

# Mediation Theory and Norway's Facilitation Role in the Sri Lankan Conflict

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## Introduction

Sri Lanka is a plural society of three major ethnic groups, Sinhala, Tamil, and Moors (Muslims). The majority Sinhalese make up 73% of the population. They speak Sinhalese and are mainly Buddhists. "Sri Lankan Tamils" represent 13% of the total; they are concentrated largely in the Northern and Eastern provinces, although one-third of them have lived for generations in the rest of the geographical areas (or "South").<sup>1)</sup> Both groups have lived in the country for less than 1,000 of the more than 2,000 years of the country's history. There has been a great amount of interaction, sharing, and amicable cohabitation between Sinhalese and Tamils in the island. The intermingled features in literature, rituals, ceremonies, inter-marriages, and various other factors give evidence of mutual respect and tolerance. In spite of these positive interactions between ethnic groups in Sri Lanka, an ethnic conflict irrupted as a war in 1983. A Tamil guerrilla organization, the Liberation Tigers for Tamil Elam (LTTE), have been combating against the Sri Lankan government for the last twenty five years demanding a separate state, "Tamil Elam" for Tamils in the northern and eastern parts of the country. The objective of this study is to explore the complexities of the conflict, and how the kinetics generated from the interplay between the parties to the conflict affects the mediator and vice versa. The contextual factors influencing the choice and diversity of mediation strategy and behavior can be understood within a general framework. This framework organizes the dimensions of the process of mediation into temporal sequences that depict the interplay among prior conditions that are antecedent to mediation, the actual process of mediation, and subsequent outcomes.<sup>2)</sup>

Its graphical depiction is shown on the next page.

This paper begins with an analysis of the efforts taken for truce and negotiation between the parties. Analysis of the procedural factors to the conflict mediation is mainly condensed in the second part of the paper where Norwegian mediation is discussed in particular.

## Methodology

Mediation is a dynamic process where success and failure are dependent not only on the identity of the mediator or the strategies employed, but also on a number of factors that relate to the parties involved, the issues at stake, and the context of their interaction.<sup>3)</sup> Therefore, the methodology to be employed to research this complex

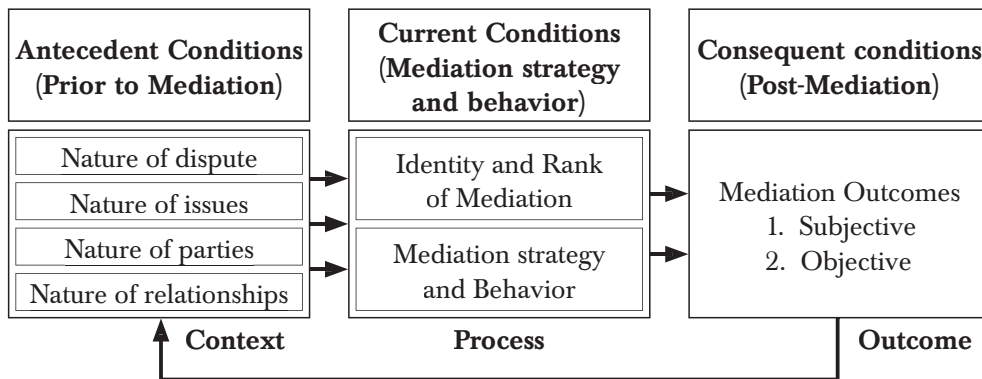


Figure 1: The Process of Mediation

process needs to be carefully considered. “Mediation” is in part a process in which you barely find any meaningful way to quantify its progress, the complex human relations between parties, as well as many types of public responses. Therefore, the primary research methodology employed in this study was qualitative, using interviews, field observation, and participant observation. Formal one-on-one interviews, informal one-on-one interviews, and group interviews were used together with informal meetings akin to focus groups. The research was supplemented by the collection of documents, sometimes needing to be translated, and observations of artefacts (on the street, at historical sites, etc.). I realized the public as well as the leaders were more comfortable with informal, relaxed discussions. So I chose that as the main means of gaining their opinions. The field study has been undertaken both in Norway and in Sri Lanka during July and August of 2004. In the field I employed a number of research techniques ranging from observation and formal interviews to informal interactions. I conducted nearly twenty formal interviews in both countries. The informants for the interviews were drawn from all social strata involved in the peace process. The structure set out for the interviews of each individual varied according to the interviewee’s role in the mediation process. Informal interactions were helpful in my attempt to get an “emic” approach to have an insider’s view of the on-going peace process. I remained attentive to the unfolding events, rallies, protest gatherings, political events, media debates, press conferences, and seminars in both countries which were directly and indirectly related to the said mediation process. Secondary data from newspapers, amendments, and web sites also served as modes of information, invaluable.

### External Efforts for Negotiation

The first international interference in the Sri Lankan conflict was made in 1984, by India when Indira Gandhi was in power. An all-party conference facilitated by India was held in 1984. The “Tamilnadu” factor being the most influential one, Gandhi had to extend either a supportive or a neutral policy towards the activities of Tamil rebellions in “Tamilnadu.” The Indian-initiated peace talks soon collapsed.

The Sri Lankan government withdrew reasoning on India’s dual policy. Tamil rebels also expressed dissatisfaction in peace talks and withdrew. In Rajeev Gandhi’s era,

India insisted on a ceasefire to commence peace talks.

