

# The Sri Lankan Peace Process at a Crossroads

*Lessons, Opportunities and Ideas  
for Principled Negotiations and Conflict Transformation*

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Jayadeva Uyangoda, Norbert Ropers

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## Preface

This paper is a joint effort of five authors in our personal capacity. The core idea for producing this paper is to inspire an in-depth discussion within and among all stakeholders to the Sri Lankan ethno-political conflict, on how to enhance the next phase of the peace process. We do not claim to have the final answer to all questions concerning the peace process. Our attempt has been to produce a working document. We would like to invite all stakeholders to engage in a constructively critical discussion on all issues relevant for taking the peace process forward towards a just and sustainable settlement.

The five organisations linked to the authors will help with the dissemination of the paper and will create the space to discuss the considerations and ideas put forward in it. However, the Initiative for Political and Conflict Transformation (inpact), the Foundation for Coexistence (FCE), the Centre for Policy Alternatives (CPA), the Social Scientists' Association (SSA) and the Berghof Foundation for Conflict Studies are not responsible for the content.

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## Executive Summary and Recommendations

The Sri Lankan peace process is at a crossroads. Seven months after it withdrew from talks, the Liberation Tigers of Tamil Eelam (LTTE) presented their proposal for an Interim Self-Governing Authority (ISGA) for the NorthEast on 1 November 2003, and expressed their preparedness to resume negotiations with the Government of Sri Lanka (GoSL). The southern polity however is once again entangled in a power struggle between the United National Party (UNP) and People's Alliance (PA) and their respective leaders; both sides nevertheless have also expressed their willingness to resume talks. The differences between them with respect to the substance of the peace negotiations are small. The actual problems are about who should take over the main responsibilities for the peace negotiations and how it should be pursued. Therefore, resolving the ethnic conflict and the inter-party political conflict in the South are intertwined.

The Ceasefire Agreement (CFA) has lasted for nearly two years, much longer than any previous agreements, and it has created a unique opportunity for achieving a lasting peace. The vast majority of the people of this country do not want to risk any re-escalation of the ethnic conflict; they long for a concerted effort from all parties to sustain the ceasefire and to work towards a just settlement.

The first phase of negotiations, from September 2002 to March 2003, demonstrated that the parties were able to engage in discussions, identify common ground, manage critical incidents and agree on exploring “a 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” (*Oslo Communiqué*, December 2002).

There is significant goodwill among all principal stakeholders to proceed with the peace process. However, the country needs more than a mere agreement. All of them must review their efforts critically and do their utmost to develop a common strategic framework that overcomes the serious shortcomings of the first phase of the peace process.

The most fundamental shortcoming of this period was the lack of a clear, transparent and common strategic framework that could guide and structure the negotiations as well as help mobilise public support for the peace process. Instead, all principal stakeholders had their particular strategies on how to maximise their power and influence the peace process. The net effect was a pragmatic and ad hoc muddling through of the negotiation process, which made it difficult to address the crucial contentious issues and move towards inclusivity in the peace process.

A clear, transparent and common strategic framework is needed not only for the negotiations between the GoSL and the LTTE, but also for transforming the dual power structures in the South as well as in the NorthEast. The main protagonists in the South, the United National Front (UNF) and the PA, have to overcome the legacy of confrontational politics and work towards an effective and fair mechanism of cohabitation and power sharing for the sake of the peace process.

Another power-sharing arrangement based on consensus is needed in the NorthEast, to transform the de facto dual regimes of the LTTE and the GoSL/Sri Lanka Armed Forces (SLAF) from a hostile to a peaceful coexistence and towards an effective and democratic regional administration. Finally, the Muslim community, up-country Tamils and other minorities need to be brought in to a strategic framework, to become co-owners of the next phase of the peace process as well as of the interim power-sharing agreements.

The essence of the ethnic conflict concerns equal individual as well as group rights of all citizens and communities, and that those communities share the right to co-constitute the political system of Sri Lanka. The essence of conflict resolution in Sri Lanka therefore concerns a fundamental restructuring of the Sri Lankan state. The *Oslo Communiqué* has to be translated into a Road Map for a genuine federal Sri Lankan state.

Nearly two decades of war has generated a situation of multiple human rights violations in which both sides blame each other for the worst atrocities. Human rights violations have continued throughout the ceasefire period and threaten to erode public support and legitimacy of the peace process. Therefore, it is crucial that any progress in the negotiations is closely linked to improvements in the human rights record. Otherwise, the public support and legitimacy of the peace process are in danger.

The resumption of talks at the beginning of 2004 will offer a unique opportunity for reviewing the peace processes; for elaborating a clear, transparent and common strategic framework based on inclusivity for future peace negotiations; and for moving towards a comprehensive set of conflict transformation processes.

## Recommendations In Brief

### To All Parties

- (1) Develop a comprehensive and common strategic framework of multiple peace negotiations and peacebuilding that: (a) ensures all parties become co-owners of the peace process (principle of inclusivity); (b) is based on an explicit understanding of organising the processes of negotiations (principle of transparency); (c) utilises various levels and channels of bi- and multilateral problem-solving methodologies (principle of multi-Track diplomacy) and; (d) integrates international humanitarian and human rights standards through a holistic Memorandum of Understanding (MoU).
- (2) Imbue the next phase of peace talks with the concept of ‘principled negotiations’. This comprises four basic principles: (a) the conflict issues (e.g., the Interim Administration) as well as the relationship between the parties (e.g., building trust between the LTTE and parties in the South) have to be addressed; (b) the talks should try to identify the enlightened and common interests of the parties and overcome bargaining from adversarial positions; (c) these talks should be framed and organised in such a way that mutual gain is achieved and; (d) agreements should be based on jointly accepted principles (e.g., fairness, justice, equality, democracy, good governance and pluralism).
- (3) Consider an early Framework of Principles Agreement that outlines the contours of the final agreement among the main stakeholders. A similar agreement should be formulated for an Interim Constitution, which is based on a multi-stakeholder consensus.
- (4) Ensure representation of women at all levels of the peace process. Consider the gender-specific needs, interests and roles of women, men and children in the peace process. Implement the UN Security Council Resolution 1325 on Women, Peace and Security, and develop benchmarks for its meaningful implementation in Sri Lanka. Support and integrate women’s peacebuilding activities on all levels of engagement and ensure that women’s concerns are reflected in all programmes for relief, reconstruction and rehabilitation. Help to develop benchmarks for a meaningful implementation of UNSCR 1325 in Sri Lanka.
- (5) Clarify the third-party role of Norway and identify the most suitable combination of facilitation (organising and supporting communication and interaction between the parties according to their requests) and mediation (structuring the process pro-actively according to the concept of principled negotiations). Encourage Norway to assist in the coordination of the multiple international efforts for promoting the peace processes.

## To the President/PA and the Prime Minister/GoSL/UNF

- (6) Utilise the historic opportunity for a paradigm shift in the southern polity and establish an interim power-sharing arrangement between the President/PA and the Prime Minister/UNF-led GoSL, with joint ownership in the peace processes. Negotiate an MoU outlining in detail the principles, norms, rules and procedures for cohabitation as well as sharing the responsibility, the credit and the blame for the course of the peace processes. Develop a Framework for Peace in the South, in collaboration with other parties, civil society and the corporate sector, to establish an overall conceptual as well as institutional framework for the interim arrangement.
- (7) Demonstrate exemplary and joint leadership with respect to the national mission of bringing an immediate, just and sustainable peace to the country. Leaders of various stakeholder groups should consider possible gestures of conciliation by acknowledging past wrongs, and moving towards a new inclusive nation-building process. For example, the two main political parties that constitute the 'Sinhala state' could extend a joint statement of apology to the minority communities for past human rights violations, such as the attacks on places of worship and on schools where civilians had taken refuge, and the burning of the Jaffna Library. Similarly, the LTTE leadership could extend an apology for attacks on civilian villages, places of worship including the Temple of the Tooth.
- (8) Initiate a comprehensive programme of reforming and restructuring the Sri Lankan state based on equal participation of all communities in the country. The conceptual basis of this initiative could be a combination of the *Oslo Communiqué* jointly by the UNF-government and the LTTE in December 2002, and the PA-proposals for constitutional reform in 1995.

## To the LTTE

- (9) Accommodate the request for a balance in self-rule and shared-rule, without the loss of the internal self-determination principle for the Tamil people. Demonstrate a clear commitment to the mutually agreed-upon *Oslo Communiqué* by negotiating a framework agreement or an Interim Constitution based on the concept of a federal multi-ethnic Sri Lankan state that gives expression to the rightful claims of all minorities in the NorthEast and in the South.
- (10) Elaborate further on the proposal for the ISGA to accommodate concerns of the Muslims and the Sinhalese in the NorthEast through a Framework for Peace in the NorthEast and explicit power-sharing mechanisms, while taking in to account upcoming proposals from the Muslim community. Support adequate participation of a Muslim delegation in the peace talks.

- (11) State explicitly the commitment of the LTTE to establish a representative and pluralist democratic system in the NorthEast, and elaborate on the mechanisms for guaranteeing human rights and the rule of law.

### To the Muslim Polity

- (12) Elaborate a common framework for pursuing Muslim interests in the peace process, and enhance the capacities of Muslim experts to contribute to the discourse and the negotiations on restructuring the state. Identify a multi-Track approach to promote the interests of the Muslim community through participation in the negotiation process as well as through direct negotiations with the LTTE and the UNF/PA.

