

# The Impact of Terrorist Proscriptions on Peace Processes

*Sri Lanka's 5<sup>th</sup> Peace Process*

Øystein Birkeland



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**The Impact of Terrorist Proscriptions on  
Peace Processes. The Case of the 5<sup>th</sup> Sri  
Lankan Peace Process.**

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Øystein Birkeland

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# Abstract

The terrorist attacks on the United States in September of 2001 had a deep impact on the world. In the aftermath of the attacks strong discursive and legislative measures were taken against terrorism. One of these measures was to proscribe some armed groups on so-called terrorist lists, with subsequent sanctions inflicted on these groups. In this thesis I aim to understand the impact the mechanism of proscription can have on a peace process where one of the parties in the process is proscribed on one or more of these lists.

To further my understanding of this impact I have chosen to analyze the case of the 5<sup>th</sup> Sri Lankan peace process. The armed group the Liberation Tigers of Tamil Eelam (LTTE) were engaged in a decades-long conflict with the Sri Lankan state with the goal of creating their own state for the Tamil people of Sri Lanka. The LTTE and the government of Sri Lanka became involved in a peace process lasting from the late 1990s until the destruction of the LTTE in 2009, with the formal talks of the process occurring in 2002-2003. This process was facilitated by Norway, in addition to other less involved international stake-holders.

In the thesis I analyze the impact the terrorist proscriptions of the LTTE had on the peace process, and to what degree this impact can help explain the failure of the process. It is important to understand the consequences of the proscriptions, as my analysis indicates that the proscriptions of the LTTE were partially to blame for the failure of the process. The proscriptions prevented contact between crucial actors such as the US and the EU to the LTTE, in addition to decreasing the levels of trust in the process. This reduced the ability of the third-party actors to affect the strategic calculations of the LTTE and move the group away from using violent means. The proscriptions thus seem to have had a negative effect on the framework for the peace process.

In addition to the effect on the framework of the process, I analyzed whether the threats and promises of proscription and de-proscription were effective in altering the incentive-structure of the LTTE. My analysis found that the promise of de-proscription from the Sri Lankan government was effective in getting the LTTE to hold formal talks. The international actors' threats and promises on the other hand were ineffective in their aim of moving the LTTE away from violent means. The proscriptions were thus found to have had a negative impact on the peace process, with no real positive effect to compensate for this.



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First of all I should thank Andreas for having to print something on the second floor some day in May last year. As I waited for him I happened to scan the front page of a newspaper, where I saw an article which mentioned a possible change of Norway's terrorist proscription list. A thought was born: what exactly is this and what does it matter? That is the seed from which this thesis sprung.

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## List of Abbreviations

CFA	Cease-Fire Agreement
FTO	Foreign Terrorist Organizations
GoSL	Government of Sri Lanka
LTTE	Liberation Tigers of Tamil Eelam
NGO	Non-Governmental Organization
P-TOMS	Post-Tsunami Operational Management Structure
SLMM	Sri Lanka Monitoring Mission
USAID	United States Agency for International Development



## Map of Sri Lanka



Map of Sri Lanka with the area claimed by the LTTE as Tamil homeland highlighted, from [tamilcanadian.com](http://tamilcanadian.com)

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# 1 Introduction

The world has changed significantly in many ways since the attacks on US soil on September 11<sup>th</sup> 2001. In the chaotic circumstances that followed the attacks a discursive as well as legislative global wave surged against the ‘terrorists’. In the undertow of this wave there were several armed groups that became proscribed as terrorist organizations on the terrorist lists that were created or added to around the world. I believe something concerning these lists has been overlooked by the ones who use the mechanism. That is the potential negative effect the mechanism of terrorist proscription can have had on the ability for third-party actors to engage as mediators in conflicts where a part has been proscribed as terrorists. What I therefore aim to understand in this thesis are the consequences this proscription mechanism has had and might have on the ability to reach a peaceful, negotiated conclusion in a peace process where one of the parties is proscribed on one or several of these terrorist lists.

To further my understanding of this potential effect I analyze a single case in-depth. One of the processes where this mechanism could have had an effect is on the 5<sup>th</sup> peace process in Sri Lanka. This process began after several decades of low-intensity conflict and outbreaks of civil war between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE). Norway led this peace engagement between 1997 and 2009, attempting to facilitate a peaceful conclusion to the conflict. The process ended in ignominy as the negotiations broke down and the Sri Lankan army destroyed the LTTE, resulting in large civilian casualties. I examine this peace process to understand whether the proscriptions of the LTTE as a terrorist group might have influenced the course and outcome of the peace process, and if it did, in what way. This peace process is suitable as my case given the research question, as one of its parties was proscribed by several actors, the process failed, and a number of Norwegians participated and therefore have much insight into it. My research design is not very apt for generalizing my findings and I have no particular ambition of doing this either. Still, as the number of conflicts where one of the parties is proscribed as terrorists are likely to increase in the foreseeable future, more knowledge of the effects of this mechanism is highly salient.

## 1.1 Research Question

My research question reads as follows: *To what degree can the impact of the terrorist proscriptions of the LTTE help explain the failure of the 5<sup>th</sup> peace process in Sri Lanka?*

As the 5<sup>th</sup> peace process on Sri Lanka ended up failing, it will be interesting and helpful for future policy decisions to understand the impact the terrorist proscriptions had on the process. Did the process fail, in part or fully, due to the impact of the proscriptions of the LTTE? Even if the proscriptions are shown not to have a significant effect on the process, this would be an equally interesting discovery in my opinion. The phrasing in the research question of “to what degree” indicates that the answer of the proscriptions’ impact is likely to be a nuanced one rather than a yes or no answer. There is simply not enough knowledge about the mechanism of proscriptions at the present time for states and organizations to use it without hesitation, especially when one considers the potentially extreme consequences failed peace processes can have.

## 1.2 Analytical Approach

My analytical approach consists of two theoretical contributions used in concord to create a broad approach. Therefore my thesis will hopefully yield greater analytical insights than a narrow approach would. The two theoretical contributions I use are developed by Sophie Haspeslagh and Jon Hovi.

Sophie Haspeslagh presents a framework where the impact of terrorist proscriptions on the efforts of third-parties in a peace process can be analyzed (2013). The framework indicates that the proscriptions decrease the levels of access and trust between the actors of the process, which in turn makes it harder for third-parties to engage with the armed group. There are four roles the third-parties could play constructively in a peace process that are affected negatively by the proscriptions. I return to this with a much more thorough presentation of the four roles and the way

they are thought to be affected by the proscriptions in chapter 3. Then I shall analyze the impact of the proscriptions on the ability of third-parties to play these roles on Sri Lanka in chapter 5.

Jon Hovi created the theoretical contribution that constitutes the second part of my analytical framework. He has outlined five conditions that need to be fulfilled for a threat to be effective (Hovi, 1998). The five conditions are: relevance, severity, credibility, completeness, and clarity. I argue that the threat of proscription and the promise of de-proscription are suitable for analysis through this framework. This way, one can analyze the effectiveness of the proscriptions as a mechanism for altering the incentive-structure of the LTTE towards a peaceful path during the peace process. If the threats and promises surrounding the proscriptions were to have been effective, the proscriptions could have been a tool with a positive effect on the peace process. In chapter 3 I thoroughly present these five conditions and the way they relate to the case of the proscriptions of the LTTE. Then, in chapter 6, I analyze to what degree the threats and promises of proscription and de-proscription from the different actors towards the LTTE fulfilled these five conditions. The analysis through Haspeslagh's framework may show the proscriptions to have had a negative effect on the engagement of the LTTE; but were the proscriptions perhaps effective as threats and promises, or if they were not, then why? This combined analytical approach should give me a more complete and valid insight into the impact the proscriptions had on the process, and thus on whether or not the impact contributed to the failure of the process.

### **1.3 Methodology**

My research design is that of a theory-guided single case, where I use an already developed analytical framework to examine the case of the 5<sup>th</sup> Sri Lankan peace process. Theory-guided case studies “aim to explain a single historical episode rather than to generalize beyond the data”, and “are explicitly structured by a well-developed conceptual framework that focuses attention on some theoretically specified aspects of reality and neglects others” (Levy, 2008, pp. 4). I argue that this type of design is the

most suitable for answering my research question. As peace processes are notoriously idiosyncratic, it is necessary to analyze a single case in-depth to gain crucial insight into it. The choice of this research design has several implications. Chapter 4 presents a more comprehensive discussion of my research design and its strengths and weaknesses in regards to reliability and validity.

The two main methods I have chosen to gain data are literature studies and semi-structured interviews. Here I succinctly present the core characteristics of these two methods, simultaneously explaining why I have chosen them. Literature studies are important to gain important background information on all the topics that are included in my thesis, especially on terrorist proscriptions and the 5<sup>th</sup> Sri Lankan peace process with all their actors and features. These topics involve a lot of information, so it is therefore necessary to gain a strong comprehension through reading a wide variety of academic writing, official government materials and newspaper articles. Some of the materials on these topics are of course classified but there exists a lot of open source information that provides the necessary background for my thesis.

Although quite a lot of information exists on the topics I am examining there is a limit to the amount of what I am specifically looking at, which is the effect of the proscriptions on the 5<sup>th</sup> Sri Lankan peace process. The information concerning this often takes the shape of just a part of an analysis; it has never been the main focus of an analysis of the Sri Lankan case. Therefore I found it necessary to supplement the secondary sources with interviews of my own. I have interviewed all the arguably most important participants from the Norwegian side of the peace process, as well as sources with insight from academia, a former LTTE press liaison, and a former US ambassador to Sri Lanka. Together these interviews have given me much information from a broad set of respondents. I have been able to ask specific questions and thus gain much more specific and suitable information to answer my research question than I would have done without interviews.

The interview method I chose was semi-structured interviews, as this appeared the most suitable for what I wanted to achieve with the interviews. When conducting semi-structured interviews, the researcher typically has an interview guide, which

contains a list of questions or topics. The questions should be open-ended so the interviewee has a lot of freedom in how to reply, with the possibility of in-depth answers. The researcher can also be flexible in choosing the order of the questions, and ask follow-up questions if the interviewee raises an interesting point the researcher was not aware of. Thus, semi-structured interviews give both the researcher and the interviewee a lot of flexibility and freedom (Bryman, 2004, pp. 321). This freedom is also very appropriate for my respondents as they are all highly educated and hold powerful positions. According to Aberbach and Rockman, these types of elite respondents are more comfortable being able to answer with freedom, as opposed to close-ended questions (2002, pp. 674). As I am examining a single case in-depth, I argue that semi-structured interviews are more suitable than the large-n structured interview or the less focused unstructured interview method.

## **1.4 Disposition**

The analysis is structured as follows: After I have finished the introductory chapter I proceed to chapter 2 which provides the necessary background for the analysis. There I give a descriptive background to the case of the 5<sup>th</sup> Sri Lankan peace process, presenting a concise chronological overview of the process from its early beginnings to the destruction of the LTTE in 2009. Then I advance to my examination of the way in which the proscription mechanisms of the most important terrorist lists function. I look at the main features of the lists of the United States and the European Union as well as the increase in national lists. This is to give myself and the readers an understanding of what these proscriptions are and how they function. In chapter 3 I begin by categorizing the consequences of terrorist proscription into two broad types, consisting of ‘material’ and ‘ideational’ effects. Then I present my analytical approach in a more detailed fashion, in addition to a brief review of other relevant literature on the subject. Chapter 4 presents the methodological framework and research design of the study in more detail, with an emphasis on issues of reliability and validity.

Chapter 5 analyzes the case in-depth through the theoretical framework of Sophie Haspeslagh, and I then use chapter 6 to analyze the threats and promises surrounding the proscriptions of the LTTE according to the five conditions from the theoretical contribution of Jon Hovi. Together, these two chapters constitute my empirical analysis. In the last chapter, I summarize my findings from the analysis and discuss the extent to which the impact of terrorist proscriptions of the LTTE helps explain the failure of 5<sup>th</sup> peace process in Sri Lanka. Finally, I draw some lessons from my analysis of the case for a more constructive use of terrorist proscriptions as a tool in the future.

## 2 Background

This chapter provides the necessary background for my analysis. The first section presents the case of the 5<sup>th</sup> peace process on Sri Lanka. The second section examines the main features of the terrorist proscription lists and how they are meant to operate.

### 2.1 Sri Lanka's 5<sup>th</sup> Peace Process

The 5<sup>th</sup> peace process on Sri Lanka took place between 1997 and 2009, if the time period where informal or formal talks were held is included. The formal talks took place in different cities around the world in 2002 and 2003 (Goodhand, Klem, & Sørnbø, 2011, pp. 39-40). The two main parties in the conflict were the Government of Sri Lanka (GoSL) and the armed group the Liberation Tigers of Tamil Eelam (LTTE), with Norway serving as the main facilitator of the peace process. In this chapter I give a concise overview of the process whilst referring to the events that have significant importance for answering my research question. I do this chronologically, starting with a more formal Norwegian contact in 1997, and ending with the death of the LTTE leadership in 2009.

#### 2.1.1 A New Attempt: 1997-2000

To talk about the Sri Lankan peace process as *a* or *the* process is misleading, as there have been several peace processes that to some extent influence and flow into each other from 1983 to 2009 (Stokke, 2010, pp. 10). From 1983 until 2001 approximately 65.000 people had died as a direct consequence of the conflict, averaging 285 deaths per month for a population of around 15 million, in addition to a large number of wounded and displaced people (Seneviratne & Endaragalle, 2006, pp. 118). Although formal talks did not take place before 2002, Norway offered their services as early as in 1991, after the previous peace attempt by India had halted (Goodhand et al., 2011, pp. 29). Throughout the 1990s it seemed to become clearer to both the government and the LTTE that they were in a no-win-no-lose deadlock situation in regards to the

conflict, and Norway was drawn closer to the situation when they facilitated a crucial kidney operation for Anton Balasingham, the LTTE's head negotiator, in 1998. After that Norway was given a formal mandate by the Kumaratunga government to begin talking with the LTTE, although the group were still formally banned under national terrorist legislation at this time (Goodhand et al., 2011, pp. 31).

Later it came as an unhappy surprise to the Norwegians when President Kumaratunga announced the mandate given to them on the BBC in 1999. It did not take long before anti-Norwegian statements and demonstrations arose from nationalist voices in the Sinhalese community (Goodhand et al., 2011, pp. 32). The conflict on Sri Lanka has a strong ethnic dimension where the government side is largely comprised of the Sinhalese majority, whilst the LTTE is comprised of the Tamil minority. This dimension was an important factor of the process, but as it is not relevant for answering my research question it will not be emphasized in my analysis.

After the informal talks began the LTTE insisted on being de-proscribed by the government, but President Kumaratunga refused. She argued that such a measure "must be conditional on actual progress during the peace talks" and claimed she had been made to "look like a fool" the last time she indulged the LTTE in 1995 (Goodhand et al., 2011, pp. 33). This shows how closely trust is associated with measures and counter-measures concerning proscription. Some progress was still made in 2000, when an 'Agreement following an understanding on humanitarian measures' was jointly signed. On December 24<sup>th</sup> 2000 the LTTE leader Prabhakaran called for unconditional talks and declared a unilateral cease-fire for the LTTE, creating an important marker for future progress (Uyangoda, 2006, pp. 247).

### **2.1.2 A New Hope: 2001-2003**

This period of the peace process included formal talks between the two combatant parties, and a real hope of peace began to emerge. When Kristine Höglund and Isak Svensson analyzed the process in 2002, they evaluated the prospects of a negotiated

solution as “promising” (2002, pp.103). In this period Norway tried to engage other stakeholders such as India and the United States in the process, which would probably be helpful due to their power and thus enabling a “stick” to complement Norway’s “carrots”. But even though the US was interested and the personal interest of then-Deputy Secretary of State Richard Armitage was strong, the US’s role was “limited” due to their proscription of the LTTE since 1997, with the LTTE also proscribed by India (Goodhand et al., 2011, pp. 33; Lundstead, 2007, pp. 13). This limitation would not seem too crucial at the time but would later place both direct obstacles to the process whilst also in general removing the possibility of supplying more forceful negotiating tactics from a superpower.

Nevertheless, at this time things seemed quite positive. After the LTTE declared a unilateral cease-fire in December 2000 government forces attacked them, interpreting the move as a sign of weakness. When the LTTE defeated them comprehensively, in addition to a successful attack on the international airport in Colombo in June 2001, it became clear that the LTTE’s cease-fire measure did not indicate a waning of their ability or willingness to use violent means. At this point it seemed that both parties were beginning to let it sink in that negotiations were a viable and attractive option. This was indicated by the government’s lack of success in defeating the LTTE by military means. Meanwhile, for the LTTE an event halfway round the world was about to change the environment in which they existed.

The attacks on the United States on September 11<sup>th</sup> 2001 ushered in a new era of international politics. After the attacks “non-governmental actors’ use of violence ... lost most of its legitimacy” (Höglund & Svensson, 2002, pp. 106). This were to have no immediate effect, but it were to have “a major impact on [the LTTE’s] room for maneuver in the years to come” (Goodhand et al., 2011, pp. 35). This also increased the US interest in the process, with their new determination to confront terrorism globally (Lunstead, 2007, pp. 13). This is a fact the LTTE and their leader Prabhakaran was aware of, which is evident in a proclamation in his annual Heroes’ Day speech: “We can’t ignore the realities of today’s world. We have to realize this and adjust our path to freedom” (in Höglund & Svensson, 2002, pp. 107).

Furthermore, as the LTTE was heavily dependent on economic influx from the Tamil diaspora (estimated at 60 % of their total income), the prospect of increased difficulty in obtaining this funding due to proscription measures must have been daunting (Gunaratna, 1999). All of this pointed both parties in the direction of a negotiated solution, which seemed to crawl closer to something of a ripe moment for peace.

This potential progress became evident in the formal talks and documents that ensued in the following months. Another seemingly positive event that happened simultaneously was the electoral success of the more pragmatic United National Front party in the elections in December 2001, although a debilitating political cohabitation between a Prime Minister and President from two different parties ensued from this (Goodhand et al., 2011, pp. 34-35). Still, within a month of the election there were unilateral cease-fires in place from both sides. And then on February 22<sup>nd</sup> 2002 a historic breakthrough was reached with a joint Cease-Fire Agreement (CFA). This agreement stipulated three main points:

1. An end to offensive military operations.
2. Measures to restore normalcy, such as respect for international law and norms (no torture, etc.).
3. The creation of the Sri Lanka Monitoring Mission (SLMM), an on-site mission monitoring the CFA conducted by the five Nordic countries (Goodhand et al., 2011, pp.36).

