from the date of such declaration, and any nomination paper submitted by such political party or other association or organisation shall be deemed for all purposes to be invalid;

(b) any person who holds office or is a member of that political party or other association or organisation, after the date of such declaration, shall be guilty of an offence and shall, on conviction, by the Court of Appeal after trial on indictment and according to such procedure as may be prescribed by law -

(i) be subject to civic disability for such period not exceeding seven years as may be determined by such Court;

(ii) forfeit his movable and immovable property other than such property as is determined by an order of such Court as being necessary for the sustenance of such person and his family;

(iii) not be entitled to civic rights for such period not exceeding seven years as may be determined by such Court;

(iv) if he is a Member of Parliament or a person in such service or holds such office as is referred to in paragraph (1) of Article 165, cease to be such Member or to be in such service or hold such office.

(6) The execution of any punishment imposed under paragraph (3) or sub-paragraph (b) of paragraph(5) shall not be stayed or suspended pending the determination of any appeal against such punishment or the conviction in consequence of which such punishment was imposed.

(7) Every officer or person who was or is required by, Article 32 or Article 53, Article 61 or Article 107 or Article 165 or Article 169 (12), to take and subscribe or to make and subscribe an oath or affirmation, every member of, or person in the service of, a local authority, Development Council, Pradeshiya Mandalaya Gramodaya Mandalaya or public corporation and every attorney-at-law shall -

(a) if such officer or person is holding office on the date of coming into force of this Article, make and subscribe, or take and subscribe, an oath or affirmation in the form set out in the Seventh Schedule, before such person or body if any, as is referred to in that Article, within one month of the date on which this Article comes into force;

(b) if such person or officer is appointed to such office after the coming into force of this Article, make and subscribe or take and subscribe, an

oath or affirmation, in the form set out in the Seventh Schedule, before such person or body, if any, as is referred to in that Article within one month of his appointment to such office.

The provisions of Article 165 and Article 169 (12) shall, mutatis mutandis, apply to, and in relation to, any person or officer who fails to take and subscribe, or make and subscribe, an oath or affirmation as required by this paragraph.

(8) (a) Every person who is a Member of Parliament on the coming into force of this Article shall not be entitled to sit and vote in Parliament unless he takes and subscribes or makes and subscribes an oath or affirmation in the form set out in the Seventh Schedule.

(b) Every person who is elected or nominated as a Member of Parliament on or after the coming into force of this Article shall not be entitled to sit and vote in Parliament unless he takes and subscribes or makes and subscribes an oath or affirmation in the form set out in the Seventh Schedule.

(9) No person who has taken and subscribed or made and subscribed an oath or affirmation in the form set out in the Seventh Schedule shall, notwithstanding any provision to the contrary in the Constitution be required to take and subscribe or make and subscribe any other oath

or affirmation required to be taken and subscribed or made and subscribed under the Constitution.

(10) Parliament may, by resolution, determine such other categories of persons or officers to whom the provisions of paragraph (7) shall apply and thereupon, the provisions of such paragraph shall, mutatis mutandis apply to' and in relation to, officers or persons of that category.

(11) The jurisdiction of the Court of Appeal in respect of its powers under this Article shall be exercised in the manner provided in subparagraph (iv) of the proviso to paragraph (2) of Article 146.

(12) In this Article, "civic rights" means -

(a) the right to obtain a passport,

(b) the right to sit for any public examination;

(c) the right to own any immovable property;

(d) the right to engage in any trade or profession which requires a licence, registration or other authorisation, by or under any written law.'

4. Article 161 of the Constitution is hereby amended in paragraph (d) of that Article as follows:-

(1) in sub-paragraph (iii) of that paragraph, by the substitution, for the words "to fill such vacancy. Upon receipt of such nomination, the Commissioner ", of the following:

"to fill such vacancy. A nomination made by the Secretary of such political party under this sub-paragraph shall be accompanied by an oath or affirmation, as the case may be, in the form set out in the Seventh Schedule, taken and subscribed or made and subscribed, as the case may be, by the person nominated to fill such vacancy. Upon the receipt of such nomination, accompanied by such oath or affirmation, the Commissioner";

(2) in the proviso to sub-paragraph (iii) of that paragraph by the substitution -

(a) for the words ``within thirty days of his being required to do so ", of the following:-

"within thirty days of his being required to do so and in the aforesaid manner",

(b) for the words "vacancy, then Commissioner of Elections", of the words and figures "vacancy, or where such political party is deemed to be proscribed under Article 157A, then the Commissioner of Elections"; and

(3) by the addition, immediately after sub-paragraph (iii) of that paragraph, of the following sub-paragraph:- "(iv) There a Member nominated of elected to fill any such vacancy as is referred to in subparagraph (i) or sub-paragraph (ii), being a Member who has taken and subscribed or made and subscribed, an oath or affirmation in the form set out in the Seventh Schedule, directly or indirectly, in or outside Sri Lanka, supports, espouses, promotes, finances, encourages or advocates the establishment of a separate State within the territory of Sri Lanka, any person may make an application to the Court of Appeal for a declaration that such member has directly or indirectly, in or outside Sri Lanka supported, espoused, promoted, financed, encouraged or advocated the establishment of a separate State within the territory of Sri Lanka.

If the Court of Appeal makes, on such application, a declaration that such Member has directly or indirectly, in or outside Sri Lanka, supported, espoused, promoted, financed, encouraged or advocated the establishment of a separate State within the territory of Sri Lanka, the seat of such Member shall be - deemed to be vacant with effect from the date of such declaration and such Member shall be

disqualified from sitting and voting in Parliament and from being elected or nominated to Parliament for a period of seven years from the date of such declaration. The vacancy occurring in the membership of Parliament by reason of such declaration shall be filled in the manner provided in paragraph (iii).

The jurisdiction of the Court of Appeal in respect of its powers under this sub-paragraph shall be exercised in the manner provided in sub-paragraph (iv) of the proviso to paragraph (2) of Article 146."

5. The Constitution is hereby amended by the addition, at the end thereof, of the following Schedule which shall have effect as the Seventh Schedule to the Constitution:-

SEVENTH SCHEDULE:

Article 157A and Article 161 (d) (iii)

Ido solemnly declare and affirm / swear that I will uphold and defend the Constitution of the Democratic Socialist Republic of Sri Lanka and that I will not, directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of a separate State within the territory of Sri Lanka."

APPENDIX 6

Indo-Sri Lanka Agreement to Establish Peace and Normalcy in Sri Lanka

The Prime Minister of the Republic of India, His Excellency Mr. Rajiv Gandhi and the President of the Democratic Republic of Sri Lanka, Mr. J. R. Jayawardene having met at Colombo on 29 July 198,

Attaching utmost importance to nurturing, intensifying and strengthening the traditional friendship of India and Sri Lanka and acknowledging the imperative need of resolving the ethnic problem of Sri Lanka, and the consequent violence, and for the safety, well-being and prosperity of people belonging to all communities of Sri Lanka,

Having this day entered into the following agreement to fulfil this objective,

1.1 desiring to preserve the unity, sovereignty and territorial integrity of Sri Lanka;

1.2 acknowledging that Sri Lanka is a multi-ethnic and multi-lingual plural society consisting, inter-alia, of Sinhalese, Tamils, Muslims (Moors) and Burgers;

1.3 recognising that each ethnic group has a distinct cultural and linguistic identity which has to be carefully nurtured;

1.4 also recognising that the Northern and the Eastern provinces have been areas of historical habitation of Sri Lankan Tamil speaking peoples, who have at all times hitherto lived together in this territory with other ethnic groups;

1.5 conscious of the necessity of strengthening the forces contributing to the unity, sovereignty and territorial integrity of Sri Lanka, and preserving its character as a multi-ethnic, multi-lingual and multi-religious plural society, in which all citizens can live in equality, safety and harmony, and prosper and fulfil their aspirations;

2. Resolve that:

2.1 Since the Government of Sri Lanka proposes to permit adjoining Provinces to join to form one administrative unit and also by a Referendum to separate as may be permitted to the Northern and Eastern provinces as outlined below:

2.2 During the period, which shall be considered an interim period (i.e. from the date of the elections to the provincial council, as specified in para 2.8 to the date of the Referendum as specified in para 2.3), the Northern and Eastern provinces as now constituted, will form one

administrative unit, having one elected Provincial Council. Such a unit will have one Governor, one Chief Minister and one Board of Ministers.

2.3 There will be a referendum on or before 31st December 1988 to enable the people of the Eastern Province to decide whether:

(A) The Eastern province should remain linked with the Northern province as one administrative unit, and continue to be governed together with the Northern Province as specified in para 2.2 or:

(B) The Eastern Province should constitute a separate administrative unit having its own distinct provincial council with a separate governor, chief minister and board of ministers. The president may, at his discretion, decide to postpone such a referendum.

2.4 All persons, who have been displaced due to ethnic violence or other reasons, will have the right to vote in such a Referendum. Necessary conditions to enable them to return to areas from where they were displaced will be created.

2.5 The Referendum, when held, will be monitored by a committee headed by the Chief Justice, a member appointed by the President, nominated by the Government of Sri Lanka, and a member appointed by the President, nominated by the representatives of the Tamil speaking people of the Eastern province.

2.6 A simple majority will be sufficient to determine the result of the Referendum.

2.7 Meetings and other forms of propaganda, permissible within the laws of the country, will be allowed before the Referendum.

2.8 Elections to Provincial Councils will be held within the next three months, in any event before 31st December 1987. Indian observers will be invited for elections to the Provincial Council of the North and East.

2.9 The emergency will be lifted in the eastern and Northern provinces by 15 August 1987. A cessation of hostilities will come into effect all over the Island within 48 hours of signing of this Agreement. All arms presently held by militant groups will be surrendered in accordance with an agreed procedure to authorities to be designated by the Government of Sri Lanka. Consequent to the cessation of hostilities and the surrender of arms by militant groups, the army and other security personnel will be confined to barracks in camps as on 25 May 1987. The process of surrendering arms and the confining of security personnel moving back to barracks shall be completed within 72 hours of the cessation of hostilities coming into effect.