### To Norway as Facilitator

- (13) Provide more capacities for facilitation and engage with other stakeholders within and outside the country. Expand the knowledge base for principled negotiations among all stakeholders. Take the lead function for burden-sharing among national and international agencies that might help in disseminating this knowledge.
- (14) Make use of ‘single-text procedures’ when negotiating agreements; i.e., generate drafts of common papers and use them as the main basis for building consensus, rather than allow the parties to stick to formulations that come out of *their* drafts.
- (15) Address the conceptual and human security shortcomings of the CFA, and elaborate on it further together with the parties towards a Consolidated Ceasefire Agreement (CCFA), including a set of Confidence and Security-Building Measures (CSBMs). Explore together with the parties how the leadership of the Sri Lanka Monitoring Mission (SLMM) could be handed over to another country without endangering the stability of the truce, in order to ensure no conflicts of interest between the roles of the facilitator and of the monitor.

### To the International Community

- (16) Facilitate a comprehensive framework for a pro-active and complementary support of the peace process among the co-chairs of the Tokyo Donors Forum as well as India and all like-minded countries, in favour of an inclusive peace process. Elaborate a clear structure of burden-sharing including the support of frameworks for peace and human rights in the South as well as in the NorthEast.
- (17) Establish an International Support Group of eminent personages who, in their personal capacities, could assist the principal parties. They would undertake public actions and engage in quiet lobbying, particularly at critical junctures when internal capacities for peace appear inadequate. In addition, they could provide support to

understand the conflict in the wider framework of on-going changes in the international arena.

### To the Donor Community

- (18) Encourage and support a strategic framework for transition among all stakeholders for a comprehensive reconstruction and development process in the country, particularly the war-affected NorthEast. As a first step, assistance should be provided to facilitate a new mechanism for the delivery and implementation of short-term reconstruction and development aid to the NorthEast. Encourage and assist inclusive dialogue on medium to long-term priorities for institutional and structural reform of the state, as well as on human rights capacity building, while exploring how the donors can support these reforms.

### To Civil Society

- (19) Expand the political space that was created by the peace processes, to take the role of critical supporter and multiplier within the overall society. What the country needs now is a highly diversified and broad-based peace movement with links and leverage in all communities. Strategic alliances should be formed to engage with all political actors and for building up a critical mass of agents of change within the civil society. Insiders representing all stakeholders should form networks of close cooperation with outsiders from trans-national civil society to make international support of the peace process as multi-partial and pro-active as possible. Citizens of the country have to be prepared for re-constituting Sri Lanka as a multi-national federal state.

### To the Diaspora, Diaspora Host Countries and the Sri Lankan State

- (20) Involve the Tamil, Sinhalese and Muslim men and women of the diaspora in a meaningful way in the reconstruction and development of the war-affected areas in Sri Lanka. Accept that the majority of the diaspora will not return, but rather will participate in this process on the basis of *circulation*. It is unlikely that most members of the diaspora will return to the homeland on a permanent basis; rather, they will circulate between both their host and home country. To support their involvement, the host countries as well as the Sri Lankan state should reformulate their citizenship, migration and development policies in the direction of dual citizenship; grant legal status to non-resident Sri Lankans; improve consular services; and establish a comprehensive infrastructure for mobilising the skills and investment potential of the diaspora.

## 1. Introduction

After more than five decades of agitations for a more inclusive state and after nearly two decades of civil war, the Government of Sri Lanka (GoSL) and the Liberation Tigers of Tamil Eelam (LTTE) have embarked on an initiative to find a negotiated settlement to the island's ethno-political conflict. The conflict was brought about by a long history of violations of individual and collective human rights, and it has escalated into a protracted social conflict through cycles of violence, mistrust, broken promises and abrogation of agreements. The road to a sustainable solution requires a coherent strategy of principled negotiations and multiple mediation, and a comprehensive programme of political transformation leading to a fundamental restructuring of the state towards power-sharing, federalism, democracy and good governance.

The ethnic conflict in Sri Lanka contains both political and territorial dimensions. Both are closely intertwined with the 'party political' conflicts in the South as well as conflicts within the Tamil polity and the Tamil-Muslim relationship in the NorthEast. The essence of the political contention between representatives of the numerical majority and the numerical minorities has been about equal individual and group rights of Tamils and Sinhalese and the right to co-constitute the political system of the country. Initially, the essence of the territorial conflict concerned the legitimacy of ethno-political claims to the NorthEast. After the tensions escalated to a military struggle, which led to the de facto division of the country, the territorial dimension now includes issues about the legitimacy of the political-administrative structures established by the LTTE.

The conflict between political groupings of the UNP/UNF and the SLFP/PA has been continuously connected with the ethno-political North-South conflict. Both sides have used the ethnic dimension in the service of their power struggles. A repeated use of majoritarian democracy has derailed all initiatives for resolving the conflict in the last fifty years. The conflicts within the Tamil polity and the Tamil-Muslim relationship in the NorthEast have also been closely connected with the main ethno-political conflict, and have placed an additional burden on the peace process.

To move towards a just and sustainable peace in Sri Lanka, it is essential to find solutions for the political and the territorial conflict between the NorthEast and the South, as well as for the political conflicts within the South and the NorthEast, respectively. In the present situation, the development of an effective strategy for conflict transformation and peace negotiations is of critical importance. It will require the following four steps:

- First, review and analyse the key features and experiences of the peace process during the last two years, and identify conclusions and lessons for improving the next phase (see section 2 of this paper).

- Second, work out a political environment conducive for inclusive negotiations and conflict transformation in the South and in the NorthEast. This includes the establishment of an interim power-sharing arrangement between the two main parties in the South, an institutionalised political understanding between the LTTE and the Muslim community in the NorthEast, and parallel steps to engage as many actors as possible in the future peace process (section 3).
- Third, identify key issues, which have to be addressed in the upcoming peace negotiations (section 4).
- Fourth, elaborate ideas for an effective infrastructure of future negotiations, and promote a constructive interaction between structural issues and process dynamics (section 5).



## 2. Review of the Peace Process, December 2001– December 2003: Conclusions and Lessons for the Future

As experiences in other peace processes inform us, any assessment of the Sri Lankan peace process in the past two years is shaped by the perceptions and perspectives of the respective parties. All peace and conflict processes entail high stakes; as a result, stakeholders often feel they have had to pay the highest price. Nevertheless, it is useful to prepare a list of achievements and shortcomings as seen by the parties as well as outsiders and analysts.

### 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.
- The peace process has helped to revitalise 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 to 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 the 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 mobilise 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 normalisation of their 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.
- Human rights violations have continued to take place.
- There has been a lack of women's representation at all levels of the peace process.
- 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 mobilisation 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*.

A closer, analytical look at the basic features of the first phase allows various lessons and conclusions to be drawn with relevance to the next phase of the peace process.

## 2.1 The politico-military balance and its modification as a condition and context of the peace process

The current peace process was embarked upon in the aftermath of the unilateral ceasefire declarations by the LTTE and the GoSL, and the subsequent signing of a CFA between them. 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 administrator of areas in the NorthEast under its control. It also expressed the confidence of the LTTE to enter in to 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 at this juncture. Both sides have made significant gains through the CFA.

During the peace talks, the power political balance was altered due to the different agendas of the two negotiating parties and due to the involvement of the International Community. The net effect is difficult to assess. The LTTE has been better able to resist pressure than their partner, the GoSL. This is the result of a clearly focused agenda with a few essential goals and their determination not to compromise for any less-essential advantages. The GoSL, in contrast, had a much broader, particularly economic agenda and had to accommodate a variety of interests. At the same time, the GoSL has worked on an 'international safety net' to contain the politico-military space of the LTTE. In the end, it seems that for both parties the number of feasible BATNA (Best Alternative to a Negotiated Agreement) has been reduced.

### Conclusions/Lessons

- The CFA has been based, and continues to rest, on a politico-military power-balance.
- The ceasefire provides the ground conditions necessary for exploring options for a negotiated settlement. It is also the essential precondition for the initiation of normalisation measures in war-affected areas.
- The ceasefire remains threatened by the fragile security situation on the ground in the NorthEast; low level of trust between the sides; and the perceived and actual potential of each side to resort to military means in order to enhance their respective bargaining positions.
- The chances for successful negotiations are very much influenced by the BATNA of all parties. It is important to assess the BATNA regularly and to explore strategies for influencing them in a constructive and balanced way.

## 2.2 From pragmatic conflict management to principled negotiations on core issues

The first phase of talks was characterised by a pragmatic and ad hoc, sometimes muddling-through, management process. The GoSL and the LTTE concentrated on issues of normalisation, while exploring and testing the possibilities of collaboration and problem-solving with respect to the more contentious issues. In the presence of the media, it seemed important for the parties to produce good news regularly about the progress of the talks, while discussions on core issues were deferred. The original plans for establishing an Interim Administration were put aside in light of the constitutional difficulties, and substituted by provisional mechanisms without substantive implementation power and personnel resources. The experience of Sub-Committee on Immediate Humanitarian & Rehabilitation Needs (SIHRN) exemplified this weakness of the process. This approach worked up to the *Oslo Communiqué* in December 2002. Afterwards, critical incidents in Sri Lanka and the lack of easily achievable new agreements slowed down the momentum of the talks before their formal suspension by the LTTE in April 2003.

The pragmatic approach to negotiations adopted by the two sides has had some critical limitations. Its core problem has been that it has not provided sufficient impetus for a shared understanding of the conflict or for working towards a joint problem-solving effort on any of the core issues. It has not provided clear guidance for sequencing and constructively dealing with issues that emerge in the peace process, which are by all means complex. The pragmatic approach also contributed to the lack of clarity and commitment with respect to the status of the Norwegian statements at the end of each round of talks. Finally, this approach made it difficult for the parties to develop a clear communications strategy and assess the progress of the talks in relation to an explicit strategy or guideline.