From April 2002 until March 2003 there were six rounds of formal talks between the government and LTTE in various locations, and there was much attention and interest attached to these talks both domestically in Sri Lanka and internationally (Gooneratne, 2007, pp. 22-33). This period can be described as the apex of the peace process, where the government even decided to de-proscribe the LTTE on September 6<sup>th</sup> 2002. The de-proscription created more of a sense of equality and legitimization for the negotiations, as the LTTE now felt they could properly “represent the Tamil nation as legal representatives on a status of parity” (Balasingham, 2004, pp. 373). This decision seems to have been crucial in propelling the formal talks, as the proscription has been

described as the “most serious among the obstacles to early direct talks” and the decision to de-proscribe as “[the only] way in which one could begin to engage the LTTE in serious discussion” (Uyangoda, 2003, pp. 3; Weerakoon, 2006, pp. 11). The de-proscription from the national government showed willingness and a seriousness about the peace process that was very promising, and could perhaps have been a decisive moment in turning the LTTE from a violent group into a peaceful political party. Alas it was not to be so.

### **2.1.3 A New Disappointment: 2003-2005**

The optimism that seemed to instill itself into the process did not last very long, as a controversy arose when an international donor meeting was scheduled to take place in Washington DC in April 2003. With the LTTE being proscribed in the United States it was therefore not possible for them to be represented at the meeting, although US officials tried unsuccessfully to get the State Department to make an exception. This exclusion was described by the Tigers as a “humiliation”, “totally unacceptable”, and “against the spirit of the peace process”, and led to the LTTE suspending participation in the formal talks (Balasingham, 2004, pp. 430-431). Afterwards there has been a lot of discussion and different opinions on whether this reaction from the LTTE was truthful, or if their exclusion was used as a pretext for extracting themselves from the process (Kristian Stokke, Interview<sup>1</sup>). This is hard to decipher correctly, and as the main players in the decision are now dead we will never know for sure. However, this analysis from Sumanasiri Liyanage seems to me to be quite insightful and is consistent with my impression of the event and the process:

It was not the participation of the talks per se that seemed important to the LTTE. Rather it was the diplomatic value of the talks. The LTTE may not have been greatly concerned about the outcome of the meeting; but its presence at the meeting would have been a sign of international recognition, especially by the West. The LTTE

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<sup>1</sup> All interviews were conducted in 2014, so this information is not added in every reference.

always emphasized the continuance of “strategic parity or rather balance of power” between two adversarial parties as a pre-requisite of the process oriented towards a negotiated settlement. The exclusion from the Washington donor meeting was interpreted not as an isolated event but as a moment in a continuous process of weakening the LTTE’ position vis-à-vis the Government of Sri Lanka (Liyanage, 2008, pp. 117-118).

The LTTE seemed to take their exclusion (and the government’s *inclusion*) as a sign of the international community favoring the government and thus upending the precious and fragile parity that had seemed to exist between the two parties for a while. Making matters worse, the LTTE suspected that this was a deliberate strategy from the government to create an international safety-net of economic and military support so they could dominate the LTTE (Balasingham, 2004, pp. 435).

During the peace process there were several dynamic changes on the international arena that conspired to create the international safety-net for the government, which understandably worried the LTTE. The first change was the aforementioned attacks on September 11<sup>th</sup> 2001 and the ensuing ‘War on Terror’, and the second was the “changing international relations towards a multipolar world order and the emergence of ‘new’ Asian powers (especially China and India) with economic and geopolitical interests in the Indian Ocean and an emphasis on state sovereignty and security” which “created new opportunities for the GoSL to develop their military capability and successfully pursue a war against the LTTE” (Stokke, 2010, pp. 20). These dynamic changes on the international stage created a situation where the erstwhile parity between the two parties began to erode in favor of the government.

Simultaneously there were changes on the domestic scene that would accelerate the altering of the balance of power between the two parties. The first of three such important domestic events was the one which has been dubbed ‘the Karuna split’. This occurred when the LTTE’s eastern commander ‘Colonel’ Karuna Amman broke away from the LTTE in March 2004, later seeking refuge in Colombo after military clashes

with a vengeful LTTE. This altered the military balance in a “fundamental way”, due to the loss of an experienced military leader, several thousands of cadres, and the “biggest intelligence leak in its [the LTTE’s] history” (Goodhand et al., 2011, pp. 49-50).

The second event was the devastating tsunami that hit South Asia December 26<sup>th</sup> 2004. Over 35.000 Sri Lankans died that day, at least 21.000 were injured and more than 550.000 displaced from their homes (“Preliminary Damage and Needs Assessment,” 2005). This event, aside from being a terrible disaster, was neither wholly positive nor negative for the peace process, but somewhere in between. The LTTE was annoyed that the government refused international players such as Kofi Annan and Bill Clinton access to LTTE areas. But at the same time a crisis can often create an interruption from everyday politics. And when the everyday politics are in a lull as the peace process was at the time, a crisis can be helpful in setting a new stage on which to play. This seemed to happen when both parties showed willingness to develop a Post-Tsunami Operational Management Structure (P-TOMS) together for the arrangement of the tsunami aid. The agreement was eventually signed, and represented for a while a small ray of hope for the resurrection of the peace process. But a court case filed in the Supreme Court by a party of Buddhist Sinhala monks ruled the agreement unconstitutional (Goodhand et al., 2011, pp. 54).

The third domestic event was the election of Mahinda Rajapakse in November 2005, who became a “‘repository’ for public dissent and frustration” about the peace process (Goodhand et al., 2011, pp. 55). Rajapakse used Norway, the SLMM and Erik Solheim as targets during his campaign, and thus gained votes by stirring up public resentment against the process, something which made the Norwegian peace efforts even tougher. The international developments and domestic events illuminated in this part of the chapter does not show everything, but guides our understanding of how the peace process went from hopeful and positive, to looking more and more hopeless during just a short time period. And it was about to get worse.

### **2.1.4 The First Destruction: 2006-2009**

Although there had been several collapses of Sri Lankan peace processes, what ensued in this time period was the first ever destruction of a party in the conflict. In this final part of the chapter I describe the last stretch of the path that led to the death of the LTTE in May 2009.

The step (or trigger-finger, more precisely) that instigated this last stretch of the path occurred on August 12<sup>th</sup> 2005, when a suspected LTTE sniper killed the Sri Lankan foreign minister Lakshman Kadiragamar. This led to strong condemnation of the LTTE both nationally and internationally, and furthermore it made the EU ban LTTE movements in the EU. In addition they said in a statement that they considered formal proscription of the LTTE as a terrorist organization, and added that member states could take “additional measures” against the LTTE (Noyahr, 2006, pp. 391). Canada would later proscribe the LTTE in April 2006 and the EU followed formally the next month, which meant that Norway and Switzerland were then the only Western nations (and they are hardly superpowers) willing to meet with the LTTE.

The EU proscription was of direct consequence for the peace process, as three out of five of the nations that were partaking in the Sri Lanka Monitoring Mission (SLMM) were EU members. As a result of the ban, the LTTE refused to accept their presence in the SLMM, which meant that 39 out of 57 monitors left the country in August 2006 (Sri Lanka Monitoring Mission, 2006). Although the SLMM leader issued a memo arguing against the ban, the EU did not budge<sup>2</sup>. Irrespective of the EU proscription’s strategic value or wisdom, it was now a fact on the ground. Communication with the LTTE became more and more difficult, especially after the death of their head negotiator Anton Balasingham in December 2006.

The spark that ignited the flame was when the LTTE closed an irrigation sluice gate in July 2006, which the government interpreted as a strong provocation, and

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<sup>2</sup> Around this time the Norwegian government decided to change their terrorist list from the EU list to the UN list. Their reasoning is strongly linked to the situation in Sri Lanka: “Continued alignment with the EU list could cause difficulties for Norway in its role as neutral facilitator in certain peace processes. Norway’s role could become difficult if one of the parties involved was included on the EU list, and the opportunities for contact were thus restricted” (“Norway’s cooperation with the EU on the fight against terrorism,” 2006).

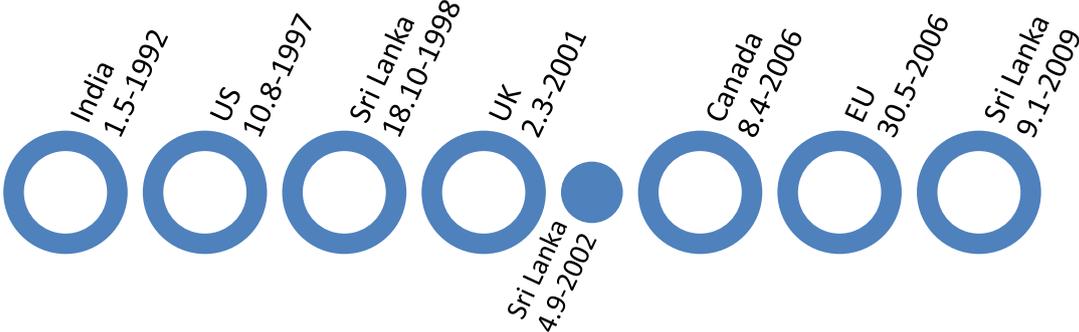
launched a ground offensive (Goodhand et al., 2011, pp. 61). This was to be the end of the promise that the Cease-Fire Agreement had held. The return to violence was met with criticism from the international community, but the Sri Lankan government countered and diluted the Western pressure. They did this in ways that showed that the process had taught them to be adept students of the international arena, unlike their “somewhat amateurish” statesmanship in the beginning (Stokke, Interview).

Previously it had been almost unthinkable that a military victory could be reached by either party, but now the tide was beginning to turn in favor of the government. They achieved this in part by purchasing military equipment from countries such as China and Pakistan, and with support from Indian and US intelligence (Erik Solheim, Interview). At this point the erstwhile relative parity between the two parties in the peace process was altered. In part due to the “asymmetry in the international actor’s dealing with the state and non-state actors” as there was a “pattern of international support and legitimacy for the war against LTTE” (Stokke, 2010, pp. 20). Thus the conflict was “discursively reframed from being a conflict over minority rights and self-determination that should be resolved through politically negotiated liberal peace, to become a war against terrorism where defeating LTTE became a prerequisite for state security, rule of law and peace” (Stokke, 2010, pp. 20).

By July 2007 the eastern region of Sri Lanka was under government control, which left only the LTTE’s main stronghold in the north. Norway continued its efforts to maintain focus on human rights and dialogue, but a peaceful solution seemed increasingly unlikely at this point. According to a Sri Lankan diplomat, non-Western countries told the Sri Lankan government to ignore Western pressure and “get it over with” (Goodhand et al., 2011, pp. 67). And soon they did; in the middle of May 2009 the remaining LTTE leaders were killed in a final attack, with a civilian death toll plausibly exceeding 30,000 over the last few months of the conflict (International Crisis Group, 2010). Thus the Sri Lankan 5<sup>th</sup> peace process ended with a complete military victory for the government, and the destruction of the Liberation Tigers of Tamil Eelam.

This description of the Sri Lankan 5<sup>th</sup> peace process has been far from exhaustive, and has possibly over-accentuated the international and proscription dimensions as that is my main focus. But it has hopefully provided a succinct and neutral description of the main events and atmosphere of the dawn, zenith and nadir of the peace process.

Figure 1: Timeline of terrorist proscriptions of the LTTE



This figure shows a timeline of when the most important actors proscribed or de-proscribed the LTTE. The large circles signify proscriptions, and the small circle signifies de-proscription of the LTTE. In the next section of the chapter I examine how the terrorist list proscriptions function.

## 2.2 Terrorist List Proscription

Different countries around the world have a long history of proscribing groups as terrorist entities. The UK for example used it in Northern Ireland as early as the 1920s, but after the attacks on the United States in 2001 there has been a marked increase in the number and intensity of these lists. In this brief section I give a concise and clear overview of arguably the most important terrorist lists, those of the United States and the European Union. I present the two in order, before taking a brief look at the way national terrorist lists have increased both in number and scope over the last decade. Because of this increase there might soon be very few countries left that can take a neutral third-party position in peace negotiations including a proscribed group. The

United Nations is of course a major international actor, but their terrorist list contains mainly Al-Qaeda and the Taliban, so I will not discuss it in my thesis. This section I feel is necessary in order to understand the main features of these lists and how they are meant to operate, as this is far from common knowledge.

### **2.2.1 The Terror Lists of the United States**

The most important actor involved with anti-terror activities over the last decade is undoubtedly the United States. The US carries several lists that can be described as terrorist proscription lists, but here I focus on the most important one, the Foreign Terrorist Organizations list (FTO) (Giorgetti, 2006, pp. 3). This list deals specifically with groups and invokes some of the strongest sanctions of all the US lists. This is how the list and its purpose are described by the US Bureau of Counterterrorism:

Foreign Terrorist Organizations (FTOs) are foreign organizations that are designated by the Secretary of State. FTO designations play a critical role in our fight against terrorism and are an effective means of curtailing support for terrorist activities and pressuring groups to get out of the terrorism business (“Foreign Terrorist Organizations,” 2012).

To understand the relevant features of this list better I ask three questions of it. The first question is: *Who decides who is proscribed?* For the FTO list the deciding authority is better described as a process than the decision of a single actor or agency. It begins with the office of the Coordinator for Counterterrorism in the State Department identifying the potentially proscribed group. Then a report is sent to the Secretary of State. If the Secretary agrees to the charge, then she will designate the group in consultation with the Attorney General and the Secretary of the Treasury. Lastly, Congress has seven days to block the proscription; if this does not happen then the proscription takes effect (“Foreign Terrorist Organizations,” 2012; Giorgetti, 2006, pp. 17-18). As there are several actors and offices involved in the process it should be,

at least on paper, a thorough procedure. As of May 2<sup>nd</sup> 2014, there are 58 groups on the FTO list (“Foreign Terrorist Organizations,” 2012).

The second question thus becomes: *What happens, or more precisely what is supposed to happen, to the 58 groups on this list after being proscribed?* The US State Department names three specific sanctions placed upon proscribed groups and, interestingly, five explicit reasons why the proscription is performed. The three sanctions are:

- It is unlawful for a person in the United States or subject to the jurisdiction of the United States to knowingly provide ‘material support or resources’ to a designated FTO.
- Representatives and members of a designated FTO, if they are aliens, are inadmissible to and, in certain circumstances, removable from the United States.
- Any U.S. financial institution that becomes aware that it has possession of or control over funds in which a designated FTO or its agent has an interest must retain possession of or control over the funds and report the funds (“Foreign Terrorist Organizations,” 2012).

These sanctions are quite tough and far-reaching, but what perhaps is more interesting than the specific sanctions are why these sanctions are placed upon the proscribed groups. The US State Department lists these five intended effects as the reasoning behind the sanctions:

1. Supports our efforts to curb terrorism financing and to encourage other nations to do the same.
2. Stigmatizes and isolates designated terrorist organizations internationally.
3. Deters donations or contributions to and economic transactions with named organizations.
4. Heightens public awareness and knowledge of terrorist organizations.

5. Signals to other governments our concern about named organizations (“Foreign Terrorist Organizations,” 2012).

An interesting aspect here is that two of the effects are concerned with material effects and three of them are ideational. This aspect highlights the strong focus and effects that terrorist proscription has on symbol politics, and not just on more material effects such as the right to deny funding and admission to territory. Further attention to this dichotomy is given in chapter 3.

The third and last question of the FTO list is: *How does a group get off the list?* This is potentially a very important question for proscribed groups involved in peace processes, but is the question that is perhaps most likely to be overlooked. There are five ways in which a group may be taken off the FTO list:

- The Secretary of State must revoke a designation if the Secretary finds that the circumstances that were the basis of the designation have changed in such a manner as to warrant a revocation.
- The Secretary of State must revoke a designation if the Secretary finds that the national security of the United States warrants a revocation.
- The Secretary of State may revoke a designation at any time.
- An Act of Congress.
- A Court order in federal court after a challenge in court to a group’s proscription (“Foreign Terrorist Organizations,” 2012; Giorgetti, 2006, pp. 19-20).

No challenges in court have yet to be successful, and there has been no Act of Congress, but nine groups have been voluntarily de-proscribed by the Secretary of State (“Foreign Terrorist Organizations,” 2012). Interestingly none of these nine were de-proscribed between 2001 and 2009, with five from 1999 to 2001 and four since 2009. This might indicate that the aftermath of the September 11<sup>th</sup> attacks created an environment where it was very difficult to take a group off the list for many years.

### 2.2.2 The Terror List of the European Union

The EU actually has two lists, but one of them is the list created to implement the UN Security Council Resolution 1267 against the Taliban and Al-Qaeda. Therefore I focus on the autonomous list created by the EU as this is a more relevant approach. I will ask the same questions of this list as I did of the US FTO list.

The first question then becomes: *Who decides who is proscribed?* The decision to proscribe a group ultimately lies with a unanimous decision by the Council, after an earlier process of proposal. The process begins by a proposal submitted by a Member State or a third state, then the proposal is evaluated by the Common Position 931 Working Party before it is either recommended or discarded to the Council. The evaluation process in the Working Party is confidential (“The EU list of persons, groups and entities subject to specific measures to combat terrorism,” 2009; Thorne, 2006b).

The second question is: *What happens to the groups on the list?* The most relevant of the sanctions that the EU shall implement are:

- Trade sanctions (general or specific trade sanctions, arms embargoes).
- Financial sanctions (freezing of funds or economic resources, prohibition on financial transactions, restrictions on export credits or investment).
- Flight bans and restrictions on admission (“Sanctions or restrictive measures,” 2008).

These sanctions are to be implemented under dual responsibility for the Member States and the Commission (“Sanctions or restrictive measures,” 2008).

The third question is: *How does one get off the list?* Persons, groups and entities included in the list can:

- Request the Council to reconsider their case, on the basis of supporting documentation.
- Challenge the decision of the national competent authority according to national procedures.