2.10 The Government of Sri Lanka will utilise for the purpose of law enforcement and maintenance of security in the Northern and Eastern

Provinces the same organisations and mechanisms of Government as are used in the rest of the country.

2.11 The President of Sri Lanka will grant a general amnesty to political and other prisoners now held in custody under The Prevention of Terrorism Act and other emergency laws, and to combatants, as well as to those persons accused, charged and/or convicted under these laws. The Government of Sri Lanka will make special efforts to rehabilitate militant youth with a view to bringing them back into the mainstream of national life. India will cooperate in the process.

2.12 The Government of Sri Lanka will accept and abide by the above provisions and expect all others to do likewise.

2.13 If the framework for the resolutions is accepted, the Government of Sri Lanka will implement the relevant proposals forthwith.

2.14 The Government of India will underwrite and guarantee the resolutions, and cooperate in the implementation of these proposals.

2.15 These proposals are conditional to an acceptance of proposals negotiated from 4.5.1986 to 19.12.1986. Residual matters not finalised during the above negotiations shall be resolved between India and Sri Lanka within a period of six weeks of signing this agreement. These

proposals are also conditional to the Government of India cooperating directly with the Government of Sri Lanka in their implementation.

2.16 These proposals are also conditional to the Government of India taking the following actions if any militant groups operating in Sri Lanka do not accept this framework of proposals for a settlement, namely:

(A) India will take all necessary steps to ensure that Indian Territory is not used for activities prejudicial to the unity, integrity and security of Sri Lanka

(B) The Indian Navy/Coast Guard will cooperate with the Sri Lankan navy in preventing Tamil militant activities from affecting Sri Lanka.

(C) In the event that the Government of Sri Lanka requests the Government of India to afford military assistance to implement these proposals the Government of India will cooperate by giving to the Government of Sri Lanka such military assistance as and when requested.

(D) The Government of India will expedite repatriation from Sri Lanka of Indian citizens to India who are resident there concurrently with the repatriation of Sri Lankan refugees from Tamil Nadu.

(E) The Governments of Sri Lanka and India will cooperate in ensuring the physical security and safety of all communities inhabiting the Northern and Eastern Provinces.

2.17 The Government of Sri Lanka shall ensure free, full and fair participation of voters from all communities in the Northern and Eastern Provinces in electoral processes envisaged

in this Agreement. The Government of India will extend full cooperation to the Government of Sri Lanka in this regard.

2.18 The official language of Sri Lanka shall be Sinhala. Tamil and English will also be official languages.

3. This agreement and the annexure thereto shall come into force upon signature.

In witness whereof, we have set our hands and seals hereunto. Done in Colombo, Sri Lanka, on this the twenty-ninth day of July of the year one thousand nine hundred and eighty seven, in duplicate, both texts being equally authentic.

Rajiv Gandhi Prime Minister of the Republic of India

Junius Richard Jayawardene President of the Democratic Socialist Republic of Sri Lanka

ANNEXURE TO THE AGREEMENT

1. His Excellency the President of Sri Lanka and the Prime Minister of India agree that the Referendum mentioned in paragraph 2 and its sub-paragraphs of the Agreement will be observed by a representative of the Election Commission of India to be invited by His Excellency the President of Sri Lanka.

2. Similarly, both heads of Government agree that the elections to the Provincial Council mentioned in paragraph 2.8 of the Agreement will be observed by a representative of the Government of India to be invited by His Excellency the President of Sri Lanka.

3. His Excellency the President of Sri Lanka agrees that the Home guards would be disbanded and all paramilitary personnel will be withdrawn from the Eastern and Northern Provinces with a view to creating conditions conducive to fair elections to the Council.

The President, in his discretion, shall absorb such paramilitary forces, which came into being due to ethnic violence, into the regular security forces of Sri Lanka.

4. The President of Sri Lanka and the Prime Minister of India agree that the Tamil militants shall surrender their arms to authorities agreed upon to be designated by the President of Sri Lanka. The surrender shall take place in the presence of one senior representative each of the Sri Lankan Red Cross and the Indian Red Cross.

5. The President of Sri Lanka and the Prime Minister of India agree that a joint Indo-Sri Lankan observer group consisting of qualified representatives of the Government of India and the Government of Sri Lanka would monitor the cessation of hostilities from 31 July 1987.

6. The Prime Minister of India and the President of Sri Lanka also agree that in the terms of paragraph 2.14 and paragraph 2.16(c) of the Agreement, an Indian Peace Keeping contingent may be invited by the President of Sri Lanka to guarantee and enforce the cessation of hostilities, if so required.

EXCHANGE OF LETTERS BETWEEN THE PRIME MINISTER OF INDIA AND THE PRESIDENT OF SRI LANKA HAVE BEEN DELETED.

APPENDIX 7

Ceasefire Agreement, February 2002

Agreement on a ceasefire between the Government of the Democratic Socialist Republic of Sri Lanka and the Liberation Tigers of Tamil Eelam

Preamble

The overall objective of the Government of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to as the GOSL) and the Liberation Tigers of Tamil Eelam (hereinafter referred to as the LTTE) is to find a negotiated solution to the ongoing ethnic conflict in Sri Lanka.

The GOSL and the LTTE (hereinafter referred to as the Parties) recognise the importance of bringing an end to the hostilities and improving the living conditions for all inhabitants affected by the conflict. Bringing an end to the hostilities is also seen by the Parties as a means of establishing a positive atmosphere in which further steps towards a lasting solution can be taken.

The Parties further recognise that groups that are not directly party to the conflict are also suffering the consequences of it. This is particularly the case as regards the Muslim population. Therefore, the

provisions of this Agreement regarding the security of civilians and their property apply to all inhabitants.

With reference to the above, the Parties have agreed to enter into a ceasefire, refrain from conduct that could undermine the good intentions or violate the spirit of this Agreement and implement confidence-building measures as indicated in the articles below.

Article 1: Modalities of a ceasefire

The Parties have agreed to implement a ceasefire between their armed forces as follows:

1.1 A jointly agreed ceasefire between the GOSL and the LTTE shall enter into force on such date as is notified by the Norwegian Minister of Foreign Affairs in accordance with Article 4.2, hereinafter referred to as D-day.

Military operations

1.2 Neither Party shall engage in any offensive military operation. This requires the total cessation of all military action and includes, but is not limited to, such acts as:

a) The firing of direct and indirect weapons, armed raids, ambushes, assassinations, abductions, destruction of civilian or military property, sabotage, suicide missions and activities by deep penetration units;

b) Aerial bombardment;

c) Offensive naval operations.

1.3 The Sri Lankan armed forces shall continue to perform their legitimate task of safeguarding the sovereignty and territorial integrity of Sri Lanka without engaging in offensive operations against the LTTE.

Separation of forces

1.4 Where forward defence localities have been established, the GOSL's armed forces and the LTTE's fighting formations shall hold their ground positions, maintaining a zone of separation of a minimum of six hundred (600) metres. However, each Party reserves the right of movement within one hundred (100) metres of its own defence localities, keeping an absolute minimum distance of four hundred (400) metres between them.

Where existing positions are closer than four hundred (400) metres, no such right of movement applies and the Parties agree to ensure the maximum possible distance between their personnel.

1.5 In areas where localities have not been clearly established, the status quo as regards the areas controlled by the GOSL and the LTTE,

respectively, on 24 December 2001 shall continue to apply pending such demarcation as is provided in

Article 1.6.

1.6 The Parties shall provide information to the Sri Lanka Monitoring Mission (SLMM) regarding defence localities in all areas of contention, cf. Article 3. The monitoring mission shall assist the Parties in drawing up demarcation lines at the latest by D-day + 30.

1.7 The Parties shall not move munitions, explosives or military equipment into the area controlled by the other Party.

1.8 Tamil paramilitary groups shall be disarmed by the GOSL by D-day + 30 days at the latest. The GOSL shall offer to integrate individuals in these units under the command and disciplinary structure of the GOSL armed forces for service away from the Northern and Eastern Province.

Freedom of movement

1.9 The Parties' forces shall initially stay in the areas under their respective control, as provided in Article 1.4 and Article 1.5

1.10 Unarmed GOSL troops shall, as of D-day +60 days, be permitted unlimited passage between Jaffna and Vavuniya using the Jaffna -

Kandy road (A9). The modalities are to be worked out by the Parties with the assistance of the SLMM.

1.11 The Parties agree that individual combatants shall, on the recommendation of their area commander, be permitted, unarmed and in plain clothes, to visit family and friends residing in areas under the control of the other Party. Such visits shall be limited to six days every second month, not including the time of travel by the shortest applicable route. The LTTE shall facilitate the use of the Jaffna - Kandy road for this purpose. The Parties reserve the right to deny entry to specified military areas.

1.12 The Parties agree that as of D-day individual combatants shall, notwithstanding the two-month restriction, be permitted, unarmed and in plain clothes, to visit immediate family (i.e. spouses, children, grandparents, parents and siblings) in connection with weddings or funerals. The right to deny entry to specified military areas applies.

1.13 Fifty (50) unarmed LTTE members shall, as of D-day + 30, for the purpose of political work, be permitted freedom of movement in the areas of the North and the East dominated by the GOSL. Additional 100 unarmed LTTE members shall be permitted freedom of movement as of D-day + 6-. As of D-day + 90, all unarmed LTTE members shall be permitted freedom of movement in the North and East. The LTTE members shall carry identity papers. The right of the GOSL to deny entry to specified military areas applies.

Article 2: Measures to restore normalcy

The Parties shall undertake the following confidence-building measures with the aim of restoring normalcy for the all inhabitants of Sri Lanka:

2.1 The Parties shall in accordance with international law abstain from hostile acts against the civilian population, including such acts as torture, intimidation, abduction, extortion and harassment.

