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The Consequences of Failed Mediation in Civil Wars: Assessing the Sri Lankan Case

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**The Consequences of Failed Mediation in Civil Wars:
Assessing the Sri Lankan Case**

Sandra Destradi and Johannes Vüllers

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The Consequences of Failed Mediation in Civil Wars: Assessing the Sri Lankan Case

Abstract

While mediation efforts in violent conflicts often fail, the academic literature on mediation has long ignored both this phenomenon and its consequences. This paper aims to fill this significant knowledge gap by examining the conditions under which the failure of mediation leads to an escalation of civil war. Based on the literature on bargaining, we argue that the degree of negotiability of the conflict parties' strategic objectives, as well as the relative weight of hardliners and moderates within those conflict parties, influence the likelihood of escalation after mediation failure. A plausibility test carried out for Norway's failed mediation in the Sri Lankan civil war confirms the usefulness of our model. In particular, the suspension of negotiations in April 2003 led to a shift towards less negotiable strategic objectives for both conflict parties and to a strengthening of hardliners within the government. This contributed to the escalation of the conflict, up to its eventual termination in May 2009.

Keywords: Sri Lanka, mediation, civil war, mediation failure, conflict parties

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The Consequences of Failed Mediation in Civil Wars: Assessing the Sri Lankan Case

Sandra Destradi and Johannes Vüllers

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1 Introduction

What happens when mediation fails?¹ The question of what the consequences of failed mediation are has remained largely unaddressed in the literature to date, especially in studies on mediation in civil wars. While the past years have seen some ‘success stories’ in the field of civil war mediation, for example, the successful settlement of the armed conflict in Aceh with the help of Martti Ahtisaari’s Crisis Management Initiative in 2005, in the post-Cold War era incidents of mediation failure abound. While the bulk of the literature on mediation has ad-

¹ We thank the German Foundation for Peace Research, which funded the project ‘When Mediation Fails: A Pilot Project on the Consequences of Failed Mediation on the Escalation of Civil Wars’. As a part of this project, we organized a workshop at the GIGA on 14–15 June 2012. We thank the participants for their various insights and their support. We also thank Matthias Basedau for his helpful comments. All the usual caveats apply. An earlier version of this paper was presented at the Roundtable, ‘Sri Lanka in the World – The World in Sri Lanka’, held at the University of Zurich on 23 November 2011.

dressed what the necessary conditions for successful mediation are – thereby providing a large body of policy-relevant research – little work has been done on the implications of mediation failure. Does the fact that the conflict parties have been sitting at the same table automatically imply an improvement in the situation and represent a good basis for further negotiations? Or, might mediation lead to unintended consequences – with its failure inducing the conflict parties to conclude that negotiating is not in their best interests, thus ultimately leading to their return to the battlefield and to an escalation of violence?

In this paper, we aim to address the largely unexplored topic of the consequences of failed mediation in civil wars by discussing the conditions under which mediation failure leads to an escalation of conflict. To approach this topic, we build on the insights provided by bargaining theory and by the literature on the micro-foundations of rebel groups. After discussing the current gap in the mediation literature caused by the dearth of studies scrutinizing the consequences of failed mediation, we then sketch out our rationalist model. This takes the characteristics of the conflict parties – in particular, any shifts in the degree of negotiability of their strategic objectives and the relative strength of hardliners and moderates within them – as independent variables so as to explain conflict escalation as a consequence of failed mediation. We subsequently carry out a plausibility test for this basic model by applying it to the analysis of the impact of the failed Norwegian mediation in the civil war in Sri Lanka. We choose this case because, after the collapse of the peace process that was promoted by Norway, a dramatic escalation of violence took place. This culminated, ultimately, in the military victory of the Sri Lankan government in May 2009 – a feat that was accompanied by massive human rights violations and numerous war crimes (ICG 2010; UN 2011). Certain studies have addressed different aspects of Norwegian mediation in Sri Lanka, for example, the impact of mediation strategies on the effectiveness of the efforts (Höglund and Svensson 2011a). However, while some authors have pointed out that the peace process (Goodhand and Korf 2011) – or, more specifically, the failure of mediation – may have ‘added to the intractability of the conflict’ (Höglund and Svensson 2009: 187), theory-led systematic analyses of this failure–escalation nexus are still severely lacking. The sources employed in this article range from such primary sources as the declarations made by the Liberation Tigers of Tamil Eelam (LTTE), as reported on the internet site *TamilNet*, to articles in the press and the findings of the secondary literature. Most importantly, a recent evaluation report compiled on the Norwegian mediation efforts in Sri Lanka (Goodhand, Klem, and Sørbo 2011) allows us to gain insights into Norway’s activities and the problems of the peace process that were previously unavailable. Moreover, the analysis is based on an expert workshop that was held on 14–15 June 2012 in Hamburg, Germany. In this workshop we asked four renowned Sri Lanka experts to address the topics of (1) shifts in the negotiability of strategic objectives and (2) the strength of hardliners/moderates within the conflict parties in Sri Lanka, after the failure of Norwegian mediation. We also discussed with them the problem of determining when the

actual moment of mediation ‘failure’ in Sri Lanka occurred. The results from the workshop are incorporated into our paper.