For the first time, all of the involved parties could be summoned for peace talks. That was the 1985 “Thimpu” talks in Bhutan. In the midst of difficult talks, both parties violated the ceasefire agreement and sabotaged the discussions. One important outcome of the “Thimpu” talks was the agreement between the Sri Lankan government and the Indian government to continue this understanding to seek a political solution for the conflict.

### **Internal Efforts for Negotiation**

In the early 1990s President R. Premadasa pioneered for the second attempt at negotiations for which the LTTE initially assisted. These negotiations lasted nearly a year and half, and ceased when Premadasa was assassinated by the LTTE in 1992. In the 1994 general election, Chandrika Kumaranathunge pledged constitutional reform to solve the conflict politically.<sup>4)</sup> Her regime started with a revival of peace. The LTTE declared a ceasefire showing their interests in peace. In spite of this positive response, the truce and discussion period suddenly broke down after a single year, when the LTTE blew up two boats of the Sri Lankan Navy at Trincomalee base. Providing reasons for the collapse of the truce, Anton Balasingham, the theoretician and advisor of the LTTE, claimed that the written exchanges failed to clear and create mutual trust. Indeed, the letters exchanged contributed to a gradual build up of distrust and hostility, and also helped to reinforce the mutually entrenched positions widening the gap between the protagonists.<sup>5)</sup>

### **Norwegian Mediation in Sri Lankan Conflict**

Towards the late 1990s, both parties to the conflict realized that an intervention by a genuine outside party was a crucial option to transcend the internal political turmoil and deteriorating trust between the parties. In 1998 the government of Sri Lanka invited Norway to facilitate peace talks. Oslo had received informal requests from both the Sri Lankan president and the LTTE leader in order for intervening in many practical matters concerning the conflict in Sri Lanka. Gradually those had transformed into official requests and were confirmed in 2000.<sup>6)</sup> As Jacob Bercovitch and Allison Houston write,<sup>7)</sup> mediation becomes most likely successful (62.3%), when it is demanded by both parties to dispute, as opposed to just one (41.3%).

### **Influential Factors for the Compromise**

Most countries including the United States, Canada, Australia, United Kingdom, and ASEAN and SAARC member countries banned the LTTE in the late 1990s as a terrorist organization. UNICEF branded LTTE as one of few armed groups that employ children in the battle field.<sup>8)</sup> The European Union (EU) called on the member states to monitor the LTTE offices operating in the territory of the EU.<sup>9)</sup> Having failed in its strategies to address the growing international repugnance towards them, the LTTE’s future prospects became gloomy. Concerning the Government, it was affected by major external influences coming from the international donor countries at the “Paris Conference” and “Bretton Woods” institutions and hence, it needed peace to attract investments.

## **“Ripe Time”**

The recognition of the “ripe moment” is also crucial for successful conflict mediation. At a ripe moment the parties may find themselves locked in a stalemate which brings them only an unavoidable catastrophe. Or else they no longer see the viability of unilateral solution.<sup>10)</sup> The political Advisor to the Sri Lankan President Laksiri Fernando expressed his views in the interview about the ripeness of the time when Norway mediated the conflict. In his opinion at the end of the 1990s, the Sri Lankan military had exerted their full strength in “Operation Jayaskuru” to capture the A-9 road, but could not achieve it. On the other hand, the LTTE had begun a heavy operation to capture Jaffna but could not go beyond Muhamalai. This had been a mutually hurting stalemate. According to Zartman, a ripe moment is a “mutually hurting stalemate” where neither party is able to win the conflict. It is claimed that ripeness only explains why the parties meet for negotiations and cannot be used to explain the outcome of such a process.<sup>11)</sup>

## **Legitimate and Expert Resources**

Several distinctive features of Norway contributed to its credibility. As Laksiri Fernando referred to in an interview, Norway had already gained an international reputation due to its maintained good social record as a peace broker and that brand had been the main convincing factor for the Government. Personal reputation, track records, and special expertise are all constituents of the status of a mediator, which is an important factor determining the operational success. Norway is one of few countries in the world which could maintain an excellent liberal democracy, egalitarianism in the society, and a favorable foreign policy towards the South.

Norway has achieved a reputation through its efforts towards peace building. Due to its generous and non-coercive policy, Norway has maintained a less threatening and less domineering impression in the South. Norway is one of the highest donor contributors in the world. Since 1974 the amount of aid contributed has constantly exceeded the United Nations target of 0.7% of GNP. This reputation established the legitimacy of Norway for mediation in Sri Lanka’s conflict.

## **Referent and Reward Resources**

According to Touval and Zartman,<sup>12)</sup> the parties’ relations with a would-be-mediator are a major contributory factor for acceptability of that mediator. This quality pertains to the “referent resource” of a mediator. This referent resource based on the identification of the recipient with the influencer is built on their relationship and any sensing of fundamental similarity or empathy which exists.<sup>13)</sup> Norway’s relations with Sri Lanka run back to the late 1960s when it began a fisheries development project in the Jaffna region (Northern Sri Lanka).<sup>14)</sup> Norway had never banned the LTTE as a terrorist group. This was a positive gesture to the LTTE in relational terms. The Sri Lankan consular general to Norway had mentioned in the interview that there are some 15,000 Tamils living in Oslo working for the cause of the LTTE collecting money and they conduct demonstrations. This had been quite a well known fact. This conveys that there was less resistance for LTTE propaganda activities in Norway. Slim observed that in international mediation, “small states” as mediators may be regarded as sympa-

thetic and trustworthy by the weaker party while being considered non-threatening by the more powerful.<sup>15)</sup> Being a small state, this observation is also applicable to Norway.