2.2 The Parties shall refrain from engaging in activities or propagating ideas that could offend cultural or religious sensitivities. Places of worship (temples, churches, mosques & other holy sites etc.) currently held by the forces of either of the Parties shall be vacated by D-day + 30 days and made accessible to the public. Places of worship which are situated in their respective "high security zones" shall be vacated by all armed personnel and maintained in good order by civilian workers, even when they are not made accessible to the public.

2.3 Beginning on the date on which this Agreement enters into force, school buildings occupied by either party shall be vacated and returned to their intended use. This activity shall be completed by D-day + 160 at the latest.

2.4 A schedule indicating the return of all other public buildings to their intended use shall be drawn up by the Parties and published at the latest by D-day + 30.

2.5 The Parties shall review the security measures and the set-up of checkpoints, particularly in densely populated cities and towns, in order to introduce systems that will prevent harassment of the civilian population. Such systems shall be in place from D-day + 60.

2.6 The Parties agree to ensure the unimpeded flow of non-military goods to and from the LTTE-controlled areas in accordance with Annex A. Quantities shall be determined by market demand. The GOSL shall regularly review the matter with the aim of gradually removing any remaining restrictions on non-military goods.

2.7 In order to facilitate the flow of goods and the movement of civilians, the Parties agree to establish checkpoints on their line of control at such locations as are specified in Annex B.

2.8 The Parties shall take steps to ensure that the Trincomalee - Habarana road remains open on a 24-hour basis for passenger traffic with effect from D-day + 10.

2.9 The Parties shall facilitate the extension of the rail service on the Batticaloa-line to Welikanda. Repairs and maintenance shall be carried out by the GOSL in order to extend the service up to Batticaloa.

2.10 The Parties shall open the Kandy - Jaffna road (A9) to non-military traffic of goods and passengers. Specific modalities shall be worked out by the Parties with the assistance of the Royal Norwegian Government by D-day + 30 at the latest.

2.11 A gradual easing of the fishing restrictions shall take place starting from D-day. As of D-day + 90, all restrictions on day and night fishing shall be removed, subject to the following exceptions: i) fishing will not be permitted within an area of 1 nautical mile on either side along the coast and 2 nautical miles seawards from all security forces camps on the coast; ii) fishing will not be permitted in harbours or approaches to harbours bays and estuaries along with coast.

2.12 The Parties agree that search operations and arrests under the Prevention of Terrorism Act shall not take place. Arrests shall be conducted under due process of law in accordance with the Criminal Procedure Code.

2.13 The Parties agree to provide family members of detainees access to the detainees within D-day + 30.

Article 3: The Monitoring Mission

The Parties have agreed to set up an international monitoring mission to enquire into any instance of violation of the terms and conditions of this agreement. Both Parties shall fully cooperate to rectify any matter of conflict caused by their respective sides. The mission shall conduct international verification through on-site monitoring of the fulfilment of the commitments entered into in this Agreement as follows:

3.1 The name of the monitoring mission shall be the Sri Lankan Monitoring Mission, hereinafter referred to as the SLMM.

3.2 Subject to acceptance by the Parties, the Royal Norwegian Government (hereinafter referred to as the RNG) shall appoint the Head of the SLMM (hereinafter referred to as the HoM), who shall be the final authority regarding interpretation of this Agreement.

3.3 The SLMM shall liaise with the Parties and report to the R N G.

3.4 The HoM shall decide the date for the commencement of the SLMM's operations.

3.5 The SLMM shall be composed of representatives from the Nordic countries.

3.6. The SLMM shall establish a headquarters in such places as the HoM finds appropriate. An office shall be established in Colombo and in Vanni in order to liaise with the GOSL and the LTTE, respectively. The SLMM will maintain a presence in the districts of Jaffna, Mannar, Vavuniya, Trincomalee, Batticaloa and Ampara.

3.7 A local monitoring committee shall be established in Jaffna, Mannar, Vavuniya, Trincomalee, Batticaloa and Ampara. Each committee shall consist of 5 members, two appointed by the GOSL, two by the LTTE and one international monitor appointed by the HoM. The international monitor shall chair the committee. The GOSL and the LTTE appointees may be selected from among retired judges, public servants, religious leaders or similar leading citizens.

3.8 The committees shall serve the SLMM in an advisory capacity and discuss issues relating to the implementation of this Agreement in their respective districts, with a view to establishing a common understanding of such issues. In particular, they will seek to resolve any dispute concerning the implementation of this Agreement at the lowest possible level.

3.9 The parties shall be responsible for the appropriate protection of and security arrangements for all SLMM members.

3.10 The Parties agree to ensure the freedom of movement of the SLMM members in performing their task. The members of the SLMM shall be given immediate access to areas where violations of the Agreement are alleged to have taken place. The Parties also agree to facilitate the widest possible access to such areas for the local members of the six above-mentioned committees, cf Article 3.7.

3.11 It shall be the responsibility of the SLMM to take immediate action on any complaints made by either Party to the Agreement, and to enquire into and assist the Parties in the settlement of any dispute that might arise in connection with such complaints.

3.12 With the aim of resolving disputes at the lowest possible level, communication shall be established between Commanders of the GOSL armed forces and the LTTE area leaders to enable them to resolve problems in the conflict zones.

3.13 Guidelines for the operations of the SLMM shall be established in a separate document.

Article 4: Entry into force, amendments and termination of the Agreement

4.1 Each Parties shall notify their consent to be bound by this Agreement through a letter to the Norwegian Minister of Foreign Affairs signed by Prime Minister Ranil Wickremasinghe on behalf of

the GOSL and by leader Velupillai Prabhakaran on behalf of the LTTE, respectively. The agreement shall be initialled by each Party and enclosed in the abovementioned letter. 4.2 The Agreement shall enter into force on such date as is notified by the Norwegian Minister of Foreign Affairs.

4.3 This Agreement may be amended and modified by mutual agreement of both Parties. Such amendments shall be notified in writing to the RNG.

4.4 This Agreement shall remain in force until notice of termination is given by either Party to the RNG. Such notice shall be given fourteen (14) days in advance of the effective date of termination.

Annex A: List of goods

The Parties agree to ensure the flow of non-military goods to and from LTTE dominated areas of the Northern and Eastern Province, as well as unimpeded flow of such goods to the civilian population in these areas. Non military goods not covered by article 2.6 in the Agreement are listed below:

- Non military arms/ammunition
- Explosives

Remote control devices

Barbed wire

Binoculars/Telescopes

Compasses

Penlight batteries

Diesel, petrol, cement and iron rods will be restricted in accordance with the following procedures and quantities:

Diesel and Petrol

The Government Agents (GA) will register available vehicles; tractors and motorcycles in the LTTE controlled areas. The GA will calculate the required weekly amount of diesel and

petrol based on the following estimate:

Trucks/Buses - 250 litre/week

4 wheels tractor - 310 litre/week

2 wheel tractor - 40 litre/week

Petrol vehicle - 30 litre/week

Motorcycles - 7 litre/week

Fishing vessel - 400 litre/week

Cement: Cement required for rehabilitation and reconstruction of Government property; registered co-operatives; or approved housing projects implemented by the GOSL and international NGOs and more affluent members of the society; will be brought in directly by relevant institutions under licenses issued by Government Agents. The GA

shall stipulate the monthly quantities permitted for such project based upon planned and reported progress.

Cement required for individual shops/construction/house owners/ rehabilitation- initiatives will be made available through the co-operations on a commercial basis. The monthly import for this purpose will be limited to 5,000 bags during the first month and thereafter 10,000 bags/month. Individual sales by the co-operatives will be registered and limited to 25 bags per household.

Iron rods: Iron rods for building constructions will be brought in to the LTTE controlled areas under licenses issued by the GA.

A monthly re-assessment will be made to assess the possibilities of removal of the above restrictions.

Annex B: Checkpoints

Checkpoints agreed in Ch.2.7 are as follows:

Mandur, Paddirupur, Kaludaveli Ferry Point, Anbalantivu Ferry Point,

Mamunai Ferry Point, Vanvunateevu, Santhiveli Boat Point'

Black Bridge, Sitandy Boat Point, Kiran bridge, Kinniyadi Boat Point

Valachenai; Makerni, Mahindapura, Muttur, Ugilankulam, Omanthai.

APPENDIX 8

Transcript of the press conference held at the conclusion of the third session of the first round of Peace Talks in Oslo, Norway.

VIDAR HELGESEN

(The statement issued by the Royal Norwegian Government at the conclusion of the third session of peace talks between the Government and the LTTE in Oslo)

The third session of peace talks between the Government of Sri Lanka (GOSL) and the Liberation Tigers of Tamil Eelam (LTTE) was held in Oslo, Norway 2nd to 5th December 2002. In a frank, open and constructive manner, the parties focused on three major areas:

First, Consolidation of the Ceasefire Agreement

Secondly, humanitarian and rehabilitation action and

Thirdly, Political matters.

On the political matters, the parties agreed on a working outline defining the objective as well as a number of substantive political issues for negotiation.

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

Guided by this objective, the parties agreed to initiate discussions on substantive political issues such as, but not limited to:

Power-sharing between the centre and region as well as within the centre;

Geographical region;

Human Rights protection;

Political and administrative mechanism;

Public finance and

Law and order.

The parties recognised that progress on political issues must be supported by the continued consolidation of the Ceasefire Agreement. New concrete measures will be taken to facilitate further de-escalation and to improve normalcy:

The GOSL will shortly return one of the hotels in Jaffna to its original use

The LTTE will ensure that all future transportation of area commanders will take place under the supervision of the Sri Lanka Monitoring Mission (SLMM)

The LTTE will accept the right of political groups to carry out political work, including in the Jaffna peninsula and the islands, provided that they are unarmed, as stipulated by the Ceasefire Agreement

The GOSL will, in consultation with all relevant parties and groups, evolve a solution to the problems arising from recent developments in the Delft Island

The parties will facilitate restoration and rehabilitation of places of worship in the north and the east belonging to all religious communities.