### Conclusions/Lessons

- The pragmatic approach has provided an adequate entry point for bringing adversarial parties together, initiating mutual understanding, developing a working relationship and, for exploring ways of joint problem-solving. However, avoiding core issues that affect normalisation on the ground (for example the High Security Zones) can contribute to making the situation worse, instead of acknowledging at least that they have to be dealt with.
- A strategy of avoidance has led to deferring major tasks to substitute structures (e.g., Joint Task Force and SIHRN), which may lack the capacity and political clout to cope with the challenges at hand.
- The next phase of the peace process offers an opportunity to address the shortcomings of the pragmatic approach. Some level of pragmatism will still be needed for offering flexible responses to new situations, but it should be embedded in a common understanding of how to address the key issues of the conflict and be combined with the concept of principled negotiations (see section 4).

### 2.3 The challenges of inclusivity and the dynamics of exclusion

The first phase of negotiations was a limited initiative, confined to the UNF-led GoSL and the LTTE, with occasional participation from the Sri Lanka Muslim Congress (SLMC). There has been no significant or sustained effort to overcome the power-political dynamics in the South vis-à-vis the peace process, and to develop an overall inclusive process. The effect of excluding key stakeholders has been that it has tempted them to explore and strengthen their power to veto even the positive outcomes of the negotiations.

In general, the peace process was confronted, right from the beginning, with fierce criticism and reservations by a variety of forces within the southern polity and the media. Comprising this movement under the catchall phrase of ‘spoilers’ is misleading because the opposition to the peace process is guided and informed by different motives and reasons. It is crucial to analyse carefully and to separate the principal opponents from those who feel excluded from co-shaping the peace process.

#### Conclusions/Lessons

- Ending the violence, restoring normalcy and building confidence are priorities in any peace process; this falls essentially under the purview of the chief protagonists. However, the argument does not justify an exclusionary negotiation process. The immediate priorities are contiguously linked to substantive and core issues, and to this end it concerns and affects more than the two principal parties to the conflict.
- The absence of a significant consensus within the Sinhala polity, as regards to the nature and contour of the settlement and the composite of the GoSL negotiation team, holds potential for destabilising the peace process.
- The apparent UNF political strategy vis-à-vis the peace process remains a high-risk one. At present, the strategy is to subsist at a sub-optimal level in order to buy time until the political environment is more conducive and stable to function at an optimal level, such as until the next Presidential elections. The variables in such a strategy are fluid and subject to change.
- It is necessary to clearly differentiate the following positions: support for a military solution, resistance and opposition to the peace process, criticism of the current process, and opposition to certain substantive approaches to a political solution.
- There are many instances of a correlation between the elements of exclusion and spoiler dynamics. These instances need to be identified and worked through in a constructive, engaged discourse.

## 2.4 Sustaining ‘no-war’, managing crisis, and addressing the shortcomings of the CFA

The ceasefire period has been tinged by several incidents, clashes, allegations and counter-allegations of violations virtually by all sides. These events have also led to a scrutiny of the Sri Lanka Monitoring Mission (SLMM) with respect to both its competence and multi-partiality. Despite these challenges, the ceasefire period has held with relative stability. Nevertheless, it was threatened with respect to four main challenges: the High Security Zones (HSZs), the human rights situation on the ground, incidents at sea, and the LTTE camps in GoSL-controlled areas. Populations in war-affected areas have yet to receive full rewards from the no-war situation. In the official Norwegian press release after Ian Martin’s participation in the peace talks in Hakone (March 2003), the SLMM was identified as being responsible for dealing with human rights violations against civilians. This, however, has not effectively materialised on the ground.

In the face of these challenges, it was evident that both the CFA and SLMM have been under-equipped to address such complex and unanticipated issues.

### Conclusions/Lessons

- In contrast to the experience of other comparable conflict zones, the peace process in Sri Lanka has attained a remarkable capacity for shock absorption, especially considering the dominant perception that the process remains highly fragile. This is something to build upon despite the accumulation of frustrations on each side with respect to the ‘non-delivery’ by the other side.
- The chasms between the GoSL and the LTTE on most issues and the challenge of building a Southern political consensus suggest that the transition from a conflict to a post-conflict situation could be a long process and even fraught with increasing violence. The shock-absorption capacity of the relevant parties and their ability to manage short-term crises and stalemates will become even more crucial during such a protracted transition.
- If the CFA is to be sustained through a process of normalisation, the inherent contradictions it has with the normalisation of the NorthEast needs resolution.
- The CFA is most effective if regarded as the starting-point—not the end-point—of a working relationship between the GoSL and the LTTE. Parties should use the CFA as a basis for exploring options for building confidence. Confidence Building Measures (CBMs) from comparative conflict zones offer useful insights in this regard.

## 2.5 From ‘the international safety net’ to a balanced and principled framework of international support

The International Community has so far played both complementary and challenging roles in the peace process. This is true for the support by key external actors, such as India, the USA, Japan and the EU, as well as for the international donor community, mainly represented by multilateral agencies and key donor countries like Japan, USA, Canada, Norway, UK and other EU countries. This active role by the International Community started with the statement by the GoSL that they wanted to mobilise the International Community as a ‘safety net’ vis-à-vis the perceived BATNA of the LTTE. The donor community responded with a clear commitment to promote the normalisation approach and the introduction of the concept of the peace dividend as a reward for no-war. However, the link between peace and development appeared complicated as it became more evident that normalisation required the core issue of power-sharing to be addressed.

The assumption that the contribution of international actors towards the peace process could be apolitical has turned out to be an illusion. Partly to support the GoSL and partly to compensate for the lack of a political framework between the negotiating parties, the International Community became increasingly involved in the process and influenced the power-balance between the parties. Some commentators spoke of an “over-internationalisation” of the process. The 4.5 billion U.S. dollars pledged in Tokyo was explicitly linked to progress with respect to peace and conflict transformation. However, agreement on how this should be elaborated was stalled as the political process was put on hold with the LTTE’s temporary suspension of its participation in the peace talks.

By now the internationalisation of the Sri Lankan peace process is a fact that all parties are trying to influence with respect to their positions and interests. Most obviously, this has happened from the side of the LTTE. Nevertheless, the post-Tokyo period also showed that the geo-strategic interests of foreign powers have generated a complex agenda on their side. In addition to creating a new framework for negotiations between the Sri Lankan stakeholders, it is now also clear that another framework is needed to clarify the interests, roles and responsibilities of the international custodians of the peace process.

### Conclusions/Lessons

- As international actors become more involved, they become stakeholders to the process with varying agendas, priorities, biases and geo-political interests, which are often contradictory to each other.
- The proliferation of international involvement contributes to blurring the lines between donor involvement and facilitation of the negotiation process.
- The relationships, or the lack thereof, between international actors and the parties to the conflict define, redefine and shape the strategies of each set of players and the outcome of the process.

- Economic partnerships can function as launching pads for parties to work towards partnerships in other spheres (e.g., political and social). However, they do not serve as a panacea for, or a deferment strategy on, core issues.
- Implementing initiatives for rehabilitation, reconstruction and development requires creative partnerships that sequence immediate relief with medium to long-term strategies for uniting development with governance.
- Engendering mutually supportive links between processes of peace and development demands attention to the political character of the state and the nature of transition.

## 2.6 The challenge of human rights

The denial of group rights and the gross violations of human rights which substantially contributed to the genesis and escalation of the conflict in Sri Lanka have once again become one of the key stumbling blocks in moving towards a negotiated settlement. The first phase of negotiations were marked by human rights violations, allegations and counter-allegations of such violations from all sides, and an apparent inability or unwillingness to integrate a viable human rights framework into the negotiations process. The few decisions taken in this regard—including the appointment of an independent Human Rights Advisor to the parties, and his subsequent submissions and proposals—are yet to be implemented. The exceptions are the UNICEF-TRO Action Plan on children affected by war and the establishment of the Subcommittee on Gender Issues (SGI). Nevertheless, under-age recruitment continues, while women’s issues remain unaddressed. The challenge of human rights also exposed differences within civil society with regard to seemingly contending approaches (conditional/transformational, naming and shaming and constructive engagement) and priorities (individual rights/group rights, universalism/relativism).

### Conclusions/Lessons

- The transition from a civil war to a post-civil war situation presents a historic opportunity for developing a holistic concept of human rights that incorporates the promotion of individual and group rights and the respect for and adherence to international humanitarian standards. At the last round of talks in Hakone in March 2003, the two parties agreed to ask their international human rights advisor to develop a Declaration of Human Rights and Humanitarian Principles, which they would ensure to be respected by their personnel, pending full entrenchment of human rights standards in the eventual constitutional arrangements. This should now be given expression in a Human Rights Memorandum of Understanding (MoU) between the negotiating parties and be valid throughout the negotiating process. The Human Rights MoU could subsequently be incorporated into agreements, both interim and final, reached



between them. The MoU should provide for effective monitoring of human rights with international assistance.

- The MoU needs to include the concerns of all parties and the need to protect and advance individual and groups rights, economic and social rights, as well as women's and children's rights, in order to ensure accountability for past human rights violations. Such measures will facilitate constructive engagement with the parties to move towards a future of respect, adherence and compliance for all aspects of human rights. This requires an inclusive and constructive dialogue among and between the parties and within civil society.
- Addressing human rights in the negotiations process also requires creative partnerships and a combination of traditional and non-traditional mechanisms that are adequately sensitive to the nature of transition. In the end, the credibility of the commitment to human rights and the mechanisms agreed upon will depend on their effectiveness in monitoring and in the protection afforded to civilian victims and witnesses of human rights violations, on the one hand, and movement in respect of the fulfilment of the social and economic rights of civilians, on the other.