- If subject to restrictive measures, challenge the Council's decision before the General Court.
- If subject to restrictive measures, request humanitarian exemptions to cover basic needs (“The EU list of persons, groups and entities subject to specific measures to combat terrorism,” 2009).

The Council can also voluntarily decide to de-proscribe an entity after a process that mirrors the one which creates the proscription. A unanimous decision by the Council will also be necessary on this occasion. This has occurred at least once, but the reasons for the de-proscription have not been made public, so the necessary conditions for this to occur are somewhat unclear (Thorne, 2006b, pp. 9). There are no provisions for exempting proscribed groups taking part in ongoing peace processes in the EU list (Thorne 2006b, pp. 7).

### **2.2.3 National Terrorist Lists**

Since 2001 the number and scope of national terrorist lists have increased (Rix, 2007; Smith, 2003). This has occurred in two ways: one, nations have implemented measures from multilateral organizations such as the UN and the EU, and two: through unilateral national lists (most notably in the UK and other Commonwealth nations such as Australia and Canada)(“Listed Terrorist Entities,” 2013; Rix, 2007; Thorne, 2006a). The third option of not keeping a terrorist list seems increasingly farfetched for countries around the world, and the discussion seems to be more about which list to use (Tallaksen, 2013). This issue is not delineated to the western world as the lists follow the global reach of terrorism (Adebajo, 2003).

Seemingly, these lists have grown during the last decade or so, and it is difficult to imagine a world without them. Norway and Switzerland have flourished with peacemaking initiatives in this period. This comes as no surprise as these two countries are two of the few not constrained by large terrorist lists, as they stand outside the EU (“Managing Peace Processes Volume 3,” 2013, pp. 23). As Norwegian politicians have considered implementing the EU list nationally, there might soon be very few or

no countries left that might take a neutral third-party position in potential peace negotiations including a proscribed group (Tallaksen, 2013). Therefore, studying the effects of these lists is becoming increasingly important.

### **3 Analytical Approach**

In this chapter I present the analytical approach that will be used through the rest of my thesis. I begin the section by categorizing the consequences of proscription into two broad types. Then I present my analytical approach which consists of two theories by Sophie Haspeslagh and Jon Hovi. My aim is to combine these two theories in an analytical approach that captures the essential features of the case. Lastly I create a brief review of some of the other relevant literature that exists on the consequences for peace processes by terrorist proscription.

#### **3.1 The Two Types of Consequences of Terrorist Proscriptions**

Based on what I have learned in the previous chapter, the types of consequences from terrorist proscription can be sorted into two categories. These are ‘material’ and ‘ideational’ effects. I believe this categorization is helpful for making the effects of the proscriptions more clear, and they are central to my analysis of the severity condition in section 6.2. The classification of the consequences of terrorist proscription into these two categories is supported by the reasoning behind the FTO list as shown in section 2.2.1. I will now elaborate on these two types of effects.

Material effects are for instance the prohibition on proscribed groups of financing, travelling, or arms sale. Some of this is fairly straight-forward: few will argue that weapons procurement or direct financing to proscribed groups is anything close to a constructive path to peace. These are viable, easily legitimized and relatively effective ways of hindering terrorist violence. But bans on travelling and the umbrella definition of material support might have consequences that are intended (such as stopping terrorists in hi-jacking planes or travelling to foreign targets). But they could also have some that are unintended such as when the LTTE was barred from attending a donor conference in Washington DC in 2003 due to their proscription and then subsequently suspended the peace talks (Balasingham, 2004, pp. 439). This shows a

way in which the proscription of a group might have valid counter-terrorism functions, as well as adverse consequences for reaching a peaceful solution to a conflict.

Now I turn to look more closely at the ideational effects of proscription. One of the most interesting points of the reasoning behind the FTO list is the second point concerning the objective of stigmatizing and isolating the proscribed group. In addition to this, several others of the intended effects of the list are concerned with what can be described as ideational effects. The issue of proscription is highly salient for the armed groups, as the matter of “successfully ascribing or resisting the label of terrorism emerges as the most important ideational objective in the international arena” (Nadarajah & Sriskandarajah, 2005, pp. 94). The terror lists include both material and ideational effects as:

These lists are not just designed to combat criminality. They are designed to delegitimize certain organizations and their attendant struggles. Proscription regimes are not simply legal tools against terror but ideological and political ones as well. They communicate societies’ disfavor on the most profound scale (Muller, 2008, pp. 129).

### **3.2 Theory on the Consequences of Proscriptions**

The theoretical field on this issue is still in its infancy. The world that the literature tries to understand has primarily existed after the terrorist attacks in 2001, and most contributions are written in the last five years<sup>3</sup>. Here I present one of the theoretical contributions that I have chosen to be included in my analytical approach.

The theory is a product of the work done by Sophie Haspeslagh on understanding the connection between the proscription regimes and their impact on third-party efforts in peace processes (2013). Haspeslagh’s contribution is very important as it is one of the first to delve into this specific issue, and it is based on both

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<sup>3</sup> Terrorism did exist, of course before 9/11, for instance with the IRA. Margaret Thatcher refused to talk to the IRA at the height of their violence, but it was not until the political engagement with the IRA in the 90s that they moved away from terrorist means and transformed into an exclusively political party. This transformation appears to have gained increased scholarly attention after the renewed relevance of the topic post-9/11 (Toros, 2008).

theoretical work and the experiences of peace practitioners. This type of duality is a necessary part of all work on this subject, as each different case dictates both a general theoretical understanding but also strong flexibility in analysts due to the empirical complexities that the cases bring with them.

Haspeslagh's theory is based around "two preconditions that are necessary for third-parties to engage with and influence armed groups" (2013, pp. 195). These are *access* and *trust*. Here, access is the equivalent of material effects and trust is the equivalent of ideational effects. Access is important because "if a third-party actor is not able to contact and meet armed groups, it will severely impede them in talking, organizing workshops and so on" (ibid). This is simple enough; if you cannot meet or talk to someone it is very difficult to constructively engage them.

How can the proscription regimes affect third-party access to listed armed groups? First of all it can lead to representatives of governments that have proscribed a group being barred from contact with them (although some level of secret back-channel contact will likely be possible). This means that a group like the Liberation Tigers of Tamil Eelam would (in 2006 and later) be out of bounds for the government personnel of all the EU countries, the United States, Canada and several others. Often practitioners will be confused as to whether their actions are legal or not due to the somewhat unclear nature of proscription and the general lack of information for how it shall affect work in practice (Haspeslagh, 2013, pp. 196). This in turn might lead to what some have dubbed the "chilling effect" that proscriptions can have, as third-party actors would rather avoid situations of unclear legality than potentially be exposed (Dudouet, 2011). This is the unclear present situation many government representatives and NGO workers find themselves in.

The second precondition is trust. Trust is highly salient, because "without a level of trust between third-party actors and an armed group, it will not be possible for third-party actors to effectively engage with a group" (Haspeslagh, 2013, pp. 195). If an actor attempting engagement does not acquire the trust of the proscribed group (and the other relevant parties to a conflict), it would be exceedingly difficult to achieve results of any worth. The opportunity for acquiring trust is of course dependent on the

other precondition of access being present, as well as continued access is dependent on the building of trust. The relationship between the two preconditions is thus clearly symbiotic. According to Haspelagh, trust can only be achieved if the third-party actor is perceived to be impartial in respect to the parties to the conflict. And “in terms of a third-party’s perceived impartiality, which is an essential component of trust-building between third-parties and armed groups, proscription regimes are of increased significance” (Haspelagh, 2013, pp. 198). Proscriptions can seemingly affect these two preconditions, but why are these preconditions necessary?

Sophie Haspelagh argues that the two preconditions are required in order to fulfill four roles that third-parties can constructively play in peace processes. These four are:

1. Understanding armed groups
2. Influencing armed groups (the way it sees itself and its environment)
3. Affecting strategic calculations
4. Training in conflict resolution (Haspelagh, 2013).

The *first* role for third-parties is to understand armed groups: these are groups that will often be proscribed on a terrorist list. Without knowledge and insight into these groups, any type of engagement would likely yield poor results. As a UN staff member put it, “understanding armed group’s objectives, perspectives and realities is crucial...” (in Haspelagh, 2013, pp. 199). This type of insight into the inner ‘mind’ of an organization is very important, perhaps even more so for an armed group. As Haspelagh describes it:

Particularly with armed groups, behavior and actions cannot always be interpreted at face value. Accurate information about armed groups, their realities and their aspirations are required to be able to interpret their behavior. Armed groups’ actual perceptions are often hidden from the public because groups want to avoid showing weakness. Understanding how an armed group views violence requires direct

engagement with that group; it is not something that can be inferred through news reports or secondary sources (2013, pp. 199).

This role can be played by actors such as government representatives, IGO or NGO workers, and academics. Haspeslagh argues that we know too little about the effect of proscriptions on this role at the present time, but that it is possible that “challenges around access to groups have led to problems for third-party actors to gather enough information to help them understand groups’ perspectives, motivations and dynamics” (2013, pp. 199). If proscriptions create difficulties concerning this role it could negatively affect the possibilities of reaching viable peace agreements.

The *second* role for third-parties is to influence armed groups in the way it sees itself and its environment. “Some groups are far removed from global political discussions and not fully informed about the wider political dynamics. Third-parties have helped groups develop a more nuanced understanding by sharing other perspectives with them” (Haspeslagh, 2013, pp. 201). In this way third-parties can help groups reflect about their own agenda and the instruments they use for reaching their goals. In times of conflict communication will often be reduced to violence and propaganda, and armed groups (and governments) might need some help in articulating their messages to each other and delivering them without leaks to other audiences. One peace practitioner recounts to Haspeslagh how he was surprised how little certain groups reflected on their own agenda, and that this reflection often truly began for the first time when engaged by third-parties (in Haspeslagh, 2013, pp. 201).

The *third* role third-parties might play is by affecting strategic calculations. In this way “third-parties can also influence how a group relates to a conflict. In certain cases they can contribute to a shift in a group’s strategic calculations on whether to pursue violent or other means” (Haspeslagh, 2013, pp. 202). If third-party actors do not have sufficient access to proscribed groups or cannot win their trust, then very little can be achieved in way of affecting the groups’ strategic calculations. I believe this third role is quite similar to the previous one, but I am aware of this in my analysis and highlight the way in which they differ.

One of the reasons why it may be difficult to influence the strategic calculations of these groups is the blanket nature of the proscription regimes. “There is no discrimination possible between armed groups that have said they seek engagement and those that will never seek engagement” (Haspeslagh, 2013, pp. 2002). Peace practitioners have said that they feel this has led to ‘pro-engagement camps’ being undermined within the groups, and that the generalized banning “does not encourage dialogue or the resolution of conflict” (in Haspeslagh, 2013, pp. 2002). As I discovered earlier in my research, in most of the proscription regimes there is little opportunity or precedence for de-listing. This might affect the way the decision makers in the groups view the different courses of action, and then one might see:

a case of individuals within armed groups making a calculation about the external environment and the strategies that would be most effective to advance their cause. In cases when groups are listed, political negotiations or changes in human rights practices are less appealing if the groups cannot be rewarded by changes in [the] proscription regime (Haspeslagh, 2013, pp. 203).

If the groups do not see a way out of their proscription by changing their behavior, then a change is probably unlikely. This only illuminates the need for more research and knowledge on this subject. If proscription might induce this type of change, under which circumstances is this most likely to occur? I use a second theory by Jon Hovi in my analytical approach, which will expand on this question of under which conditions proscription might be an effective mechanism for inducing strategic change in armed groups.

The *fourth* role third-parties can play is by training groups in conflict resolution. Armed groups are likely to have less expertise than governments in negotiations and diplomatic affairs. Therefore, efforts to train armed groups in negotiation processes can play an important part in how constructively the group might engage in a negotiated peace process (Haspeslagh, 2013, pp. 203). As put by Fink Haysom, “adversaries who are poor negotiators make for [a] poor negotiation process” (2005, pp. 85). It is thus very important for the members of an armed group involved in a

potential peace process to receive the necessary training so a constructive process becomes more likely.

How might the proscription of a group impair this training? Funds received from governments that have proscription regimes cannot be legally made available to listed groups in any way. Therefore it seems likely “that some important opportunities to train armed groups and support them in their transformation process away from violence are being affected by proscription regimes” (Haspeslagh, 2013, pp. 204).

I have now presented the theory of the impact of proscription by Sophie Haspeslagh. It is based on the two preconditions of access and trust, which is necessary for third-parties to play four important roles in peace processes. Figure 2 illustrates the theoretical assumed causal chain beginning with the proscription as an independent variable. The proscription then impacts the intermediary variables of the level of access and trust between the actors in a peace process, and the decrease in these pre-conditions affects the ability for third-parties to play the four roles outlined by Haspeslagh. The negative impact on the third-parties ability to play these roles in a constructive manner then diminishes the chances of concluding the peace process with a peace agreement, which is the dependent variable.

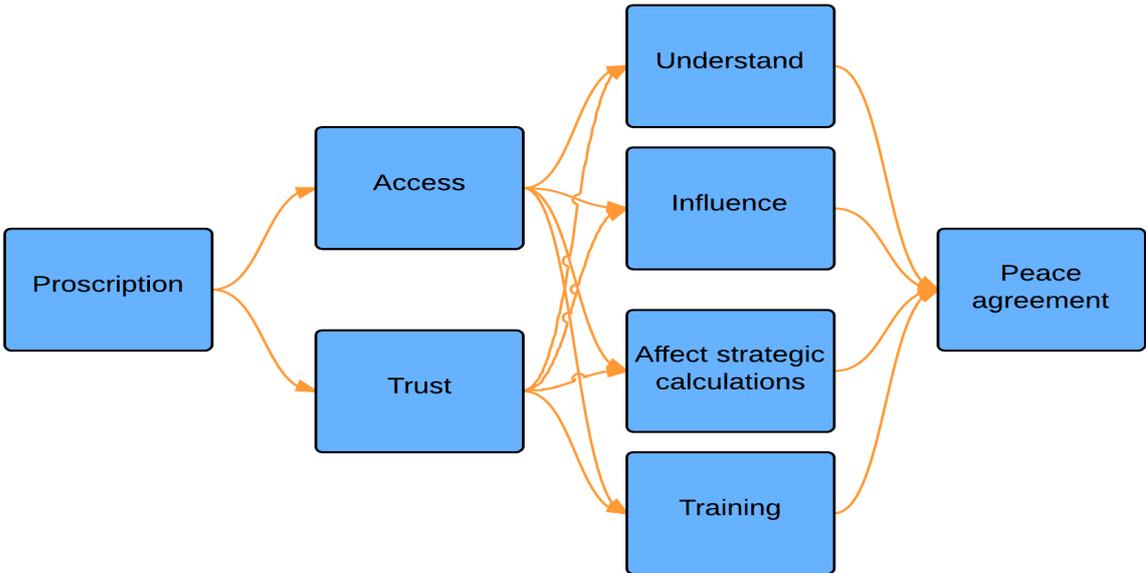


Figure 2: Model of Haspeslagh’s theoretical framework

### 3.3 Theory on Terrorist Proscription as a Threat

I now present another theory, one that is not specifically created for analyzing the effect of terrorist proscription but is a more general theory on the effectiveness of threats. I argue that proscriptions are made to influence behavior in others and are thus in effect a threat. The threat of proscription can be made before a proscription is implemented, so as to change the policies of the target according to the threatener's desires. Reversely, after a proscription is in place, the promise of de-proscription can be made with the same intention of altering the targets incentive-structure in a way that makes it change its policies. Therefore, looking at theory on threats could give some analytically interesting insights into terrorist proscriptions, specifically their purpose and effectiveness as a mechanism for changing the behavior of the armed groups by altering their incentive-structure. When using proscription as threats and promises one attempts to achieve the same as third-parties do with the third role of 'affecting strategic calculations' in Haspeslagh's theory, but through a different mechanism.

While the first theory by Sophie Haspeslagh examines the negative consequences that stem from proscription, this theory by Hovi may help us understand how proscription can be an effective tool for changing the behavior of armed groups towards peaceful means. My analytical approach combines the two theoretical approaches, and thus allows for an analysis that could potentially uncover *both* negative and positive effects of proscription in the pursuit of peace. Jon Hovi's analytical framework consists of five theoretical conditions for a threat to be effective. According to Hovi, the threat is effective if it is:

1. Relevant
2. Severe
3. Credible
4. Complete
5. Clear (1998, pp. 13-16)

I will now briefly describe these conditions in order. The first is that the threat has to be *relevant*. This requires that the target has the freedom of action to make it possible

for it to adjust its policy in the in desired direction. Additionally the target must also have an incentive to act “contrary to the threatener’s desires in the first place”, or else there is no need to threaten, and the actions of the target is not caused by the threat (Hovi, 1998, pp. 13-14). If these two dimensions are met, then the threat can be said to be *relevant*. In my case this means that the LTTE must have a possible choice in changing its policy away from violent action and that they would prefer to continue with violence if they were not threatened with proscription.

Secondly, the threat has to be sufficiently *severe*. This means that “the target must prefer to comply with the threatener’s demands, rather than to defy these demands *and* have the threat effectuated” (Hovi, 1998, pp. 14, his emphasis). Say that if the threat is effectuated it costs 1 value for the target. The benefit the target gets from business-as-usual policies must then be less than 1 value for the threat to be *severe* enough. If the target’s benefit from business-as-usual policies is higher than 1 value, it will be more beneficial for the target to continue those policies than comply with the threat. Thus the threat is not *severe* enough. In my case the LTTE must have its incentive-structure altered so as to prefer no violent action and no proscription, over continuing violent action and being proscribed. The sanctions of the proscription must be tough enough for the incentive-structure to be altered before we can say that it is *severe*.

Thirdly, for the threat to be effective it must be *credible*. This basically means that “the credibility of a threat is the extent to which the target believes it will be carried out if the relevant transgression takes place” (Hovi, 1998, pp. 15). The credibility of the threat can thus be looked at as a function of the threatener’s capabilities and preferences, or more precisely, the target’s perception of them. If the target finds the threat credible, then it is *credible*. In my case this means that the LTTE believes that the US, EU, Sri Lankan national government, etc. will carry out the threat of proscription if the LTTE does not comply with their demands.