Our empirical analysis of the Sri Lankan case lends support to our theoretical assumptions about the central importance of shifts in the relative weight of hardliners and moderates and the negotiability of the conflict parties’ strategic objectives. We conclude this paper by discussing what the broader implications of our findings are for the literature on mediation, as well as for policy-making and the practice of conflict mediation.

2 The Understudied Topic of Mediation Failure

The impetus to systematically address the issue of mediation failure in civil wars emerges from our recognition of a substantial gap in the existing literature. The whole body of literature on (civil war) mediation has been almost exclusively focused on the necessary preconditions for successful mediation. Among those identified are mediation strategy and style (for example, Bercovitch and Gartner 2009: 27–29; Maoz and Terris 2009; Beardsley et al. 2006); the features of the mediator (for example, Svensson 2007; Frazier and Dixon 2006; Savun 2009); and, the characteristics of the conflict itself – such as ripeness, intensity, the object of dispute, and so on (for example, Greig 2001; Bercovitch and Gartner 2009). Therefore, most studies of mediation – partly due to their policy-oriented approach – focus on the preconditions for success *ahead of* mediation.² They entirely ignore, however, the various events that take place *as a consequence of* mediation failure.

The second major bias in the existing literature is the implicit assumption in most studies that mediation is per se something positive. Most authors seem to assume that bringing the conflict parties to the negotiating table and inducing them to talk to each other must invariably have positive implications. In particular, a learning effect is assumed to take place – and thus previous mediations are considered to serve as a basis on which to build up subsequent efforts and on which to continue the dialogue between the conflict parties (Bercovitch and Gartner 2009: 29–30).

Recently, however, some authors have started to highlight the fact that mediation also entails risks. Even successful mediation can, in the long term, increase the probability of a renewed outburst of violent conflict if the implementation of agreements is not supported by a third party (Beardsley 2008), and the splintering of groups is one of the possible unintended consequences of mediation – be it successful or unsuccessful (Olson Lounsbury and Cook 2011). Failed mediation in particular could be expected to induce the conflict parties to conclude that dialogue simply does not benefit them and that the best way of solving their dispute is,

² Among the exceptions are analyses of the correlations between mediation success and mediation duration or the existence of previous mediation efforts (Bercovitch and DeRouen 2004: 162), as well as studies on the implementation of mediated peace agreements (Bercovitch and Simpson 2010).

therefore, to return to the battlefield (Greig 2010). Whether unsuccessful mediations constitute a stepping stone for subsequent mediation attempts or rather reduce the probability of renewed negotiations remains an understudied question (Beardsley and Greig 2009: 246). It is precisely this research gap that we aim to address in this paper.

3 Approaching a Theoretical Model of Mediation Failure

In order to assess the consequences of failed mediation, we first need to define what mediation failure actually means. Among the many definitions of mediation that are currently in circulation, the following is one of the most widely used:

a process of conflict management where disputants seek the assistance of, or accept an offer of help from, an individual, group, state or organization to settle their conflict or to resolve their differences without resorting to physical force or invoking the authority of law. (Bercovitch, Anagnoson, and Wille 1991: 8)

The definition of what constitutes success or failure is highly contested in the literature on mediation (for example, Kleiboer 1996: 361–362; Bercovitch and Simpson 2010: 71–74). Among the problems inherent in the determination of what success means in the context of mediation are the necessary considerations about the correlation between the goals of mediation and their achievement, as well as about the need to distinguish between ‘subjective’ and ‘objective’ – in other words, measurable – criteria for success (Bercovitch and Jackson 2009: 45–46). The two main datasets on mediation in civil war resort to measurable indicators of success; however, they strongly focus on formal outcomes, without taking into account the implementation of agreements and the actual trends in violence on the ground (Regan, Frank, and Aydin 2009: 140; DeRouen, Bercovitch, and Pospieszna 2011).

Besides the choice of the criteria for measuring success and failure, a further conceptual hurdle is represented by the difficulty of determining the actual endpoint of mediation. Most studies do not explicitly discuss this issue, which becomes crucial, however, when evaluating the outcome of mediation. The identification of an endpoint of mediation is complicated by the informal nature of mediation processes and by the unclear boundaries as per most definitions. How can we classify, for example, the continuation of a mediation effort by a different mediator, possibly including a shift from Track I to Track II or III? And if we choose to stick to formal criteria – like the decision of one of the conflict parties to suspend mediation – to what extent will these events tell us that the mediator actually suspends its activities? More probably, the mediator will try to induce the conflict parties to resume the formal mediation process – and, according to most definitions of mediation, this will itself be a mediation effort.