### **Norwegian Mediation and Indian Interests**

The Sri Lankan conflict is significant to India. Even though it is hardly possible to assume that India would make any intervention in the conflict, still she heavily concerns how the parties are going to compromise. India would not like somebody with a strategic interest that would interfere with its defense policy or security policy having a presence in Sri Lanka. It was the stance of a spokesperson to the Peace Secretariat of the Sri Lankan government who had once explained how the Indian factor mattered in selecting a mediator to the conflict. Norway, a “small state mediator” with no “super power” motives, suited the Indian concerns. Norwegian peace envoy Eric Solheim has said that Norway would recognize India’s legitimate interests in Sri Lanka, and had no desire to come in the way of any Indian initiative to end the extended conflict within its Southern neighbor.<sup>16)</sup>

### **Norway as a Facilitator**

From the beginning of the mediation process, Norway described its role in the negotiations as facilitative.<sup>17)</sup> The Advisor, Ministry of Foreign Affairs of Norway had once described the role of Norway in the Sri Lankan conflict as assisting the parties in their efforts to reach a political solution but not imposing a solution on them. A significant part of Norway’s efforts had been focused on facilitating understanding between the parties; they had spent much time providing a channel for communication between the parties and helping them to bridge the gap between their respective positions. In this effort, they had undertaken only those actions, such as making proposals or arranging meetings that the parties had explicitly requested from them.<sup>18)</sup>

According to the above self-definition, the Norwegian strategy of mediation in the Sri Lankan conflict sits at the lower end of the continuum of mediation strategies. This means the provision of communication facilitation strategies where the mediator typically adopts a fairly passive role, channelling information to the parties and facilitating cooperation but exhibiting little control over the more formal process or substance of mediation. In Sri Lanka, there is a political debate on the role of Norwegian mediation. Some argue that Norway overruns the limits of its designated role of a facilitator. The spokesperson to the Sri Lankan government’s peace secretariat, Shanaka De Silva, states that Norway would be considered just a facilitator and the Government did not want see them taking a role beyond that.

The Norwegian peace envoy to the Sri Lankan peace process answering my question on the limits of the Norwegian mediation contended that there was only one limit. They would never do anything which was not accepted by the parties. They would never do anything with the LTTE which was not accepted by the government. Nor would they do anything with the government which was not accepted by the LTTE. When it came to talks, it was for the parties to decide. Of course they had no way whatsoever of imposing peace in Sri Lanka. Whatever the two parties in agreement had asked them to do, they were ready to do. All three parties have consensus on the

definite role of Norway. This consensus reduces the tendencies for misunderstandings.

### **Memorandum of Understanding**

In Sri Lanka, where relations between the disputing parties have deteriorated to the point that misperceptions and misinterpretations in communication were high, the role of Norway as an intermediary played a crucial role in achieving the task of drafting a protocol in order to define a pre-negotiation. This task was achieved on February 22, 2002, with the signing of the Memorandum of Understanding (MoU) between the government and the LTTE.

The communication link done by Norway via meeting with each party separately made the climate between disputants for the transition from destructive into constructive relations. The MoU laid the foundation for this transition. It is comprised of four articles:

1. Modalities of ceasefire
2. Measures to restore normalcy
3. The Sri Lankan monitoring mission
4. Entry into force, amendments, and termination of the agreement

### **Impacts of Ceasefire Agreement**

Under article 1.2 the two parties undertook not to engage in any offensive military operations. Un-armed government troops as well as LTTE cadres were permitted to visit families and friends residing in areas under the control of the other party. According to one of the LTTE cadres in Thambiluwill village of Ampara district in Eastern Sri Lanka, he could easily move to places without any restrictions after the ceasefire and he wanted to continue that peace though that was not the real freedom he was waiting for.

To the question of the reasons for the long survival of that peace process, the Eastern province development officer to the LTTE, Ariyanayagam Chandra Nehru, answered that in previous times the Government had kept the military alert, but that time their men had got an opportunity to travel freely.

These conciliatory attitudinal and behavioral changes during the long dragged-out peace process would play an important role to make the process irreversible. Some external interveners try to bring about personal changes of heart and mind within individual leaders or small groups directly.<sup>19)</sup> Norway paved the pathway to a similar change not by a direct approach but by an indirect approach.

The careful manipulation of communication strategies by Norway helped to prevent the breakthrough of the peace process at the top-level, and time was made available for gradual changes, anticipated with implemented environmental adjustments. The measures taken by Article 1.8 in the MoU to disarm Tamil Para-military groups by the GOSL helped to reduce the number of parties involved in the conflict.

### **Measures to Restore Normalcy**

Among many drastic steps taken under this article was the opening of trunk roads

which had been subjected to restrictions. The Kandy–Jaffna (A-9) and Trinco–Habarana roads were opened for non-military traffic of goods and passengers. Specific modalities for this were worked out by the parties with the assistance of Norway.

My field visit to the “Omanthai” border crossing Vavuniya district gathered valuable observations and facts on implications of the re-opening of the (A-9) road. The general view of the people about the reopening of the road was very praiseworthy. They said, before the border was opened, they had to face many difficulties to go to Colombo; travelling by ship took nearly two to three days. For that journey, earlier were they spending about 2,500 rupees. But, at that moment it took only one day for travelling and it cost no more than 500 rupees.