Fourthly, the threat must be *complete*. According to Hovi a threat is complete if the target believes that if it complies the threat will not be effectuated. Meaning that “a threat must be accompanied by an explicit or implicit promise that the threatened action

will be called off if the target complies” (Hovi, 1998, pp. 15). If this is the case the threat is *complete*. In my case this means that the LTTE must have believed that if they stopped violent action (or similar demands), then they would not be proscribed, or de-proscribed by the ones who had already done so.

Lastly, for a threat to be effective it must be sufficiently *clear*. For a threat to be clear it has to tell the target exactly what the threatener wants from the target in terms of behavior, it has to be properly communicated to the target, and the target has to understand what the consequences of not complying are (Hovi, 1998, pp. 16). If these three factors are met, then the threat can be said to be *clear*. In my case this means that it must have been properly communicated to the LTTE from the different actors what they demanded from the LTTE in terms of behavior for not being proscribed, or de-proscribed, and what the actual consequences would be if they did not comply with the demands. If this was the case then the threat, or promise, would be sufficiently *clear*.

Later in the thesis I analyze the relevant parts of the case with this theoretical framework, to try and understand to what degree the threat of proscription (and reversely, the promise of being de-proscribed) can be said to have been an effective tool. Which conditions were in effect, and which were not? What can this explain to us about the way in which terrorist proscription functioned as a tool for altering the LTTE’s incentive-structure and thus represented an effective mechanism for creating peace in the Sri Lankan peace process?

### **3.4 Combined Analytical Approach**

What is to be gained by using these two theoretical approaches on the same case? The Hovi theory will be used to analyze the parts of the case where threats and promises of proscription or de-proscription are relevant. How were the proscriptions used as a mechanism according to Hovi’s five conditions for it to be an effective tool? Are terrorist proscriptions inherently negative for creating peace as Haspelagh’s theory

seems to imply, or could they be a constructive mechanism for affecting a change towards a peaceful track if used effectively?

Haspeslagh's theory is more useful analyzing the way the proscription affected the peace process *once they were in effect*, meaning the way the proscriptions affected the framework for the peace process. How did the proscriptions affect the roles that third-party actors should play in order to create a constructive peace process? These theoretical contributions might together uncover a broader and more complementary set of analytically interesting findings from the case, whilst always maintaining the focus on the use and effects of the terrorist proscriptions on the peace process. Together, they can also create the opportunity for finding answers both positive and negative concerning the impact of proscriptions on peace processes. This combined approach should yield a more complete analysis of the proscriptions' impact. Thus I can draw more valid inferences about the research question of to what degree this impact helps explain the failure of the 5<sup>th</sup> Sri Lankan peace process.

### **3.5 Other Relevant Contributions to the Literature**

In this last part of the chapter I briefly look at some of the other relevant perspectives that exist on the subject, illustrated through four contributions that can succinctly explain these perspectives. These contributions will not necessarily influence my thesis directly but they demonstrate where the academic field is at the present time and increase my general understanding of the issue, thus indirectly aiding me and the readers.

I begin my review of literature by looking at a contribution from a former Norwegian diplomat with considerable experience in the field of peace processes. This contribution exemplifies the way several scholars have examined the negative impact of the post-9/11 era's policies and environment on peace processes. The contribution is by the former state secretary in the Norwegian Ministry of Foreign Affairs Vidar Helgesen, and is poignantly entitled 'How Peace Diplomacy Lost Post 9/11' (2007).

The contribution considers the effect that the attacks on the US in 2001 have had on peace diplomacy. The effect is neatly summed up by Helgesen in this extract:

Though the nineties were a golden decade for peace diplomacy, the situation changed after September 11<sup>th</sup> 2001. Non-state parties to a number of internal conflicts have been labeled terrorist organizations, and the international community has tended to address such conflicts just as situations of one state fighting against terrorism. Instead, many internal, asymmetrical conflicts should be seen as cases of unfinished or incomplete state-building processes, and the international response should be one of supporting restructuring of the state to ensure all parts of society are included. This would require a willingness from governments to engage in asymmetrical diplomacy, implying negotiation with terrorists. International anti-terrorism measures have significantly constrained efforts to negotiate peace (2007, pp. 4).

Helgesen argues that global security realities greatly affect the possibilities for success of peace diplomacy, and that these realities often are outside the control of the parties in the conflict, as well as the third-parties trying to help. In 2007, he writes, the dominant global security issue was the issue of terrorism and how to deal with it (2007, pp. 6). The measures taken against terrorism have not sufficiently differentiated between global terrorism and the use of violence in national contexts. This flaw has “had an adverse impact on conditions for peace negotiations... making the resolution of internal conflicts more difficult” (Helgesen, 2007, pp. 6).

The next perspective I present explains the way terrorist proscriptions negatively constrain the potential for engagement with armed groups. The contribution that exemplifies this is from Joshua Gross. In it he analyzes the way terrorist lists complicated the US’ ability to impact the situation between the government and the Maoists group in Nepal (Gross, 2011). Gross recounts the impact of the US Supreme Court decision in *Holder v. Humanitarian Law Project* which ruled that training or advice to proscribed groups is illegal even if it is with the intentions to create peace

(2011, pp. 49-50). This ruling on material support does not exempt members of the diplomatic community in the US (ibid, pp. 44).

The legislation surrounding the proscription of a group isolates, in this case, the US from peace processes. And as Gross analyzes it, in Nepal “the U.S. was absent from the table when it needed to be present...”(2011, pp. 46). Gross argues that:

The language and mindset of counterterrorism... is an impediment to the U.S.’ ability to analyze the likelihood that the Maoists could moderate and evolve into a legitimate political party. The U.S. experience in Nepal demonstrates how labeling a group as a terrorist entity and cutting of the possibility for engagement can become a self-fulfilling prophecy, neutralizing incentives for an armed group to undergo the difficult transformation to become a legitimate and nonviolent political party (2011, pp. 39).

The next perspective I present explains the way the unclear nature of terrorist proscriptions makes it difficult for those government officials and NGOs engaging with proscribed groups to know what is legal and illegal. The contribution that exemplifies this is by Noah Bialostozky (2011). He argues that the proscription legislation and its unclearness “have resulted in significant legal uncertainties for those who engage with such organizations [as proscribed groups] to promote peace” (Bialostozky, 2011, pp. 59). And in addition that “both U.S. and international material support of terrorism measures fail to account for the on-the-ground realities of humanitarian and peacemaking work, and thereby create undue liability risks for a variety of public and private actors in conflict situations...” (ibid). Bialostozky argues that the international counterterrorist measures need much more precision and nuance, as in the present circumstance many actors are unsure of the legality of their actions, and they are therefore less likely to engage in peace building activities (2011).

The final perspective I present explains the question of legitimacy in regards to armed groups. More specifically the possible impact the naming of an armed group as terrorists has on their potential path toward transformation into a peaceful political party. The contribution is by Harmonie Toros (2008). She writes that her article has:

... questioned the politics of naming groups as ‘terrorist’. Indeed, the terrorist designation is often precisely an attempt to delegitimize a group, isolating it, potentially radicalizing it, and crucially closing off non-violent paths. Reducing a group or movement to its terrorist acts, which often do not even represent the main activity of the group, limits the group’s possibilities of being anything but a ‘terrorist group’. It also limits how the state can engage with such groups, putting decision makers in a ‘policy straightjacket’ (Toros, 2008, pp. 422).

This process of proscription and de-legitimization is due to the governments being afraid that talking to violent groups will legitimize their goals and means. But Toros argues that “negotiation with ‘terrorists’ can indeed lead to their legitimation, but through this very legitimation it may offer ‘terrorists’ an alternative path and the chance to transform into nonviolent actors” (2008, pp. 422). This dynamic is evident in cases such as the republican movement in Northern Ireland and the Maoists in Nepal.

It is worth noting that all these perspectives have something in common. They are all concerned with the negative impact that terrorist proscriptions have on the engagement of proscribed armed groups. Although there are some that have written of ways the proscription can have a positive impact, this is almost exclusively in contributions that are in the main negative towards the consequences of proscription. This is one of the reasons why I believe it is important for me to analyze the case with Jon Hovi’s theory on threats and promises, as my use of the theory is neutral towards the potential effects of the proscriptions being negative or positive. Although the consequences of the proscriptions seem to be mainly negative towards engagement with armed groups, the proscriptions could perhaps work as threats or promises to influence the groups to move away from violence.

## 4 Research Design and Methodology

In the introduction I tersely presented the type of case my research design consists of, and briefly outlined my two main methods of data collection: literature studies and semi-structured interviews. I begin this chapter by discussing the selection of respondents that I interviewed. Then I examine the strengths and weaknesses of my research design in regards to the issues of reliability and validity. My aim is to make this a brief chapter, but one that covers the important topics I have outlined.

### 4.1 Respondents

The respondents I have selected for the semi-structured interviews all had some part to play or interest in the 5<sup>th</sup> Sri Lankan peace process. They are mainly persons who were Norwegian government officials at the time, under titles such as ambassadors, state secretaries, special advisors etc. In addition I have interviewed the then-LTTE press liaison, members of academia, and a former US ambassador to Sri Lanka, so as to gain a variety of insights from both different professions and countries. I have not been able to interview LTTE leaders or cadres as those who would have been relevant to interview are either dead or in prison. Thankfully I was able to interview Sutha Nadarajah who was press liaison for the LTTE delegation during the Norwegian-facilitated negotiations in 2002-3. He was also then editor of the Tamil Guardian newspaper to which the LTTE chief negotiator and political strategist, Anton Balasingham, gave the majority of his extended interviews between 2000 and 2006. Nadarajah therefore had insight into the group's thinking during the peace process. Interviewing members of the Sri Lankan government would have been difficult, as when a Norwegian research team tried to do this a few years ago they were refused interviews and research visas (Goodhand, Klem & Sørbo, 2011). Luckily, my research question can be answered without access to Sri Lanka, as I am focusing mainly on the international dimension of the peace process.

I used the selection approach of non-probability sampling when choosing my respondents, in addition to snowball sampling where it was helpful. The non-probability method I used was purposive sampling, by which “the study’s purpose and the researcher’s knowledge of the population guide the process” (Tansey, 2007, pp. 770). When I was doing my initial research on the background information of my case, I noted down all the persons who seemed to be of relevance, and then contacted them for interviews. I believe this gave me a relevant and varied set of respondents. The other selection method I used was snowball sampling. This method is used by asking the initial set of respondents to suggest other potential subjects that have relevance to the object of study (Tansey, 2007, pp. 770). This is a good way of reaching respondents whose relevance might be more difficult to ascertain at the outset of the sampling. Also, when attempting to get a respondent to accept to do an interview I found that it was a nice ice-breaker to inform them that they had been suggested by others where this was the case.

The main advantages of these types of non-probability sampling are that they give the researcher control over the selection process, and make sure that important actors are included in the set of respondents (Tansey, 2007, pp. 769). I feel these advantages were achieved through my methods of sampling, as I was able to interview several crucial respondents that might have been lost to me in a probability sample. The main disadvantages are the increased risk of selection bias and the decreased potential to generalize from the sample to the wider population (Tansey, 2007, pp. 769). The risk of selection bias is present when using non-probability sampling, but I believe I have averted this problem by choosing respondents that are obviously relevant and by interviewing both a Tamil and representatives of other nations to have a variety of backgrounds. If I have a selection bias in my set of respondents, it is mainly the bias of having chosen many Norwegians as respondents. Their selection is of course partly out of convenience to my location, but they are all chosen for their relevance and insight in the peace process.

My aim is to have used the answers from my interviews with the respondents in the most honest and responsible way. I have sent every quote to them for review

before publication and only minor alterations were requested, something I take as an indication of a reliable use of their views.

## **4.2 Validity**

In this section of the chapter I discuss the validity of my analytical findings. I structure the discussion around Cook and Campbell's system of validity, which for my purposes includes internal validity, construct validity, and external validity (Lund, 2002, pp. 105). There is a fourth type of validity in their system that concerns statistical validity but as my study is qualitative in nature I have no need to discuss this type of validity.

### **4.2.1 Internal Validity**

Internal validity concerns whether the relationship between the variables in the study can be interpreted causally as the impact of the independent variable on the dependent (Lund, 2002, pp. 106). In my case, the question of internal validity is about whether the terrorist proscriptions (X) actually impacted negatively on the chances for a negotiated peace treaty (Y) in the 5<sup>th</sup> Sri Lankan peace process. The question of correctly attributing the effects on the chances of reaching a peace treaty to the proscriptions is the main challenge to the internal validity.

Peace processes are often very complex and multi-faceted, and the process on Sri Lanka was no exception. Correctly dissecting and attributing the effects I am interested in is therefore difficult but extremely important for my conclusions to have high internal validity. Thus it is appropriate that my research design consists of a theory-guided single-case study. This type of study is thought of as having strong potential for internal validity compared to other non-experimental research methods, as single-case studies allow for in-depth research of processes and causal mechanisms (Gerring, 2007, pp. 43). Having chosen a single-case study with semi-structured elite interviews as my research design, I could ask my knowledgeable respondents very

specific questions about a defined topic. This should increase my ability to analyze causal mechanisms, and therefore the internal validity of my research. The increase in internal validity though usually comes with the cost of a decrease in the external validity, a point I return to in-depth in section 4.2.3.

#### **4.2.2 Construct Validity**

Construct validity concerns the question of whether one measures what one indeed intends to measure. For the construct validity to be considered high, the operationalized variables must contain all the aspects of the concept the researcher wishes to measure, but nothing else (Lund, 2002, pp. 120).

Using semi-structured interviews as the research method should be an advantage in this regard, as open-ended questions provide the respondents with more freedom and thus increase the validity of their answers (Aberbach & Rockman, 2002, pp. 674). The somewhat conversational nature of this interview style allows the space and flexibility for clearing up any potential misconceptions about what the interviewer or respondent means by a concept or a point they raise. This should increase the construct validity, as different notions between the interviewer and respondent of what a concept means should be more easily avoided than they would with close-ended questions. Thus when interviewing I could explain to my respondents what I meant by a certain concept in a question if I felt it was necessary, or ask them a follow-up question to ensure we were in agreement on the meaning of their response. I believe this interviewing style decreased the potential for misunderstandings, and therefore increased the construct validity of the information I received from my interviews.

My analytical approach contains several concepts, and it is therefore important that these concepts are measured in a way that ensures high construct validity. Concepts such as *access* are fairly straight-forward and should not yield much problem. But concepts such as *severity*, which I use when assessing the effect of the threat of proscriptions with Jon Hovi's framework, can be more difficult to correctly

measure. I therefore argue for a two-part analysis of the concept looking at the material and ideational effects separately, to analyze more correctly the proper extent of the severity concept. Dividing this into two sub-concepts for my questions to the respondents, I avoid a situation where they answer for example, ‘the effects were not severe’. And they actually believe the ideational effects were severe, but assumed I meant to ask only of the material effects, which were not severe. Being aware of potential snares such as this is important, as the researcher can then adapt the interview in a way that yields the highest possible construct validity. To avoid these traps is a challenge, but it is something I was aware of and therefore it was hopefully avoided as best can be.

### **4.2.3 External Validity**

A study can be considered to have high external validity if it makes it possible to generate non-statistical generalizations to and across relevant individuals, situations or times with a reasonable degree of certainty (Lund, 2002, pp. 121). In my thesis there is only a limited opportunity for making generalizations, and I have no great ambition of doing this either. Single-case studies usually mean prioritizing internal and construct validity over external validity, and my study is no exception. This trade-off between external and internal validity seems “intrinsic to the cross-case/single-case choice of research design” (Gerring, 2007, pp. 43).

Peace processes are inherently complex and to a degree unique, and lessons learned from one process can therefore be difficult to apply to another process. To take knowledge of one process as generalized knowledge of all processes could soon be at one’s peril, especially for mediators, but also for academic analysts. Therefore I should be very careful and frugal when assessing the external validity of my findings. The possibility for generalizing across time is also an important question, as the ideational impact of terrorist proscription, and the word: ‘terrorist’ itself, was probably stronger in the decade after 9/11 than it will be in the next decade. But the mechanism of terrorist proscription does not seem likely to go away any time soon, and the number

of intra-state conflicts has stabilized at a high frequency (“Intrastate Conflict by the Numbers,” 2013). Therefore the study of the impact of terrorist proscriptions on peace processes should remain highly relevant in the foreseeable future, even though the impact of the proscriptions themselves might decline somewhat if the world goes for a long time without major terrorist attacks.

Does my study have high external validity? I would say it does not. This is mainly due to the limiting nature of single-case studies in this regard, and the inherent complexity of peace processes. I would argue, though, that my analytical framework could be relevant for analyzing similar types of peace processes as the one in Sri Lanka.

### **4.3 Reliability**

The question of reliability is the question of to what degree we can place confidence in the measuring instrument we are using to give the same results, if it were to be repeated on the same object of study (King, Keohane, & Verba, 1994, pp. 25-26). The interview methods typically associated with high reliability are variations of the method of structured interviewing, these forms contain standardized ways of asking and recording the questions and answers and are often used in surveys (Bryman, 2004, pp. 109-110 ). Unstructured interviews on the other hand are difficult to replicate, and are therefore associated with low reliability.

The interview method I have chosen is semi-structured interviews. As I have argued previously, this seemed most appropriate for the flexibility and in-depth research my study necessitated. This method of interviewing lands somewhere in the middle in regards to reliability, as the fixed interview guide of questions increases the reliability, but the flexible nature of the semi-structured interview decreases the possibility of replication (Bryman, 2004, pp. 321). Therefore the reliability of my study should have a moderate degree of reliability, although not as high as a structured interview method might potentially have yielded.

There are also various other steps I have taken to increase the reliability of my study. These are among others that my interviews have all been recorded with a tape recorder; the interviews have been transcribed in some detail; my interview guide is documented and published; I have had each respondent review my citations before publication; and my respondents are exclusively cited by name and not anonymized. All these measures, especially when combined, should increase the reliability of my study. The fact that some of the interviews are translated from Norwegian could decrease the reliability, but as every translated quote is reviewed by the respondents I believe any potential mistakes should be avoided.