On the basis of their firm conviction that the maintenance of law and order in the North and East is of paramount importance, the parties agreed to request the Sub-Committee on De-escalation and Normalization to propose a common approach to settling cases involving the disputed use of private property, where such use has been impeded by the conflict.

Furthermore, the LTTE will ensure that the activities of their law and order mechanisms will not be extended beyond the areas dominated by the LTTE.

The parties strongly underlined the need to move rapidly on humanitarian and rehabilitation efforts in the North and East. For this purpose, the early establishment of the North-East Reconstruction Fund will be critical. The parties agreed that the custodian of the fund should be selected and modalities for its operation agreed at the next meeting of the Sub-Committee on Immediate Humanitarian and Rehabilitation Needs. The parties expressed their appreciation of the strong support extended to the peace process by several governments at the Sri Lanka Support Meeting held in Oslo on 25 November, and urged these governments to rapidly release funds needed for humanitarian and rehabilitation efforts.

The parties agreed that a committee of women will be instituted to explore the affects and conclusions of gender issues in the peace process. This committee will also on a regular basis, submit proposals relating to women's interests to the sessions of negotiations and to the sub-committees of the peace process. The committee will consist of four representatives of each party.

As a priority area identified by the parties for humanitarian action, the parties stressed the need to improve the situation for children affected

by armed conflict. Inspired by the international norms protecting the rights of the child, the parties underlined that children belong with their families or other custodians and not in the workplace, whether civilian or military. The LTTE will engage in a partnership with the

United Nations Children's Fund (UNICEF) to draw up an action plan for restoring normalcy to the lives of children, and the parties called on the international community to provide financial support for such an action plan.

The GOSL will, in order to arrive at the broadest possible consensus, establish an appropriate mechanism for consultation with all segments of opinion as part of the ongoing peace process.

And finally, the parties agreed to accept the kind invitation of the Royal Thai Government to host the two next sessions of talks at the Rose Garden in Thailand in January and February 2003.

Thank You.

ERIK SOLHIEM

Thank you, Vidar. I now give the floor to Dr. Anton Balasingham chief negotiator of the LTTE to make some initial remarks on behalf of the LTTE and this important document.

ANTON BALASINGHAM

My dear friends, you would have observed in the statement read by Mr. Helgesen that both the parties have made an unprecedented historic decision to work out a political formula for the solution of the protracted ethnic conflict. The decision as far as the LTTE is concerned is in line with the policy that we have been advocating for the last two decades or more. That is, a regional autonomous model based on the right to internal self-determination of our people in the historical areas where the Tamil and the Muslim people live. So, with this autonomous model or model of self-government that we were referring to, has to be couched or properly conceptualised within an appropriate concrete constitutional form. That is what we decided, that we will opt for a federal model. This federal model will be within united Sri Lanka which will be appreciated by the Sinhalese people I suppose.

And I wish to reiterate that our struggle was based on the concept of self-determination as articulated in the UN Charter and other resolutions and instruments of the United Nations. I am surprised because ... what has happened is... I had a meeting in London where I clearly exemplified the concept of internal self-determination and also the external self-determination and argued that our leadership is prepared to work-out a formula within the principle – internal self-determination. This speech has been totally distorted by the Sunday Island. I am surprised that they claim that Balasingham has said that the LTTE favours two independent states... or something like that. I

haven't read the report fully but I can assure you that it is a total distortion of what I have announced at the London Martyrs' Day Conference. I have to read out for your clarification what Mr. Prabhakaran said in his Martyrs' Day message. He has said,

We are prepared to consider favourably a political framework that offers substantial regional autonomy and self-government in our homeland on the basis of our right to internal self-determination". It is on this basis... it is on the basis of the proposals made by the LTTE leadership both the parties have formulated a framework that a federal structure would be the suitable model to realise the principle of internal self-determination. So I think this is, as Prof. Peiris always have said (sic), a paradigm shift. It's not only a paradigm shift on our part, it is also a paradigm shift on the part of the Sri Lankan Government to accommodate the Tamil and the Muslim people within a federal framework in a united country.

So, I don't want to give you a lecture here but I wanted to make these three comments before letting you raise questions.

I will now leave it to Prof. Peiris to make his comments.

G L PEIRIS

Well, I think Dr. Balasingham is exactly correct when he speaks of paradigm shift because that is neither more nor less than has occurred in Oslo during these last three days of intensive discussions. It is necessary to understand the sequence, how this has progressed and reached its present very positive position. There was the explicit statement by Mr. Velupillai Prabhakaran on the 27th of November in his Heroes' Day speech in which he said that the LTTE is no longer insisting on a separate state but the LTTE is looking at a different concept in earnest and that is internal self-determination. And he went on to explain what he meant. This was power sharing, extensive power sharing within the framework of one country. No question of cessation, no question of separation but power sharing within the framework of one country. It is fair to say that this statement was foreshadowed in many respects by comments which were made at the conclusion of the Sattahip session in Thailand from the 16th to the 18th of September and also in the second session in Nakhon Pathom Thailand by Dr. Anton Balasingham. He foreshadowed much of what was said in his speech and it received the final authoritative articulation by the leader of the LTTE on the 27th of November.

So that was the point of departure. They are now talking about power sharing within one country. Now immediately that provided us with a coherent framework within which to evolve a negotiated political solution because the position of the Government of Sri Lanka is also that it stands for substantial power sharing within one country.

Now the break through yesterday the importance of which cannot be over-estimated, Erik Solhiem's so called "something unprecedented and historic", indeed it was. And the development was this - the explicit identification of a federal structure as the basis on which this political solution is going to be evolved. So we now have a very clear indication of the nature of the political solution that the parties are working towards in order to bring

peace back to our troubled country, to put the war behind us and to put Sri Lanka the on path to peace and prosperity. So, we are talking of a federal solution. It is not separatism, it is not confederation... it is a federal model. Now, if we believe in a political solution, if we are renouncing war... if we believe in a political solution... there could not be any other rural tribal except power sharing – except the basis, the character of a federal solution. Now this means that we will be able to make substantial progress in the next two rounds of discussions in Thailand. We have identified on this occasion some of the specific matters which will need to be focused upon such as the power sharing between the centre and the region and also power sharing within the centre. Matters relating to law and order, matters relating to territory... we have enumerated the specific matters which will receive attention I the next two sessions all within the framework of the federal structure that we have referred to. So that is one part of it.

Then very briefly the other achievement was the solid consolidation of the Ceasefire Agreement. Because that is the source from which all these benefits flow. The parties discussed the problems which have arisen with regard to the Ceasefire Agreement. We identified the potential source of these tensions and we figured out ways and means of addressing these problems in order to prevent these tensions from escalating.

Then, we also talked about the money part of it – the need to engage in development oriented and humanitarian activity (that is going to be finalised in the next session). Then a women's committee that is to focus on problems which are particularly acute in the case of women and children in the war affected areas. And also a decision on the part of the.... of both parties to work towards the restoration of the religious heritage of all religions in those parts of the country.

So all in all it was a very substantial achievement which straddled all the different areas that we are talking about. Three major areas – one is the political matter, the second is the Ceasefire consolidation and the third is the humanitarian and rehabilitation matters. So it was indeed a very satisfying occasion.

Thank You.

APPENDIX 9

LTTE's proposals for an Interim Self-Governing Authority in the Northeast region of Sri Lanka

The Liberation Tigers of Tamil Eelam (LTTE) on November 1, 2003, submitted its proposals for an Interim Administration in the North East region to the Sri Lankan Government through the Norwegian facilitators. Following is the full text of the proposals:

THE PROPOSAL BY THE LIBERATION TIGERS OF TAMIL EELAM ON BEHALF OF THE TAMIL PEOPLE FOR AN AGREEMENT TO ESTABLISH AN INTERIM SELF-GOVERNING AUTHORITY FOR THE NORTHEAST OF THE ISLAND OF SRI LANKA

Consistent with the principles of the rule of law, the human rights and equality of all persons, and the right to self-determination of Peoples,

Determined to bring lasting peace to all persons of the island of Sri Lanka,

Acknowledging with appreciation the services of the Royal Norwegian Government, the Norwegian People, and the international community in attempting to bring peace to the island,

Recognizing that a peaceful resolution is a real possibility, despite the challenging history of the peace process between the Tamil people and the Sinhala people.

Determined to establish an interim self-governing authority for the NorthEast region and to provide for the urgent needs of the people of the NorthEast by formulating laws and policies and, effectively and expeditiously executing all resettlement, rehabilitation, reconstruction, and development in the NorthEast, while the process for reaching a final settlement remains ongoing.

Being aware that the history of the relations between the Tamil People and the Sinhala People has been a process of broken promises and unilateral abrogation, by successive governments of Sri Lanka, of pacts and agreements solemnly entered into between the government of Sri Lanka (GOSL) and the elected representatives of the Tamil People,

Bearing in mind that successive Governments of Sri Lanka have perpetrated persecution, discrimination, State violence and State-orchestrated violence against the Tamil People,

Noting that the Tamil people mandated their elected representatives to establish an independent sovereign, secular State for the Tamil

people in the elections subsequent to the Vaddukoddai Resolution of 1976,

Bearing in mind that the Tamil armed struggle as a measure of self-defence and as a

means for the realisation of the Tamil rights to self-determination arose only after more than four decades of non-violent and peaceful constitutional struggle proved to be futile and due to the absence of means to resolve the conflict peacefully,

Recalling that the Liberation Tigers of Tamil Eelam (LTTE) first took measures towards peace by unilaterally declaring the ceasefire in December, 2000 and again in December, 2001, opening highways, facilitating trade and the free movement of people, and entering into peace negotiations in good faith in the hope of creating an environment conducive to the return of 'normalcy and a just resolution of the conflict,

Taking Note of the political courage of the present GOSL in reciprocating to the 2001 cease fire,

Realizing that the war in the island of Sri Lanka was principally confined to the NorthEast, resulting in the destruction of the social, economic, administrative, and physical infrastructure of that area, and that the NorthEast still remains the region in the island of Sri Lanka affected by war,

Recognising that the majority of the Tamil People in the NorthEast by their actions in the general elections held in the year 2000, gave their mandate acknowledging the LTTE as their authentic representative,

Knowing that the LTTE exercises effective control and jurisdiction over the majority of the NorthEast area of the island of Sri Lanka.

