



An agreement to fight some more

**With the formal abrogation of the Ceasefire Agreement by the Colombo government, the conflict in Sri Lanka is headed for a decisive phase. And it will be bloody.**

By : Jayadeva Uyangoda

Sri Lanka's descent into a sorry state of war has not been a source of great concern within the country. Indeed, many outsiders are more worried than Sri Lankans themselves about the inevitably destructive consequences of the intensifying war. Outside observers have been warning that there is no military solution to the ethnic conflict, that the war will produce only losers, and that an escalation will only further intensify the deepening humanitarian crisis. But within Sri Lanka, many, including both the government and the LTTE, seem to view the war as an inescapable reality. How does one explain this puzzle?

The troubled story of the Ceasefire Agreement (CFA) at least partly captures some crucial dimensions of the conundrum of Sri Lanka's ethnic conflict and multiple failed peace processes. The CFA came into effect in February 2002 when Prime Minister Ranil Wickramasinghe, of the United National Front (UNF) government, and LTTE leader Velupillai Prabhakaran signed the document as a prelude to direct peace negotiations. Both the CFA and subsequent negotiations were facilitated by representatives of the Norwegian government, who subsequently acted as representatives of the so-called international community. The signing of the CFA was followed by six rounds of direct talks between the government and the LTTE, all of which were held outside Sri Lanka.

A notable development in the negotiation process was the understanding, reached in Oslo in December 2002, to explore a federal solution to the ethnic conflict. But the progress of negotiations did not go beyond the Oslo understanding, which the LTTE later disowned. The talks reached a crisis point in April 2003, when the LTTE 'suspended' its participation in the negotiation process itself, alleging that the UNF government was not committed to implementing decisions taken at the negotiation table. Neither the pressure from the international community, nor the massive tsunami disaster of December 2003, could revive Sri Lanka's stalled peace process.

### **Relapse and polarisation**

The gradual relapse into war began with violations of the CFA. While the LTTE was blamed by international monitors for most of the direct violations, such as smuggling weapons and killing military intelligence operatives, the Colombo government also contributed by not implementing some of the major commitments made in the CFA. The

continual refusal by the government to vacate villages in Jaffna District that had been brought under military-maintained high-security zones was a prominent case in point.

Rather than be enmeshed in the blame game of apportioning responsibility for ceasefire violations, an observer can gain good perspective on some of the larger dimensions of Sri Lanka's conflict by looking through the prism of the actual politics of the ceasefire and related negotiations. The CFA was originally meant to provide the ground conditions of de-escalation, as well as a framework for political engagement between the state and the LTTE. While at the time Colombo was willing to consider an advanced form of devolution as a framework for a constitutional settlement, the LTTE, which was advancing the interests of a state-seeking ethnic minority, was also exploring acceptable alternatives to secession.

Addressing the need to fill the gap between these two visions constituted the fundamental challenge in the negotiations of 2002. Indeed, any success was to depend on the capacity of the two sides to work out a compromise that could go beyond ordinary devolution, but which could also fall short of outright separation. With the advantage of hindsight, one can now say that, by 2002-03, the conflict had not yet reached a point at which such a huge compromise could have been considered possible, or even feasible.

Equally important was the fact that the CFA and the negotiation process – albeit unintentionally – polarised the Sri Lankan polity into two camps: those for and those against the agreement. This situation was very similar to the polarisation that took place following the 1987 Indo-Lanka Peace Accord. In a deeply divided and fragmented polity, a decisive move towards altering the trajectory of the conflict could only sharpen existing contradictions.

This polarisation was felt most dramatically in the Sinhala polity. The fact that governmental power had been fractured into two antagonistic camps, one represented by President Chandrika Kumaratunga and her People's Alliance, and the other represented by Prime Minister Wickramasinghe and his UNF. The agenda of the People's Alliance, of toppling the UNF regime, found an easy platform in opposition to both the CFA and the UNF-LTTE negotiations that had not produced a peace agreement as such. The People's Alliance and its Sinhalese nationalist allies appealed to the insecurities of the Sinhala and Muslim masses, on the argument that the CFA provided undue legitimacy to the LTTE, thereby endangering their safety and security as well as the country's sovereignty and territorial integrity.

Ultimately, the obstacles to the agreement were significant. The less-than-enthusiastic commitment of the UNP leadership to a tangible outcome of the peace process; the arrogance and intransigence of the LTTE in violating the CFA; and the short-sighted policies of the international custodians of the peace process, who tried out a 'neo-liberal' peace-building strategy that pushed an agenda of economic liberalisation, along with a minimalist programme of democratisation – all of these eventually came together to create a situation in which political conditions necessary for the sustainability of the peace process became less and less viable. The moral of this part of the story quickly

became clear: that an incomplete peace initiative can re-polarise the polity, sharpen its contradictions, and make the peace initiative itself a victim of those very contradictions.