According to statistics, about 7,000–8,000 people and 1,000 to 1,200 vehicles crossed every day into and out of the Vanni at the crossing points of “Omanthai.”<sup>20)</sup> For normal people, who had to undergo embarrassments and pains taking procedures to go between North and South, that opening of the border was a giant leap forward for peace because there had not been any free pass to move since the war started. The opportunity opened up to witness the remnants of war and the people suffering from poverty, injustice, and inequality on both sides facilitated alleviation of prejudices, myths, and misconceptions between North and South communities. In particular, some people in both areas who have seen the other side after twenty years talked about their new insight into the commonalities of problems. I have seen people developing sympathy towards each other. An ordinary villager in Panama in Ampara district raising his idea regarding peace process pointed out that before peace, it had taken about five hours to go to the nearest town passing seven check points. Now, after the removal of check points, it had taken at maximum two hours.

My overall observation about this village was that the social impact of the implementation of the MoU on the lives of villagers had been persuasive. The absence of infrastructure development might have dampened the positive attitudinal changes for peace resulted from the initiation of the MoU.

## Track II Diplomacy

The real owners of the negotiation, the grass roots-level people, hardly find opportunities to have their voice at the negotiation table. Socially, the assistance to the civil society in terms of bridge building, confidence building, and the basic peace building process is important in raising the voice of grass roots-level people. Looking through Norwegian assistance to the civil society, a significant portion of it can be seen devoted to NGOs. This complies with the Norwegian policy of prioritizing assistance to NGOs

Table 1: Financial Assistance from the Norwegian Government to NGOs in Sri Lanka

Organizations	2001	2002	2003	Area funds allegedly used
Friend of Lanka	172,600 NOK	321,400 NOK	1,094,188 NOK	East and Uva Province
Future in Our hands	588,100 NOK	380,250 NOK	366,382 NOK	Central and West
Centre for Human Development	754,600 NOK	463,000 NOK	499,424 NOK	North and East
Green Movement of Sri Lanka	366,300 NOK	321,400 NOK	7,726,366 NOK	Unknown

Source: <http://www.senter.no/money.htm>, All figures in Norwegian Kroner

in its development assistance for the South.

In observable terms, this is the main mechanism that Norway followed to cover Track-II diplomacy. But the reliability of most of the NGOs as efficient and promising agents in the peace process should be properly evaluated. The program administrator of the Consortium of Humanitarian Agency in Sri Lanka expressed its general view on NGOs that many NGOs that mushroomed during the peace process were not genuine; they somehow managed to convince donors.

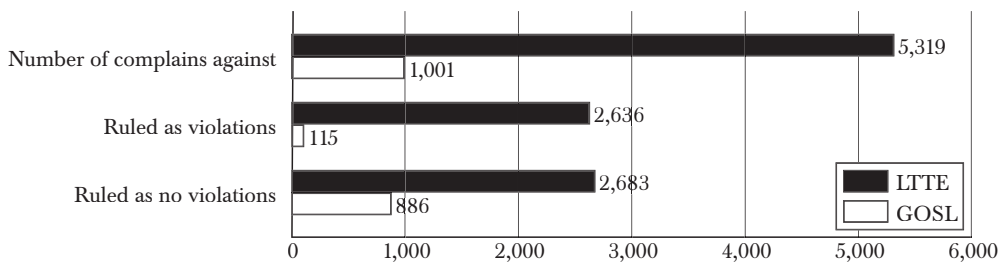
According to the informants of this study, there were coordination problems and lack of dialogue between the NGOs and the parties in the conflict. If all could negotiate and build up a common mechanism and a proper plan, the efficiency of NGOs could be optimised.

### The Sri Lanka Monitoring Mission (SLMM)

Subject to acceptance by both parties, the Norwegian government had to appoint the Head of the Sri Lankan Monitoring Mission (SLMM), who was the final authority regarding the interpretation of this agreement. The SLMM was comprised of representatives of Nordic countries. The local monitoring committee had been established in Northern and Eastern districts. Each committee consisted of five members, two appointed by the government and two by the LTTE and one international monitor appointed by the Head of Mission (HOM).

According to the agreement, in their respective districts they had to seek to resolve any dispute concerning the implementation of this agreement at the lowest possible level. The government and LTTE appointees increased the capacity of the committee in order to deal with local communities. Per Christer Larsen, assistant to the Deputy Head of Mission, pointed out that they had a great deal of understanding of what the situation was by working with and interacting with local communities. There were, for example, in “Mannar” a Catholic priest and a Muslim priest as members of the committee.

Conversely, the presence of international monitors with comparative understanding of conflict resolution experiences in other countries would always be an asset for the local monitors. Article 3.10 states, the members of the SLMM shall be given immediate access to areas where violation of the agreement is taking place. Article 3.11 states, it shall be the responsibility of the SLMM to take immediate actions on any complaint made by either party to the agreement and to enquire into and assist the parties in the



Source: Sri Lankan Monitoring Mission Report, 2005

Figure 2: Summary of Recorded Complaints and Violations of CFA from All Districts (SLMM) (Period 01.02.2002–30.11.2004)



settlement of any dispute that might arise in connection with such complaints. Without responding based on objective and sober assessment of the reports of violation of ceasefire agreement, it would certainly be difficult for the parties to proceed further in the peace process. The ceasefire created by the MoU was an innovative initiation directed at confidence building. In terms of this objective, the SLMM might have been the most important article of the MoU. It was at the center of the most sensitive and crucial issues needed to develop confidence and trust between the parties. As monitors to witness the breaching of confidence or the violation of the ceasefire agreement, they undoubtedly attract the peak attention of not only the parties but also of public opinion. On the one hand, the presence of them helped parties to extend their relations into a third dimension. On the other hand, since then has it been a third party to be responsible and to be blamed for the violations. Due to the growing number of violations of the Ceasefire Agreement (CFA), the SLMM were subjected to many criticisms and discontent.