Realising that reaching a final negotiated settlement and the implementation thereof is expected to be a long process,

Affirming the necessity for the safe and free return of all refugees and displaced persons and their urgent need for unimpeded access to their homes and secure livelihoods at land and sea in the NorthEast,

Mindful that institutions and services provided by the GOSL have proved to be inadequate to meet the urgent needs of the people of the NorthEast.

Recognising the failure of the Sub-committee on Immediate Humanitarian and Rehabilitation Needs (SIHRN) and other Sub-Committees formed during the peace negotiations, which failure was due to the composition of such Sub-Committees which repeatedly led to inaction,

Acknowledging the recognition by the GOSL of the necessity for an Interim Authority, as mentioned in its 2000 election manifesto,

Realising the maintenance of law and order is an essential pre-requisite for a just and free society,

Recognising the need for raising revenue to meet the urgent needs for the Resettlement, Rehabilitation, Reconstruction and Development of the NorthEast region, which has been devastated by war, and for the carrying out of any function of Government,

Recognising the importance of control over land in resettlement, rehabilitation, reconstruction and development,

Mindful that the Tamils did not participate in the making of the 1972 and 1978 constitutions, which institutionalized discrimination and denied them an effective role in the decision-making process,

Noting the practice in international relations over the last decade of solving conflicts between Peoples through agreement between the parties to the conflict on terms of equality and through innovative and imaginative measures,

Relying on international precedents for establishing interim governing arrangements in war-torn countries having the force of law based solely on pacts or agreements between the warring parties recognized by the international community,

Noting that measures such as the Cease fire Agreement, including the role of the Sri Lanka Monitoring Mission (SLMM), and, the establishment of the SIHRN and the NorthEast Reconstruction Fund (NERF) constitute valid precedents for making such arrangements,

Wherefore, the Parties, namely the Liberation Tigers of Tamil Eelam and the Government of Sri Lanka, hereby agree to the following provisions:

1. Interim Self-Governing Authority

An Interim Self-Governing Authority (ISGA) shall be established comprised of the eight districts namely: Ampara, Batticaloa, Jaffna, Kilinochchi, Mannar, Mullaitivu, Trincomalee and Vavuniya in the NorthEast, until a final negotiated settlement is reached and implemented.

Representatives of the Muslim community have the right to participate in formulation of their role in the ISGA.

2. Composition of the ISGA

2.1. The ISGA shall consist of such number of members as may be determined by the Parties to this Agreement.

2.2. The composition of the ISGA shall be:

2.2.a. Members appointed by the LTTE,

2.2.b. Members appointed by the GOSL, and

2.2.c. Members appointed by the Muslim community in the NorthEast.

2.3. The number of members will be determined to ensure:

2.3.a. An absolute majority of the LTTE appointees in the ISGA.

2.3.b. Subject to (a) above, the Muslim and Sinhala Communities in the NorthEast shall have representation in the ISGA.

2.4. The Chairperson shall be elected by a majority vote of the ISGA and shall serve as the Chief Executive of the ISGA.

2.5. The Chairperson shall appoint the Chief Administrator for the NorthEast and such other officers as may be required to assist in the performance of his/her duties. The Chairperson shall have the powers to suspend or terminate any such appointment.

3. Elections

The provisions of Clauses 2.2 and 2.3 shall continue until elections for the ISGA are held. Such elections shall be held at the expiry of five years of the coming into force of this Agreement, if no final settlement

has been reached and implemented by the end of the said period of five years. An independent Election Commission, appointed by the ISGA, shall conduct free and fair elections in accordance with international democratic principles and standards under international observation.

4. Human Rights

The people of the NorthEast shall be accorded all rights as are provided under international human rights law. Every law, regulation, rule, order or decision of the ISGA shall conform to internationally accepted standards of human rights protection. There shall be an independent Human Rights Commission, appointed by the ISGA, which shall ensure the compliance with all such human rights obligations. The Commission will seek the assistance of international human rights bodies to facilitate the rapid establishment of an effective regime for protecting human rights. The Commission shall be entitled to receive petitions from any individual person, award compensation to any such affected person, and ensure that such person's rights are restored.

5. Secularism

No religion shall be given the foremost place in the NorthEast.

6. Prohibition against Discrimination

The ISGA shall ensure that there is no discrimination on grounds of religion, race, caste, national or regional origin, age or gender in the NorthEast.

7. Prevention of Bribery and Corruption.

The ISGA shall ensure that no bribery or corruption is permitted in or under its administration.

8. Protection of All Communities

No law, regulation, rule, order or decision that confers a privilege or imposes a disability on any community, which is not conferred or imposed on any other community, shall be made concerning culture or religion.

9. Jurisdiction of the ISGA.

9.1. The ISGA shall have plenary power for the governance of the NorthEast including powers in relation to resettlement, rehabilitation, reconstruction, and development, including improvement and upgrading of existing services and facilities (hereinafter referred to as RRRD), raising revenue including imposition of taxes, revenue, levies and duties, law and order, and over land.

These powers shall include all powers and functions in relation to regional administration exercised by the GOSL in and for the NorthEast.

9.2. The detailed modalities for the exercise of such powers and the performance of such functions shall be subject to further discussion by the parties to this agreement

10. Separation of Powers

Separate institutions for the administration of justice shall be established for the NorthEast, and judicial powers shall be vested in such institutions. The ISGA shall take appropriate measures to ensure the independence of the judges.

Subject to Clauses 4 (Human Rights) and 22 (Settlement of Disputes), of this Agreement, the institutions created under this clause shall have sole and exclusive jurisdiction to resolve all disputes concerning the interpretation and implementation of this agreement and any other disputes arising in or under this agreement or any provision thereof.

11. Finance

The ISGA shall prepare an annual budget.

There shall be a Financial Commission consisting of members appointed by the ISGA. The members should have distinguished

themselves or held high office in the fields of finance, administration or business. This Commission shall make recommendations as to the amount out of the Consolidated Fund to be allocated to the NorthEast. The GOSL shall make its good faith efforts to implement the recommendation.

The ISGA will, giving due consideration to an equitable distribution, determine the use of funds placed at its disposal. These funds shall include the NorthEast General Fund, the NorthEast Reconstruction Fund (NERF) and the Special Fund.

The GOSL agrees that any and all of its expenditures in or for the NorthEast shall be subject to the control of the ISGA.

11.1. NorthEast General Fund

The NorthEast General Fund shall be under the control of ISGA and shall consist of:

11.1.a. The proceeds of all grants and loans made by the GOSL to the ISGA and the proceeds of all other loans made to the ISGA.

11.1.b. All allocations by the GOSL from agreements with states, institutions and/or other organizations earmarked in any such agreements for the NorthEast.

11.1.c. All other receipts of the ISGA, other than the funds specified below.

11.2. NorthEast Reconstruction Fund

The NERF shall continue to exist in its present form except that control over it will be transferred to the ISGA.

All grants given for the reconstruction of the NorthEast, will be received through the NERF. Utilization of resources from NERF will be directly determined and supervised by the ISGA.

11.3. Special Fund

All loans and any grants which cannot be channelled through the NERF for the specific purpose of RRRD will be received into the Special Fund. As in the case of other Funds, the ISGA shall control the Special Fund.

12. Powers to Borrow, Receive Aid and Trade.

The ISGA shall have powers to borrow internally and externally, provide guarantees and indemnities, receive aid directly, and engage in or regulate internal and external trade.

13. Accounting and Auditing of Funds.

13.1. The ISGA shall appoint an Auditor General.

13.2. All Funds referred to in this Agreement shall be operated, maintained and audited in accordance with internationally accepted accounting and auditing standards. The accounts will be audited by the Auditor General. The auditing of all moneys received from international sources shall be subjected to approval by an internationally-reputed firm appointed by the ISGA.

14. District Committees.

14.1. In the effective exercise of its legislative and executive powers, the ISGA may create District Committees to carry out administration in the districts and delegate to such Committees, such powers as the ISGA may determine. The Chairpersons of such committees shall be appointed by the ISGA from amongst its members in order to serve as a liaison between the ISGA and the Committees.

14.2. The other members of the Committees shall also be appointed by the ISGA, which shall have the powers to suspend or terminate any such appointment. In appointing such members, due consideration shall be given to ensure representation of all communities.

14.3. The Committees will function directly under the ISGA.

14.4. The Chief Administrator of the ISGA shall appoint Principal Executive Officers in the districts, who shall also function as the Secretaries to the Committees. The Chief Administrator shall have the powers to suspend or terminate any such appointment.

14.5. All activities and functions of the Committees shall be coordinated through the respective Secretaries to the Committees.

14.6. Sub-committees may also be appointed to facilitate administration.

15. Administration

As part of the exercise of its executive powers the ISGA shall have direction and control over any and all administrative structures and personnel in the NorthEast pertaining to the powers set out in Clause 9 of this Agreement.

The ISGA may, at its discretion, create expert advisory committees in necessary areas. These areas will include but are not limited to Economic Affairs, Financial Affairs, Judicial Affairs, Resettlement and Rehabilitation Affairs, Development of Infrastructure, and Essential Services.

16. Administration of Land

Since land is vital to the exercise of the powers set out in Clause 9 (jurisdiction of the ISGA), the ISGA shall have the power to alienate and determine the appropriate use of all land in the NorthEast that is not privately owned.