“Interviewers must always keep in mind that it is not the obligation of a subject to be objective and to tell us the truth” (Berry, 2002, pp. 680). This is an important thing to keep in mind when examining the reliability of the answers from my respondents. Several of the respondents were heavily involved in the peace process (which ended badly), and might therefore consciously or unconsciously present their views in a way that reflect better upon themselves. The fact that my analysis is concerned with the impact of external actions, rather than the performance of individual persons, should alleviate this potential problem. Still, I must be aware of this issue and will therefore base my analysis on a variety of sources. This way I can avoid a negative effect on the reliability of my analysis caused by an undue reliance on potentially unreliable answers. I should add that my impression is that all the respondents answered my questions truthfully and objectively.

This chapter has discussed the strengths and weaknesses of my research design. It consists of doing a theory-guided single-case study of the 5<sup>th</sup> Sri Lankan peace process, with semi-structured interviews and literature studies as its two main methods of data collection. In short, the main strengths of this design are the increased chances of achieving the identification of causal mechanisms, and to correctly capture and measure the concepts I wished to measure. These strengths pertain to high internal validity and construct validity. The main weakness on the other hand, is the constrained opportunity for making generalizations, which indicates that the external validity of the study is limited. The reliability of the study can be considered moderate,

as several measures are implemented to increase it, but the nature of semi-structured interviews means the reliability will be lower than compared to a study conducted through structured interviews.

This kind of trade-off between the different types of validity through my choice of research design is as old as academia itself, and one will always be forced to make choices of whether to “know more about less, or less about more” (Gerring, 2007, pp. 49). As I have argued throughout the discussion of my research design, though, I believe my choices have been the most appropriate ones when attempting to answer my research question. One is always faced with choices, so therefore the best one can do is to try and make the most suitable ones.

## 5 The Impact of the Proscriptions on the Framework of the Peace Process

In this chapter I make use of the theory by Sophie Haspeslagh to analyze the way in which the proscriptions affected the framework for the peace process, using the variables expounded in her theory as explained in chapter 3. I begin by analyzing the impact the proscriptions had on the peace process through Haspeslagh's two main variables, access and trust, before analyzing the way these variables affected the four roles of third-party actors.

### 5.1 Access

The first of Haspeslagh's two main variables is *access*. It is important as without access it is very difficult to engage and affect the parties in a conflict and an ensuing peace process. How did the proscriptions affect the access actors had to the LTTE in the peace process on Sri Lanka? I begin by looking at the access of, in my view, the six main actors at the time of the start of the formal peace process in early 2002.

- The most important actor was the government of Sri Lanka (GoSL). The LTTE were initially proscribed by the GoSL in 1998, but were de-proscribed as a result of the peace process in September 2002 during the six rounds of formal talks. As the Cease-Fire Agreement was signed before the LTTE were lifted off the ban it is clear that it was possible to engage them before this, but the LTTE demanded de-proscription as a necessity for further talks, and in this sense the de-proscription was necessary for the access of the GoSL to the LTTE (and vice versa). In the words of Sutha Nadarajah, former editor of the Tamil Guardian and press liaison for the LTTE delegation: "the Sri Lankan ban was fundamental; the LTTE would never have negotiated without being de-proscribed by Sri Lanka, as this was a minimum of legitimacy for the negotiations themselves" (Interview). Thus the

national proscription and subsequent de-proscription seems to have had a direct impact on the access between the parties.

- Norway was the facilitator of the peace process and it was therefore necessary for them to not proscribe the LTTE. In the words of Norway's special representative Erik Solheim: "If Norway wanted to play this sort of role in Sri Lanka, and want to in other conflicts, they must forget about a terrorist list like this" (Interview). Subsequently there were no problems of access for Norway due to proscription; this decision not to proscribe was even strongly encouraged by the United States so as to make sure someone was able to talk to the LTTE (Solheim, Interview). Norway's decision to no longer align themselves with the EU list after the EU proscribed the LTTE in 2006 gives a further indication of the significance of non-proscription for their ability to act as a facilitator. This was done to "avoid a situation that makes it more difficult for us to have contact with any of the parties to a conflict" ("Norway's cooperation with the EU on the fight against terrorism," 2006).
- The world's only superpower is arguably still the United States (and it undoubtedly was in 2002), which therefore has a lot of potential impact on pretty much any peace process around the world. Although the Americans had no strong strategic interest in Sri Lanka they had an enhanced engagement from 2001 and onwards, at least as long as the process showed some progress (Lunstead, 2007, pp. 13). How did their proscription of the LTTE on the previously discussed FTO list affect their access to the LTTE? For the Americans there was no direct contact with the LTTE through any channel, which was not due to a legal restriction but a *policy* decision (Lunstead, 2007, pp.15). Although there were legal restrictions as a consequence of the FTO list that were discussed in chapter 2.7, the decision not to meet with the LTTE was heavily influenced by the post-9/11 atmosphere. At this time it was a "political impossibility for the US to be in direct contact with a designated terrorist organization" (Lunstead, 2007, pp. 16). Instead they relied on Norway to be the middleman for communicating messages to the LTTE (Solheim, Interview).

The US restrictions on access had a direct effect when a donor conference was scheduled in Washington DC in 2003. The LTTE could not attend due to the US' legislative restrictions on their access to US soil. The LTTE subsequently suspended their participation in the formal talks of the peace process, citing their exclusion as one of the reasons (Weerakoon, 2006, pp. 22). Although there were probably several other factors influencing this decision by the LTTE, their exclusion from the conference gave them a "legitimate out" from the process, which "proved to be a turning point in a negative direction" (Stokke, Interview).

- The UK also played a part in the peace process, as an important actor on the international stage, as well as a history as Sri Lanka's former colonial master. They had proscribed the LTTE in 2001, but had a more flexible approach to access with the group than that the US had (Stokke, Interview). To illustrate, the LTTE's chief negotiator Anton Balasingham lived in London and met with UK officials there, but could not receive colleagues from the LTTE there and had to go all the way to LTTE-held Vanni in Sri Lanka to communicate personally (Sutha Nadarajah, Interview). This shows that the UK had some access to the LTTE, and that curiously the ban delayed the internal decision process in the LTTE through the effect on access of the UK proscription.
- The EU did not proscribe the LTTE until 2006, so they had access to the group in principle until then. The only high-profile meeting between an EU official and the LTTE leader Prabhakaran was however when the Commissioner for External Relations Chris Patten went to Sri Lanka in late 2003. This meeting caused some stirrings in the EU (Vidar Helgesen, Interview). There were some meetings between middle-rank delegates from the LTTE with European officials in EU countries, but Patten's visit was the only high profile visit with the military leadership of the LTTE. The EU proscribed the LTTE in 2006, cutting off access for officials from the EU countries to the LTTE (Helgesen, Interview). Furthermore, the EU proscription led directly to the LTTE demanding that the EU countries (Sweden, Denmark, and Finland) participating in the Sri Lanka

Monitoring Mission (SLMM) to withdraw from Sri Lanka. This restriction on access and trust from the EU proscription had the effect that the SLMM was weakened, as only Iceland and Norway remained (Solheim, Interview).

- India played a part in the peace process through their power, geographical closeness, and cultural and political ties to Sri Lanka. India had proscribed the LTTE in the early 1990’s so could not meet with the LTTE officially (Rupesinghe, 2006, pp. li). Although the LTTE were proscribed by India, “there was a running back-channel of dialogue between the two actors”, which showed that India were more flexible in practice than in theory at least in the early part of the process (Jon Westborg, Interview). The proscription therefore had a moderately negative effect on India’s access to the LTTE.

<i>No access</i>	<i>Some access</i>	<i>Full access</i>
US, EU (post-2006)	GoSL (pre-2001), UK, India, EU (pre-2006)	GoSL (post-2001), Norway

Figure 3: Table of actors’ access to the LTTE

The effect the proscriptions had on the access of the different actors can be illustrated in the communication chart in figure 4 by the time of the EU proscription in 2006. The arrows represent the lines of communication between the actors, with the grey arrows signifying the GoSL and the black arrows the other actors. The thickness of the lines signifies the extent of the communication. The most significant point to keep in mind for the rest of the analysis is the way the communication between Prabhakaran and the international actors became filtered and indirect. This would serve the effect of the international actors’ engagement with him and the LTTE negatively.

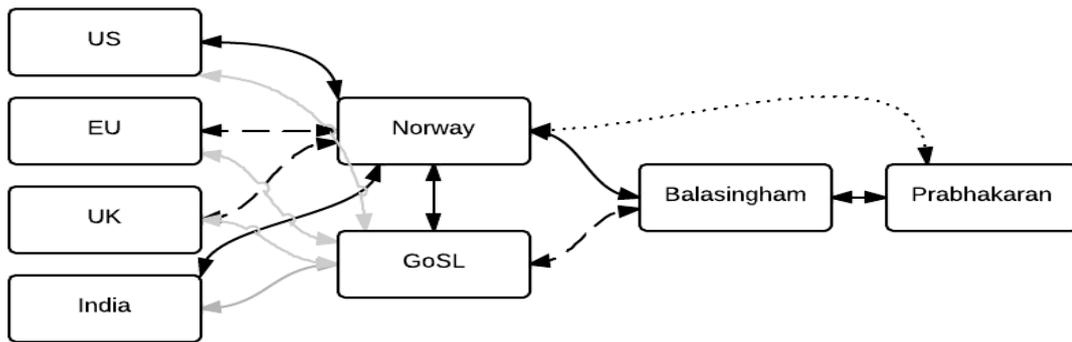


Figure 4: Graphic representation of communication between the LTTE and other actors.

## 5.2 Trust

The second main intermediate variable in Haspeslagh’s theory is *trust*. Trust between the actors is necessary in a peace process for constructive engagement to happen. The perceived impartiality of third-party actors is closely linked, and an essential component of trust-building (Haspeslagh, 2013, pp. 198). As trust is an ideational variable it is more difficult to analyze than the more straight-forward access variable I previously examined. It should however still be possible to say something valid about the way in which it was affected by the proscriptions, as long as I am careful not to reach too far in my inferences.

I begin the analysis of this variable by reminding the readers that it would have been “impossible” for Norway to engage in the process if they had proscribed the LTTE, “as our role necessitated trust from both parties in the conflict” (Tore Hattrem, Interview). Additionally it was necessary for the LTTE to be de-proscribed nationally in Sri Lanka. As the LTTE were supposed to be an ordinary political actor in the peace process they could not be banned nationally, as this would have created an imbalance between the two parties in the conflict (Solheim, Interview). It is precisely concerning this *balance* of legitimacy where the proscriptions from the international actors seem to have had an effect on the trust variable, as I shall now elaborate on.

For the LTTE, questions of honor, equality, and equal treatment was very important, in every detail and in every way (Solheim, Interview). The LTTE talked all

the time of their legitimate right to be treated equally with the Sri Lankan state, as the LTTE (at least in their opinion) represented the Tamil nation, and “when the proscriptions revealed to them that the Western actors treated them systematically different it led to a feeling of betrayal towards these actors” (Stokke, Interview). A crucial aspect in any conflict is how we should understand it. According to Sutha Nadarajah, “a key consequence with using proscription and the terrorist label on an organization, especially in the context where other Tamil actors are endorsing them and their political agenda, is that you are already taking a side in the fundamental question of the conflict” (Interview). This way, “the proscription in itself says that the conflict should be understood as a conflict between a legitimate state and an illegitimate group. That is the political impact of proscription on its most foundational level” (Nadarajah, Interview). After the EU proscription in 2006, the LTTE “became more introvert and more skeptical of international engagement, and politically there was an increasing marginalization of the group; in this context the proscriptions were very destructive” (Helgesen, Interview).

When analyzing this variable it is important to keep in mind the discursive context of the world this peace process took place in. Although no more than roughly a decade has passed since the apex of the process, the discourse surrounding terrorism is softer now than compared to a decade ago. Arguably, the pattern of the discursive impact of the word ‘terrorist’ coincided almost perfectly with the peace process itself, peaking from 2001-2003 and tailing off until 2009, when the conflict ended on Sri Lanka and the newly inaugurated Barack Obama retired the term ‘War on Terror’ in exchange for “overseas contingency operations” (Wilson & Kamen, 2009). In fact he has almost never uttered the phrase in his presidency (“Tim Pawlenty says Obama has stopped using the phrase ‘war on terror’-fact check,” 2011). But in the atmosphere after the 11<sup>th</sup> September attacks, things were different. In this period:

The notion of a single huge threat returned as the organizing principle of foreign policy. ...the security agendas and the decision-making processes of the most influential governments and key international organizations like the UN, the EU and

NATO were focused almost exclusively on terrorism and the need to combat it (Helgesen, 2007, pp. 9).

It was at this time and in this context that the peace process took place, and therefore most likely increasing the impact of the proscriptions on the trust variable compared to other time periods. As it was put by Sutha Nadarajah, “given the global mood at the time, when you say terrorism it puts the group concerned totally and utterly beyond the pale. The discursive power of that word was at its strongest in the crucial stages of the process” (Interview). Thus, the ‘War on Terror’: “decreased strongly the will to equate a guerrilla movement with the government of a state, and the proscriptions were part of this big picture” (Solheim, Interview).

The struggle for legitimacy and balance, both nationally and internationally, was of crucial importance for the LTTE, and the proscriptions seemingly affected the prospective balance between the government of Sri Lanka and the LTTE. “The legitimization effect from the proscriptions handed wholesale the advantage to the government as the aggrieved party in the conflict. In short, any problems with the peace process were easily blamed on the (illegitimate) LTTE, and not the (legitimate) government” (Nadarajah, Interview). For a peace process to be constructive and progressive it is critical for there to be trust between the parties. In the Sri Lankan peace process “the level of trust was very fragile at the outset and it withered gradually, and the EU proscription was perhaps, an important part of, a last nail in the coffin regarding this from the point of view of the LTTE” (Stokke, Interview).

### **5.3 The Four Roles of Third-Party Actors**

In the next section of the chapter I analyze how the levels of access and trust affected the four roles that third-party actors can engage in to create a more constructive peace process according to Haspeslagh’s framework. The reduced levels of both access and trust impacted this, although the variable of access played the largest part. The proscriptions’ impact on the trust variable appears to have affected the chances for a

peace agreement in a more direct manner, while the impact on the access variable affected the chances for a peace agreement indirectly through its impact on the four roles. The indirect impact of the reduced levels of trust appears especially salient on the third role of affecting strategic calculations. The four roles are: understanding armed groups, influencing them, affecting their strategic calculations, and training them in conflict resolution. I analyze them one by one, but focus on them according to their significance for the case.

### **5.3.1 Understanding the LTTE**

Without being able to understand armed groups any engagement with them are not likely to be especially fruitful. Haspeslagh explains that “challenges around access to groups [can] have led to problems for third-party actors to gather enough information to help them understand groups’ perspectives, motivations and dynamics” (2013, pp. 199). Does proscription affect this ability through the proscriptions, and was this the case in Sri Lanka? Vidar Helgesen has argued that “probably no other government [than the Norwegian] has maintained contact with so many rebel movements and leaders, and accumulated such an understanding of their mentality, political outlook and organizations” (2007, pp. 20). If we take this statement at face value, is it just a coincidence that one of the few Western nations with an outspoken policy of non-proscription is also one of the countries with the greatest understanding of the mentality of armed groups around the world? Or perhaps this is not a coincidence. I believe it is reasonable to make the inference that proscribing groups reduce the access to them, and that there is a connection between the ability to have access to these groups and the ability to understand them.

Did this connection appear in Sri Lanka? NGOs and government agencies focused on development can often play an important part during peace processes, and can be very helpful in getting close and understanding the motivations of groups. But they appear to have had a “limited” effect on the Sri Lankan process (Solheim, Interview). Even so, Erik Solheim believes this limited engagement and effect of

NGOs were mostly due to the LTTE's poor ability to sell their message and get sympathy abroad (Interview). The proscriptions were more a reflection of this negative image of the LTTE in the West, rather than the limited role of NGOs in the process being because of the proscriptions. American agencies such as USAID were lawfully prohibited from executing development programs in LTTE-controlled areas (Lunstead, 2007, pp. 19). This might have reduced the economic development in the LTTE-areas, which the LTTE leadership was very concerned with and increasingly frustrated with the lack of (Helgesen, Interview). This reduction of potential development was especially apparent when the US refused to take part in the P-TOMS framework after the tsunami, as they did not want funds to go through the LTTE (Nadarajah, Interview). This way the proscriptions' constraints on access seem to have affected the process negatively through the decrease in potential economic development from NGOs and government agencies. However, the lack of understanding for the actors through the restricted access of NGOs has not been cited as a meaningful negative impact on the process in Sri Lanka.

How about the government and LTTE representatives taking part in the formal peace process? Was the level of understanding between them affected by the proscriptions of the LTTE? A problem in the Sri Lankan peace process seems to be that the representatives who met with each other, built trust and understood each other, were not necessarily the ones which were most crucial for achieving progress in the process. During the six rounds of formal talks "the involved could talk together, there was a dialogue, and they could understand each other. A critic would say, however, that the LTTE delegation did not really represent the LTTE and partly so also on the government side" (Stokke, Interview). The delegates taking part in the talks for the LTTE were mainly from the political wing of the group, but this wing was "increasingly marginalized" within LTTE, and there was a problem that the international actors "understood the ones they met at the negotiation table, but less so the dynamic around them" (Stokke, Interview). This problem cannot however be attributed to the proscriptions, as this was not a consequence of reduced access or trust, but a free choice for the GoSL and the LTTE of who to send to the negotiations.

As the process went on the hard-liners on both sides would increase the influence over the process, eventually leading to a return to violence. Thus there was a problem of access that meant that the people the western actors met the most and built a relationship with, were not the ones that necessarily made the decisions in the LTTE. “The proscriptions had the strange effect that one gladly wanted to speak to the civilians, but as their power was so limited it would have been much better to talk to the ones who made the decisions to kill” (Solheim, Interview). This effect for the international actors can thus be attributed to the proscriptions, as the reduced access to the military wing of the LTTE can have led to a decreased understanding of them.

