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ASSESSING THE ASSAM ACCORDS NEGOTIATION PROCESS THROUGH RIPENESS THEORY

Abstract

Alternative Dispute Resolution (ADR) methods like negotiation and mediation (amongst others) are practiced widely to conclude conflicts. These processes are driven by Ripeness Theory which characterizes party arithmetic, spoiler behaviour and the willingness to engage in ADR along-with the probability of the format proposed. Zartman and Stedman's scholarship on Ripeness Theory and the function of spoilers have established and dominated the field. However, an epistemic gap in terms of universal applicability exists. This is primarily owing to the theory being used to study only military conflicts that involve Western powers. Additionally, spoilers are denoted as disruptive elements that derail ADR processes. This paper aims to not only acknowledge this gap but also foster further research by invoking a Global-South case study of an intra-state conflict of a civilian character. The spoiler in this situation has behaved in a way antagonistic to how the theory predicts it to. The case study in question is the lead-up to the signing of the Assam Accords. Using Zartman and Stedman's concepts and methodology, this paper aims to doubly extend the parlance of ADR by utilizing outliers and re-illuminate the conflict in Assam that has never been studied outside the context of domestic Indian politics.

Keywords: *negotiations, spoilers, Assam, ripeness, civil conflicts.*

A. Introduction

The signing of the Assam Accords stands out as an exceptional moment in Indian political history as it was a unique arrangement that concluded six years of civil unrest conducted solely by a students' union and associated fringe pressure groups. The parties to this civil conflict consisted of the Government of India (GOI) on one hand and the All-Assam Students' Union (AASU) and its local affiliates on the other. While

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the movement initially lacked violent tendencies and centred around the usual tactics of picketing, boycotts and civil disobedience, the Nellie massacre in 1983 was a turning point that established a Mutually Hurting Stalemate (MHS), which eventually paved a Way Out (WO) allowing for a Mutually Enticing Opportunity (MEO) to occur. The puzzling question here is that while no existing evidence proves the involvement of the AASU in planning or assisting the perpetrators of the 1983 killings,¹ how had the event led to a re-consideration of negotiating positions within the GOI, owing to the fact that this was the work of spoilers and not the parties? Since the killings were conducted by unorganized tribal masses that bore no ties to AASU,² a traditional understanding of ripeness and spoilers must conclude that it was not intended to enhance the bargaining positions vis-à-vis the usage of violence as a currency.³ Moreover, the AASU was not an armed group, and the Assam Agitation was not an armed conflict.⁴ This further begs the question of whether spoilers can enhance the negotiation process instead of stalling or derailing it.

This paper will attempt to explain this phenomenon through Zartman's ripeness theory and Stedman's⁵ understanding of spoilers by engaging with available accounts of the events from 1979 to 1985 and also trace the initial and final positions of both the GOI as well as AASU, throughout the same period. While a plethora of literature does exist on the various sociological elements of the agitation, the specificities of what happened in 1983 and who exactly the perpetrators were remains shrouded in mystery as the Tiwari Commission Report has not been made public, even to this day.⁶ This paper will open with the initial positions, touch upon the characterization of the spoiler elements, the conflict resolution mechanism used, the stalemates, the various push-and-pull factors involved therein, and finally conclude by answering the research question.

1 Harsh Mander, 'Assam's tragedy: How partisan policies and a bitterly divided people keep the State in an endless cycle of violence.', *The Hindu* (India, 25 August 2012).

2 Makiko Kimura, *The Nellie Massacre of 1983: Agency of Rioters* (1st edition, SAGE Publications Pvt. Ltd, 2013).

3 I. William Zartman, *Ripeness revisited: The push and pull of conflict management* (New York, Routledge, 2008).

4 Sangeeta Barooah Pisharoty, *Assam: The Accord, The Discord* (Gurgaon, Penguin Random House, 2019) 90 -133.

5 Stephen John Stedman, 'Spoiler Problems in Peace Processes' in Paul C. Stern and Daniel Druckman (eds), *International Conflict Resolution after the Cold War* (National Academy Press 2000) 178 – 224.

6 Angshuman Choudhury, 'Nellie Massacre: 40 Years Later, a Cautionary Tale for Today's India', *The Wire* (India, 23 February 2023).

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The novelty of this study lies in the fact that the Assam Accords have always been investigated through the academic domain of domestic party politics, and electoral and legislative studies. Investigation through these lenses fail to document the negotiation process as an exemplary case of alternative dispute resolution, practised between a federal authority and a local student body – embodying a monumental practice and perception gap. Hence, this study is a step in that direction, theorizing ripeness in negotiations further and positing it within the broader framework of alternate dispute resolution with the help of a Global South case study.