## 2.7 Expanding the socio-political basis of the peace process

The freedom of movement brought about by the ceasefire led to spontaneous social interaction and exchange across various divides. However, there were no sustained efforts to build a sound social capital around the peace process by means of public participation mechanisms and media strategies. Civil society initiatives in this regard have been promising, but are also hampered by poor coordination, resource constraints, and the challenge of building civil participation within a highly politicised society. Meanwhile, individual civil society groups and individuals who promote values of pluralism and tolerance have come under increasing attack in the South as well as the NorthEast.

### Conclusions/Lessons

- A protracted negotiations process must be situated in an environment of sustained public support and public interest. This environment can be created through coordinated mechanisms for information-sharing and awareness-raising, and coordinated strategies for social mobilisation and mass communication. A peace process without enthusiastic public participation and support is unlikely to culminate in success.
- Given the highly politicised nature of the society, the nexus between the political elite and social mobilisation remains a crucial conduit for rallying public support.

- The lack of a coordinated strategy for building public participation holds a potential for destabilising the peace process. This is especially true for the South, where vast segments of the population remain isolated from the process.
- The protection of independent civil society groups and individuals who have been targeted for promoting pluralism and tolerance is indispensable for the peace process to advance forward.

### 3. Towards Interim Power-sharing and Problem-solving Arrangements in the South and the NorthEast

There are two essential preconditions for enhancing the next phase of the negotiations: interim power-sharing and problem-solving arrangements in the South and the NorthEast.

#### 3.1 The South

The President and the Prime Minister are prepared to explore the potential for an interim power-sharing arrangement to enhance the possibilities of forming a southern political consensus on critical issues of national concern. Apart from the constitutional factors and power-political motivations for reaching an interim consensus, this option also offers clear advantages for all stakeholders in comparison with other options like fresh elections or a national government.

The disadvantage of fresh elections is first and foremost the risk of damaging the ethno-political harmony and, in doing so, the future of the peace process. Parties will be tempted to identify themselves and each other in support of, or in opposition to, the peace process, which in turn may provoke a further political polarisation along ethnic lines and create an uncooperative hardening of positions vis-à-vis the peace process. Elections will also put an additional burden on the economy, fuel attitudes of confrontational politics and violent disputes, and in the end possibly lead only to a hung parliament.

A national government, an option that was used in several post-war societies, aims to bring together former adversaries into a new national accord towards working on a comprehensive political transformation. Its disadvantage is that it impedes democratic mechanisms of checks and balances, of accountability and transparency. It is also difficult in situations where there is no framework agreement on the basic contours of the conflict settlement. In Sri Lanka, it may be a viable option for a later stage in the peace process, at a time when all principal stakeholders have converged around such a framework agreement.

#### The need for inclusivity

If there is one principle of peacemaking in Sri Lanka on which most actors in the international community, civil society, corporate sector and media agree on, it is the need for inclusivity and partnership. Since the inception of the recent peace process all sectors have impressed upon the President and the Prime Minister and their constituent parties, the need to arrive at a common understanding for taking the peace process forward. This includes the need for joint credit-sharing and blame-sharing for the achievements and setbacks in the process, and acknowledging the contributions from both sides with respect to this endeavour.

The principle of inclusivity runs against the legacy of confrontation, exclusion and win-lose calculations in the Sri Lankan polity as well as against the power-political interests of many key influential. It is therefore crucial that a strategic alliance of internal and external actors is assembled to transcend this legacy and move towards a paradigm shift of bi- and multilateral power-sharing.

In both main parties, the United National Party (UNP) and the Sri Lanka Freedom Party (SLFP) groupings can be differentiated according to their openness with respect to the nature and degree of an interim power-sharing arrangement in the South. This offers an entry point for engaging them and establishing networks of like-minded politicians and advisors. It is also important to mobilise as many influentials from civil society, religious institutions and the business community to participate in this campaign.

On the international level, the co-chairs of the Tokyo Donors Forum (with the exclusion of Norway) and India should be encouraged to do their utmost to support the ongoing endeavours and offer any assistance needed to create and sustain back channels as well as to explore ways of sustaining any agreements reached.

### Strategic and institutional framework

The key elements for creating and sustaining an interim power-sharing arrangement would be:

- A Memorandum of Understanding (MoU) for a limited period between the President/PA and the Prime Minister/UNF, elaborating in detail the principles, rules and procedures of a moratorium on unilateral political action affecting the peace process and an interim power-sharing arrangement of 'constructive cohabitation', particularly with respect to issues of constitutional reform and the peace process.
- A dispute resolution mechanism, established as part of the MoU to resolve any disputes about its interpretation.
- A Joint Committee for Constitutional Reform, co-chaired by the President and the Prime Minister, to elaborate on a common policy with respect to the restructuring of the Sri Lankan state that accommodates the needs for an inclusive settlement of the ethnic conflict.
- A Joint Committee for National Security and the Management of the Peace Process, co-chaired by the President and the Prime Minister, to oversee the activities in these two areas. It is to be composed of two sub-committees, one for National Security, chaired by the President and one for the Management of the Peace Process, chaired by the Prime Minister. This structure should guarantee that the peace process is an explicitly shared activity, for which members of the Joint Committees take over shared responsibility.

- The negotiation team be guided in its overall directives from the Joint Committee for the Management of the Peace Process and supported by a fundamentally reorganised and strengthened Peace Secretariat.

### 3.2 The NorthEast

#### The Muslims

One of the fundamental flaws in the current peace process is the absence of explicit and effective protection of the full set of the fundamental, civil, political, economic and social rights of the Muslims living particularly in the NorthEast Province. The unfortunate Tamil-Muslim clashes in the East have brought to the forefront Muslim apprehensions and anxieties of being dominated by the Tamils and thus becoming second-class citizens, deprived of their individual and collective rights. There are divergent and conflicting viewpoints existing as to who is responsible for the eruption of this violence. Both parties claim to possess the moral high ground and accuse one another of betraying the common cause. Tamils resentment towards Muslims arises from the belief that Muslims benefited from the war by trading not only with both sides but also collaborated with the Sinhala state machinery to crush their struggle. There is also a strongly expressed concern regarding Muslim dominance over the economy.

Muslim concerns are about: the recognition of Muslims as a separate and distinct community, their security and protection, the future power-sharing arrangement, grievances related to the forcible takeover of land in the Northern and Eastern provinces, taxation, and harassment. Periodic violence against Muslims in some areas has served to exacerbate these fears. The dominant political demand of the Muslims is for equal representation at the negotiating table.

The failure of the official negotiations to resolve these issues during the first phase of negotiations has led to a failure to resolve outstanding issues between Muslims and Tamils on the ground. The newly established NorthEast Muslim Peace Assembly (NEMPA), consisting of members of Muslim civil society and mosque federations, could be seen as such an effort to solve problems at the local level with the LTTE.

The agreements reached between the LTTE and NEMPA with regard to Ampara and Batticaloa districts are quite innovative, and have resulted in the handover of lands belonging to Muslims. Frequent meetings between the two parties to resolve issues at the village level have led to creating an atmosphere of relative tranquillity in the two districts. Similar agreements could be reached in Trincomalee and the North. Such civil society initiatives do not preclude and negate the need for political cooperation between the LTTE and the Muslim political entity. The Muslim political entity has been deeply divided with different political agendas and has sent mixed signals with regards to its political demands.

However, recently there has been an attempt to reach a consensus and a willingness to address the ISGA proposals collectively.

The Muslim political representatives must exercise an even-handed approach in their negotiations strategy with the GoSL and the LTTE. The Muslim demand to make bilateral negotiations between the GoSL and the LTTE into tripartite negotiations requires that agreement is reached with both parties in such a way that Muslim participation enhances and strengthens the negotiations process. Whilst maintaining excellent relations with the South they should endeavour to develop a similar relationship with the LTTE in the North and East. This can only be done if a continuous dialogue is maintained with the LTTE both at the top and at district levels.

Encouraging steps towards negotiations and a mutually agreeable framework for interim power-sharing can also be observed in the ISGA proposal of the LTTE. The LTTE explicitly accepts and acknowledges the right of the Muslim community to participate in the formulation of their role in the ISGA. It is expected that the Muslim community will soon submit their proposals and on that basis it should be possible to find a mutually beneficial interim arrangement for the NorthEast.

Our recommendation is that an MoU should come in to effect between the local/national leadership of the LTTE and an umbrella organisation of the Muslims, consisting of representatives of the Sri Lanka Muslim Congress (SLMC), National Unity Alliance (NUA) and local mosque federations.

Contours of an MoU between the LTTE and the Muslim community in the East could be as follows:

- Recognise the historical right of the Muslims to live in the NorthEast along with the Sinhalese and Tamils.
- Establish joint committees at the village level to resolve problems on the ground.
- Work out regulations to resolve land questions.
- Negotiate provisions to assure human security, monitor human rights violations and stop the militarization of Muslim and Tamil youths.
- Emphasise the inter-dependency in the local economy and find inclusive interim solutions for trade and commerce.
- International monitoring of human rights violations in the whole of the NorthEast.
- Formulate clear regulations and responsibilities to implement the MoU.
- Incorporate dispute resolution mechanisms in to the MoU.