### **The incomplete revolution**

This takes us to another peculiar aspect of Sri Lanka's conflict. Every failed (or partially successful) attempt at restoring peace by non-military means has eventually led to a return to war with fiercer intensity. In other words, the ethnic conflict has demonstrated a peculiar capacity to reproduce and sustain itself, not because there were no peace initiatives, but because there have been peace initiatives that have not led to the termination of the civil war and a settlement agreement. Indeed, the intractable conflict in Sri Lanka is, on a very real level, propelled by unfinished peace efforts: as an incomplete revolution digs its own grave, the incomplete peace process inevitably becomes its own negation.

The CFA has many critics, particularly in Sri Lanka and India, and many of their arguments are quite compelling. From the beginning they saw the CFA as having given the LTTE unwarranted political legitimacy on the LTTE's own terms, because the CFA institutionalised the LTTE's claim to a parity of status based on a military balance of power. The CFA also formally recognised that there were territories controlled by the LTTE in the Northern and Eastern provinces. In a way, this accepted a ground reality that no other political party in Sri Lanka would dare to accede.

In fact, the LTTE also made the point that it accepted the CFA as the basis for negotiations because, in their reading, the CFA gave expression to a strategic equilibrium achieved by military means. The UNF government did not contradict the LTTE's claim to parity. On a related point, many of those who would advocate for a negotiated solution would want Colombo to define the terms and scope of the settlement from a position of military strength and asymmetry of power. But the notion of strategic parity went against this proposition. Therefore, undermining the CFA and the negotiation process of 2002-03 was seen by many political and ideological groups in Sri Lanka as not only necessary, but also a just objective.

The fact that the Colombo ruling class continued to remain fragmented and unable to work on the basis of a broad consensus on key policy challenges further contributed to the narrowing down of the political space within which the CFA needed to exist. It is useful to recall that when Prime Minister Wickramasinghe signed the CFA in February 2002, he did not consult the other powerful faction of the ruling class, led by President Kumaratunga. Wickramasinghe's strategy was to make peace with the LTTE on the basis of negotiations between two parties: his government and the LTTE. But, as prime minister, he only represented half of the Sinhala establishment. As had also happened previously, the other half was, in the meanwhile, waiting for an opportunity to undermine the peace bid.

This is where the two factions of the politically bifurcated Sinhala ruling class once again demonstrated how its disunity could derail opportunities for resolution of the ethnic conflict. Backed by the extreme Sinhala nationalist forces, President Kumaratunga

dismissed the UNF government in late 2003 on the argument that both the CFA and the LTTE's proposals for an Interim Self Governing Authority posed a threat to the country's national security and state sovereignty. After the LTTE's unilateral withdrawal from peace talks in April 2003, this was the second stage in the trajectory that saw the disintegration of the CFA and negotiation process of 2002.

By mid-2004, following the regime change after the parliamentary elections, Colombo had been slowly moving in the direction of resuming the war. The new regime of the United People's Freedom Alliance (UPFA), led by President Kumaratunga, was mainly a coalition of Sinhala nationalist forces committed to undoing what they saw as the 'damage' done by the UNF government and the internationals, particularly Norway. Continuing violations of the CFA, particularly by the LTTE, led to the clamour for its abrogation, especially among UPFA's extreme nationalist partners.

The LTTE's August 2005 assassination of Foreign Minister Lakshman Kadirgamar, who had earlier led a successful international campaign to ban the Tigers in a number of countries as a 'terrorist' entity, further added to the demand for the annulment of the CFA. But President Kumaratunga, now heading her own government, exercised significant caution in her approach to both the CFA and the LTTE. She renewed calls for the return to negotiations, while the international community (notably the European Union, the United States and Japan) tried both threats and diplomacy to persuade the LTTE to resume peace talks. All met with failure. Towards the end of 2004, there was speculation that the LTTE was making preparations for an offensive, in an attempt to alter the balance of power with the Sri Lankan Army, as a prelude to returning to talks from a new position of military strength.

### **Lanka no Aceh**

The tsunami of December 2004 significantly altered the course of Sri Lanka's conflict, during a year in which the country had seemed to be moving in the direction of outright war. The tsunami devastated vast stretches of coastal areas inhabited by Sinhala, Tamil and Muslim communities, but some of the worst-hit communities were in the LTTE-controlled areas of the Northern and Eastern provinces. The disaster and accompanying humanitarian tragedy seems to have changed the LTTE's decision to resume armed hostilities. More importantly, the situation opened up a new opportunity for the UPFA government and the LTTE to work together in humanitarian assistance – and subsequently to use that space to resume political engagement.

The two sides did restart dialogue, and in July 2005 even signed an agreement to set up a joint administrative mechanism called the Post-Tsunami Operational Mechanism (PTOM). But this attempt fell victim to the opposition mounted by the newly mobilised Sinhala nationalists, led particularly by the Janatha Vimukthi Peramuna (JVP), which opposed any resumption of political engagement with the LTTE. The JVP, a powerful member of the UPFA coalition with 39 members in Parliament, filed a petition before the Supreme Court that the PTOM agreement violated Sri Lanka's Constitution. The Supreme Court upheld some of the JVP objections, thereby effectively nullifying the new institutional mechanism formulated for the government and the LTTE to work together,

at the very least on humanitarian issues. In contrast, across the ocean to the east, the Indonesian government and the rebels in Aceh were able to successfully use the humanitarian space opened up by the 2004 tsunami to work towards a peace agreement – one that still holds today.