One possible way to address these problems is to look for a theoretical underpinning for our determination of both the mediation endpoint and of mediation failure. If we take a rational

choice approach to wars and peace processes – considered to be bargaining processes based on an exchange of information between the conflict parties (Fearon 1995; Reiter 2009; Filson and Werner 2004) – mediation itself has to be conceived of as a bargaining process in which the conflict parties exchange information (Beardsley 2008; Savun 2009). Since this information constitutes the basis on which the conflict parties adopt specific policies (among them, an escalation of violence), we need to focus in our definition of mediation on the continuity of the direct exchange of information. Therefore, we consider mediation to have ended if the communication promoted by a third party between the representatives of the conflict parties has broken down. In particular, we focus on Track I engagement – that is, on formal interactions between leaders, as suggested by Whitfield (2010: 6). Correspondingly, *mediation failure takes place if the third party–promoted, voluntary and direct communication between the formal representatives of the conflict parties breaks down before a cessation of violence or an at least partial settlement to the conflict have been achieved.*

The abovementioned bargaining approach constitutes our point of reference for the development of a theoretical model of the consequences of failed mediation. Since the failure of mediation is translated into political action – that is, into an escalation or non-escalation of the conflict – by the conflict parties, we need to focus on their characteristics if we want to explain the possible impact of mediation failure. This corresponds to the approach of the rationalist literature on bargaining and war termination (for example, Slantchev 2004; Filson and Werner 2004), which highlights the importance of actor-related variables, alongside battlefield outcomes, in bargaining processes. On the one hand, we argue that the *degree of negotiability of the conflict parties' strategic objectives* determines the bargaining space: more negotiable strategic objectives will contribute to a broader bargaining space, while less negotiable ones will make the available bargaining space shrink. Correspondingly, we hypothesize that a shift towards non-negotiability leads to an increased readiness to use violence on the part of the conflict actors. The radicalization of positions allows them to mobilize their followers and makes even desperate battles appear necessary and justified. Conversely, a shift towards more negotiable goals may increase the willingness of the conflict parties to de-escalate and thus reduce the likelihood of a subsequent increase in violence. As a consequence, we expect shifts towards less negotiable goals on the part of at least one of the conflict parties to increase the likelihood of conflict escalation after mediation failure.

Moreover, while regime type has long been a crucial variable that has been assumed to determine bargaining behaviour (Filson and Werner 2004), some studies argue that what matters more is the internal structure of the actors involved (Werner 1998; Stanley 2009). While conflict parties have long been considered to be unitary actors, some recent studies have tried to unpack the 'black box' of conflict actors and to study the different groups that they are composed of (for example, Stanley 2009; Gates 2002; Weinstein 2007). Regardless of the regime type and the kind of actor (government or rebel group), political leaders or leading coalitions are always dependent on other actors in order to stay in power – be it the public,

the military, other parties or splinter groups (Stanley 2009: 50). At the same time, even within the most authoritarian systems some kind of continual dispute between different actors in the leading elite is always taking place. In our model, we claim that the *relative influence of hardliners and moderates* has an impact on the likelihood of escalation after mediation failure. In fact, the positions of the actors in charge of making and implementing decisions are essential when it comes to the initiation, continuation or termination of an armed conflict. We can define as hardliners those actors who, 'call for sustained confrontation with adversaries including threatening the use of military force, which they view as the only viable way of deterring an inherently aggressive adversary' (Hagan 2001: 13), or who, in the most extreme cases, generally favour military aggression and expansionism (Hagan 2001: 13). Moderates, in contrast, prefer diplomatic solutions in order to avoid war due to risk aversion, pacifism or isolationism (Hagan 2001: 12). Correspondingly, we expect that a strengthening of hardliners within at least one of the conflict parties will contribute to a reduction of the bargaining space and will therefore lead to an escalation of the conflict as a consequence of failed mediation.

In principle, we can expect similar mechanisms of internal competition, information-processing and decision-making to take place within the structures of both state and non-state actors. Not only is the government subject to the pressure of different interest groups, but rebel organizations are also mostly constituted of different factions (Gates 2002: 127; Schlichte 2009: 283–284) that unleash dynamics similar to those taking place within the government elite itself (Stanley 2009: 49–50, 81). As a result, we take the degree of negotiability of the conflict parties' strategic objectives and the relative strength of hardliners and moderates as the explanatory variables in our model. While a full-fledged model of the consequences of mediation failure also needs to take into account a broad range of contextual factors – such as the conflict setting, the features of mediation and the role of other external actors – our plausibility test primarily focuses on the characteristics of the conflict parties.