As all the international actors except Norway did not have real access to the group, it was very difficult for them to get close to the LTTE and build the necessary understanding of their motivations and needs. All communication had to go through Norway as an intermediary. More access and therefore a higher level of understanding might have made it easier for the actors to shape their strategy in a more constructive manner. The result of this somewhat incomplete understanding will perhaps be more evident in the next chapter, where I analyze the effect of the threats and promises of proscription on the incentive-structure of the LTTE. If the international actors had understood the LTTE leadership better, these actors might have adapted their strategy in a way that would have had more influence on the decision making of the LTTE. But the way the proscriptions affected the ability for third-party actors to understand the LTTE does not seem to have affected the process in a very negative way, although it might have had some effect in the fashion I explained.

### **5.3.2 Influencing the LTTE**

The second role third-party actors can play is in influencing the way the armed group sees itself and perceives its environment. As many of these groups, including the LTTE, are far removed from global politics and “wider political dynamics”, third-parties can help them open their eyes to new forms of seeing themselves and the world (Haspeslagh, 2013, pp. 201). Did the proscriptions have an effect on the ability of

third-parties to play this role on Sri Lanka? The answer is partly yes, and I will now show why this is so.

A good example of the attempt and partial success of third-parties playing this role is the ‘federalism tour’ that several (from junior-level to high-level) LTTE cadres went on in Europe to study different governmental structures (“LTTE officials study Swiss Federalism,” 2002). The only plausible way the Sri Lankan conflict could have ended peacefully seems to me to be through a compromise on some form of federalism. The GoSL would not have accepted a separate state, and the LTTE would need a very strong degree of autonomy to be able to accept and sell the deal to the Tamil people. Therefore, some sort of a federal solution seems to have been the only negotiable solution (Hattrem, Interview). The ‘federalism tour’ therefore seems to have been a constructive way to engage the group and perhaps facilitate a move in the direction of a peaceful compromise. As they were banned in the US and Canada, they were unable to research interesting solutions such as the Québécois one. But they were able to visit several European countries before the EU proscription in 2006.

I have heard the tour described both as “tactically manipulative and not a genuine attempt”, and as a (genuine) way “to increase intellectual capacity in the LTTE” (Hattrem; Nadarajah, Interviews). So how much of a genuine effort this was by the LTTE to explore a transformation is hard to decipher, but almost regardless these sorts of efforts could be constructive ways of engaging a group and influencing their worldview. The apex for this possibility was the press statement after the third round of talks in Oslo, known as the Oslo-Communiqué, which said that both parties agreed to “explore federalism” as a solution (Goodhand, Klem, & Sørbo, 2011, pp. 41-42). Although this proved to be a bridge too far at the time, it was at least discursively an option on the table. Efforts such as the federalism tour could only have helped in this regard, and access to even more countries could only have improved the process of engaging with the LTTE’s view of the world and their place in it. “The more open doors the better, and the most important role the proscriptions played were in closing doors” (Solheim, Interview).

The LTTE leadership's (except the chief-negotiator Balasingham) worldview and lack of sophisticated political understanding are mentioned several times in interviews as having a negative effect on the process. "The leadership had limited understanding of the outside world, power relationships in the world, and how they needed to act get international support", their "very closed world led to a limited ability to understand the way their actions affected others" (Solheim, Interview). Another described it as: "the LTTE leader Prabhakaran seems to have been completely stuck in the jungle. He did not understand how the world operated and was therefore not able to adjust to changes on the international stage" (Hattrem, Interview). Although the former LTTE negotiators' press liaison Sutha Nadarajah maintains that this "conception of Prabhakaran sitting in the jungle not understanding the world" is not correct (citing the LTTE's complex political analysis and decision making, to which several local and diaspora actors routinely contributed), it seems like several of the international facilitators experienced him this way (Interview).

It appears that one of the main issues of the peace process was to engage the way the LTTE saw themselves and the world around them. To change Prabhakaran's worldview away from a focus on violence would have been "critical" (Helgesen, Interview). The engagement by third-parties necessary to achieve this is somewhat overlapping between the second and third role in Haspeslagh's theory. One needs first to influence the group in the manner I have discussed here in order to be able to affect the strategic calculations of the group (which is the third role in the theory). Therefore I place the analysis of the proscriptions' effect on this engagement mainly under the next section, as the ultimate goal and need of the engagement is to affect the strategic move away from violence and towards peaceful means. This is what was necessary on Sri Lanka, and it did not happen. Can the impact of the proscriptions help explain this?

### **5.3.3 Affecting the Strategic Calculations of the LTTE**

This role is the most crucial one for pretty much any peace process where the overarching goal is to transform an armed and violent group into a peaceful political

party capable of holding and respecting public office. Everything I have learned about the peace process on Sri Lanka seems to back up the necessity of this transformation, at least to the degree where a peaceful negotiated solution can be achieved. Aptly enough, through my analysis of the impact the proscriptions had on the different roles, this is the one where the proscriptions had their biggest impact on the process.

This transformation of the LTTE and their strategic calculations is almost unanimously cited as the main challenge for the third-party actors. “In this context [of reduced access] the proscriptions were destructive, because political engagement was what needed to be done” (Helgesen, Interview). The restricted access due to the proscriptions made this type of direct engagement next to impossible. The proscriptions also contributed to a “heightened skepticism inside the LTTE towards international engagement” which affected negatively the levels of trust (Helgesen, Interview). The levels of both access and trust seem to have been reduced, and this made the effort of affecting the strategic calculations of the LTTE more difficult. The main hindrance appears to have been the lack of access; without this any form of engagement is extremely challenging, especially an engagement that tries to accomplish a transformation of an entrenched group. The reduction of the level of trust appears to have been secondary, as access is necessary first to be able to build trust.

The potential move away from violence was critical; as “many felt that the LTTE was inherently violent” there were still those who felt “a transformation was possible if it had been handled differently” (Stokke, Interview). In the words of Erik Solheim: “the most decisive issue [of the process] was the actual use of violence by the LTTE” (Interview). As the process went on “the LTTE came to see a violent answer to every problem; they had a strong faith in violence as a solution” (Solheim, Interview). As the ‘law of the instrument’ goes: If all you have is a hammer, everything starts to look like a nail. What the third-parties to the process needed to accomplish was to engage the LTTE in a way that made them stop seeing problems as nails and themselves as a hammer. They needed more tools, and according to Sophie Haspelagh it was the role of the third-parties to help them get these tools. But the

international terrorist proscriptions affected the will and the ability of these actors to achieve this.

Because actors such as the US, the EU, the UK and India did not have the necessary access it was impossible to get close enough to the LTTE to constructively engage with them. A problem for the Norwegian delegation was the role diversion they experienced, in that they were the mediators of the process as well as the intermediary for every (often negative) message from the US and others (Solheim, Interview). So it would have been “a great advantage if others could have contributed to the reality orientation of the LTTE. A big, big advantage if the US, the EU and India could have met them directly and spoken in clear text” (Solheim, Interview). Everyone who thinks this transformation was possible believes it would have taken much time and effort, with systematics meeting from ambassadors and others with authority. This was evident when the EU external relations commissioner Chris Patten was facilitated in by Norway (before the EU proscription) and visited the LTTE, which “had an effect and was something the LTTE emphasized greatly” (Helgesen, Interview). “I believe it had an important effect that the proscriptions obstructed the political engagement that was necessary to open the eyes of Prabhakaran and the LTTE” (Helgesen, Interview). The proscriptions seem to have played a large role in this context, and the EU proscription in 2006 seems especially crucial, as the last major actor not to have banned the LTTE before then:

The outright proscriptions of the LTTE by the EU and Canada in early 2006 drastically closed the space for engagement between the international community and the LTTE. No exception was made in these bans, for example, for engagement with the LTTE’s Political Wing or civil administrative arms. If the intention was to encourage the LTTE’s political transformation (as understood by the international community), the move was paradoxical, given that it had been these arms of the LTTE which had been interacting most with international actors on transitional approaches and actions. The ban not only disrupted and foreclosed such initiatives, it also

undermined advocates of these efforts within the LTTE. Interestingly, while EU countries continue to assert their commitment to a negotiated settlement and engagement with the LTTE, in practice, the EU's 2006 proscription of the movement removes the necessary space and suggests this commitment is ambiguous (Nadarajah & Vimalarajah, 2008, pp. 45).

An important point to bring back is something I raised in section 5.3.1, about the importance of talking to 'the right people'. Understanding and influencing second-rank civilian cadres in the LTTE is one thing, but the crucial element is to reach and engage with the people that were truly in charge.

The proscriptions had the strange effect that one gladly wanted to speak to the civilians, but as their power was so limited it would have been much better to talk to the ones who made the decisions to kill. The important thing was that the proscriptions made it more difficult to have a closer and more intimate dialogue with the LTTE, [the leader] Prabhakaran in particular, the military core; the ones one needed to influence. That would have been the most decisive factor for the entire peace process, and that became more difficult with the proscriptions (Solheim, Interview).

If major international actors had had the necessary access and trust, along with quite a lot of will, ability and luck, it might have been possible to achieve the needed transformation of the LTTE to a point where a negotiated solution to the conflict might have been more achievable. Of course I cannot say with any certainty what could have been achieved differently without the constraining effect of the proscriptions, but it seems clear to me that the removal of this effect could only have helped the process become more constructive, thus increasing the possibility of a peaceful solution. The impact of the proscriptions on this role for third-parties is clearly the most salient one in Haspeslagh's framework when it comes to the Sri Lankan peace process.

### **5.3.4 Training the LTTE in Conflict Resolution**

As poor negotiators can make for poor negotiations, an important function of a peace process and the engagement of third-parties can be to train armed groups in negotiations and conflict resolution. How did this play out in Sri Lanka, and did the proscriptions affect the ability of third-parties to engage?

Firstly, one has to remember that armed groups are often just that: an armed group, not a democratic political party or a Western-style NGO. Their ability to negotiate constructively might be limited. The LTTE had quite a lot of experience from different peace processes over the years, but their experience and ability was mostly tied up in their chief negotiator Anton Balasingham. The rest of the cadres of the political wing of the group were younger and less experienced. Therefore, according to Professor G.L Peiris, chief negotiator for the GoSL, the early parts of the negotiations needed to go slow. “As the talks started, the LTTE was naturally reluctant to engage, because this was not familiar ground as far as they were concerned. So they needed considerable preparation, encouragement, and initiation into the process” (Peiris in: Rupesinghe, 2006, pp. 96). He goes on to explain how the arrival of several academics and NGO workers from Europe and Canada “greatly assisted” this process (ibid). It is interesting to note that nationals of the countries that had proscribed the group were mostly missing from this picture, whilst most of the present ones were from countries such as Canada, Switzerland and some from the EU nations (this occurred in the early 2000s before the EU and Canadian proscriptions).

The LTTE established a peace secretariat in early 2003, which Kristian Stokke describes as one of the basic things necessary for negotiations to be constructive (Interview). This seems to have been a step towards increasing the negotiation capacity in the LTTE, but discouragingly the secretariat was set up only shortly before the formal talks and the peace process were beginning to erode (Goodhand et al., 2011, pp. 42). Vidar Helgesen says: “there were some signs of a buildup of civilian and political capacity in the apparatus of the LTTE, which may over time have altered the dynamic inside the LTTE [towards peaceful means], but this was dependent on

progress in the process” (Interview). But as this progress went sorely missing on the ground it is hard to say which direction this development might have taken.

The chief negotiator for the LTTE, Anton Balasingham, played an important part in the process. This was both a strength and a weakness. Balasingham was the ‘Western alibi’ inside the LTTE, as he was educated and well-spoken. He was someone the international actors “could talk to” and was “the only one who could think independently and who really could argue with Prabhakaran” (Stokke; Hattrem, Interviews). As I have shown previously, the proscriptions had an effect on who the third-parties spoke to, which were mostly Balasingham and to a lesser degree the other civilian cadres. This had the negative effects that I analyzed in previous parts of this chapter, but another problem was when Balasingham died (from natural causes) in 2006. His death has been described as one of the final nails in the coffin of the peace process; “the ability for something to happen politically disappeared with him” (Solheim, Interview). As the major political force in the group was lost with him, it suddenly became much more apparent that his presence had papered over the fact that the military core had not been sufficiently engaged, and not enough had been done to build up the political capacity of the LTTE. According to Erik Solheim, it was “after the death of Balasingham that LTTE made all its mistakes”, as he was one of the few who could argue against Prabhakaran and had the greatest insight into the international arena in the LTTE (Norad evalueringsavdelingen, 2011).

This dependence on single individuals such as Prabhakaran and Balasingham was a problem for the peace process. Had it been possible to do more to build up and restructure the political capacity in the LTTE, it would probably have been an advantage for the process, especially apparent after the death of Balasingham in 2006. In this way the restricted access to the LTTE due to the proscriptions could have had an effect on the role of training the LTTE in conflict resolution. But as some countries had access and were willing to do this in the important early steps of the peace process, the proscriptions did not deny this opportunity entirely.

In this chapter I have analyzed the case of the Sri Lankan peace process using Sophie Haspeslagh’s theory of the impact of proscriptions on the four roles third-

parties can play in engaging an armed group. My findings indicate that the proscriptions' effect on the first and fourth roles, understanding the LTTE and training them in conflict resolution, had a minor negative effect on the attainment of a peace treaty. The effect on the second and third role on the other hand, influencing the LTTE and affecting their strategic calculations, seems to have had a strong negative impact on the process, by denying the opportunity for many crucial actors to engage constructively with the LTTE. The reduced levels of both access and trust impacted this, although the variable of access played the largest part. The proscriptions' impact on the trust variable appears to have affected the chances for a peace agreement in a more direct manner, while the impact on the access variable affected the chances for a peace agreement indirectly through its impact on the four roles.

Thus for these actors their communication with the LTTE mainly became the *proscriptions in themselves*. In the next chapter I use Jon Hovi's theory on threats to analyze to what degree the proscriptions can be said to have been effective in this regard, either as the threat of proscription or the promise of de-proscription. The analysis through Haspeslagh's framework shows the proscriptions had a negative effect on the engagement of the LTTE; but were the proscriptions perhaps effective as threats and promises, or if they were not, then why?

## 6 The Effectiveness of the Terrorist Proscriptions as Threats and Promises

In the previous chapter I analyzed the impact of the proscriptions on the four roles third-parties can perform in a peace process. In this chapter I analyze the proscriptions as threats and promises of proscription and de-proscription respectively, and the impact this had on the incentive-structure of the LTTE. Jon Hovi argues that a threat must satisfy the five conditions of relevance, severity, credibility, completion, and clarity for it to be effective. I analyze the proscriptions against the LTTE by going through these five conditions one by one, and examining to what degree they were present. Where a proscription was already in place it is analyzed with the same conditions, as a promise to remove the proscription. A threat and a promise is ultimately the same kind of action, just a reversed version.

Was the proscription mechanism effective in altering the LTTE's incentive structure and consequently their policy decisions? And where the threats and promises were ineffective, was this due to the five conditions stipulated by Hovi not being sufficiently fulfilled? According to Jon Hovi's theory, if the five conditions were fulfilled the threats and promises would be effective in altering the LTTE's incentives in a way that affected their policies.

If the proscriptions are to be analyzed for their effectiveness in affecting change in behavior, it is important to establish that this was the intention of the actors who used them. If the proscribers did not intend for the threats and promises of proscription and de-proscription to alter the incentive-structure of the LTTE, then they cannot be analyzed in regard to this purpose. I believe though, that is it correct to analyze the proscriptions as used for this goal. The policy affecting purpose of the US proscription on Sri Lanka was expressed to be for the LTTE to "renounce terrorism in word and deed"(Lunstead, 2007, pp. 16). The UK Foreign Office minister Mike O'Brien said publicly that for the UK to consider de-proscription "the LTTE would have to demonstrate a complete and convincing renunciation of terrorism" ("LTTE has to demonstrate complete and convincing renunciation of terrorism to lift ban — UK

govt.,” 2002). The proscription from India was used for the purpose of encouraging the LTTE onto the track of negotiations and a peaceful outcome, whilst some in the EU thought they could force the LTTE’s hand by proscribing them (Westborg, Interview). And the Sri Lankan government de-proscribed the LTTE in order to meet the “crucial condition set by the rebels ahead of direct talks”, and thereby acquiring the LTTE’s presence at the table (Sambandan, 2002). It is clear to me that the proscriptions were used by the different actors, at least in part, as an attempt to induce the LTTE to change their policy decisions through affecting the LTTE’s incentive-structure.

I learned when analyzing the case with Haspeslagh’s framework that the third-parties were crucially unable to move the LTTE away from violent means, and that the proscriptions were partially to blame for this. The proscriptions had a negative effect on the ability of third-parties to perform the four roles as defined by Haspeslagh, but perhaps they worked as a threat to achieve a policy of a peacefully negotiated track by the LTTE? My analysis shows that the proscription and subsequent de-proscription of the Sri Lankan government were effective in getting the LTTE to hold formal talks at the negotiation table. The international actors’ proscriptions on the other hand were ineffective in altering the LTTE’s incentive structure in favor of using peaceful means and renouncing violence. Were the different effects of the GoSL proscription compared to the international proscriptions due to the five conditions being fulfilled to a different degree in their threats and promises to the LTTE? I will first analyze the five conditions separately in turn, and then return to this question in section 6.6 at the end of the chapter.

## **6.1 Relevance**

For the threats and promises of the proscriptions to fulfill the condition of being *relevant* in this case, two aspects must have been present. First, the LTTE must have had the freedom of action to move away from violence, “so that it is possible...to adjust [their] policy in the direction prescribed by the threatener” (Hovi, 1998, pp. 13). Second, the LTTE would have to have “an incentive to act contrary to the threateners

desires in the first place”, meaning, did the LTTE have an incentive in continuing to use violence and avoid negotiations(Hovi, 1998, pp. 14)? If the LTTE had both of these aspects fulfilled, the threats and promises of the proscriptions would have been relevant. So, were these aspects present in the LTTE?