As was evident from media and protests, the opinion of most of Sri Lankan people was that the SLMM had not being operated at its optimal level in order to discourage further breeches from taking place. I asked Larsen the opinion of the SLMM on the growing discontent of people. He had observed the fact that some groups, especially media, had directed many criticisms toward them, but they had being working within the limits. The CFA had allowed the SLMM only for reporting, recommending, and influencing responsible bodies to take appropriate action.

But people expected a vigorous mechanism to restore justice. A member of the Elam Peoples Democratic Party (EPDP), a rival Tamil political party to the LTTE, said that they were disarmed at the beginning of the MoU. Then the LTTE had begun hunting their defenseless people; the LTTE had killed 170 members by then. He claimed that they had not gained any justice.

These people desperate for justice aired their anger at the SLMM. People demonstrated in front of the Norwegian embassy asking for decent justice. As Larsen commented on the justifiability of directing these accusations for Norwegian mediation due to the work of the SLMM, it was absolutely unjustifiable. That was independent from Norwegian mediation. The necessary codes for the SLMM had been formulated by the parties, and the SLMM had worked for those parties, not to the mediator.

But as article 3.2 of the MoU states, being subjected to acceptance by the parties, the Norwegian government would appoint the head of the SLMM, who would be the authority regarding interpretation of this agreement. It had already been tied to the politics of the peace process. Mainly due to this reason, the SLMM lacked the necessary and sufficient political distance from the negotiating process to appear being independent from the mediator. When the same country is involved in both processes, people find it difficult to identify the difference of interests between the SLMM and the facilitator role.

The difficulty in running these two processes independent of each other was apparent in some incidents. Once, a leading newspaper in Sri Lanka, *Divayina*,<sup>21)</sup> reported controversial behavior of an SLMM officer under the heading, “Norwegians hostile acts have been revealed.” Even though these incidents seemed isolated and personal, they made a significant negative impact on how people perceive the role of mediator,

his authenticity, and neutrality.

### **Keeping Parity between Parties**

Because of the structural asymmetry of internal conflicts, mediators must combine the most intrusive of the three mediation roles: manipulation of the other two, communication, and formulation. As communicators, mediators merely carry messages, overcoming the procedural communication gap between parties; as formulators, mediators should put forward their own ideas about possible outcomes, overcoming the substantive communication gap; but as manipulators mediators have to be involved in sharpening the stalemate and sweetening the proposed outcome.<sup>22)</sup> Norwegian mediators in the Sri Lankan conflict have worked basically as communicators.

But subtle manipulator acts have also been used on their way to making the peace process efficient. Norway had provided communication equipment to the LTTE in 2003. This has been a controversial issue in the political dialog regarding the mediator role. In the conference of “Road Maps to Peace in Sri Lanka” conducted on August 20, 2004, at Kongressenter, Folkets hus in Oslo by the World Alliance for Peace in Sri Lanka (WAPS), Susantha Goonatilake suggested that the Norwegian government’s involvement in importing radio equipment had implied that future attacks of the LTTE could have been coordinated more efficiently and effectively. That was electronic equipment with the highest available degree of security from interception, and even the Sri Lankan government did not possess such sophisticated radio equipment.

The Norwegian *Aftenposten* newspaper reported that incident under the heading “More criticism for peace broker.”<sup>23)</sup> In that article, Jehan Perera, director of National Peace Council in Colombo, Sri Lanka, noted that the importation of six tons of electronic equipment for the LTTE had been focused on in Sri Lankan media for about a year, criticizing the stance of the Sri Lankan government to approve the radio equipment earmarked for broadcasting the LTTE’s political message. The controversy was that it was the Norwegian authorities who had imported the equipment in an irregular way, under diplomatic protection, to avoid taxation. This was an LTTE condition, but there had been no attention by Norwegian authorities to the probability of using that equipment for military ends, even if radio equipment can obviously be used for such a purpose.

In my interview with Solheim, he replied to a question on this issue, stating that it was done in coordination with the Sri Lankan government. They had assisted the LTTE in this communication equipment because they had felt that it would be beneficial to the LTTE to communicate easily with the government of Sri Lanka in order to move the peace process forward.

Here the mediator relates resources to the mediation process to increase the efficiency of the peace process. In theoretical terms, the mediator has used his strategic strength in mediation with the aim of altering the behavior of a party. Strategic strength in mediation is an aspect of social power that relates to the resources and relationships the mediator brings to the conflict.<sup>24)</sup> Mediation is goal-directed behavior, and it is a matter of influencing the other’s behavior.<sup>25)</sup> For that, the issue of what to do and when to do it is a central concern in mediation. There is no doubt that there

are more questions than clear-cut answers in the matter of what is effective in mediation. Knowing what to do and when with the appropriate touch is what makes the “art” of mediation so salient.<sup>26)</sup> In particular, in a civil war, more sensitive and crucial issues are involved, making it more difficult for the mediator to decide. One of the problems mediators have is how to bridge the gap between the “rebels” and the government without threatening the sense of sovereignty of the latter.<sup>27)</sup>

In the Sri Lankan conflict, not only the sovereignty of Sri Lanka but also that of India is involved, making it even harder for the mediator. As a leading Sri Lankan newspaper, *Sunday Divayina*, once pointed out, the Indian Intelligence Service (RAW) was particularly concerned over the ability gained by the LTTE from this equipment to expand its radio transmission territory to South India as it could be used to promulgate South Indian separatism. The threat from the LTTE to Indian sovereignty was expressed in the Home Ministry’s annual report in 2004, mentioning the LTTE as an extremely potent, most lethal, and well-organized terrorist force with strong connections in Tamilnadu and pockets of Southern India.<sup>28)</sup> It has been linked to “Tamil chauvinist” elements who are inspired by the Tamil Elam concept for a separate Tamilnadu.