4 Mediation Failure in Sri Lanka

The civil war between the separatist LTTE and the Sri Lankan government, which flared up in several waves after its inception in 1983, had experienced several failed resolution attempts before official Norwegian mediation efforts began in 1999 (Goodhand, Klem, and Sørbo 2011: 31). On 22 February 2002, Norway's efforts led to the (separate) signing of a Ceasefire Agreement (CFA) as a first step towards the initiation of peace talks between the two sides. This was favoured by the then temporary strategic parity between the government and the rebels, which opened up a new bargaining space for the LTTE, as well as by the December 2001 election victory for the United National Front (UNF), which led to the formation of a government that was willing to revive the peace process as quickly as possible. Following the CFA, Norway acted as a mediator in six rounds of formal talks between the LTTE and

the Sri Lankan government (Goodhand, Klem, and Sørnbø 2011: 39–40) until the first suspension of talks in April 2003.

Initially, the prospects for a resolution of the crisis seemed to be good. In September 2002 the LTTE's chief negotiator, Anton Balasingham, implicitly dropped the LTTE's long-standing demand for a separate state ('[a] homeland does not mean a separate state as such'³), thereby accepting the idea of autonomy in a united Sri Lanka or, as he called it, of 'regional self-rule' (Sambandan 2002b).⁴ The greatest mediation achievement was reached in December 2002, when the conflict parties declared their willingness to 'explore' the possibility of a federal solution. Even though, with the wisdom of hindsight, we must acknowledge that the government's and the LTTE's understandings of what 'federal' meant diverged significantly (Uyangoda 2011: 29), the rapprochement between the conflict parties highlights that mediation did contribute to the emergence of negotiable strategic objectives out of non-negotiable long-term goals. According to our workshop participants, the basic long-term objectives of the conflict parties – secession vs. the maintenance of a unitary state – did not change. Mediation, however, contributed to changes in their shorter-term strategic objectives.

While several differences between the conflict parties – especially on the issue of weapons decommissioning – had emerged by January 2003, the event leading to the first major cessation of talks was the exclusion of the LTTE from a preparatory meeting for a donor conference in April 2003. The extensive involvement of the international community had led to a peace-building model that clearly privileged economic reconstruction and aid according to a 'liberal' blueprint (Goodhand and Korf 2011). Against this backdrop, Japan – one of the major donor countries to Sri Lanka – organized an international donor conference for 9–10 June 2003 in Tokyo. A preparatory meeting was convened in Washington D.C. While it was clear that LTTE members would not be able to attend, given the organization's proscription in the United States, it was decided that Jay Maheshwaram, who was close to the LTTE but nonetheless not an official member, would take part in the meeting (Goodhand, Klem, and Sørnbø 2011: 45). Despite this agreement, the LTTE ultimately highlighted the fact that this episode would undermine their newly acquired de facto legitimacy as an international actor and reacted by refusing to participate not only in the preparatory meeting but also in the Tokyo conference. Even more importantly, on 21 April 2003 they announced their unilateral withdrawal from the peace negotiations and the temporary suspension of mediation (*TamilNet* 2003d). The resumption of talks was made conditional on the development of proposals for an interim administrative structure for the north and the east of the island (Uyangoda 2011:

³ Reported in Suryanarayan (2002).

⁴ However, LTTE leader Prabhakaran soon qualified this concession by making it clear that the abandonment of the idea of secession depended on the concession of regional self-rule by the government, and that the LTTE would continue its armed struggle if the government did not show its willingness to concede autonomy and self-governance to Tamils. See Sambandan (2002a).

21), something the LTTE had been requesting since 2001 and which it had also been discussing during mediation (*TamilNet* 2003d).

With this first suspension of talks on 21 April 2003, the Norwegian mediation efforts began to crumble. Even though the Norwegian mediators continued to be engaged in Sri Lanka and actively tried to revive the peace process, the momentum reached in 2002 could not be sustained. Formally, both conflict parties reiterated their support for Norway as a mediator (Goodhand, Klem, and Sørbo 2011: 46–47), and, to some extent, communication was kept alive. However, no direct talks took place again until February 2006. After the tsunami of 26 December 2004 hit Sri Lanka, the Norwegians were extremely active and managed to broker an agreement on the so-called Post-Tsunami Operational Management Structure (P-TOMS), a mechanism for the management of tsunami aid that involved both the government and the LTTE. However, even in this case the Norwegian mediators were forced to resort to shuttle diplomacy (Goodhand, Klem, and Sørbo 2011: 53), while ultimately the mistrust between the conflict parties had grown to such an extent that it was impossible for them to take advantage of the new bargaining space opened up by the natural catastrophe. Moreover, immediately after the tsunami violence increased again, leading to a resumption of assassinations and ambushes.