The first part of the condition first: did the LTTE have a viable option to move away from violence? I have heard views on the LTTE as “violence focused”, and according to Kristian Stokke a lot of people thought that they were “inherently a militant terrorist group using violence as their tool” (Solheim; Stokke, Interviews). But were they inherently and unchangeably violent? Some thought that they were not, that violence would only be the policy of choice as long as it made the most strategic sense, and that it would have been possible to transform them as discussed in the previous chapter. The LTTE leader Prabhakaran himself is supposed to have said that “*the means can change, but the goal is firm*”, implying that a strategic move away from violence was possible (via Stokke, Interview, all emphases mine). Furthermore, some have argued that the spectrum of violence and politics is much more gradual and fine-grained than a dichotomous choice:

Rejecting a dichotomy of violence and politics, we argue that the Tamil struggle, led today by the LTTE, is a political project pursued by both peaceful and military means with varying degrees of emphasis and intensity at any one time. Indeed both modes are pursued simultaneously, with one or the other to the fore. In considering conflict transformation, it should be borne in mind that the decision to prioritize one or other means of struggle is driven by strategic consideration and context rather than an inevitability stemming from some essential characteristic of the LTTE. (...) Similarly, transformation from a predominantly military to a mainly political strategy happens when the actor feels that the switch will enhance the possibility of achieving its goals, tactical or strategic (Nadarajah & Vimalarajah, 2008, pp. 13-14).

Although there has been much debate about this question without a definitive answer, in my analysis I find it more plausible that the LTTE had the potential to move away from violence, rather than not. History has shown us few examples of inherently violent entities. There were no crucial external constraints on their freedom of action to move away from violence as the proscribers wanted them to. Ultimately, the only constriction against the LTTE's freedom of choice would be their internal decision-makers desire to prefer using violence.<sup>4</sup>

The next question then becomes whether the LTTE had an incentive to continue to use violence as their primary means, contrary to the threateners' wishes? I find this a somewhat difficult question to answer, as the creation of the LTTE in the 1970's would surely have never been necessary if the Tamil people could address their grievances through peaceful means. As it happened, they felt violence was required to stake their claims. So when I answer this question, it is in the context of the fifth peace process, and whether or not they at this point would ideally have preferred to continue to use violence. The analysis in the extensive NORAD-report on the process indicates that "peace was harder to manage than war" for both sides in the process (Goodhand, Klem, & Sørbrø, 2011, pp. 27). It is also fair to say that the LTTE was primarily a militant organization. They had a political wing but this was mainly subordinated to the military core (Stokke, Interview). As we saw in the previous chapter the emphasis was on the need to transform the LTTE away from violence and towards peaceful means. I believe this emphasis would not have been necessary if the LTTE had altered their strategy easily, implying that violence was their policy of choice. On the other hand, the LTTE's willingness to engage in the peace process at all, and their unilateral cease-fires in the early stages, shows that acting through peaceful means was certainly not beyond them. They also claimed that "disarmament was not out of the question (but was conditional on the implementation of a political solution)" (Nadarajah, Interview).

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<sup>4</sup> This is not to say that the LTTE did not have reason to fear the external constraint of the GoSL's military build-up and potential suppression of Tamils if the LTTE were to renounce violence. It is not a judgment on the rationality of using violence or not either. It just means that the LTTE had a free choice in continuing to use violence or not.

Was the threat of proscription relevant? Was it possible for the LTTE to move away from violence, and did they have an incentive to continue to use violence? I find these questions hard to answer conclusively, as arguments can be made, and have been made, for different answers to both questions. The answer will always be partly subjective. Nevertheless, I believe it is a fair assessment to say that the LTTE had the potential to move away from violence, but that they probably would have preferred to end the conflict through military means if this would have been possible. Therefore the condition of relevance can be described as sufficiently fulfilled, although I acknowledge that this is no definitive answer.

## 6.2 Severity

The second condition is whether the threat is severe enough. This means that the target of the threat “must prefer to comply with the threatener’s demands, rather than to defy these demands *and* have the threat effectuated” (Hovi, 1998, pp. 14, his emphasis). So was the threat of the proscriptions or the promise of de-proscriptions severe enough to alter the LTTE’s incentive structure and move away from violence?

As we saw in Chapters 2 and 3, the terrorist proscriptions work through both material and ideational means, which are somewhat equivalent to ‘access’ and ‘trust’ in Haspeslagh’s framework. I now analyze the severity of these effects in turn. First I analyze the severity of the sanctions through the material effects they could have had on the LTTE’s ability to function as an armed group. These material effects are mainly the curbing of financing and weapons procurement.

The information I have gathered points towards the conclusion that the proscriptions had nearly no effect on the ability of the LTTE to raise funds. The LTTE “was a well-oiled machine at raising funds through their wide-spread diaspora, and the proscriptions did partially, but not to a significant degree impact this. Given this fact it became hard to alter their incentive-structure” (Hattrem, Interview). Furthermore Erik Solheim explains that it is his “clear conviction that the proscriptions had very little

effect, as they were supposed to have on preventing financing and procuring weapons to the LTTE”, and that this is “extremely difficult to do without an enormous political will and effort” (Interview). Additionally he says that “the problem with the lists is that they make this prevention of attaining funds and weapons possible, but it requires an incredible effort” (Solheim, Interview). Sutha Nadarajah even believes that the proscriptions are more likely to have *increased* fund-raising than decreased it, as he explains: “When you close down the ability to do ordinary political activities in support of the Tamil freedom struggle... if you can’t do that publicly and you want to contribute to the struggle, then you send money” (Interview). The proscriptions can be said to have had very little impact on the LTTE’s ability to raise funds from the diaspora, which in 2001 was estimated at a whopping \$450-500 million a year (Bullion, 2001, pp. 77).

But what about the impact of the proscriptions on weapons procurement? The proscriptions themselves seem to have had very little impact on this aspect. As explained: “If they [the proscriptions] had really made it more difficult to procure weapons, that would have been good, but they did not” (Solheim, Interview). Several of my sources held this view: “The proscriptions had no impact on the LTTE’s ability to function militarily, for instance, in this period they upgraded their naval capacity with several new and powerful attack craft, increased their artillery strength, and even built a fledgling air-force” (Nadarajah, Interview). It is important to remember that in a conflict between two parties, everything is relative. So the analysis of the military level of the LTTE is always relative to the GoSL level, and the goal of the LTTE was to “maintain parity with the GoSL; politically, developmentally, and militarily – by which I mean their ability to maintain the battlefield stalemate which underpinned the Cease-Fire Agreement, not, of course, absolute equivalence in troops and firepower” (Nadarajah, Interview). Most of my sources agree that the LTTE was not affected negatively militarily, but the GoSL invested heavily in their military, so the balance was tipped in their favor as the process went along. And the fact that the US and India helped the GoSL with intelligence had a large effect on preventing weapons going to the LTTE later in the process, but this was not a direct consequence of the proscriptions (Solheim, Interview). I have now examined the material effects of the

proscriptions on the LTTE's ability to raise funds and weapons, and the effects seem far from severe enough for Hovi's condition to be fulfilled.

“[The proscriptions] did not necessarily limit the LTTE's military capability, but it certainly undermined the LTTE's international legitimacy and proclaimed political project of national liberation” (Stokke, 2010, pp. 19). As Kristian Stokke argues, perhaps it was more on the ideational effects rather than the material ones that the proscriptions had their largest influence? As well as the military balance shifting from a status of parity in the early part of the process towards tipping more and more in the favor of the Sri Lankan government, the same can be said for the respective international legitimacy of the GoSL and the LTTE. This picture is confirmed by all my sources. The proscriptions had a limited impact on the military balance shifting, but it appears they had a larger effect on the ideational balance between the two parties in the conflict. Some certainly think so: Sutha Nadarajah believes that “the legitimization effect from the proscriptions handed wholesale the advantage to the government” (Interview). It should not be forgotten that one of the five stated goals of the US FTO list is to “stigmatize and isolate designated terrorist organizations internationally” (“Foreign Terrorist Organizations,” 2012). And it happened to be that the “main argument for people not to talk with the LTTE was that it would give them legitimacy, with the proscriptions as the basis for this in the background” (Solheim, Interview).

This must have been harmful for the LTTE, because at the early stages of the peace process the “LTTE had a clear idea that they needed to engage the international community to start making their case for self-rule”, and “the LTTE were primarily interested in [internationalization of the process for its] political impacts” (Nadarajah, Interview) (Goodhand et al., 2011, pp. 72). And the proscriptions' impact on the question of legitimacy seems stronger than the impact they had on the material effects. In the words of Tore Hattrem: “The proscriptions had limited material effect, but the LTTE's fight against it became a part of the struggle for legitimacy” (Interview). A similar argument is explained by Kristian Stokke: “The contest was about legitimacy, and the government side managed to win this contest; it is in this context that the

proscriptions must be understood” (Interview). This contest of legitimacy was also very much in play with the national proscription, which “the LTTE had to demand [to be taken off] for [continued] popular support from the Tamils” (Nadarajah, Interview).

The proscriptions seem to have had a limited effect on the material, but a quite strong effect on the ideational. Does this mean the proscriptions fulfill the condition of severity? By my analysis they partly fulfill the condition, as the impact on the ideational aspect was significant and hurt the LTTE’s position and parity in the peace process, but the material consequences were very limited. The proscriptions were clearly not severe enough for this condition alone to be decisive, so the condition of severity should thus be examined in concord with the other four at the end of the analysis, to fully understand the effectiveness of the proscriptions as a threat against the LTTE.

It is worth pointing out a pernicious effect that the proscriptions can have, and seem to have had to some degree in the case of the LTTE. When the proscriptions decrease the legitimacy of the group, but do not decrease their ability to procure arms, what is left is a situation of an armed group with little legitimacy and much weaponry. This is clearly not a constructive situation for achieving a constructive peace process but can instead lead to an armed group that only sees illegitimate violence as the means for reaching their goals.

### **6.3 Credibility**

The next condition that needs to be fulfilled for the threat to be effective is credibility. In my case, the question is: did the LTTE believe that the proscriptions and their sanctions would be carried out if they continued to use violence and terrorist attacks? I will firstly analyze this through two lenses, which are the LTTE’s perceptions of the proscribers’ ‘capabilities’ and ‘preferences’. The first is the capabilities of the proscribing actors. What did the LTTE believe they were capable of in terms of proscriptions and their subsequent sanctions? I believe this question is fairly easy to

answer. Although I am not privy to the inner thoughts of the deceased Prabhakaran, it would surprise me if he was not fully aware of the extremely powerful *potential* capabilities actors such as the US and the EU have concerning anti-terrorism means. I will take this as given.

The actual acts of proscription themselves, though, seem to have been credible (when analyzed separately from the sanctions deriving from the proscriptions), as the international community had shown a willingness to use proscriptions as a tool. The LTTE should not have been surprised when the EU proscribed them after their assassination of the Sri Lankan foreign minister Kadirgamar in 2005, they had been told a long time that “these sort of killings needed to stop” if they wanted to be de-proscribed or avoid further ones (Solheim, Interview). But to what degree the LTTE believed that the sanctions coming from the proscriptions would hurt them is more nuanced and more difficult to answer. The negative ideational effect of the proscriptions was genuine, but the material implications were probably felt less tangibly and this could have lessened the credibility of the international sanctions against the LTTE. It helps to fulfill the condition of credibility that the act of proscribing in itself is credible, but the consequences of the proscription must be credible as well for achieving full effect.

Therefore a more interesting question concerns the LTTE’s perception of these actors’ preferences when it came to using the anti-terrorism means that the proscriptions allowed for. This question is interesting as “the proscriptions create a legal basis for action, but nothing happens automatically as a consequence of this” (Solheim, Interview). As I learned previously, the international actors’ capability of stopping funds and arms to the LTTE could only be realized by an incredible effort. As “Sri Lanka was never very central internationally”, the efforts to impose the sanctions on fund-raising and arms procurement never seem to have come even close to the level of effort against a group like Al-Qaeda (Solheim, Interview). The US had and has a high general anti-terrorism interest, but the Tamil diaspora used for fund-raising is mainly localized in other Western countries, making policing of it more difficult and less pressing for the US. The EU proscription was similarly expected to yield modest

results on these issues: “Attachment of LTTE assets and funds may not be so substantive as a measure at this juncture, however, because it is very likely that the LTTE, apprehending a ban, has already diverted its resources towards 'safe' and untraceable destinations” (Mukhopadhyay, 2006). The result was that “barely any Tamils were convicted for anything in Europe” (Solheim, Interview). So it can, and has been, said that the willingness of the international actors to use these measures was limited, when they actually required enormous effort to realize the potential capability.

For the sanctions of the international actors to have been credible, the LTTE must have believed that the international actors had the incentive and political will to implement these sanctions in a forceful manner. As the Sri Lankan conflict was never very central in the West, and did not pose a real national security threat to the international actors, these actors did not have a strong incentive to implement the sanctions powerfully. Analyzing this as a rational choice, a tough implementation of the sanctions would likely have had a high cost for the international actors, with only a modest gain in return. This analysis seems especially appropriate at a time when the Western actors had high costs due to national security measures and external wars in the Middle East. So it can, and has been said, that the willingness of the international actors to use these measures was limited, when they actually required enormous effort to realize their potential capability. For the GoSL on the other hand, the conflict was the most pressing issue for the country so their incentive was very high. This is an analysis the LTTE are likely to have made at the time, and it is therefore reasonable that they perceived the credibility of the threats of international sanctions as limited. To conclude the discussion: the credibility of the threats and promises of the acts of proscription themselves appear high, but for the threat of the sanctions deriving from the proscriptions the credibility seems more modestly fulfilled.

## **6.4 Completeness**

The fourth condition for a threat to be effective is that it must be complete. In my case this means that the LTTE must have believed that if they complied with the

proscribers' demands, then they would be de-proscribed. Was this the situation on Sri Lanka? To this question there seems to be different answers for the different lists. Therefore I begin by analyzing the list from which the LTTE were in fact de-proscribed, before examining the ones where they were not.

On the national list of the Sri Lankan government the LTTE were de-proscribed on the September 6<sup>th</sup> 2002. This was after the explorative informal talks on the modalities for the peace process, but crucially before the formal talks, which began in Thailand two weeks later (Goodhand et al., 2011, pp. 39). The national de-proscription was “crucial”, and formal talks would not have been possible without it (Solheim, Interview). The Cease-Fire Agreement between the LTTE and the GoSL had been signed a few months earlier, the national de-proscription came as a result of the goodwill created by the CFA in addition to the promise from the LTTE to participate in formal talks on the condition of being de-proscribed. The LTTE on the other hand were privately assured by a Sri Lankan minister that they would be de-proscribed before the formal talks, and Balasingham and Prabhakaran believed this to be true to the extent that they advanced the process towards the formal talks (Balasingham, 2004, pp. 373-374). On Sri Lanka, the proscription and de-proscription of the LTTE was seen as “a pragmatic instrument” (Stokke, Interview). It is clear that for the national list, the threat and promise of the proscription fulfill the condition of being complete. The LTTE complied with the necessary demands of the GoSL in the belief of being de-proscribed and became just that in time for it to be effective in advancing the peace process.

The threats and promises from the international actors on the other hand, seem to have struggled with fulfilling this condition. This is evident when examining the behavior of the US officials. In a speech in Washington in February 2003, then-Deputy Secretary of State Richard Armitage said:

If the LTTE can move beyond the terror tactics of the past and make a convincing case through its conduct and its actual actions that it is committed to a political solution and

to peace, the United States will certainly *consider* removing the LTTE from the list of Foreign Terrorist Organizations (in: Lunstead, 2007, pp. 16, my emphasis).

This would seem like a text-book example of using the promise of de-proscription as a tool for affecting the strategic behavior of the LTTE and helping the peace process constructively: if you do this for us, we do this for you. But the key word in the statement is that the US will *consider* de-proscription. If the LTTE could not be certain of achieving de-proscription by changing their policies, then the promise from the US and the condition of completeness is fulfilled to a very limited degree. And when Richard Armitage began a process in the US State Department to find out what, in an optimistic scenario, it would take to de-proscribe the LTTE, he found out that: “this was terribly difficult for the lawyers, and the US never returned with anything concerning this” (Helgesen, Interview). This difficulty of de-proscription has been a recurring issue for the US, perhaps most clearly in Nepal where it took the US *four years* after the Maoists’ electoral victory and democratic rule to de-proscribe them.<sup>5</sup> The difficult nature of de-proscription in the US “was especially true in the post-9/11 period when anything that would have been seen as being ‘soft’ on terrorists would have been a huge problem” (Jeffrey Lunstead, interview).

In the US there are always someone protesting [de-proscription] and believes it is too early; there are questions in Congress et cetera. There are many institutions and therefore difficult to coordinate promises given with the implementation of them. The US’s ability to deliver de-proscription without strong American interests being present is small. The proscriptions are easy to introduce with the stroke of a pen, but very difficult to reverse, therefore they are difficult to use as a tool (Solheim, Interview).

Thus, the US proscription was far from complete in my view. If a conditional promise of de-proscription from the US was near impossible to actually implement, then it did not fulfill the condition of completeness. As “the possible removal from the FTO-list

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<sup>5</sup> Reference on the Maoists: (Department Of State. The Office of Website Management, 2012). Nelson Mandela and the ANC leadership were taken off a US terrorist watch list in 2008, further illustrating the, at times, curious difficulty of de-listing (“Mandela taken off US terror list,” 2008).

was to be the carrot [of the proscription mechanism]”; the potentially positive effect of the promise of de-proscription would be very difficult to realize (Lunstead, interview).

But perhaps the UK’s proscription can be said to have been complete? It is telling that “the LTTE was told by UK security services the ban was coming three to four months before it actually happened” (Nadarajah, Interview). The Foreign Minister of Sri Lanka, Lakshman Kadirgamar also expressed the view that the UK was close to proscribing the LTTE months before it actually did (in: Uyangoda, 2006, pp. 246). Even more interesting is the fact that it was in this window of time between it was known that the UK would proscribe and it was actually implemented, that the LTTE instigated their month-long unilateral cease-fire in December 2000 (Goodhand et al., 2011, pp. 33). According to Sutha Nadarajah, this “demonstrated that the UK was not interested in what the LTTE were doing [at the time], but what they have done [in the past]” (Interview). As the decision to proscribe was already made and could not be affected by an arguably constructive move towards peace by the LTTE, then the conditionality of the proscription seems weak at best.