## The Sinhalese

The Sinhalese are a significant minority in the East, particularly in Trincomalee and Ampara districts. They too have concerns regarding their status within a NorthEast Administration if it is dominated by the LTTE. The Sinhalese in the NorthEast, as a regional minority there, fear that their concerns have not been properly addressed by the Sri Lankan state. The Sinhalese who currently feel marginalised should be given proper attention by the GoSL and the LTTE, their concerns and fears addressed, and a framework created for continuous dialogue. The role of civil society organisations in creating such a framework is important and needs to be encouraged.

## The Tamils

The Tamils are a clear majority in the North, yet their majority status in the East is contested, particularly due to the significant presence of Sinhalese and Muslim communities in the East. However, in any power-sharing arrangement in the NorthEast, it is necessary to consider the Tamil community as diverse and pluralistic as is the Sinhalese community in the South. These diversities are linked to political, caste, religious, regional and gender identities. Power-sharing arrangements that ignore such diversity will lack the qualities of pluralism. Reflecting the diversity of the Tamil community in the NorthEast is essential to facilitate the democratic transition of the Tamil polity.

## 4. Issues to be Addressed in the Next Phase of Peace Negotiations

### 4.1 Interim Administration and the *Oslo Communiqué*

The existing hiatus in the peace process revolves around the question of the Interim Administration. The successful resumption of direct talks hinges upon sufficient common ground between the positions of the GoSL and the LTTE on this issue. The resurfacing of the themes of the Interim Administration (IA) takes the process, to some extent, back to square one. This is because the GoSL, since 1998, has acknowledged that an Interim Administration was necessary. In the recent peace process, it has been substituted by the endeavour to create ‘interim-interim’ mechanisms, such as the Joint Task Force (JTF) and the Sub-committee on Immediate Humanitarian and Rehabilitation Needs (SIHRN). Their failure demonstrated the risk of attempting to disengage the core political issues from any part of the process.

The Interim Administration has surfaced centre stage as an amalgam of interests and challenges to the two parties. It also constitutes a litmus test of their commitment to move the process further towards a political settlement, which incorporates fundamental reform of the constitutional architecture of Sri Lanka.

The UNF government proposals for an IA rejected by the LTTE were located within the existing constitutional framework; they were primarily administrative in nature and did not address the challenge of a fundamental restructuring of the Sri Lankan state or the core LTTE demand. They were aimed at achieving a minimal disturbance, leave aside departure, from the existing status quo. The UNF-proposals eventually sent on 17 July 2003, with the aim of revitalising the process of direct talks, are essentially a series of points for discussion, yet to be elaborated into a set of fully-fledged proposals. In this respect, of all the key players at the Track-1 level, the UNF remains the only one without an elaborated set of proposals on a resolution for the ethnic conflict.

Given the current political climate, the UNF government’s unwillingness to present its own political proposals, but rather negotiating on the basis of what is presented by the LTTE, may be seen as tactically appropriate, especially given the approach of developing together a common agreement on an Interim Administration. The challenge will be in dealing with the issue of: An interim to what? Therefore, what should have been done at the outset is now imperative: the *Oslo Communiqué* of December 2002 must be expanded into a statement of common understanding regarding the principles of any political settlement—interim or final. As such, it would serve as the guiding framework for such agreements. Added to this should be principles relating to democratic governance, including elections and human rights. Moreover, it will be important that the two sides



simultaneously underwrite their commitment to continuing negotiations towards a final settlement whilst the Interim Administration is being established.

The LTTE-proposals for an Interim Self Governing Authority (ISGA) generated critical responses from the key political actors in the South. With the exception of the *Janatha Vimukthi Peramuna* (JVP) however, the UNF government, the SLFP and the PA reiterated their commitment to carry the peace process forward and their belief that there were grounds for doing so. The UNF government responded that, while there were “fundamental differences” between their proposals and those of the LTTE, they nevertheless were confident that there was a basis for negotiations. The SLFP, while castigating the proposals as laying the “legal foundation for a future, separate, sovereign state”, called for immediate talks on core issues. The PA in turn called for the commencement of talks on the basis of the August 2000 Constitution Amendment Bill presented to Parliament by the President.

The LTTE proposals are the first official proposals by the LTTE on any aspect of a political settlement of the ethnic conflict in Sri Lanka. Accordingly, they are prefaced by a preamble setting out the LTTE’s understanding of the conflict, its resolution, and Tamil aspirations. In this respect, the preamble is in the nature of a political testament that speaks to the LTTE’s core constituencies at home and abroad. At the same time, whilst the explicit linkage is not made to the *Oslo Communiqué*, on federalism and internal self-determination, the ISGA proposals provide crucial insight into the LTTE’s vision of a final settlement and the location of the Interim Administration in the negotiations process.

It should be acknowledged that, notwithstanding any criticisms of the maximalist nature of the ISGA proposal, its essential political nature offers an opportunity to focus on core political issues, and hence not only for negotiations on an interim arrangement but also a final settlement. In the light of the declared commitment of all the key political actors to resume negotiations, the challenge will be to identify the common ground for departure between the ISGA proposals and what has been proposed by successive governments of Sri Lanka.

## Recommendations

- The way forward should be the common elaboration of the *Oslo Communiqué*, plus the principles of good governance, human rights, pluralism and tolerance between the UNF and the PA and between these two and the LTTE; this in turn would constitute the overarching framework for negotiations on a constitutional settlement. Once this has been achieved, negotiations on the specific issue of an Interim Administration could commence on the basis of a common text that seeks to narrow the differences between the ISGA proposals and the August 1995 proposals of the PA, which are widely regarded by the LTTE as being the most generous by any southern political formation. Nevertheless, they were subsequently whittled down by conservative forces within the SLFP and the UNP then in opposition. The *Oslo Communiqué* and

the August 1995 proposals are the two core documents that the key actors have agreed to and found acceptable at various times. In this sense they constitute a minimum consensus between them.

- This approach could also help to address the concerns raised with respect to the ISGA proposal that it is exclusively focused on the aspect of ‘self-rule’ and does not refer in any way to the need of ‘shared rule’ as the complementary dimension of a genuine federal structure.
- The Unitarian and regional majoritarian character of the proposed ISGA structure should be reframed to accommodate legitimate demands of the Muslim and Sinhalese communities particularly in the NorthEast, based on the principle of subsidiarity and their right of co-constituting the new political entity in the NorthEast. The principle of subsidiarity enunciates the idea that power-sharing should be effected to all levels of governance, from national to local.
- The independence of the judiciary, and commissions for human rights; and the administration of land, elections and district committees, should be addressed according to international standards of good governance.

## 4.2 Constitutional and State Reform

Any final solution to the conflict has to be based on a fundamental restructuring of the Sri Lankan state. Basic features for this are outlined in the *Oslo Communiqué*. It might take some time before an agreement could be reached, but it is crucial that genuine political discussions on and a broad-based political movement towards state reform are initiated as soon as possible.

One idea for outlining concrete steps and identifying basic principles for a new federal multi-national state structure is the creation of an Interim Constitution. It is based on the explicit understanding that its provisions should guide the process towards a truly inclusive and a just final constitution.

The advantages of an Interim Constitution are as follows.

- An Interim Constitution helps to overcome the problem of legitimacy of the existing constitutional as well as de facto political structures through generating a common framework acceptable to all parties.
- The elaboration of an Interim Constitution urges all parties to engage in a discussion on what kind of state they would like to establish.
- The discourse as such offers opportunities to nurture the idea of a civic nation.

- The discourse also offers more opportunities for wider participation than the peace negotiations on Track-1.
- It outlines right from the start the need for inclusivity.
- It forces all parties to show their genuineness and commitment.

### 4.3 Security issues

Sustaining the ceasefire and improving its security and confidence-building components is crucial for any further elaboration of the peace process. The substantive criticism of the CFA and its implementation was concentrated on five issue areas, with different emphasis according to the interest of the parties.

- The slow pace if not lack of normalisation with respect to a demilitarization of the territories mostly affected by the war, particularly the HSZs in the North, which prevented resettlement and rehabilitation, the cultivation of farmland and the access to fishing grounds.
- The neglect of human security concerns in comparison to national security concerns, since the CFA focused primarily on the interest of the signatories to sustain the military balance of power, relegating issues of human rights, livelihood and the coexistence of different communities, particularly in the East.
- The ambivalent provisions in the CFA that could have derailed the peace process require attention. These can be exemplified by section 1.3 on the legitimacy of safeguarding the territorial integrity of the country without engaging in offensive operations against the LTTE, which have led time and again to dangerous incidents at sea that could have derailed the peace process.
- The mandate of the SLMM that focuses their services on concerns and complaints of the signatories and includes no mechanism for addressing civilian concerns and complaints.
- The possibility of the Norwegian leadership of the SLMM bringing their country into conflicts of interest with their role as the facilitator for the peace negotiations.

Another crucial question is concerned with the way in which the truce has affected the balance of power. On both sides of the military conflict concerns were raised that the other side might get an advantage through the purchase of new arms, through training, re-grouping and re-strategising. Assessing these concerns is difficult because of the lack of

transparency. The CFA included no provisions with respect to transforming the ceasefire in to a process of sustained demilitarization.

In order to move from 'negative peace' to 'positive peace', it is necessary to address issues of security from the perspectives of the affected people and the negotiating parties. It is in this respect that the issue of 'human security' became a focal point for concerns about the legitimacy of the peace process on the ground. They were raised from all sides, including the concern for those affected by the HSZs, harassment, intimidation, abduction, unofficial taxation, child conscription, political killings, and inter-communal conflicts.