At the same time, both conflict parties started re-arming, and it was in this period that the LTTE built up its airborne wing (Goodhand, Klem, and Sørbo 2011: 54). After the suspension of mediation in April 2003, mediated talks only took place again twice more, in February and October of 2006. The February 2006 talks held in Geneva were marred by ‘mutual accusations and public pronouncements rather than constructive dialogue’ (Goodhand, Klem, and Sørbo 2011: 58). The central topic of the negotiations was the implementation of the ceasefire agreement, given the growing number of violations of it. After this first round, however, the LTTE refused to take part in the second round of talks scheduled for 24–25 April 2006. This time, the announcement of the LTTE declared that ‘its departure from the peace talks was henceforth indefinite’ (Smith 2011: 80). While another round of talks was organized in Oslo for June 2006, the LTTE representatives who came to Norway ultimately refused to participate (Goodhand, Klem, and Sørbo 2011: 60), citing the low-ranking status of the delegates of the Sri Lankan government negotiating team as well as the proscription of the LTTE by the EU in May 2006 as the reasons for their refusal (Sambandan and Reddy 2006). A last direct meeting between representatives of the two conflict parties took place in Geneva in October 2006, and Norway officially remained active as a mediator until April 2009 (Goodhand, Klem, and Sørbo 2011: 67), when the war was about to come to an end. However, the last meeting between LTTE and government representatives took place under entirely different circumstances, with the war then well under way, while Norway’s official status as a mediator in the final years of the war did not lead to any meaningful results in terms of a mitigation of violence. Moreover, Norway’s ability to communicate with the LTTE was severely

hampered after the death of Anton Balasingham in December 2006 (Goodhand, Klem, and Sørnbø 2011: 62).

All of this leads us to consider the LTTE's first suspension of mediation in April 2003 as the crucial moment that determined mediation failure. In fact, this suspension of talks marked the 'beginning of the end' for Norway's mediation efforts in Sri Lanka. Subsequent initiatives – as well as the last two instances of direct talks in 2006 – should be interpreted as being the very last resorts in a dramatically changed situation. In the following sections, we therefore proceed by assessing the events that took place in the wake of the suspension of talks in April 2003, as well as by scrutinizing the various dynamics that mediation failure unleashed within the conflict parties – leading, in turn, to an escalation in violence.

5 The Consequences of Mediation Failure in Sri Lanka

The LTTE's withdrawal from mediated talks in April 2003 was followed by repeated efforts on the part of the mediators to bring the two conflict parties back to the negotiation table. However, this task proved to be extremely difficult since the suspension of talks was followed, on the one hand, by the shift towards less negotiable strategic objectives for both conflict parties and, on the other, by a strengthening of the influence of hardliners within the government.

5.1 Shifting Strategic Objectives

As mentioned above, the conflict parties had radically diverging goals. The LTTE aspired to secede from the Sri Lankan state, forming an independent state for Sri Lankan Tamils in the north and east of the island. The government, in contrast, had the clear objective of preserving the unitary structure of the state and of avoiding secession. While we can argue that these basic goals remained unchanged throughout the time period analyzed, some shifts took place in the shorter-term strategic objectives, which concerned the issue of how to achieve those goals. As a consequence of Norwegian mediation, both parties turned to more negotiable strategic objectives. According to our workshop participants, the LTTE temporarily developed a 'multi-stage approach' to negotiations, first addressing smaller matters like the normalization of civilian life – with the intention of gradually consolidating its quasi-state structure in the controlled territory. Prime Minister Ranil Wickremasinghe, for his part, favoured a solution based on an extended ceasefire and a no war–no peace situation on the ground, as well as the giving of the economic assistance that he believed would ultimately make secession irrelevant to the LTTE. The December 2002 declaration of the conflict parties that they were ready to explore a federal solution is the most unequivocal indicator of this shift in strategic objectives that took place in the context of mediation.

However, after the LTTE's withdrawal from talks in April 2003 we can observe a renewed shift towards less negotiable strategic objectives on both sides. The central bone of contention in the following months was the creation of an interim administrative structure for the areas under LTTE control. The establishment of such a structure was set by the LTTE as a necessary precondition for the resumption of mediation, in the hopes of extending the jurisdiction of their de facto state in the north to the whole north-east of Sri Lanka (Suryanarayan 2003). On the government side, this request by the LTTE equally led to a shift back towards less negotiable positions. The proposal sent by the government to the LTTE through the Norwegians, on 17 May 2003, one month after the suspension of talks, made only minimal concessions. It envisaged a 'North-East Development and Reconstruction Council' with functions to be specified at the Tokyo donor conference and with no actual decision-making authority (Uyangoda 2011: 21). Unsurprisingly, such an offer was not acceptable to the LTTE, which openly admitted the impossibility of legitimizing it in front of its followers. 'We will be ridiculed by the Tamil masses for having fought a liberation war for political independence and statehood and finally end up with village committees devoid of any authority' (*TamilNet* 2003c).