B. Initial positions, stalemates, plateaus: 1979 - 1983

The first and foremost observation that one can make is the fact that although AASU's resistance was ethnic in nature, none of the demands initially made had ethnic characteristics.⁷ They demanded legal reforms to the election process and demanded the detection of illegal migrants, deletion of their names from the electoral rolls and their subsequent deportation.⁸ GOI led by Indira Gandhi in 1980 invited the AASU to partake in negotiations.⁹ An agreeing formula was attempted, with GOI agreeing to the AASU demands. Both parties, however, clashed on the topic of how the detection ought to be carried out and the cut-off dates which would draw the line between a citizen and an illegal immigrant. No solution was reached on this with AASU threatening to increase the intensity of the protests.¹⁰

The WO for AASU was the Sixth Schedule of the Indian Constitution which could be used to grant local self-government as they wanted to break away from majoritarian political discourses and concentrate on the ethnic sub-national project.¹¹ The Hurting Stalemate (HS) for GOI was the loss of legitimacy in the state since the

⁷ Sanjib Baruah, 'Immigration, Ethnic Conflict, and Political Turmoil--Assam, 1979-1985' [1986] 26(22) *Asian Survey*, 1185.

⁸ Pisharoty (n 4) 92 – 99.

⁹ *ibid* 90.

¹⁰ Baruah (n 7) 1196.

¹¹ Sanjib Baruah, *Durable Disorder: Understanding the Politics of Northeast India* (OUP India 2005) 4.

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1980 polls were aimed at the Indian National Congress' (INC) return to Assam after the collapse of the Janata Party. INC found themselves in a tough spot as the deportation of Bengali Hindus would upset the majority Hindu voters across the country, the deportation of Bengali Muslims would be a direct attack on the notion of Constitutional secularism and deportation, in general, would imply the unnecessary initiation of tensions with the newly formed Bangladesh.¹² GOI's lack of action thus led to the blockade of the Digboi Oil Refinery and the suspension of activities of Oil India Ltd causing a temporary oil crisis in Eastern and Central India.¹³

Owing to the fact that pain was experienced to a greater extent by GOI showcases that no MHS was established and thus negotiations could not proceed. GOI reacted with force and paramilitary forces were used to avert the oil blockade. The use of force had little to no effect on the intensity of the protests. Baruah explains this with the help of Andersen's notion of power capability.¹⁴ The power capability of AASU was what the GOI aimed to tamper with, knowing fully well that the creation of ethnic fault lines would weaken the ideological support towards the movement.¹⁵ Baruah characterizes the GOI decision to go ahead with the 1983 Assembly Elections without revising the 1979 electoral rolls¹⁶ as a strategy to challenge AASU's power capability, irrespective of preliminary reports which advised otherwise. GOI was under the impression that the change in state government would lead to the emergence of new negotiators, and a fresh start to negotiations.¹⁷

C. Characterization of spoilers and the precipice: 1983

Two main spoilers can be identified: the All-Assam Minority Students' Union (AAMSU) and the perpetrators of the Nellie massacre. The AAMSU was a reactionary

12 Baruah (n 7) 1192.

13 Pisharoty (n 4) 92 – 93.

14 Baruah (n 7) 1192.

15 Charles W. Anderson, *Politics and Economic Change in Latin America* (Van Nostrand Reinhold Company 1967) 94.

16 PS Reddi, 'Electoral Rolls with Special Reference to Assam' [1981] 42(1) *The Indian Journal of Political Science* 27-37, 30.

17 Myron Weiner, 'The Political Demography of Assam's Anti-Immigrant Movement' [1983] 9(2) *Population and Development Review* 279-292, 280.

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group that emerged as an opposition to the AASU and parallelly took part in the negotiations with the GOI. They represented the views of the immigrant Bengali Hindu and Muslim populations that rivalled AASU's base which consisted of the working class, middle-income, ethnically dominant native Ahoms. AAMSU supported the decision of GOI in conducting elections.¹⁸ AAMSU's counter-protests and inconsistencies in their participation in the negotiation process did not affect AASU's overall performance in the negotiations and thus the signing of the Assam Accords proves that this spoiler element failed to achieve its goals, leading to the conclusion of the agreement. AAMSU's ideology was not based on emancipation but rather on reaction i.e., they were everything that the AASU was up against. Hence, unlike AASU, they had no endgame and no concrete policy objectives.¹⁹

The Nellie massacre, however, forces a rethink on the role of spoilers. The absence of the Tiwari Commission report leaves academics with extremely limited material for engagement on who the real perpetrators were. While accounts that point to the convenient timing of membership expulsions from the AASU²⁰ and the fact that Clause 14(d) of the Accords mentions the review and withdrawal of all criminal charges,²¹ points to the notion that AASU might have had a hand in the matter.

However, proving the same or even assuming so based on legally unverified accounts is beyond the scope of this paper. AASU's position, as outlined in their 1980 Memorandum, clearly stated that they were not against any particular religion or ethnicity, but only against illegal immigrants.²² This had been re-enforced throughout the movement and since this fact exists in the public domain, the paper will accept this to be a truism and separate AASU and the violent elements of the movement.