The CFA should be developed further towards a Consolidated Ceasefire Agreement (CCFA) including Confidence and Security-Building Measures (CSBMs), making use of successful measures from other conflict zones. For this purpose, it should be considered to establish a CFA Review Committee and, organise a sound and balanced input of expertise from outside the country.

## Recommendations

- The CFA should be further elaborated with respect to the rules of engagement between the SLAF and the LTTE both on land and sea, to prevent any escalation of military confrontations. There should also be a clear demarcation of land boundaries.
- The issue of the HSZs and the demilitarization of the war-affected areas have to be put in to a broader agenda of CSBMs. They should also be addressed more effectively at the local level through the institutionalisation of dialogue among the SLAF, the LTTE, the civilian authorities and civil society. Concessions from the GoSL on the HSZs and on restrictions on fishing are crucial for enhancing trust in the peace process and moving towards economic normalisation.
- The mandate of the SLMM should be reviewed and expanded to enable them to address more comprehensively the implementation of the CFA and to respond to complaints from civilian populations as well as from the signatories. This will demand a substantial strengthening of the institutional and personnel resources of the SLMM. The SLMM should encourage the creation of local Citizens Committees and enhance their participation in the problem-solving of all human security issues.
- A Joint Working Group should be established to explore the possibilities of how a balanced and comprehensive set of CSBMs could help to identify the provisions of a CCFA.
- A Joint International and Sri Lankan Task Force should be established to identify the main challenges for human security in the war-affected areas and

to elaborate mechanisms for rapid response as well as for structural transformation.

- A comprehensive new set of principles, norms, rules and procedures for the work of the police will be needed to complement any agreements on an Interim Administration. It has to be integrated into an inclusive new police regime overcoming the existing dual police structures. It is crucial that the new police regime is balanced with respect to its ethnic composition and well trained and equipped to deal with inter-communal tensions in a preventive and inclusive manner.

#### 4.4 Rehabilitation, reconstruction and development

To link peace, rehabilitation, reconstruction and development, it is crucial to evolve a strategy uniting the interests of all the stakeholders and the international donor community. Humanitarian concerns cannot and should not wait for negotiations to reach a consensus on the structure of a possible ISGA for the NorthEast. What needs to be established is a parallel track envisioning a short-term delivery structure for addressing the immediate needs for rehabilitation and reconstruction as well as for setting out initial development options.

The current position of the international donor community as stakeholders in pushing for a principled approach to peace suggests their interests go beyond the restoration of livelihoods and economic development, towards supporting processes of accountable governance, the rule of law, and security sector reform, thus addressing root causes of the conflict and dynamics of its escalation. In building on the existing common ground, it is in the best interests of all stakeholders to design a transition strategy that outlines a sequence of steps for delivering the peace dividend to those most in need of it. The International Community should also impress upon the GoSL and the LTTE the importance of bringing in the Ottawa Treaty on Land Mines and confirming their commitment to not lay new mines.

Reaching beyond how to engender a relationship between peace and international development processes that can work for Sri Lanka, the concept of 'political economy' in the federalisation of the country has to be addressed. Evident at this point is that the macro-political agendas from each party vary enormously. Reconciling the aims and ambitions of *Regaining Sri Lanka* with those of the LTTE's economic advisors and with those of left-leaning southern polity, is essential in imagining how a federal structure could be operationalised and how the ongoing engagement with the International Community would be reformulated.

## Recommendations

- An MoU for reconstruction based on an understanding between the GoSL and donors for the delivery of aid, and another between the GoSL and the LTTE for the dispersal of aid could hold the potential to pave the way towards a future interim agreement and could help to respond to immediate needs more effectively than the current highly provisional mechanisms.
- The multilateral and bilateral donor communities should help facilitate a common strategic framework for all Sri Lankan actors to orientate them of the variety of support programmes and to ensure that all key areas of conflict transformation are taken into account. The key themes in such a common strategic framework are, the restoration of livelihoods and economic development, accountable government, human rights, gender equity and measures to deal with violence against women, security including human security, the rule of law, and reconciliation.
- The re-integration of combatants, including ex-combatants, women combatants and members of para-military groups, should be a priority area for action in any normalisation process for conflict transformation.
- It is crucial that the ownership for all these activities remains with the actors of Sri Lanka (GoSL, LTTE, business community, humanitarian agencies, and civil society).
- To support the elaboration of a federal structure, all parties should review their visions for the political economy of the country with respect to their implications for the spatial dimension of the Sri Lankan polity.

## 4.5 Human Rights

Human rights remains one of the key issues that has been the focus of criticism of the CFA since it was signed. The focus of this criticism has ranged from the continued recruitment of children, extortion and political assassinations on the one hand, to the right of return of IDPs and refugees, and the HSZs, on the other. Movement in the peace process that does not take human rights questions into account will risk the continued loss of public support and legitimacy for the peace process. This will further result in a continued deterioration in the human rights situation on the ground. Moreover, further rhetorical commitment and gestures alone will not be enough; public cynicism has been fed by the failure to make better use of the good offices of Ian Martin (designated as Human Rights Advisor by the two parties). Of the suggestions made by Ian Martin, only a limited number has been accepted. This calls for a review of the process in which human rights concerns are introduced to the negotiating agenda.

Human rights is better dealt with in a way that is not seen as threatening by the LTTE, against whom the bulk of the allegations of recent violations has been made. It cannot be done in a way that projects one party as having the monopoly of virtue on the issue. Furthermore, a holistic perspective is required that will integrate the protection of civil and political rights with the provision of resources and facilities for the enjoyment of economic and social rights. In this respect, implementation and enforcement dimensions have to be addressed. The existing mechanisms of both the CFA and the SLMM are inadequate as they are primarily aimed at maintaining the military balance of power. Moreover, their provisions in respect of human rights deal only with civil and political rights, and at best with naming-and-shaming.

As far as civil and political rights are concerned, the circumstances and available resources on the ground indicate that local efforts will have to be augmented by international assistance in the form of resources and personnel. Here too, going beyond the naming-and-shaming process is difficult in the absence of demonstrable commitment by both sides to support such a mechanism. There has to be effective prevention procedures, unimpeachable and authoritative identification of abuses, sound victim and witness protection, and accountability. Joint mechanisms between the GoSL and the LTTE in this situation will come up against the problem of parallel judicial and law enforcement agencies. There may be no escape from this. The potential partiality of these institutions and procedures may well be mitigated by a body comprised of both local and international actors who will adjudicate while having the right of inspection to ascertain whether their adjudication is being respected and upheld.

Since neither the effective provision of resources for the enjoyment of rights or protection from abuse can be instituted without the pro-active cooperation of both the GoSL and LTTE, it remains a priority to develop an overarching human rights agreement between them, which presupposes and complements political agreements. Such an agreement must provide for effective monitoring of human rights on both sides. It should also make provisions for capacity building in respect of human rights awareness and protection. It should also aim at the employment of human rights to create greater democratic space for the transformation of the conflict.

## Recommendations

- The inclusion of a Human Rights Commission for the North and East in the ISGA proposals is to be welcomed. However, it is important that this commission is established with guarantees for its independence and impartiality. Working with the LTTE and the other parties on the Paris Principles relating to the status and functioning of national institutions for protection and promotion of human rights, is to be recommended as a way of opening up the dialogue on independence and impartiality. The linkage between such a commission and its national counterpart will have to be addressed along with the other dimensions of shared rule.

- The best way of strengthening the Human Rights mechanisms would be to negotiate an MoU on Human Rights. It should be based on a holistic understanding of Human Rights, to support and complement the peace process. Such an agreement must provide for effective monitoring of human rights, and capacity building on both sides in respect of Human Rights awareness and protection.

## 4.6 Women

Twenty years of civil war has enacted a terrible toll on the lives of many individual women living in Sri Lanka. Women have been affected by the war in diverse ways. Women have been victims of sexual violence, and cases of rape have been reported during the course of the war. The UNHCR has pointed to the fact that women and children are 80 percent of refugees and the internally displaced. Living in camps, subject to greater incidents of domestic violence and sexual harassment, they draw on survival skills to eke out a living for their families.

The war has also created communities of war widows and single-parent families, both in the North and the South, which remain among most marginalised households in Sri Lanka. Women have also been involved in the war as combatants with different needs and aspirations. The location of large security-force camps, especially in the Anuradhapura district, has given rise to incidents of trafficking and the formation of second families. Militarization and the use of force have led to an ideology of violence and structures of masculinity that have resulted in higher incidents of domestic violence, divorce and sexual violence throughout the country.

Women have responded to these developments in different ways. Some have been paralysed and traumatised by these events. Others have developed survival skills and have been empowered to meet the challenges of the future.

Despite these consequences arising from twenty years of war, women have not been adequately represented in the peace process. According to the UN Security Council Resolution 1325, women should be an integral part of peace negotiations and peacebuilding efforts. The setting up of the Sub-committee on Gender Issues was an important step forward and the work of the sub-committee has to be commended. Nevertheless, women's representation at all levels of the peace process is the only way to ensure those women's concerns, especially with regard to reconstruction and rehabilitation.



## Recommendations

- Involve women at all levels of the peace negotiations as an integral part of the decision-making process.
- Ensure that any framework for settlement of the conflict, either at the interim or final phase, incorporates the international standards on women's rights contained in the Convention on the Elimination of Discrimination Against Women.
- Ensure that reported cases of sexual violence are investigated, prosecuted and punished.
- Ensure that relief, reconstruction and rehabilitation programmes meet the concerns of women IDPs, war widows and women combatants.
- Implement special projects and programmes to combat incidents of violence against women.
- Research and study new roles of masculinity in Sri Lanka, especially those resulting from militarization and violence.