The next proposal advocated by the government did not go much further, merely envisaging a 'developmental entity, subjected to the control of the central government' (Uyangoda 2011: 21), and was equally rejected by the LTTE. As such, the government's proposals for an administrative structure for the areas under LTTE control were clear steps backwards from the federal solution that had been agreed upon, at least in principle, during the mediation talks. That is, on the government side the failure of mediation led to a reduction in the negotiability of strategic objectives. This development was related to the weakness of the government itself. In fact, substantial innovations in the administrative setup of the north and east of the country would have required a constitutional amendment – for which the UNF government did not have a sufficiently large majority. The Sri Lankan government in the period under scrutiny was, in fact, characterized by cohabitation between an Executive President and a government belonging to opposing political parties. The UNF government, composed of the Sri Lanka Muslim Congress and the United National Party (UNP), under the leadership of Ranil Wickremesinghe, had won the elections in December 2001. However, Chandrika Kumaratunga of the Sri Lanka Freedom Party (SLFP), the dominant party in the opposition People's Alliance (PA), had remained in power as the Executive President. This implied that the government had only limited room to manoeuvre in making concessions to the LTTE over the interim administrative structure. Moreover, as will be seen below, hardliners capitalized on the suspension of talks and exerted a high degree of pressure on the Sri Lankan government.⁵

⁵ Uyangoda (2011: 21) argues that the government's decision not to use the proposals on the interim administrative structure as incentives to get the LTTE back to the negotiating table was related to the government's preference for development-related incentives. In our view, however, the problem was actually due to a harden-

At the end of October 2003 the continual disagreements over the future administrative structure of the country reached their peak. On 1 November 2003 the LTTE submitted its first-ever proposal for an interim arrangement within a united Sri Lanka, the so-called Interim Self-Governing Authority for the North-East (ISGA), requesting self-rule for the Tamil majority in the north and the east of the island (LTTE 2003). Even though it did not include the explicit demand for secession, this was a maximalist statement by the LTTE, essentially calling for the political transformation of Sri Lanka into a confederate state.⁶ The notion of federalism did not receive any mention in the proposal and the document was therefore interpreted by the government as an effort to achieve the de facto establishment of 'Eelam' in the north-east. As Uyangoda (2011: 26–27) put it, 'it appeared that the LTTE had submitted a "maximalist" interim solution in response to the UNP government's "minimalist" interim proposals'.⁷ While both conflict parties had, therefore, displayed a certain readiness to negotiate on their strategic objectives in the context of mediation by bringing into play the notion of federalism, the suspension of talks provoked a direct shift back towards less negotiable positions. This reduced negotiability of strategic objectives, in turn, contributes to the explanation of the subsequent escalation of the conflict.

5.2 Strengthening of Hardliners

If we look at the internal structures of the conflict parties, we see that the suspension of mediation had a direct impact on their power equilibriums. On the government side, there had always been critics of the peace process. For example, Sinhala nationalist parties opposed the ceasefire agreement, while large parts of wider public opinion were mixed between being optimistic or cautious about it (Goodhand, Klem, and Sørbo 2011: 37). In fact, for almost a decade nationalist discourses had lost prominence among the mainstream parties and had been kept alive only by smaller, more radical groups (Rampton and Welikala 2011: 99). However, after the suspension of talks in April 2003, the Norwegian mediation came to be framed in increasingly nationalistic terms. For example, former Foreign Minister Lakshman Kadirgamar reportedly accused the government of converting Sri Lanka into a 'playground for [...] foreigners' (*TamilNet* 2003a). This view of mediation as an intrusive process guided by foreign powers reflected the dominant discourse of more radical parties, especially of the nationalist-Marxist and explicitly anti-Tamil Janathi Vimukti Peramuna (JVP), which organized mass protests against the interim administrative structure for the north-east. Even more im-

ing of positions within the government, which made it unattractive to be seen to provide incentives of any kind.

⁶ Workshop participant, 14 June 2012.

⁷ Very different assessments of the ISGA proposal exist in the current literature. According to Höglund and Svensson (2011b), the conflict parties had never been closer to an agreement. Uyangoda (2011: 26–27), on the other hand, outlines the degree of fundamental incompatibility between the goals of the government and the LTTE. We prefer to stick with the latter interpretation.

portantly, the LTTE's proposal contributed to a domestic political crisis in the south (ICG 2007: 19). On 4 November 2003, just four days after the LTTE made public its ISGA proposal, President Kumaratunga suspended parliament for two weeks and, while Prime Minister Wickremasinghe was abroad, she took over the portfolios of Defence, Interior and Mass Communication. After Wickremasinghe's return, a row broke out between the president and the prime minister about the assignation of the position of Defence Minister, which was essential for the continuation of peace talks. Ultimately, the political stalemate in Sri Lanka induced the Norwegians to suspend their facilitation role until it became clear who was in charge in Colombo (Sambandan 2003). Kumaratunga's takeover reflected the strengthening of hardliners on the government side, something that Sinhala nationalists had been repeatedly calling for (Goodhand, Klem, and Sørbo 2011: 47).