The ISGA shall appoint a Special Commission on Administration of Land to inquire into and report on the rights of dispossessed people over land and land subject to encroachment, notwithstanding the lapse of any time relating to prescription.

The ISGA shall determine the term of competencies of the Special Commission.

17. Resettlement of Occupied Lands

The occupation of land by the armed forces of the GOSL, and the denial to the rightful civilian owners of unfettered access to such land, is a violation of the norms of international law. Such land must be immediately vacated and restored to the possession of the previous owners. The GOSL must also compensate the owners for the past dispossession of their land.

The ISGA shall be responsible for the resettlement and rehabilitation of displaced civilians and refugees in such lands.

18. Marine and off-shore resources

The ISGA shall have control over the marine and offshore resources of the adjacent seas and the power to regulate access thereto.

19. Natural Resources

The ISGA will have control over the natural resources in the NorthEast region. Existing agreements relating to any such natural resources will continue in force. The GOSL shall ensure that all monies due under such agreements are paid to the ISGA. Any future changes to such existing agreements should be made with the concurrence of the ISGA. Future agreements shall be entered into with the ISGA.

20. Water Use

Upper riparian users of river systems have a duty to ensure that there is a fair, equitable and reasonable use of water resources by lower riparian users. The GOSL and the ISGA shall ensure that this internationally recognized principle is followed in the use of water resources.

21. Agreements and contracts

All future agreements concerning matters under the jurisdiction of the ISGA shall be made with the ISGA. Existing agreements will continue, but the GOSL shall ensure that all proceeds under such agreements are paid to the ISGA. Any changes to such existing agreements should be made with the concurrence of the ISGA.

22. Settlement of Disputes

Where a dispute arises between the Parties to this Agreement as to its interpretation or implementation, and it cannot be resolved by any other means acceptable to the Parties including conciliation by the Royal Norwegian Government, there shall be an arbitration before a tribunal consisting of three members, two of whom shall be appointed by each Party. The third member, who shall be the Chairperson of the tribunal, shall be appointed jointly by the Parties concerned. In the event of any disagreement over the appointment of the Chairperson, the Parties shall ask the President of the International Court of Justice to appoint the Chairperson.

In the determination of any dispute the arbitrators shall ensure the parity of status of the L TTE and the GOSL and shall resolve disputes by reference only to the provisions of this Agreement.

The decision of the arbitrators shall be final and conclusive and it shall be binding on the Parties to the dispute.

23. Operational Period

This Agreement shall continue until a new Government for the NorthEast, pursuant to a permanent negotiated settlement, is established. The Parties will negotiate in good faith to reach such a settlement as early as possible.

Provided, however, that at the end of four years if no final agreement has been reached between the Parties to this agreement, both Parties shall engage in negotiations in good faith for the purpose of adding, clarifying, and strengthening the terms of this Agreement.

Source: The Official Website of the Sri Lankan Government's Secretariat for Coordinating the Peace Process (SCOPP).

APPENDIX 10

Post-Tsunami Operational Management Structure, June 2005 (PTOMS)

Preamble

WHEREAS the tsunami that struck Sri Lanka on December 26, 2004 (the “tsunami”) destroyed human lives and property on an unprecedented scale; WHEREAS there is an urgent need for all communities, Sinhala, Tamil, Muslim and others, to cooperate on humanitarian grounds in the face of this common adversity;

WHEREAS the equitable allocation of post-tsunami funds to all parts of Sri Lanka struck by the tsunami will be based on accepted needs assessments;

WHEREAS in recognition of this urgent humanitarian need and in a spirit of partnership, the Government of Sri Lanka (the “GOSL”) and the Liberation Tigers of Tamil Eelam (the “LTTE”) (the “Parties”) have resolved to work together, in good faith and using their best efforts, to deliver expeditious relief, rehabilitation, reconstruction and development to the coastal communities in the six districts of Ampara, Batticaloa, Jaffna, Kilinochchi, Mullaitivu and Trincomalee (“the Six Districts”) and to facilitate and expedite the process of rebuilding the affected areas;

WHEREAS there is a need for establishing P-TOMS to facilitate such cooperation among communities, and between the Parties;

NOW, THEREFORE, in consideration of the foregoing the Parties have entered into this MOU and agreed as follows:

1. Structure

a. An integrated operational management structure shall be established for the purpose of planning, implementing and coordinating post-tsunami work. Such structure shall consist of:

- i. The Post-Tsunami Coastal Reconstruction Committee (the “High-Level Committee”);
- ii. The Post-Tsunami Coastal Reconstruction Committee for the Six Districts (the “Regional Committee”); and
- iii. Post-Tsunami Coastal Reconstruction Committees for each of the Ampara, Batticaloa, Jaffna, Kilinochchi, Mullaitivu, and Trincomalee districts (the “District Committees”).

b. The High-Level Committee, the Regional Committee and the District Committees shall discharge of their functions in such a manner as to address the concerns of all persons

in the Tsunami Disaster Zone (the “TDZ”, as defined below) and shall do so without discrimination against

any person on grounds such as ethnic origin, sex, language, religion, political or other opinion, social origin, birth or other status.

2. Scope

a. The scope of the High-Level Committee, the Regional Committee, and the District Committees shall be limited to performing the functions defined in Sections 5(b), 6(b), and 8(b), respectively, and having effect exclusively within the TDZ (as defined below), as further specified by Section 6(a) in the case of the Regional Committee and by Section 8(a) in the case of the District Committees.

b. The Tsunami Disaster Zone (the “TDZ”) shall be defined as the area affected by the tsunami.

c. The TDZ shall include all that tsunami-affected land area of Sri Lanka, which is adjacent to the sea, lying within a limit of 2 kilometres landwards from the mean low water line.

d. The High-Level Committee may decide to bring additional land areas within the TDZ; provided, however, that all such land areas must have been directly impacted by the tsunami or directly affected by the displacement and resettlement of persons as a result of the tsunami.

e. New proposals for measures to be adopted in, or affecting the coastal areas covered by seawater, shall be undertaken under the

aegis of an international agency. Such proposals might include measures to recover material lost to the sea during the tsunami, the cleaning up of shores and beaches affected, even when covered by seawater, and the repairing and construction of jetties or commercial fisheries harbours affected by the tsunami.

f. The Ceasefire Agreement, dated as of 23 February 2002, between the GOSL and the LTTE, shall continue in full force and effect, and nothing in this MOU shall be construed to prejudice such agreement or alter its terms in any way.

3. Period of Operation

a. This MOU shall enter into force from the date it is executed by both Parties (the “Commencement Date”), and continue in operation for a period of one year from the Commencement Date.

b. The Parties shall by consensus have the option to extend this MOU for an additional period or periods.

4. Cost and Expenses

The donors shall be requested to cover all costs and expenses incurred relating to the establishment and functioning of the P-TOMS.

5. High-Level Committee

a. Geographic Scope. The High-Level Committee shall act exclusively in relation to the TDZ.

b. Functions. The High-Level Committee shall perform the following functions:

i. Formulation of policies for the equitable allocation and disbursement of donor funds in the TDZ based on needs assessments submitted to the High-Level Committee, guided by the principle that funds should be allocated in proportion to the number of affected persons and the extent of damage;

ii. Provision of advisory services; and

iii. Monitoring of the functioning of P-TOMS.

c. Composition. The High-Level Committee shall consist of the following members:

i. 1 nominee by GOSL;

ii. 1 nominee by LTTE; and

iii. 1 nominee by Muslim parties.

d. Alternates. Each nominating party shall designate one alternate, who will be authorized to attend meetings and act on behalf of the

member only in the event he or she is unable to attend due to illness, necessary travel or other exigent circumstances.

e. Chairperson. The High-Level Committee shall select one of the members of the High-Level Committee to serve as the chairperson to conduct and coordinate its meetings. The role of the chair shall rotate among the members, with each chairperson serving for two months.

f. Observers. The High-Level Committee shall have one observer representing multilateral donors and one observer representing bilateral donors attend its meetings. The observers shall be nominated by the multilateral donor community and the bilateral donor community, respectively.

g. Decision Making.

i. The High-Level Committee shall strive to make decisions based on consensus. All members shall work together in good faith and use their best efforts to reach a common agreement before the High-Level Committee makes any decisions.

ii. In the event that consensus cannot be reached, the members shall immediately enter into an extensive consultation procedure with their nominating parties and the donor community with the aim to reach an agreement and to ensure continued cooperation in the High-Level Committee.

iii. In the event that consensus can still not be reached the nominating parties may, after having followed the consultation procedure laid down in Section 5(g, i and ii) and after having given 14 days notice, suspend the cooperation in the High-Level Committee.

h. Location. The High-Level Committee shall be located in Colombo.

i. Procedures. The High-Level Committee shall determine its own procedures for the discharge of its functions.

j. Servicing Secretariat. The High-Level Committee shall establish a small, independent secretariat with adequate staff.