## 4.7 Reconciliation

Reconciliation—and the larger dimension of relationship building—appears to have been neglected by the peace process. The reluctance to incorporate reconciliation into the peacemaking agenda stems from: those who believe it is either too early or too late to work on reconciliation; those who believe it too soft an issue to merit attention, particularly at Track-1; or those who believe it is unnecessary to overload what is already a fragile peace process with more issues and priorities. The resistance to the notion also has an ethno-regional variant to it, where southern actors are more eager to put the past behind them and move on to a reconciliation phase; while northern actors are less willing to do so in the absence of tangible progress on the ground vis-à-vis the needs and grievances of the communities in question.

We remain convinced that a sustainable and just peace in Sri Lanka is not possible without a process of reconciliation; i.e., a process of reflecting on the past (exploring ways for integrating the past) and envisioning the future (exploring the nature of a shared destiny for all peoples). We remain further convinced that infusing a relationship/reconciliation focus to the negotiations process will reap enormous tactical and strategic benefits. This will result from the parties working to build trust and respect that would sustain them through the contentious and difficult discussions to come. This in turn will have a trickle-down effect and contribute to improve relations among and between different communities.

Conceptualising and operationalising reconciliation requires a holistic and strategic framework. The success of various processes for dealing with the past and envisioning the future requires coordination and sensitivity with respect to timing, sequencing and stakeholder attitudes. Most importantly, reconciliation cannot be marketed in the absence of a structural change, but necessarily must be a vehicle for acknowledging and addressing the causes, symptoms and consequences of the conflict on the affected populations. Finally, the understanding of reconciliation must not be limited to improving relations only between the Sinhala and Tamil communities, but further encompass the gamut of fractured relations—such as political relations, intra-ethnic relations and gender relations—that have been affected by the conflict.

### Recommendations

- Leaders of various stakeholder-groups should consider possible gestures of conciliation (e.g., symbolic tokens and confidence and trust-building measures) towards acknowledging past wrongs. Such measures require both courage and sensitivity (to avoid backlashes), but can be highly effective if used in a timely and strategic manner. For example, the two main political parties that constitute the ‘Sinhala state’ could extend a joint statement of apology to the minority communities for past human rights violations, such as attacks on places of worship and schools where civilians had taken refuge and the burning of the Jaffna Library. Similarly, the LTTE leadership could extend an apology for violence against civilians, attacks on places of worship including the Temple of the Tooth.

## 5. Ideas for Improving the Next Phase of Peace Negotiations

### 5.1 Prepare all constituencies for principled negotiations and a paradigm shift towards political and conflict transformation

The next phase of peace negotiations will only be successful if core issues are addressed, ways are found to engage all principal stakeholders as co-owners of the peace processes, and all actors accept the need for a serious transformation of the political system. This amounts to nothing less than a fundamental paradigm shift for which the leaders of the principal constituencies must take responsibility.

So far, this paradigm shift has been avoided with the dual argument that the population was not prepared for this shift and that a longer period of soft steps was more appropriate for promoting the necessary attitudinal change. We are convinced that this change will be more effectively achieved when political leaders spearhead the movement. It will not be easy. Yet those who realise the value of this historic opportunity, and have the courage to go beyond traditional patterns, have the chance of becoming national leaders and statespersons of international reputation.

#### Recommendations

- Before entering into the next phase of peace negotiations, all stakeholders should consider what they could do to prepare their constituencies for a paradigm shift concerning the resolution of the conflict. This means nothing less than that the talks need to be put in the context of a comprehensive programme of political transformation leading to a fundamental restructuring of the state. This must be integrated into a common framework acceptable to all parties.
- All stakeholders should explore the value of the framework of principled negotiations as the basic mode of conduct in bilateral as well as multilateral settings (see section 5.2).
- Peace-supporting media and civil society actors should do their utmost to endorse the need for fundamental political transformation as well as for 'principled negotiations'. These issues could be addressed and familiarised in public communication campaigns, public rallies, joint activities of professional organisations, and in many other formal and informal discourses (see section 3, 5.7 and 5.8).

## 5.2 Develop a principled negotiations approach

The concept of principled negotiations comprises four basic principles: (a) conflict issues (e.g., the Interim Administration) and relationships between the parties (e.g., trust-building between the LTTE and parties in the South) have to be addressed; (b) talks should try to identify the enlightened and common interests of the parties and overcome bargaining from adversarial positions; (c) talks should furthermore be framed and organised in such a way that mutual gains are achieved and; (d) agreements should be based on jointly accepted principles (e.g., fairness, justice, equality, democracy, good governance, and pluralism).

This concept was originally developed by the Harvard Negotiation Program. We have only changed the first principle that reads, “Separate the problems from the people”. We think that for transforming protracted conflicts, improving the *relationships* is as important as working on contentious *issues*.

This approach is based on a broad variety of practical experiences and has proved its utility in several cases of negotiated settlements around the world. It is derived from the simple assumption that a just and sustainable settlement of any serious dispute must accommodate the enlightened self-interest of all parties. Nevertheless, the journey along these principles is not an easy one. This approach can be assisted through a common understanding and parallel efforts of capacity building (training for negotiators and advisors). It is paramount that the facilitating third party identifies with this approach and demonstrates its usefulness through application (see section 5.3). Finally, the approach is not confined to the official negotiations; it can also be used for informal channels (see section 5.4).

### Recommendations

- Identify a code of conduct for the negotiations that ensures all parties have a common understanding of the guiding principles of the talks, including elements of principled negotiations. This task should be one of the issues to be addressed in the pre-negotiations (talks about the talks) when the parties have to address many other procedural issues (see below). The code of conduct should also include rules to ensure equitable participation of the parties to prevent critical incidents like the exclusion of the LTTE from the donor meeting in Washington in April 2003.
- Develop a creative multi-layered structure of negotiations that allows all stakeholders to become co-owners of the peace negotiations without compromising the need for effective problem-solving between the principal parties. This is the principle of inclusivity. One way of achieving this is the desegregation of the agenda according to the issues most relevant for the different parties. In any case, it will be necessary to identify clearly the

stakeholders to the conflict and how they are going to be involved in the process.

- Provide capacity-building opportunities and resources for all parties to enhance their effective participation in the negotiations process. The more qualified and well resourced the negotiators and their support structures are, the better the chances for identifying solutions with mutual gain for all parties.
- Elaborate an innovative combination of summit events, high and round-table talks, working group discussions, expert meetings, and consultations with advisors.
- Pre-negotiate an agenda that allows a combination of issues with a high potential of common ground along with more controversial ones, to ensure some momentum of progress and to expand the cake for balancing competing interests.
- Introduce the concept of the 'single-text procedure' into the negotiations. This procedure entitles a third party to facilitate a common document to prevent the parties from confronting each other over the formulation being based on the ownership of the initiator (e.g., the HSZs and the issue of human rights mechanisms). Be prepared for deadlocks, dissenting votes and spontaneous windows for achieving progress. Acknowledge the possibility of re-arranging and re-framing issues.
- Pre-negotiate timeframes for different issues to be dealt with beyond the basic differentiation of negotiations on an Interim Administration and on those of the final settlement.
- While negotiations were held in various foreign capitals during the first phase (partly with the aim to internationalise the process and enhance its legitimacy), it would be useful to confine the next phase to one or two foreign capitals alone and to also move towards holding certain sessions in Colombo and Killinochchi.
- Pre-negotiate a framework on how to deal with the media during the negotiations. It should balance the need for ensuring confidentiality and protected space for open exchanges between the parties, with the need to work against the suspicion of clandestine deals behind closed doors.
- Clarify the status of the outcome of talks and the procedure for their implementation. There must also be greater clarity on which results are agreements, which are declarations of intent, and which are just the summaries of discussions by the facilitating party. Clarify how to deal with dissenting interpretations of the outcome of talks. Review the decision from the first phase not to produce common minutes of the talks.
- Explore the possibilities of having regular reviews of the progress achieved, of identifying lessons learned, and of reorganising the rules of engagement.

### 5.3 Clarify Norway's role as facilitator and mediator

Norway's role as the key third party with overall responsibility for facilitation and mediation based on 'principled negotiations' should be strengthened. The main focus of a facilitator is to ensure adequate communication and interaction between the parties, to improve their relationship, and to help address the key conflict issues. The assumption is that through this kind of interlocution the parties can more easily engage in direct negotiations. Mediation goes one step further; it includes a pro-active approach of shaping the process of interaction between the parties, making proposals for the agenda of negotiations and paving the way towards concrete agreements. Nevertheless, this type of (pure) mediation refrains from having a substantive input on the content of the agreements (which differentiates this approach from 'power mediation'). We think that a combination of facilitation and (pure) mediation is most appropriate for supporting the Sri Lankan peace process.

#### Recommendations

- Acknowledge the need to have the services of Norway as a facilitator for the overall process, as well as a mediator for guiding the negotiation sessions. Encourage Norway to take into account the need for an inclusive approach, and develop adequate mechanisms for facilitating a complex process of multiple negotiations.
- Provide more capacities for facilitation and engaging with other stakeholders within and outside the country. Expand the knowledge base for principled negotiations among all stakeholders. Take the lead function for burden-sharing among national and international agencies that might help in disseminating this knowledge.
- Make use of 'single-text procedures' when negotiating agreements, i.e., generate drafts of common papers and use them as the main basis for consensus building rather than allow the parties to stick to formulations that came out of *their* drafts.