The mediator’s involvement in assisting parties to the conflict regarding material items can affect his image of neutrality. Due to the availability to get to know these events from the media, it will considerably influence peoples’ image of the mediator. Most of the people in informal interviews with me conveyed the belief that Norwegians use their authority and resources to tip the balance of the outcome. Taking into account that “empowerment” might affect the neutrality of the third party, both Wehr and Modelski suggest that the “empowerment” actions be undertaken by an actor other than the intermediary who is willing to work in conjunction with the latter for the benefit of the conflict resolution process.<sup>29)</sup>

There were other international actors lending its sponsorship to this peace process in Sri Lanka. Japan, the European Union, and the United States were also lending hands in the peace process.<sup>30)</sup> If the above material assistance was done via one of those donors to Sri Lanka, it could not have damaged the image of the mediator. Another provocative incident was cited in a Sri Lankan newspaper, under the heading “Military advice to a group of tigers from Norwegian Rena Military Camp.”<sup>31)</sup> The newspaper stated that a visit organized by the Norwegian foreign ministry for a group of LTTE people to Norway with a published intension of political discussion has actually had the hidden intention to give military training. The article quotes a Norwegian website to show what it claims to be the published purpose of this visit. As it had been reported, the web site stated that a delegation of representatives from the Sri Lankan tigers had arrived in Norway to discuss the political situation in their country and they would meet with the foreign minister, Jan Peterson, and others engaged in the Norwegian efforts to facilitate peace talks in Sri Lanka.

During the formal interviews with Sri Lankan government representatives I asked their opinion about the question of the facilitator’s duplicity and partiality as that newspaper was trying to suggest. The spokesperson to the government peace secretary refused to talk on specific issues. The personal view of Laksri Fernando (an advisor to the government) on this particular issue was that Norway had said that they had

not given any military training but had showed only how they operate in peace keeping; whatever they needed to do, taking them to a military camp at that time would bring about suspicions. Laksri Fernando does not think that they had any ulterior motives, but were naïve; as an impartial intermediary they had to be more careful than that.

On April 2, 2003, the official website of Norwegian Defence published the same news under the heading of “Tigers visiting Rena” and contended that a group of the LTTE peace secretariat delegation visited the Norwegian defence and Rena camp.<sup>32)</sup> In that article, a former Head of the SLMM and retired Military General, Trond Furuhoivde, has written that they were at that time assisting the foreign ministry as organizer of the LTTE visit. The purpose of that visit was for the Tigers to see how different types of defense forces are organized and how they functioned. Tigers would retain the knowledge gained about military matters, as well as knowledge about the ways of a democratic government, as practiced by the Nordic countries. Later they would come up with their own ways of establishing similar practices in a peaceful Sri Lanka, alongside the Sinhalese. They had felt that the tigers had already come a long way in the transition from being a guerrilla movement to becoming a political apparatus.

The Norwegian foreign ministry had given demonstrations in military matters to the Tigers with the assumption that peace is inevitable. The Sri Lankan peace process was in its pre-negotiation phase where the parties were still developing understanding. Every pre-negotiation attempt would not result in negotiation. This fact was evident in pre-negotiation efforts in the history of the Sri Lankan conflict. Even if Norwegian facilitators by their experience with the parties had sensed that the LTTEs would have transformed into peaceful bodies and they would never use the knowledge gained about the military matters in a future war, it would have been for the relief of everybody that they could engage both parties for the session.

A mediator should not be met with any difficulty in inviting parties to the conflict to the same session on a stage where he could predict that all parties would work side-by-side peacefully in the future; then nobody would have to become nervous because it has been done with the agreement of all parties to the conflict. Kristin Doubinson has stated that the Norwegian mediators were naïve, and sees that as a weakness in their approach to peace. She quotes a former Norwegian foreign minister, Jan Ege-land, who has said that one of the most important lessons Norwegians have learnt was that they must not be naïve democrats who believe that all parties come to the negotiating table with a true desire for peace.<sup>33)</sup>

Doubinson then argues that a certain amount of naivete when choosing to intervene in some of the world’s most protracted conflicts can, however, be an advantage. As Ege-land hinted above, if he and his colleagues had been fully aware of what they were stepping into, they would probably never have got involved in the first place.<sup>34)</sup>

From another angle, I see those events as the mediator’s efforts to keep healthy relations with the parties to the conflict. Relational tactics pertain to mollifying relationships between the mediator and the parties, and modifying such relationships toward the success of mediation. Providing an empathetic ear, responding to necessities, and giving rewards at times develop a bond between the mediator and the particular party.

This bond may be strong enough to drag the party to the pre-negotiation phase, providing time for transformation. With time, the bond would develop to an extent that the party will be incapable of saying “no” to the mediator. On the other hand, helping to keep equity, Norway could have reduced the asymmetry of the conflict as the mediator.