6. Regional Committee

a. Geographic Scope. The Regional Committee shall act exclusively within those areas of the TDZ in the Six Districts.

b. Functions. The Regional Committee shall perform the following functions:

i. Development of strategies for implementation and prioritization of post-tsunami emergency relief, rehabilitation, reconstruction and development measures;

ii. Project approval and management, with respect to projects for post-tsunami relief, rehabilitation, reconstruction and development;

iii. Overall monitoring of projects; and

iv. Fund management, with respect to the fund specifically defined in Section 7.

c. Composition. The Regional Committee shall consist of the following members:

i. 2 members nominated by GOSL, out of which one will serve as Deputy Chairperson;

ii. 5 members nominated by LTTE, out of which one will serve as Chairperson;

iii. 3 members nominated by the Muslim parties, out of which one will serve as Deputy Chairperson;

iv. The Regional Committee shall have a proper gender balance.

d. Observers. The Regional Committee shall have one observer representing multilateral donors and one observer representing bilateral donors attend its meetings. The observers shall be nominated

by the multilateral donor community and the bilateral donor community, respectively. Other observers may be invited to attend the meetings of the Regional Committee.

e. Decision Making.

i. The Regional Committee shall strive to make decisions based on consensus. All members shall work together in good faith and use their best efforts to reach a common agreement before the Regional Committee makes any decisions.

ii. In the event that consensus cannot be reached, decisions shall be made by a simple majority of the Regional Committee. In the event of equality of votes, the Chairperson can exercise a casting vote.

iii. Notwithstanding paragraph iv below, in the event that a decision is taken on an issue having an adverse effect on a minority group, acknowledged by at least two members of the Regional Committee, approval will require two thirds majority (seven members) of the Regional Committee.

iv. In the event that a proposal from a District Committee does not get a simple majority in the Regional Committee and at least two members of the Regional Committee request redressing of the decision relating

to the proposal, the rejection will require two thirds majority (seven members) of the Regional Committee.

f. Location. The Regional Committee shall be located in Kilinochchi.

g. Procedures. The Regional Committee, in consultation with the High-Level Committee, shall determine the procedures for the discharge of its functions.

h. Servicing Secretariat. A small Secretariat for the Six Districts shall be set up and may draw staff from the Secretariat for Immediate Humanitarian and Rehabilitation Needs (SIHRN). The Secretariat shall be named as the Regional Secretariat for Post-tsunami Coastal Reconstruction and Development (RSPCRD), and shall provide secretarial and administrative services to the Regional Committee.

i. Project Management Unit. A Project Management Unit (the "PMU") shall be established to manage the projects approved by the Regional Committee.

j. Accounting. The Regional Committee shall appoint a suitably qualified, independent accountant.

7. Regional Fund

i. There shall be a Post-Tsunami Coastal Fund for the Six Districts (the "Regional Fund"),

consisting of unspecified (program) and secretariat funds. The unspecified (program) funds shall consist exclusively of foreign funds while the secretariat funds shall consist of both foreign and local funds.

ii. The Parties shall appoint a suitable multi-lateral agency to be the Custodian of the Regional Fund.

iii. The purpose of the Regional Fund shall be to expeditiously make available funds, following proper approved procedures, to facilitate and accelerate the relief, rehabilitation, reconstruction and development program in the tsunami-affected areas of the Six Districts.

iv. The Parties and the Custodian shall agree on a mechanism for the establishment and operation of the Regional Fund.

8. District Committees

a. Geographic Scope. Each District Committee shall act exclusively in relation to those areas of the TDZ within its district.

b. Functions. Each District Committee shall perform the following functions within its district:

i. Identification of needs;

ii. Prioritization of needs;

iii. To generate, receive, appraise and prioritize project proposals from various stakeholders and submit recommendations to the Regional Committee; and

iv. To monitor and report on project progress to the Regional Committee.

c. Composition and Decision Making. The Districts Committees, already established and well-functioning, shall continue their work. The District Committees may further discuss and decide on issues relating to their composition and decision-making. Adequate Muslim representation shall be ensured. The District Committee shall also have a proper gender balance.

d. Location. Each District Committee shall be located within its district.

e. Servicing Secretariat. A small Servicing Secretariat shall provide secretarial and administrative services to the District Committees.

9. Execution This MOU may be executed in duplicate, both texts being equally authentic.

Appendix 11



NATIONAL PEACE COUNCIL OF SRI LANKA

'TWO DECADES OF WAR, FIVE YEARS OF THE CFA, WHAT NEXT?

Peace Symposium – Wednesday 21 February 2007

The Ceasefire Agreement signed between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam on 22 February 2002, brought more than a ray of hope and illuminated not only the lives of those who underwent the trauma of the conflict but all Sri Lankans and the country as a whole. NPC, in the public interest, gives what it terms as the dividends of the CFA and statistics that have been made available with regard to the violations that have taken place during this period.

CEASEFIRE DIVIDENDS

Save Lives

The war stopped, and with it the associated destruction of life and property. On the basis that an average of 3,000 to 4,000 persons die in each year of war, the first four years of the CFA would have saved between 12,000 to 16,000 lives.

Free of Fear

Over 2 million people living in the north and east could once again feel free the scourge of war that had been fought in their midst. Elsewhere in the country, particularly in Colombo, people were free of the tension of bombs and military action.

Reduced Suspicion

With the end of fighting, the relations between the ethnic communities improved as there was no need to view each other with suspicion. Tens of thousands of people engaged in internal tourism travelling from the south to the north and east, and vice versa. People went freely on religious pilgrimages to places that had been sealed off to them by years of war.

Resettlement

Resettlement of over 300,000 internally displaced persons took place. Some of these people had been living in welfare Centres for over 10 to 15 years.

Open Roads

Roads connecting the north and south, east and west, were re-opened. All roads in Colombo that had been closed to traffic due to security considerations and created inconvenience to travellers, were also re-opened. Economic productivity losses due to security checks

and road closures were eliminated. There was faster movement of containers and other traffic on the road.

Open Markets

The opening of roads also provided greater market access to produce from the north and east and stimulated markets for goods produced in the south to go north. This meant better business for companies selling in the domestic market. The north and east were integrated with the economy in the south for the mutual benefit of both regions and to their people raising their incomes.

Reviving North East

Large extents of land that were not cultivated in the north and east due to the dislocation caused by the war and insecurity came to be used for economically productive purposes once again. Infrastructure, such as telephones and electricity supply were restored to the north and east.

Record Tourism

Tourism which had fallen to low levels due to war doubled to more than half a million, stimulating the entire industry and the livelihoods of those living in the tourist belt.

Economic Growth

The economy received from negative growth of minus 0.5 percent in 2001 to an average of 5 to 6 percent. In the north east, the annual growth figures reached 12 percent. Central Bank figures also show that by 2005, the gross domestic product (GDP) of Sri Lanka rose by 18 percent over 2002. The per capita income went up from USD 870 to USD 1197 in 2005, making Sri Lanka a middle income country, rather than a poor country.

Increased Foreign Aid

USD 4.5 billion was pledged at the Tokyo Donor conference in 2003, which demonstrated the strong support of the international community for the restoration of peace in Sri Lanka. The interest in greater foreign direct investment that would stimulate economic growth also increased.

Peace Work

The Government, LTTE and Muslim Peace Secretariats were established. Peace organisations and other civic organisations were able to work without interruption and threats and build bridges between the ethnic communities. Media especially the state media played a very positive role in terms of building peace and reconciliation between people.

Government – LTTE Relations

Relations between the Government and LTTE improved and leading members of each side, including government ministers and LTTE leaders, met frequently in Colombo and Kilinochchi.

Human Rights

The Prevention of Terrorism Act which had been internationally condemned and which led to many human rights abuses was suspended. Sri Lanka's human rights record improved and the country came to be seen internationally as a success story in conflict resolution.

Where Does Sri Lanka Go From Here?

APPENDIX 12

List of NGOs Involved in Peacebuilding, Human Rights, Governance and Humanitarian Issues in Sri Lanka

The Association of War Affected Women (AWAW) was established in 2000 to create space for war affected women specifically mothers and wives of servicemen missing in action and of those who are missing to come together across the ethnic divide to work for peace. AWAW is committed to achieving sustainable peace in Sri Lanka and believes that peace has to be negotiated through an inclusive process. AWAW is deeply committed to safeguarding democracy and rights of all, specifically women's rights and their advancement. The vision of AWAW is peaceful and prosperous Sri Lanka where all its peoples live with dignity enjoying equal rights. Its mission is to work towards strengthening democracy, women's advancement and equal participation in order to achieve sustainable development and permanent peace in Sri Lanka. AWAW works in all parts of Sri Lanka, with national and regional civil society organizations, as well with political parties and politicians. AWAW also works with Women Waging Peace, Women Thrive Worldwide and many other global organizations. One of the most recent successful initiatives of AWAW was to facilitate a visit to Sri Lanka of peace activist, turned social worker and women's rights advocate in Liberia and the 2011 Nobel Peace Prize winner, Leymah Gbowee to garner international and local support to women affected by the conflict in Sri Lanka to overcome issues of reconstruction and rehabilitation. During this visit AWAW launched Sri Lankan Women's Agenda for Peace, Security and Development on August 17, 2012. In addition, the Agenda stresses the need for redefining democracy by enhancing women's participation in politics in proportion to their population, besides giving them a role in the decision making process within their respective political parties. Ms. Visaka Dharmadasa whose soldier son went missing in the war heads the AWAW.

The Centre for Policy Alternatives (CPA) is an independent, non-partisan organization that focuses primarily on issues of governance and conflict resolution. Formed in 1996 in the firm belief that the vital contribution of civil society to the public policy debate is in need of strengthening, CPA is committed to programmes of research and advocacy through which public policy is critiqued, alternatives identified and disseminated. CPA was responsible for the setting up of **Groundviews**, Sri Lanka's first and international award-winning citizens' journalism website. It uses a range of genres and media to highlight alternative perspectives on governance, human rights, the arts and literature, peacebuilding and other issues. This site was the first attempt in Sri Lanka to create a means through which citizens in civil society could pen their own perspectives on life in conflict zones, call attention to humanitarian emergencies, give information on security / ground conditions and present alternatives to the *status quo*.

The site is also a forum for critical debate, including academic commentary anchored in ground reality that would or could not find expression in traditional / mainstream media in Sri Lanka today. It brings perspectives of conflict transformation, peace building and peace process design (ICT4Peace) that in turn enables the organization to design, develop and deploy cutting-edge solutions to help safeguard and strengthen a rights-based, just and sustainable process of peace building in Sri Lanka.

Centre for Performing Arts, Jaffna (CPAJ) Sri Lanka: Founded in Jaffna in 1965, The Centre for Performing Arts is Sri Lanka's longest standing organisation using arts for peacebuilding. The centre focuses on the performing arts as a method for conflict resolution, healing and promoting co-existence and mutual cooperation between people from different ethnic and religious backgrounds. Because of their unique method of approaching peacebuilding, the Centre was able to spread from Jaffna to all other areas of the country. At present there are more than 25 centres in different parts of the Sri Lanka, speaking both Sinhala and Tamil.