### 5.4 Enhance the composition of the negotiation teams and their support infrastructure

The outcome of negotiations is dependent not only on issue-related and structural factors and the political forces behind them, but also on the human beings representing them and the social and intellectual dynamism created during and between the talks. In several cases of successful negotiations, the human factor played a crucial role. The mutual understanding of key protagonists, their trust-building and good chemistry helped to overcome difficult moments and steer the process towards joint problem-solving. Also a supportive factor is having a common language, not only with respect to the possibility of

communicating without an interpreter, but also concerning similar professional frameworks and modes of thinking.

The human factor relates also to the composition of the negotiation teams. While it is necessary to develop a good rapport between the teams, it is as important that the teams represent the mainstream of their respective parties and can ensure a close interaction with their constituencies. A second challenge is that teams need generalists as well as experts. Nicholas Haysom from South Africa has furthermore mentioned that one needs both diplomats and technicians. While diplomats have the capacity to agree on basic principles, they might not be capable of holding the ground of these principles when it comes to details and implementation. For this, the technicians might be more suitable.

To backup the main negotiation teams, the GoSL and the LTTE have created two peace secretariats, namely The Secretariat for Coordinating the Peace Process (SCOPP) and the Peace Secretariat of the LTTE. They played an important logistical role during the first phase of the peace negotiations, but their contribution to a constructive conceptual backing of the process has been rather weak. Here, we see a huge potential for strengthening the conceptual basis for the negotiations and for creating a joint intellectual safety net.

### Recommendations

- Design the composition of the negotiation teams carefully in the light of leadership qualities, problem-solving capacities, personal chemistry, bridge building with the constituencies, and power-political considerations.
- Create a pool of resource persons and institutions that can be brought into the process as advisors and consultants on the basis of multi-partiality. In case of reservations about their multi-partiality, a composition should be considered that allows for the eventual biases to be balanced.
- Reorganise the peace secretariats as custodians of principled negotiations and enhance their inclusivity or encourage the establishment of peace secretariats for all principal stakeholders. Creative ways must be considered concerning interactions between them.

### The role of the Peace Secretariats

In the first phase of the peace negotiations, the Secretariat for Coordinating the Peace Process (SCOPP) was entrusted with the task of dealing with the technical and logistical arrangements of the talks. In the second phase, the Secretariat's role should be expanded, streamlined and strengthened with respect to the political and strategic aspects of the negotiations. The SCOPP could learn much from similar international experiences, particularly in South Africa, where the National Peace Accord provided the foundation for a comprehensive civil society involvement.

In regard to restructuring the Peace Secretariat of the GoSL, we would suggest that the following points are taken into consideration.

- Improve and expand the research, policy and strategic dimensions by expanding its staff as well as enlisting and empowering think tanks, research institutions and universities in the work of policy and research.
- Develop a communications strategy that provides information on the negotiations process through publications, pamphlets and media briefings on a regular manner.
- Establish a department that should develop consultations with different sectors on a regular basis. Business leaders, religious leaders and other civil society organisations should be consulted and informed on a regular basis.

The Peace Secretariat of the LTTE right from the start has had the broad based mandate to create a conducive environment for permanent peace, reflecting the need on the side of the LTTE to elaborate this unit as a support institution for the Political Wing and for many functions of liaising with the outside world. It will be crucial and in the interest of the peace process that the Peace Secretariat of the LTTE is strengthened through institutional and personnel capacity-building and through engaging in joint activities with outside actors to explore innovative ways forward in the peace process.

## 5.5 Develop an elaborated infrastructure of multi-Track diplomacy

One of the striking shortcomings of the Sri Lankan peace processes has been the small number of initiatives of unofficial diplomacy at the level of party politicians, political advisors, influentials, multipliers and professionals (also described as Track-2). Most of the dialogue workshops, encounter and exchange programmes took place on the grassroots or Track-3 level. Their impact has so far not been strong enough to generate a viable political effect.

The advantage of dialogue and problem-solving workshops is that they can be used to explore ways on how to move in the direction of principled negotiations through the joint identification of interests, needs, fears, and concerns through ‘speculative problem-solving’ in a safe environment outside of the pressure of official negotiations and the limelight of public scrutiny. This format can also comprise officials, but in their personal capacities (sometimes called Track-1.5). In light of the protracted issues confronting the Sri Lankan parties, it is crucial that this potential is realised, to inspire, to encourage and to enlighten the official diplomacy.



## Recommendations

- Develop a series of Track-2 problem-solving workshops to enhance the common understanding of the conflict, to address key issues in the peace process and to generate ideas how to move towards joint solutions. Ensure that these workshops are organised in a process-orientated manner and functionally linked to Track-1. Address the reservations against this kind of peace work through concrete, practically relevant results.
- Develop reliable back channels to create a sound safety net among the principal stakeholders.

### 5.6 Create an International Support Group for the Sri Lankan peace process

The International Community has so far played a strategic and decisive role in the peace process. Their contribution can be further enhanced through greater coordination, communication and burden-sharing. To this end, it is worthwhile to consider an envisioned contact group of international actors. The core idea of an International Support Group is to bring together a small group of internationally eminent personages in their individual capacities, to use their collective political and moral authority, experiences and capacities to positively influence the conflict and the conflict parties. They would undertake public actions and quiet lobbying, particularly at critical junctures when internal capacities for peace appear to be inadequate. This group should not represent any states and in any way interfere in the responsibilities of Norway as the key third party. All members of the group must be acceptable to all principal stakeholders and to the co-chairs of the Tokyo Donors Forum, as well as to India.

### 5.7 Enhance public participation in the peace process

Public participation and support have been sadly wanting in the first phase of the negotiations process. As core issues come into focus in the next phase, it will become important to sustain public interest in the peace process, to build education and awareness on unfamiliar issues, and to develop platforms for mass mobilisation.

## Recommendations

- Public participation should underpin the negotiations process. All parties should work on the premise that the general public is a stakeholder to the peace process. This requires effective mobilisation of people for a broad-based peace movement.

- Well-designed programmes need to be developed to involve trade unions, women's organisations, the business community, religious organisations, professional organisations and other numerous entities that compose civil society.
- Efforts must be made to build civil society capacities in the NorthEast and strengthen those institutions and organisations already in place (e.g., universities). Related to this, there is the need to strengthen dialogue between the NorthEast and the South.
- Civil society organisations should work on sustaining public support for peace through mass mobilisation initiatives and awareness-raising campaigns.

## 5.8 Develop a comprehensive communications strategy

There is much to be desired in terms of communication between the parties and the people. There should be a more comprehensive communications strategy between the negotiating parties and the people. Communicating the issues related to the peace process to all stakeholders in a transparent manner and through a process of consultation should be given serious attention. In the first phase of negotiations, there was a breakdown in communication between the parties, allowing for the spread of misinformation, oversimplification, improper use of language by the media, suspicion among the people, and general confusion regarding the issues discussed and the solutions reached. Opinion surveys conducted by the Centre for Policy Alternatives (CPA) demonstrate clearly that, whilst there is an overwhelming support for the peace process, when questions of federalism are raised, the support declines significantly.

### Recommendations

- Parties to the negotiations should develop a strategy for communicating decisions to the public, paying careful attention to the quantity, quality and all-round focus of the information conveyed. Parties should also pay attention to striking a fair balance between presenting breakthroughs and setbacks, so that the picture is neither too rosy nor too gloomy.
- Pre- and post-talks press briefings should be conducted in a professional manner preferably by all parties or by the Norwegians on behalf of all parties.
- Sustained efforts are necessary for bringing about attitudinal changes, particularly with respect to the South. The GoSL should develop a more effective and innovative (using traditional and non-traditional approaches) communications strategy for building consensus on the benefits of peace in the South. The Peace Secretariats' communications strategies must be enhanced.

## 6. Conclusions

The Sri Lankan peace process is at a crossroads. The first phase came to an end in early 2003; the second phase has not yet begun. The transition from the first phase to the second has been difficult as well as sometimes painful and risky.

The New Year offers a unique opportunity to develop an innovative strategic framework of multiple peace negotiations and peace-building. It should ensure that all parties become co-owners of the process, that the talks are based on the concept of principled negotiations, and that concrete steps are taken to work jointly on a comprehensive programme of reforming and restructuring the Sri Lankan state as a multi-national federal state.

One way of moving in this direction is to promote a comprehensive public discussion within and among all stakeholders, including the Sri Lankan diaspora and the International Community on how to elaborate an innovative strategic framework for peace. The purpose of this paper is to encourage and inform such a discussion.

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## Acronyms

BATNA	Best Alternative to a Negotiated Agreement
CBMs	Confidence Building Measures
CCFA	Consolidated Ceasefire Agreement
CFA	Ceasefire Agreement
CSBMs	Confidence and Security-Building Measures
GoSL	Government of Sri Lanka
HSZ	High Security Zone
IA	Interim Administration
IDPs	Internally Displaced Persons
ISGA	Interim Self-Governing Authority
JTF	Joint Task Force
JVP	<i>Janatha Vimukthi Peramuna</i> (People's Liberation Front)
LTTE	Liberation Tigers of Tamil Eelam
MoU	Memorandum of Understanding
NEMPA	NorthEast Muslim Peace Assembly
NUA	National Unity Alliance
PA	People's Alliance
SCOPP	Secretariat for Coordinating the Peace Process
SIGI	Sub-committee on Gender Issues
SIHRN	Sub-committee on Immediate Humanitarian and Rehabilitation Needs
SLAF	Sri Lanka Armed Forces
SLFP	Sri Lanka Freedom Party
SLMC	Sri Lanka Muslim Congress
SLMM	Sri Lanka Monitoring Mission
TRO	Tamil Rehabilitation Organisation
UNF	United National Front
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNP	United National Party