Additionally, this leaked diplomatic cable from US ambassador Ashley Wills reveals that the UK, like the US, might have had issues with implementing a de-proscription: “It appears that HMG [UK Government] is a bit uncertain, as are we, about the methodology to be used in pushing a move to de-proscribe through its bureaucracy” (Wills, 2003). The UK’s decision not to amend their plans of proscribing the LTTE after their cease-fire and their potential difficulties in pushing through a de-proscription, indicate the point that the UK proscription did not fulfill the condition of being complete, at least in the early parts of the process.

In my analysis the Sri Lankan national list functioned well as a pragmatic tool in the process and can be said to have fulfilled the condition of being complete. The proscriptions of the US and the UK seem to have been lacking this condition, which would make it more difficult to use their proscriptions as an effective tool. If the LTTE did not believe that a change in policy could achieve de-proscription, then the promise of de-proscription would never be an operative instrument. This, I believe, is indicated by the statement that “the de-legitimization internationally [through the proscriptions],

I think, was something the LTTE *took for granted* as it [de-proscription] would not happen” (Nadarajah, Interview, my emphasis).

## 6.5 Clarity

The fifth and final condition that should be fulfilled for a threat to be effective is for the threat to be *clear*. This means that the LTTE must have understood what the proscribers wanted from them in order to either not proscribe the LTTE in the first place or to de-proscribe them. This must have been clear to the LTTE for the condition to be sufficiently fulfilled. So were the messages to the LTTE clear during the peace process? This extract from then-US ambassador to Sri Lanka Jeffrey Lunstead offers an illuminating view on the US officials’ reflections on precisely this question of clarity:

While the U.S. maintained this hard line, it tried to communicate, at several levels and both publicly and privately, that a change in LTTE behavior could lead to a change in the U.S. approach. This message was sent through the Norwegians in their facilitator role. It was also made repeatedly to various contacts who could pass it on to the LTTE. These contacts took place both in Sri Lanka, through prominent Tamil politicians; and in the U.S., through Tamil expatriates who were known to have close connections to the LTTE. On the public side, the U.S. both praised the LTTE for entering the peace process and held out the possibility of de-listing. ... There is always a question, of course, as to whether the LTTE senior leadership, and especially LTTE Chief Prabhakaran, received this message and believed it. This is impossible to ascertain. What should be clear is that the U.S. made strenuous efforts to see that the message got through (Lunstead, 2007, pp. 16).

The Americans were “very clear on what it would take [to be de-proscribed]” in their public statements, and this was also “communicated indirectly via the Norwegians all the time” (Hattrem; Solheim, Interviews). But Erik Solheim believes “it would have been a whole other dynamic if it had come from the Americans *directly*, rather than through these filters” (Interview, my emphasis). This last view from Solheim of the negative filtering of the communications, along with Lunstead’s point that it is impossible to ascertain for sure whether the messages from the US were received and believed, cast some doubt on whether the US proscription was clear enough. But, in my general analysis and through interviewing then-LTTE press liaison Sutha Nadarajah, it seems to me that the US proscription should be considered to have been clear. If not perfectly so, then at least to some extent. These issues surrounding the difficulty of clarity here is similar to that of access in Haspesslagh’s framework used in the previous chapter. This shows another way in which these two theoretical contributions can help illuminate each other.

The other international proscribers also made similar public statements. For instance there is this one, mentioned earlier in the chapter, by the British Foreign Office Minister at the time Mike O’Brien: “Before the proscription of the LTTE in the UK could be reconsidered by the British government, the LTTE would have to demonstrate a complete and convincing renunciation of terrorism” (“LTTE has to demonstrate complete and convincing renunciation of terrorism to lift ban — UK govt.,” 2002). In addition to this, the UK officials were in general much more open and flexible about meeting the LTTE, especially Balasingham, who they met in his home in London. So it is very plausible that the communication about what it would take for the UK to de-proscribe was more direct and clear than with the Americans, who were fastidious about the rules of contact with the LTTE (Nadarajah, interview).

As I learned during my research of the previous condition, the Sri Lankan government communicated clearly and completely in private conversation with Anton Balasingham what it would take to achieve de-proscription. Therefore, in my analysis, the clarity of the proscriptions as a whole can be said to have been fulfilled to a sufficient degree, with the Sri Lankan and UK proscriptions scoring somewhat better

than the American one. The LTTE in all probability received the messages about what it would take to be de-proscribed and understood them to a reasonable degree, although for instance a more direct communication with the US could have achieved even more under this condition, making the threats and promises perhaps more effective.

## **6.6 The Effectiveness of the Proscriptions**

In this final section of the chapter I attempt to synthesize my analysis of the five conditions Jon Hovi deems necessary. To what degree can the conditions be said to have been fulfilled and the threats and promises against the LTTE to have been effective? All the conditions have been fulfilled to a certain extent, but none perfectly. The conditions that have been fulfilled the most seem to be the relevance and clarity of the proscriptions, meaning the LTTE had the necessary freedom of action to change their policy as well as having an incentive not to do so, and that the steps that were necessary for appeasing the proscribers were known to the LTTE. The weaknesses of the proscriptions appear to be the limited material impact they had on the LTTE's fundraising and weapons procurement and the difficulties the international actors would have had in implementing the de-proscriptions at home. These weaknesses made it difficult to hurt the LTTE sufficiently enough to alter their incentive-structure and impaired the international actors' ability to give conditional promises of de-proscription in return for policy changes in the LTTE.

The threats and promises associated with the Sri Lankan national proscription generally fulfill the five conditions better than the international proscriptions, and it is therefore no surprise that the Sri Lankan government seemingly achieved more than the international actors. The GoSL had a more limited goal they wanted to achieve than the international actors, but in return they reached their goal of getting the LTTE to the table of formal talks in Thailand. Thus the Sri Lankan proscription and subsequent de-proscription were effective in getting the LTTE to the formal negotiation table, but the international proscriptions were ineffective in moving the

LTTE away from violent and terrorist means. Although this was a very difficult goal to achieve for the international actors, if the threats and promises of proscription and de-proscription had fulfilled the five conditions better, their probability of effectiveness would likely have increased.

## 7 Conclusion

The aim for my thesis has been to analyze the impact terrorist proscriptions of the LTTE had on the 5<sup>th</sup> Sri Lankan peace process, and to what degree this impact could help explain the failure of the process. I begin this chapter by summarizing my findings and answering my research question: *To what degree can the impact of the terrorist proscriptions of the LTTE help explain the failure of the 5<sup>th</sup> peace process in Sri Lanka?* Then I reflect upon to what extent this is important knowledge in a wider sense, beyond the empirical limits of the Sri Lankan case. The last part of the chapter is dedicated to four lessons I believe should be drawn from my analysis, lessons by which terrorist proscriptions could be used in a more constructive manner in the future.

In my thesis I have used a combined analytical approach consisting of two theories, one by Sophie Haspeslagh and one by Jon Hovi. The former is focused on the impact of proscriptions on the framework of peace processes and the constraints the proscriptions place on third-parties, and the latter on the necessary conditions that need to be fulfilled for a threat or a promise (here of proscription or de-proscription) to be effective. In what ways did the proscriptions impact the peace process on Sri Lanka, and if they did, why is this important?

Let me begin with the findings I discovered using the framework created by Sophie Haspeslagh. She argues that proscriptions negatively affect the variables of access and trust between actors in a peace process, which in turn constrain the ability of third-parties to play four roles that are important for influencing a peace process positively. This constriction lessens the chances of concluding the process with a peace agreement. As I examined the variables of access and trust, these seem to have been affected negatively by the proscriptions. The access between many of the important actors was reduced due to the proscriptions' isolating mechanisms and the levels of trust between the actors were impacted negatively by the discursive and symbolic effect of the proscriptions and the associated branding of the LTTE as terrorists.

My analysis indicates that the impact of the proscriptions on the roles of understanding the LTTE and training the LTTE in conflict resolution had a minor negative impact on the process. The impact on the roles of influencing the LTTE and affecting their strategic calculations on the other hand seems to have had a strong negative impact on the peace process and the possibilities for reaching a peace agreement. The limited access and trust between important international actors and the LTTE, made it very difficult to influence the LTTE's decision making and guide their potential path towards a transformation into a peaceful actor. More specifically, the proscriptions had the effect of reducing the access particularly to the military leadership of the LTTE. These are the men whom the international community needed to engage and influence. To accomplish this would have been crucial for the process to end successfully in the long term. Whether this would have happened without the proscriptions is impossible to say, but it is likely that the chances for it to happen would have increased. The proscriptions' impact on the trust variable appears to have affected the chances for a peace agreement directly, while the impact on the access variable affected the chances for a peace agreement indirectly through its impact on the four roles. Therefore I conclude that it appears the proscriptions had a negative impact on the peace process in these regards.

The second theoretical framework I used was Jon Hovi's theory on the conditions that are necessary for a threat or a promise to be effective. I used this framework in regards to the threat of proscription and promise of de-proscription. My analysis indicated that the conditions were fulfilled to different degrees by the different actors' threats and promises, and the government of Sri Lanka was the only actor to achieve something tangible by having an effect on the LTTE's decision to join the formal talks. This was due to the ideational importance the LTTE placed on their potential de-proscription from this list, thus fulfilling the condition of severity. In addition the GoSL gave the LTTE a clear and complete promise to de-proscribe them if the LTTE joined the formal talks, thus showing pragmatism in their use of the proscription as a dynamic tool.

The threats and promises of the international actors were not effective enough in their goal of altering the LTTE's incentive-structure in favor of a peaceful and transformative path. Especially the conditions of severity and completeness seem not to have been fulfilled to a sufficient degree. This was due to the material impact of the proscriptions being relatively modest, and the difficulties of implementing de-proscription domestically making it very hard for the international actors to use the promise of de-proscription as a conditional carrot to alter the LTTE's incentive-structure. This moderate but not sufficient fulfillment of the five conditions stipulated by Hovi can help explain the ineffectiveness of the threats and promises of proscription and de-proscription to have a positive impact on the 5<sup>th</sup> Sri Lankan peace process. The three conditions in Hovi's theory that appear to have been most crucial for the possibility of influencing the LTTE were severity, completeness and clarity. This indicates that the most effective way the proscriptions can be used to alter a group's incentive-structure is a clearly communicated and believable promise to be taken off a list that severely hurts the group. My analysis indicates that the proscriptions failed to have a positive impact through its surrounding threats and promises; whilst the proscriptions had a negative impact as I analyzed it through Haspeslagh's framework. Thus, my analysis points to the inference that the impact of the proscriptions helps to explain the failure of the peace process.

Aviation safety experts have realized for some time that aircraft incidents and accidents almost always result from a series of events, each of which is associated with one or more cause factors. Thus, the cause of an accident or incident has many aspects (National Research Council, 1998).

In my view one could exchange these words from being related to aviation to being related to peace processes, and thus have a good description on how to conceive of the failure of peace processes such as the one on Sri Lanka. The failure of a process is seldom caused by one isolated cause or incident, but it is most to likely occur as a series of events and decisions that lead to a negative spiral that can be extremely hard to reverse. The impact of the proscriptions should be understood in light of this notion.

They were not the sole cause of the failure of the peace process, but they had a negative impact that in concord with other events and decisions created a track towards failure that would have been very difficult to change.

The proscriptions had an impact on the case of the Sri Lankan peace process, but are there any lessons that can be drawn to a wider scope? As discussed in chapter 4, the research design for my thesis is not especially suited for generalizations. Its strengths lie with internal validity rather than with external validity. Regardless of this, there might be some knowledge that can be extrapolated from the analysis of the case to a bigger picture. I began the thesis by introducing powerful events and forces on the world stage, before narrowing my analytic scope down to a single case. Now I must pull the scope back and see what can be brought back with me from my analysis of the case of Sri Lanka.

It is easy to argue for the importance of understanding the proscriptions effect in Sri Lanka: the civilian death toll in the last few months of the conflict alone is thought to “exceed 30,000”, and therefore anything that could have prevented such an end in favor of a peaceful solution is of critical importance (International Crisis Group, 2010). The thought that such a situation could arise again in another conflict should enforce the notion that more knowledge surrounding the consequences of the use of terrorist proscriptions is vital. If my findings should be considered together with the heightened awareness and knowledge on this subject over the last few years, there are four lessons I would want to emphasize.

Firstly, much more care should be taken with the initial decision to proscribe an organization or armed group. Politicians and government officials are quick to take actions of high symbolic value, thus showing the public and their allies they are doing something. But there should be much more consideration regarding what this something is, and whether or not it is constructive. As I have learned, the act of proscribing could have negative consequences that outweigh any positive impact. It is likely that not proscribing or delaying the proscription conditionally would be more effective, especially in a situation of an ongoing peace process. Thus the first lesson is to resist the urge to do something just for the sake of doing it. Any decision to

proscribe should be taken with much care and with a clear strategy for obtaining previously set goals.

Secondly, once proscriptions are in place there should be more differentiation and flexibility in their use. As I learned in chapter 2, proscription is in the main a blanket device that is supposed to give equal treatment to all proscribed groups. But there are obvious differences between for example Al-Qaeda and the LTTE, where the latter is engaged in a formal peace process. There should also be a corresponding differentiation and flexibility concerning the way the proscriptions are used in action. For instance, not allowing access between the proscriber's own government officials and the leaders of an armed group does not seem to be constructive. Therefore an option to suspend this denial of access should be put in place to be used under appropriate circumstances. If my analysis of the impact of the proscriptions in Sri Lanka is correct, the permitting of access could be important in other peace processes. This way the negative consequences for peace processes due to the proscriptions could be diminished.

Thirdly, the discourse around the term 'terrorist' should be toned down, to make it easier to have a balanced approach towards armed groups that operate in a grey area between freedom fighters and terrorists. That could be a more constructive path for engaging these fighters, rather than automatically placing them in a category where they should only be talked with through bullets. This is something the Obama administration has already implemented with their near extinction of the term 'terrorist' from official statements.

Fourthly and lastly, there should be a stronger focus on the strategy and tactics of using the proscriptions as an active tool for reaching productive goals. Making the proscriptions more effective as mechanisms could be obtained by an increased attentiveness to the five conditions I analyzed in chapter 6. When the proscriptions are used, it should be with the goal of being effective in the threats and promises surrounding it, to accomplish strategic or tactical gains. For instance, by being severe enough to make warfare unsustainable for a proscribed group, or by giving a clear and

complete promise to de-proscribe the group if they agree to a set of terms that triggers a path towards peace.

In my thesis I have analyzed the impact of the terrorist proscriptions of the LTTE on the 5<sup>th</sup> Sri Lankan peace process. What I found during my analysis has been presented throughout the thesis, and in this last chapter I have summarized my findings and discussed the part they should play when trying to understand why the peace process on Sri Lanka failed. This is the first ever comprehensive analysis of this impact; an analysis which in my mind was long overdue. Hopefully my discoveries can help increase the knowledge of this type of impact so it is less likely to occur in the future. Therefore, in this final part of the thesis I have aimed to pull back my scope and point out some lessons that could make terrorist proscriptions a more efficient and constructive tool in the future. In my view, with increased knowledge and a more considered use of the terrorist proscriptions they could potentially become an effective instrument of peace and therefore have positive effects on the lives of a great number of people.

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# Appendix 1: Respondents

Name	Position of relevance	Interview
<b>Kristian Stokke</b>	Professor at the Department of Sociology and Human Geography, University of Oslo	Personal interview February 7 <sup>th</sup> 2014
<b>Tore Hattrem</b>	Former Norwegian Ambassador to Sri Lanka	Personal interview February 14 <sup>th</sup> 2014
<b>Erik Solheim</b>	Former Special Advisor to the Norwegian Ministry of Foreign Affairs in Sri Lanka	Personal interview in Paris February 20 <sup>th</sup> 2014
<b>Vidar Helgesen</b>	Former State Secretary of the Norwegian Ministry of Foreign Affairs	Personal interview February 25 <sup>th</sup> 2014
<b>Sutha Nadarajah</b>	Former Press liaison to the LTTE negotiating delegation (2002-2003), and former Editor of the Tamil Guardian	Skype interviews February 28 <sup>th</sup> and March 2 <sup>nd</sup> 2014
<b>Jon Westborg</b>	Former Norwegian Ambassador to Sri Lanka	Personal interview March 28 <sup>th</sup> 2014
<b>Jeffrey Lunstead</b>	Former US Ambassador to Sri Lanka	E-mail correspondence April 7 <sup>th</sup> 2014

## Appendix 2: Interview Guide

In the interviews with Norwegians the questions were asked in Norwegian. All questions were not asked of every respondent, and follow-up questions that are not included here can have been asked.

### *Haspeslagh theory*

1. How did the terrorist proscriptions affect the access that different actors had to the LTTE, and which effect did this have on the peace process?
2. How did the terrorist proscriptions affect the trust between the different actors and the LTTE, and which effect did this have on the peace process?
3. If the levels of access and trust had been higher, do you believe this could have helped the process of transforming the LTTE into a peaceful, political party?
4. Which effect did the proscriptions have on the legitimacy of the LTTE, and what part did the struggle for legitimacy play in the peace process?
5. To what degree did the proscriptions affect the actors' in the peace process ability to understand each other?
6. To what degree would you say the GoSL and the LTTE learned to read and interact with the international arena during the process?

### *Hovi theory*

7. Which effect did the proscriptions have on the LTTE's ability to function as an armed group (financing, weapons, and recruitment)?
8. Was it ever, to your knowledge, communicated to the LTTE what it would take for them to be de-proscribed?

9. Which purpose did the proscriptions have for the US and the other international actors, and did they have their intended effect?

### *Events*

10. How important was the Sri Lankan de-proscription in getting the LTTE to the negotiation table? How did the GoSL relate to the tool of proscription?
11. In what way did 9/11 affect the situation on Sri Lanka?
12. What kind of impact did the LTTE's exclusion from the donor conference in Washington DC have?
13. What kind of impact did the EU's proscription in 2006 have on the SLMM and the process in general?
14. What kind of impact did the increasingly multi-polar nature of the world have on the peace process?

### *General questions*

15. In your view, how did the proscriptions of the LTTE affect the process in general?
16. In what way do you believe the process could have proceeded differently if the proscriptions had not taken place, if at all?
17. Which lessons should policy-makers and practitioners draw from the way the proscriptions functioned on Sri Lanka?