The Centre has different peacebuilding programmes designed for different age groups, addressing the main issues felt under each age bracket. For example, they encourage women to use performance as a way of expressing their unique experiences of conflict. With children, they use more games and music to get them together with other children from different ethnic and religious origins. The Centre makes use of music, dancing and drama to support people's expression of conflict, facilitate healing and encourage them to listen to each other. Another approach of theirs is to re-tell historic stories according to the present context. They relate old epics like Ashoka and Ramayanaya with which are all familiar in Sri Lanka, telling them in a way that brings out the destruction of war and the suffering of people belonging to all races as a result. The Centre promotes human rights and democracy through their practices.

The organisation itself incorporates ethno-religious diversity and harmony. They have staff from all the different ethnicities in the country and have developed a reputation as a fair and unbiased organisation. As such, they have been able to move freely between the North-East and the South even during the times of conflict and today, in times of peace, their activities are even more prolific.

The Consortium of Humanitarian Agencies (CHA) is an association of agencies working in and supporting work in Sri Lanka. CHA has continued to function as a network of humanitarian agencies and developed a full-fledged secretariat with its own specific capabilities. CHA as a network takes on tasks on behalf of its members such as membership ethics, coordination and linking, advocacy and lobbying and also serves as an information centre. By implementing projects on behalf of and with its members, CHA has developed a niche in areas such as developing and disseminating (including translations) standards, guidelines, principles, and working methodologies/ approaches for the humanitarian sector; gathering information for humanitarian activities of national and/ or international agencies; and providing advisory services to organizations, and diplomatic and international missions and agencies. CHA also facilitates a working group on reconciliation

Centre for Human Rights and Development (CHRD) was founded in 1997 to empower civil society through a human rights-based approach to counter human rights violations in Sri Lanka. CHRD is one of the few organizations that has stood for inter-racial justice and equality from its inception and worked to empower the civil society through human rights-based programmes. Its specific expertise includes providing legal aid for victims of human rights violations, campaigning, advocacy and capacity building. CHRD has a well established NGO and CBO network in the North and Eastern parts of the country. CHRD

also has a sub-office in Jaffna and is engaged in monitoring the human rights situation in the peninsula. CHRD is mostly involved in legal assistance to the aggrieved parties of human rights violations and protection of rights of the people.

International Centre for Ethnic Studies (ICES) was established in 1982 and is registered as a non-profit organization. It functions as a centre of excellence to conduct research and develop policies and mechanisms to address issues of ethnicity, pluralism, and the prevention and management of conflict. The organization's focus has broadened into programmes that revolve around thematic areas which take guidance from objectives under which it was established. Work stems from focus areas including diversity, pluralism, gender, human and minority rights, governance and constitutionalism, and economic reform.

The Law & Society Trust (LST) is a non-profit making body committed to improving public awareness on civil and political rights; social, economic and cultural rights and equal access to justice. LST designs activities and programmes, and commissions studies and publications, which have attempted to make the law play a more meaningful role within society. The activities of LST can be categorized under three programme areas, namely on Economic, the Social & Cultural Rights, the Civil & Political Rights and the Conflict related Human Rights Violations. Since LST was established in 1993, it has published an annual report which critically reflects on the state of human rights in Sri Lanka, paying special attention to events that have taken place each year. This report also examines the responsibility of the government to its citizenry in terms of the international covenants Sri Lanka is signatory to. Additionally LST publishes journals regularly, which carry articles on legal and social justice issues and alongside important judgements.

Marga Institute is an independent, nonprofit, nonpartisan research institution devoted to the study of national development policy. Since 1972 the Institute has provided timely and objective analyses of, and policy recommendations to, a wide range of national problems. The Institute has in the past anticipated emerging issues in an effort to be ready with practical ideas and present them in user-friendly formats to inform and shape public debate. Marga Institute's audience includes government officials and legislators, business and labour leaders, management and staff of international organizations, university based scholars and their students, other research institutions, the media and the public at large.

The Neelan Tiruchelvam Trust (NTT) is a Sri Lankan grant-making body devoted to sustaining Neelan Tiruchelvam's activist-intellectual legacy by stimulating and supporting projects to promote peace, reconciliation and human rights in Sri Lanka and abroad. The Trust commenced work in July 2001. Like Dr Tiruchelvam himself, the Trust is deeply rooted in Sri Lanka, its experiences and concerns, while being international in its understanding and vision. As a national grant-making body, with a distinguished board of local trustees as well as a growing list of international supporters, the trust is specially positioned to support peace-building efforts in Sri Lanka. The Trust works to identify and support innovative projects within its funding priorities. It works with partner institutions to develop projects as well as provides grants for unsolicited projects. The Trust has a broad mandate, but currently concentrates on funding projects that fall within two thematic areas, namely, Peace and Reconciliation through the Promotion of Pluralism; and Human Rights within a Conflict Transformation framework.

Organization for the Welfare, Counselling and Upholding the Rights of the Disabled (OWCURD), previously known as Association of Disabled Ex-service personnel (**ADEP**) – has been in existence for over fifteen years. They identify themselves as being 'anti war' and also as 'visible victims of war, due to their war-related disabilities. OWCURD provides strong and effective advocacy for this vulnerable section of society with a membership of over 11,000 families spread over 19 of the 25 Districts in Sri Lanka. Stressing that they are victims of war they want all forms of violence to stop so that no one would end up in their situation. OWCURD has identified the lack of knowledge on rights of the disabled people in both the disabled community and policy makers.

People's Action for Free and Fair Elections (PAFFREL) has for more than twenty years been working towards providing comprehensive, non-partisan civil society-based interventions throughout Sri Lanka. PAFFREL's role has predominantly been that of an election monitoring body. In recent years, the organization has also developed a sizable portfolio of projects linked to its overall objective which is to promote democracy and human rights. In addition to this key role, PAFFREL has worked towards building a substantial lobby for electoral and constitutional reforms, as well as enhancing the capacities of civil society and grass roots level organizations in order to promote values such as non-violence, reconciliation and good governance in the country.

Resources for Peace and Reconciliation (RPR), the forerunner for RPR was the Cordaid Resources for Peace Project (RFP) which began in March 2002. RPR is an NGO established in Mannar with a history of grass root level work. Since its inception, RPR has been working in communities in the Mannar District with a commitment to promoting reconciliation between and within communities by focusing on nonviolent strategies and initiatives through Village Reconciliation Committees (VRCs). These VRCs emerged through a process of consultations in communities to address their need to resolve local level community conflicts without resorting to violence. RPR is perhaps the only NGO in Mannar District that focuses mainly on capacity building of communities. This niche, RPR has built for themselves has provided access both to communities at grassroots level and senior government officials at Divisional and District levels. RPR has conducted successful work at village level, having set up 50 VRCs as well as to build their capacities to deal with conflicts in a nonviolent manner. VRCs comprise representative from village CBOs, religious dignitaries and respected community leaders including village vigilant group formed by relevant police stations in villages. Some VRC members are also members of village level vigilant committees set up by the police. VRC members also regularly maintain links with District level Mediation Boards. Even though the work of RPR does not fall within development or humanitarian assistance, it contributes to a peaceful atmosphere that enables assistance to reach vulnerable communities to consolidate development and humanitarian assistance. (I must state at this point that I was involved with the establishment of RPR and am continuing my association with them; my wife Lourdes was responsible for introducing NVC skills which is one of the core activities of RPR. RPR has also been enriched by inputs from Prof. Nick Lewer and Prof. Andrew Rigby at different critical periods during the life of the organization.

The Social Scientists' Association (SSA) was founded in 1977, as an institute of knowledge production and dissemination; it has made contributions not only to the

intellectual life in Sri Lanka, but the South Asian region and beyond. The SSA has an ongoing commitment to original research, analysis and activity around issues pertaining to peace, democracy, pluralism, ethnic harmony, gender equity, social transformation, labour and human rights. The SSA sponsors and coordinates research projects in the social sciences. It also publishes original research and makes it available to the public through the Suriya Bookshop and the Library and Documentation Centre. The SSA library was set up at the Association's inception in 1977 and is open to the general public as a reference library on Humanities and Social Sciences. At the closure of the Berghof Foundation office most of its books and publications were donated to SSA.

The Sri Lanka One Text Initiative (SLOTI), co-founded by the country's main political parties, was developed to facilitate dialogue and stimulate the exchange of ideas between the nation's political stakeholder groups in a constructive, inclusive forum, utilizing the 'One Text' procedure, a multi-stakeholder information/ communication tool developed and adapted from other peace building efforts around the world. The main objective of this initiative is to facilitate processes that will enable stakeholders in the Sri Lankan peace process to develop common ground for their often opposing positions through problem-solving interventions and information sharing within common workspaces. The project created and enabled the development of common spaces, mechanisms and opportunities for ALL track level dialogues, while enabling the political stakeholders in Sri Lanka to generate informed options and proposals that will contribute towards a sustained Track One peacemaking process – meeting the needs of ALL Sri Lankans. This initiative was a significant breakthrough in the country whereby parties – in the absence of a formal peace and negotiations process – joined this inclusive process and remain in it despite financial constraints faced by them.

Young Asia Television (YATV) is a pioneering venture that was initiated in 1995 to actively involve young people in discussing issues relating to sustainable development, human rights and coexistence. The objectives of the organization are two-fold: to engage a primarily youth audience through its programming, and to raise awareness among young producers of the impact of social media interventions while being trained in TV skills and knowledge. YATV is based in Colombo, Sri Lanka with an international network of broadcast professionals – both individuals and organizations – from whom the organization obtains a range of programming material. YATV, in turn, distributes and broadcasts its own programmes through local, regional and international networks.