Mediators often empower weaker parties in the interest of an equitable settlement to end human misery.<sup>35)</sup> So the legitimacy given to the LTTE and strengthening it by material and psychological means can also be seen as an attempt of the mediator to provide equitable condition for both parties to redress asymmetry. More often the mediators are likely to have feelings and interests that are the bases for sympathy towards one party compared with another. How they act on such convictions is another matter, however. Some may strive to act even-handed or to be an advocate on both sides; others act to assist one side more than another or to advance their own interests. Such action may be more or less energetically pursued.<sup>36)</sup> One of the basic findings about the negotiation processes internationally is that those function best under conditions of equality, and indeed only take place when the parties have some form of a mutual veto over outcomes.<sup>37)</sup> Many have argued that the probability of the success of an intermediary’s effort is related to the existence of at least a rough parity of power between the conflicting parties.<sup>38)</sup> They justify this argument saying that if there is a marked difference in power between the contenders, the stronger party would expect total victory.

A question arises about how the mediator could be involved in “empowerment” or contrivance of stalemate without jeopardizing his neutral position in the conflict. How can the mediator maintain neutrality and therefore acceptability, in the eyes of the stronger party while taking sides with the weaker party to face up to its opponent? Most of the remarks on Norwegian mediation I heard from people were about its failure to maintain neutrality. I can conclude that to win over the credibility of all the parties and from ordinary people, Norway had to be careful about taking actions which might have endangered its image of impartiality.

The mediator’s partiality can be viewed from another angle in relation to possible rewards he can gain in the cause of mediation. There are three major types of rewards as described by Mitchell which motivate mediators to intervene in conflicts as well as determine partiality to some extent as described above:

- Process rewards (rewards gained through “engaging in the behavior of an intermediary, irrespective of outcome”)
- Achievement rewards (rewards gained through “achieving some form of settlement of the dispute which is at least minimally satisfactory to the parties”)
- Settlement rewards (rewards gained through “achieving a particular, sort—after settlement, which, apart from at least minimally satisfying the parties, also advances the interests of the intermediary”).<sup>39)</sup>

According to Zartman, the motivation to change or influence and the expectation of goal-achievement are the reasons why so many international actors are keen to mediate.<sup>40)</sup> A successful mediation proved by a peaceful negotiation is a process reward for

Norway, whose foreign policy promotes international recognition and prestige in peace work.

### **Peace Talks**

The most evident component of facilitation by Norway for the Sri Lankan peace process is basically political. Norway facilitated a background acceptable for both parties for direct talks between the two parties. There had been five negotiating sessions:

- i. September 16–18, 2002 —at Sattahip, Thailand
- ii. October 31–November 3, 2002 —at Rose Garden Hotel, Thailand
- iii. December 2–5, 2002 —in Oslo, Norway
- iv. January 6–9, 2003 —at Rose Garden Hotel, Thailand
- v. February 7–8, 2003 —at Embassy of Norway, Berlin, Germany.

The first two direct talks held in Thailand had produced some positive as well as negative outcomes. Economic reconstruction in a peace process is an indispensable component. In the first round of talks, both parties decided to establish a “task force” to handle matters regarding this.

In the second round it was decided to setup two sub-committees instead of task forces:

- i. Sub-Committee on Immediate and Rehabilitation Needs in North and East (SIHRN)
- ii. A Sub-committee on De-escalation and Normalisation.

There was also agreement to set up a third sub-committee:

- iii. Sub-committee on political matters; this sub-committee was to be chaired by the heads of the two delegations to the peace talks.

This sub-committee agreed to discuss political subjects. At this time, the Sri Lankan government initiated a huge campaign under the banner “invest in peace.”<sup>41)</sup> Even though the economic themes were highlighted in the basic agreements, it has become hollow in practice due to the lack of efficiency in implementing the economic projects. Lakshman Yapa (MP), a Deputy Minister in the former government involved in talks and implantation of committees, admitted that the SIHRN committee was not successful because they had not been able to utilize the money efficiently to achieve the objectives set out.

The failure of the SIHRN committee was a negative impact to the peace process. This was a place where the peace process was hindered at the Track II level. Out of the five negotiating sessions held, the third became a landmark in terms of the quest for a political solution. The possibility of a federal solution within a united Sri Lanka and the resettlement of refugees were explored. Resettlement and de-mining were started. Ironically, this positive transformation could not be maintained long when the LTTE denied that they had reached any consensus on a federal solution in the

Oslo session.<sup>42)</sup> This was a moment where everybody turned to the mediator and expected to hear the truth from him, the neutral intermediary, who was present at talks. In the second phase of discussion, the LTTE presented its political proposals for an Interim Self Governing Authority (ISGA). The LTTE put conditions for further discussions. A main condition was that discussion should only be based on ISGA proposals. Amidst many debates over the ISGA, the ruling UNP was flexible to discuss the LTTE's conditions. The contradicting standpoints of the two political parties have stalled the peace process with no sign of motion beyond proposals for an ISGA.

Meanwhile, the increasing violations of the ceasefire and threats unleashed after the removal of military barriers led to social unrest. Four Tamil political parties took legal action against the parties to the MoU for having disarmed them and putting them in jeopardy.<sup>43)</sup> The ruling party was criticized for jeopardizing the country's security.

The president decided to take over three ministries under her office, including the defense ministry.<sup>44)</sup> Disputes began between the president and the ruling party. Norway withdrew from its mediation role at the end of 2003 on the grounds of disagreement between the president and the ruling party.