More generally, mediation failure unleashed a 'reconfiguration of Sinhala nationalism' in Sri Lanka.⁸ The repositioning of hardliners was further reinforced by a coalition agreement signed between Kumaratunga's PA and the radical JVP in January 2004. While negotiations aimed at forming a coalition to topple the UNF government had been ongoing since 2002, a new window of opportunity had been provided in the light of the growing dissatisfaction with the peace process. As Chandrasekharan (2004) put it,

the agreement for all practical purposes close[d] any hope of *rapprochement* between the two warring leaders – the President and the Prime Minister. With this, the chances of any consensus on the peace proposals are remote throwing further doubts in the minds of the LTTE. (emphasis in original)

Ultimately, the political crisis in the south was solved by the parliamentary elections held in April 2004, which were won by an SLFP-led coalition, with Mahinda Rajapaksa as the new prime minister. It was during this electoral campaign that a broad Sinhala nationalist coalition was brought together.⁹ Besides dealing with economic issues, the SLFP campaign was mainly targeted against the ISGA proposal,¹⁰ and the hard-line nationalist parties strongly criticized the mediation process with the LTTE (Rampton and Welikala 2011: 102). Moreover, several other actors on the government side were staunchly opposed to the peace process. Among them were the bureaucracy, which was never brought into the mediation process, as well as sections of the military. The latter never dared to challenge the civilian government openly, but in the years 2003–06 the resentment among colonels grew, leading to an increase in sympathy for the JVP and the Jathika Hela Urumaya (JHU) among the military's top personnel.¹¹ Interestingly, a peculiarity of the Sinhalese language further played into the hands

⁸ Workshop participant, 14 June 2012.

⁹ Workshop participant, 14 June 2012.

¹⁰ Workshop participant, 14 June 2012.

¹¹ Workshop participant, 14 June 2012.

of hardliners: in Sinhalese, there is no specific word for mediation, and the term that was commonly employed to describe Norwegian mediation actually translates as ‘intervention’.¹² On the LTTE side as well, after the suspension of talks in April 2003, the peace process came to be framed in terms similar to those of the Sinhala nationalists. In a statement of June 2003, for example, the LTTE criticized growing international involvement in the peace process.

By seeking this “[international] safety net” the Colombo regime has shifted the peace process from third-party facilitation to the realm of international arbitration by formidable external forces that has far-reaching consequences to the political and economic destiny of the island. (*TamilNet* 2003b)

As far as the internal dynamics of the LTTE were concerned, it is nearly impossible to identify a shift between hardliners and moderates as a consequence of mediation failure, due to the opaque structures within this rebel organization. According to the experts who took part in our workshop, there was neither a clear distinction within the LTTE between a ‘hardliner’ and a ‘moderate’, nor between a ‘political’ and a ‘military’ wing. The power of Prabhakaran was nearly absolute, and even figures like Anton Balasingham, the LTTE’s chief negotiator, or Tamilselvam, the head of the LTTE’s ‘Political Division’, were less influential and autonomous than is often assumed. Despite being a strictly authoritarian organization, however, in the years 2002–03 the LTTE ‘experimented with a mini-Glasnost as part of their state-building exercise’.¹³ The realization that it needed to transform into a successful *political* organization led to the creation of new institutions, even though it is unclear to what extent these institutions generated any kind of pluralism within the LTTE. In any case, as far as the period after mediation failure is concerned, we do not have enough evidence of a potential strengthening of hardliners within the LTTE. According to the evaluators of Norway’s mediation (Goodhand, Klem, and Sørbo 2011: 50), the peace process exacerbated the internal fragmentation of the LTTE, leading to the fallout between the northern leadership formed around Prabhakaran and the leader of the east, Colonel Muralitharan (alias Karuna), who split from the LTTE in March 2004. After the split, the ‘mainstream’ northern LTTE was so frustrated with the peace process and so wary of further peacetime splits that observers expected it to formally withdraw from it by January 2005 (Smith 2011: 79; Philipson 2011: 116).

5.3 Conflict Escalation

Even though, initially at least, the level of violence remained low, the growing mistrust between the government and the LTTE contributed to them being unable to seize the opportunity for cooperation provided by the aid and reconstruction work necessary after the 2004 tsunami. The P-TOMS, which could have had the additional side effect of promoting cooper-

¹² Workshop participant, 14 June 2012.

¹³ Workshop participant, 14 June 2012.

ation between the government and the LTTE, was never implemented. Instead, it provoked massive protests that were led by Buddhist monks. This growing radicalization reached a new peak when Prime Minister Rajapaksa, in light of the upcoming 2005 presidential elections, signed poll pacts not only with the JVP but also with the JHU, the all-Buddhist clergy parliamentary party. The latter had been staunchly opposed throughout to Norway's mediation, the activities of NGOs and the supposed missionary work of Christian churches.¹⁴

In the meantime, violence on the ground started escalating from 2004, when a 'shadow war' broke out between the conflict parties (Sambandan 2005). Both sides were re-arming, and a wave of abductions and killings took place, with Foreign Minister Kadirgamar being the most high-profile victim, in August 2005. Even though the ceasefire was still in place, 2005 saw a growing frequency of LTTE attacks – according to some analysts, 'with the clear intention of provoking war' (ICG 2008: 2). The mediated talks between LTTE and government representatives in Geneva in February 2006, which were dominated by mutual accusations (Goodhand, Klem, and Sørnbø 2011: 58), were immediately followed by a further hardening of positions, and ultimately by the eventual escalation to all-out war.