If 2005 was a missed opportunity for the resumption of the peace process, 2006 marked the momentum in a new trajectory towards the resumption of war. The election of President Mahinda Rajapakse in November 2005 was a crucial turning point. Rajapakse won the election due to two main factors: backing by the extreme Sinhala nationalist forces, and the election boycott imposed on the Tamil voters in the Northern Province by the LTTE. After the leadership of the Sri Lanka Freedom Party did not back him, Rajapakse had been forced to establish a firm ideological and political alliance with two extreme Sinhala nationalist parties, the JVP and the Jathika Hela Urumaya (JHU), with whose support he ran an election campaign that was marked by an essentially Sinhala Buddhist nationalist agenda. Rajapakse won a narrow victory over the UNP's Wickramasinghe, who had run on a platform of returning to negotiations for a federalist political solution to the ethnic conflict. It was during 2006 that the new administration of Rajapakse and the LTTE began their 'undeclared war'.

Why did the LTTE leadership indirectly help Rajapakse to win the election over Wickramasinghe, for whom a vast majority of Tamils would have voted in the absence of the enforced boycott? The simple answer is that the LTTE wanted a new phase of polarisation and sharpening of contradictions between the Sri Lankan state and the Tamil polity. Unfortunately, the events of 2006 and 2007 served the LTTE's strategic objective to a considerable measure.

In early 2006, President Rajapakse's new administration and the LTTE decided to come back to the negotiating table, and their representatives met twice in Geneva. In the first round of talks, in February 2006, they agreed to 'fully implement' the CFA, which at that time was under severe stress in the Eastern province due to a mini war between the mainstream LTTE and its breakaway group, led by Karuna Amman. The violations of the CFA during most of 2005 and 2006 occurred in the course of this internecine conflict, during which the LTTE attempted to invoke the clauses of the CFA that vested Colombo with the responsibility of disarming paramilitary groups. In fact, the split that took place when Karuna broke away from the LTTE in early 2004 was a crucial factor in pushing the ceasefire into a major crisis, and the Sri Lankan Army seized the opportunity to back the Karuna faction. As eventually became clear, the Geneva talks were actually a blatant smokescreen, as both parties seemed intent on preparing for war.

For political reasons, neither side wanted to formally withdraw from the CFA, though 2007 still became a year of war between the two sides. The conflict was considered 'undeclared' due to one of the CFA's provisions, Clause 4.4, which stipulated that either party could withdraw from the CFA only after giving a specified notice to the Norwegian government. The 'high point' of this undeclared war was the military's early-2007 capture of the LTTE-held territory in the Eastern province. A series of battles over several months resulted in large-scale civilian displacement, the deaths of many

combatants on both sides, the murders of humanitarian aid workers and serious human-rights violations. Indeed, with the escalating war, both humanitarian and human-rights issues emerged as topics of immediate concern. In fact, throughout 2007 both the government and the LTTE treated the CFA with scant regard.

### **Life after the CFA**

It is in this context that many in Colombo have welcomed President Rajapakse's decision, in early January 2008, to abrogate the CFA. The epithets used in the reactions are telling. For some who welcomed the decision, the 'stinking corpse' of the CFA has at last been buried; for others, the CFA has long been a mere a piece of fiction, anyway. For yet others, 'national pride' has been restored. In Sinhala society, including among political groups opposed to UNF-LTTE negotiations, the absence of the CFA now paves the way for the military defeat of the LTTE. Perhaps for this reason, the LTTE's subsequent statement, that it remained committed to the full implementation of the CFA, was met with a contemptuous response by Colombo officials. And indeed, the LTTE's new love for the CFA needs to be seen only as a political ploy to justify its own military plans.

The empty rhetoric and past experience aside, life in Sri Lanka without the CFA is going to be very difficult. Despite the fact that it has been subjected to repeated violations by both the government and the LTTE, the existence of the CFA and the presence of the Sri Lanka Monitoring Mission in the conflict areas provided at least a minimum assurance that the war would not descend to the level of outright barbarism. In post-CFA Sri Lanka, however, there is now no such external check on the warring parties.

This tells us something unique about Sri Lanka's ethnic conflict, as it is being enacted jointly by the Rajapakse regime and the LTTE. Both parties have managed to establish a distinct measure of relative autonomy from the international actors, in their decision-making processes and actions with regard to the conflict. The 2002 peace process internationalised the conflict and its resolution process to an unprecedented degree, symbolised by the CFA. Both President Rajapakse and V Prabhakaran have claimed this level of internationalisation 'excessive'.

With the umbilical cord between Sri Lanka's conflict-management process and the international community, in the form of the CFA, having been severed, both parties are now relatively free to conduct the war in the way they feel suitable, with no external pressures regarding human rights or humanitarian consequences. In the coming months, the conflict will become a war without checks or balances, a war without inhibition.