In mediation, a key source of the strength of the mediator comes from the disputants' need for the mediator's involvement in finding solutions to their problems.<sup>45)</sup> This source of strength is exercised when the mediator has a threatening power to terminate mediation.<sup>46)</sup> With the disunity between the president and the ruling party, the mediator faced the difficulty of identifying clearly the spokespeople for the government. The cohesiveness existing within each conflicting party is important to establish the clear identity of the parties. If there is disunity within the parties, it may be impossible even to clearly identify them in the first place.

A main criticism directed towards the government was that it had no consensus over the national problem.<sup>47)</sup> Shanaka De Silva, the spokesperson to the government peace secretariat, described the lack of unity in the government with regard to matters in the peace process. According to him, the government's position on the peace process had always been communicated through the President. The President had been elected in our own right not as a coalition party person. This whole idea of multiplicity of voices was something that the LTTE was raising for their advantage. Multiplicity of voices in the South is good. This is pluralism. If someone wants to eliminate this multiplicity of voices, then that one has to do what the LTTE was doing, kill-off anybody that has a different opinion.

The 2004 general election had a substantial impact on the peace process. The LTTE re-formed its political counterpart, the Tamil National Alliance (TNA) for this election. The TNA gained overall 52% of the total valid votes cast in the Northern–Eastern province.<sup>48)</sup> The government was changed on this election. The ruling United National Party (UNP) lost in this election and a coalition of the Peoples Alliance and the “Marxist” Peoples Liberation Party (JVP) came into power. In April 2004 the new government invited Norwegian mediators to restart the stalled mediation. By August 2004, there was debate among the main political parties on the continuation of the peace process. The new government's position, as expressed by a spokesperson of the government peace secretariat in one of my interviews, was a very proud one about the fact that the LTTE had prepared a political proposal for the first time.

But the Government claimed that the LTTE must insist that it would only be their document. This shows that they were being intransigent; they were making the situation very hard to move. The LTTE's standpoint was given in a heroes' day presentation by the leader of the LTTE. There, he said that they had always been consistent with their policy with regard to their struggle for self-determination. Tamil home land, Tamil nationality, and Tamil's right to self determination were the fundamentals that underlined their political struggle. They had been insisting on those fundamentals from Thimpu (1984) to Thailand (2003).

Sunil Hadunneththi, the Deputy Minister of Small Industries (MP) and a politburo member of the JVP (a party to the coalition government), said that the ISGA was a giant leap towards separation. As he pointed out, any person who genuinely believes in equality and opposes separatism must have seen that separatism should be defeated and equal rights for all communities established. Otherwise, the future of all communities in Sri Lanka would be chaotic and destructive. TNA Parliamentarian Sivashakthi Ananthan, viewing the present situation, expressed that they had already descended from Elam.

The JVP was pressing them to go back for a separate state. If they were compelled to do that, the responsibility had to be taken by the JVP-pioneered nationalists. They had put their demands on the table. If the government was not ready to talk, they would have an alternative and they would have to conform to their leader. Galtung, applying his experience in mediation to the Sri Lankan peace process, points out that the problem was not lack of confidence or lack of trust as such but the lack of good ideas.<sup>49)</sup> The way to have good ideas was to have good dialogues, not debates but dialogues. The mediator would know much less about the conflict but would know more about conflicts in general.

Considering the Sri Lankan protracted conflict, Norway has a vast capacity to facilitate with its expertise and legitimizing resources. There could have been a real threat to the negotiation process if the ceasefire had been left isolated from parallel and supporting political parties. In reality, it seemed that not only the parallel and supporting political parties, but also the masses from all kinds of groups had been undervalued in terms of their capacity to manipulate the negotiations.

## **Conclusion**

In the Sri Lankan conflict, several peace efforts attempted by the Sri Lankan government and the LTTE collapsed mostly due to misperception and misinterpretation of communication between parties. In this context, Norway, a small state mediator, entered into the conflict to fill the communication gap between the two parties. In terms of Zartman's equalization of stalemate to ripeness, the Sri Lankan conflict was to be identified a ripe moment at the time of mediation. The MoU signed between the two parties for a ceasefire laid the atmosphere for a pre-negotiation phase. There are both positive and negative effects of establishing a pre-negotiation period prior to the negotiation. The conditions made by the MoU to restore normalcy worked positively to change attitudes, behaviors, and contexts of the conflict between parties. But there were some shortcomings of the MoU itself and inefficiencies when it came to the implementation phase. The Sri Lanka Monitoring Mission lacked institutional and per-



sonal resources for optimal functioning. Involvement in the work of the monitoring mission affected badly the image of neutrality of the mediator's role. The increasing violations erupted during the ceasefire caused enormous societal tensions risking the ceasefire agreement. It seemed to be necessary to address the conceptual and human security shortcomings of the CFA, and to elaborate with the parties towards a consolidated ceasefire agreement including a set of confidence and security building measures. The media had a substantial impact on people's attitudes towards the mediator. Norway as a facilitator had been subjected to criticisms mainly regarding neutrality.

The moderate mentality of the mediator towards cultural differences and the complexity of the conflict had made him more vulnerable for criticism-prone actions. In the time that was available, he could have contributed to a constructive transformation by cultivating a reasonable understanding about the socio-cultural making of the parties concerned. As the nature of opportunities that had arisen was delicate, it would better if all parties urgently had gained a complex view of the conflict and adopted compatible strategies analyzing a range of viable options.

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