18 Baruah (n 7) 1195.

19 Pisharoty (n 4) 30-34.

20 Main Uddin, 'Genesis of Nellie massacre and Assam agitation' *Indilens News* (Guwahati, 5 April 2016) 67. <
https://www.academia.edu/17665743/Genesis_of_nellie_massacre_and_assam_agitation>

21 Assam Accords 1985.

22 Kimura (n 2) 6.

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The 1983 Nellie massacre was carried out by tribal Ahoms who were furious at the massive turnout of immigrant Bengalis at the polls.²³ Termed as a “Hobbesian war of all against all”, most of the casualties consisted of Bengalis with Muslims suffering the most.²⁴ The largest body count occurred at Nellie which experienced the targeted killing of Bengali Muslims by local natives.²⁵ Since AASU had no hand in propagating violence, Zartman’s understanding of the usage of violence concludes that this was not a tactic employed by a party to the negotiation to press harder for either an agreeing or resolving formula.²⁶ AASU had not used violence as a currency to buy more concessions. The only weapon deployed was their consistent power capability. Stedman’s notion of spoilers confirms that the perpetrators, clubbed as a whole, represent a spoiler as the motivation of the killings was in opposition to the objectives and mission²⁷ of AASU and could have possibly derailed negotiations entirely leading to the use of overwhelming force by the GOI to restore the state machinery.

D. Renewed negotiations and Accord conclusion: 1984 – 1985

One explanation as to why the activities by spoilers enhanced the negotiation process and did not derail it comes from the Singh & Sharma’s study of conflict resolution methods used by the GOI. They argue that the conflict resolution method used in Assam had four characteristics i.e., the negotiation process was: Accord based, strictly bilateral, solely involved prominent leaders and was not involved of mediators.²⁸ GOI also displayed a show of good faith as prominent leaders of the AASU (usually the President and General Secretary along- with a selective bunch of chosen intellectuals) were given a chance to negotiate directly with the Prime Minister and the Home Minister.²⁹ This rigorous party arithmetic ensured that there existed consistency in the process, even at the height of the turmoil.

23 Uddin (n 20) 4.

24 Mander (n 1).

25 Weiner (n 17) 279 – 281.

26 Zartman (n 3) 239 – 242.

27 Stedman (n 5) 181 – 186.

28 N.M. Singh and Indrajit Sharma, ‘Conflict Resolution in Assam: A Critical Inquiry’ (SATP Faultlines, 2018) <<https://www.satp.org/faultline-chapter-details/volume-23/conflict-resolution-in-assam-a-critical-inquiry>> accessed on 15 January 2023.

29 Pisharoty (n 4) 197 – 200.

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A second explanation as to why GOI returned to the negotiating table was increasing fatigue within the INC itself. Three important events had taken place in quick succession in 1984: Operation Blue Star, the assassination of Indira Gandhi and the election of Rajiv Gandhi.³⁰ Thus, the newly elected composition of the GOI was apprehensive of a solution that involved the use of force in the Assam situation. Additionally, the situation was growing into a painful deadlock which enhanced the formulation of negative ripeness.

There was a shift in the HS for both the INC as well as AASU. Rajiv Gandhi's landslide victory in the 1984 Elections meant positive momentum for the INC to solve the crisis. The lack of state machinery in Assam, where ethnic clashes broke out regularly, would have immediately cast a doubt on his capabilities.³¹ The failure to do so would be a major source of pain. With regard to the AASU, they needed the help of GOI as anarchic solutions would not lead to the fulfilment of their demand which was effective refugee management and a hard border with Bangladesh. State governments do not have a constitutional mandate over the issue of border management and immigration and thus, AASU was in dire need of an agreement as the slow transition from a movement to a political party had occurred within the upper echelons of the organization.³²

AASU's persistence in maintaining their self-victimization paid off and a renewal of ripeness allowed the situation to evolve from an MHS to an MEO wherein INC could claim victory on a peaceful settlement by the youngest Prime Minister in Indian history and AASU could take full charge of the political process in Assam on ethnic lines by having constitutionally secured the Ahom homeland, free of encroachment by immigrants. A comparative analysis of the Accords, which can be taken as the final position and the 1980 Memorandum, which was the initial position, shows that GOI had given in to every demand that was put forward by AASU, including

30 On This Day, '1984: Rajiv Gandhi wins landslide election victory' *BBC News* (29 December 1984).

31 Pisharoty (n 4) 25.

32 Ibid.

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additional ones that found their way onto the negotiating table post-1983.³³ No other explanation can account for these overwhelming concessions other than the fact that the violence at Nellie caused severe concern and accelerated the need for a political solution.

E. Conclusion

This paper displays that the Assam case is clearly an outlier as far as the established understanding of spoilers and ripeness is concerned. While the Assam Agitation has not been studied previously via the lens of negotiations, the contents of this paper hint at the fact that there deserves to be a growing body of literature dedicated to both the study of negotiations in the Indian domestic context and further exploration of how spoilers can be characterized and how they function. This should spark further debates on how governments ought to bring order to civil uprisings and unionized agitations and additionally, this paper also displays that the notion of power capability should draw further attention in the study of negotiations, as far as non-violent actors are concerned, owing to how it serves as a promising explanation for sustained efforts in a civil conflict, as opposed to the use of violence in armed conflicts.

It must be said that while the socio-political conditions further deteriorated in Assam post-1985, the Assam Accords have stood the test of time and is a reminder of how sustained student-led protests brought an elected Central Government to its knees in the world's largest democracy and forced them to negotiate and agree to every stated term.

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