This military escalation was set in motion by two events: first, by a suicide attack carried out in April 2006 against the commander of the Sri Lankan Army, Lieutenant-General Sarath Fonseka, to which the army reacted by employing air strikes for the first time since the 2002 CFA; and, second, by the LTTE's blockade of the Mavil Aru waterway in July 2006, which led to the full resumption of hostilities. Even though Norway's Special Envoy, Jon Hanssen-Bauer, at this stage managed to persuade the LTTE to lift the blockade conditionally, the government rejected the proposed arrangement and continued its military operations. Against the background of the government's military campaign, the final direct talks that took place in Geneva – in October 2006 – were unable to make a difference and, in fact, the mediators managed neither to induce the conflict parties to agree on a future meeting nor to reduce the violence (Goodhand, Klem, and Sørnbø 2011: 61). Despite claiming that it wanted a political solution, the government displayed an unprecedented willingness to win peace by war. As Uyangoda (2009) put it, 'what was new in the Rajapaksa administration's approach was the goal of defeating, as opposed to weakening, the LTTE militarily and then making the LTTE irrelevant to any political solution to the ethnic conflict' – which is exactly what ultimately happened. This shift in the government's approach to the conflict was further reinforced by international factors, especially by Rajapaksa's subsequent ability to gain international support for his campaign (Destradi 2012).

¹⁴ Walton and Saravananmuttu (2011: 192–193) illustrate the extent to which Norwegian mediation and indeed the whole peace process had fallen into disgrace in the south as a result of nationalist propaganda. For example, NGOs explicitly avoided using the terms 'peace' or 'federalism' because they raised suspicion among the local population.

6 Conclusion

The plausibility test carried out for the Sri Lankan case broadly confirms the usefulness of our theoretical model. For both conflict parties, the failure of mediation led to a shift towards less negotiable strategic objectives, and on the government side it catalyzed the strengthening of the influence of hardliners. This had a direct impact on the subsequent escalation of the conflict in the country. While a range of other factors – chief among them the shifting perceptions of the international community and the corresponding growing international disaffection with the LTTE (paired with growing support for the government) – played a major role in Sri Lanka's eventual drift towards civil war, these dynamics were unleashed primarily by domestic events. In fact, it was the strengthening of hardliners in the government that made this shift possible in the first place: President Rajapaksa, who was able to capitalize on the post-9/11 zeitgeist by strongly depicting his government's fight as a 'war on terrorism', came to power on a wave of radicalization and against the background of a substantial strengthening of hard-line Sinhala elements in the south. While, as mentioned above, this was part of a wider trend, the failure of mediation seems to have nevertheless substantially contributed to the fostering of these dynamics.

What can we learn, therefore, from the Sri Lankan case? As Uyangoda (2007: viii) aptly put it, with reference to the Sri Lankan peace process in general,

failed and inconclusive attempts at resolving the conflict have not led to sustainable de-escalation but have instead reconstituted the conflict, redefining its parameters and making the possible paths to peace narrower. Peace negotiations have been occasions for the governments of Sri Lanka and the LTTE to discover new differences, explore new enmities, and reinforce existing antagonisms.

Under certain circumstances, mediation failure can, therefore, be said to lead to an escalation of a conflict. Theoretically, the rationalist approach helps us to understand the mechanisms behind this. The moderates must put their weight behind the mediation efforts in order to generate support among their group for the negotiation attempts. If they fail, the hardliners in both parties will be able to gain greater support and legitimation for their approach because their previous critical attitude towards mediation finds its affirmation. Furthermore, the level of compromise achieved through mediation may be rejected by the conflict parties if less negotiable strategic objectives promise greater rewards within their own internal power struggles. Aside from all that, the level of trust will be minimal after a failed mediation and this will further decrease the possibilities for a peaceful resolution to conflict.

This has, of course, substantial policy implications. Bringing the conflict parties to the negotiating table is – alone – insufficient. While in some cases failed mediations might have no impact at all, leading to a situation similar to that preceding mediation or even – as is predominantly assumed in the literature – improving the level of information and trust between the conflict parties, the Sri Lankan case has highlighted the potential adverse effects of medi-

ation: under certain circumstances, mediation failure can actually prove to be detrimental to the overall peace process. This implies that mediation needs to be carefully planned. While the moment has to be 'ripe', other conditions also seem necessary in order to avoid the occurrence of unintended consequences out of mediation failure. Mediators will, therefore, need to carefully assess the potential dynamics that a failure of mediation efforts might unleash within the conflict parties, and to anticipate whether there will be a possible hardening of strategic objectives and shifts in the political balance towards the more hard-line factions. Further studies that apply our theoretical framework to a larger number of cases will, therefore, constitute a fruitful avenue for further research, so as to systematically uncover the relationship between mediation failure and civil war escalation.

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