

TAMIL ASPIRATIONS AND THE INDO-SRILANKA ACCORD



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Sri Lanka is a multi-ethnic, multi-religious and multi-lingual country. It has been the home of distinct communities—Sinhalas, Tamils and Muslims for centuries. The Tamils have been as much a part of the history of Sri Lanka as the Sinhalas, even though they constitute a minority. Given the historical and social reality of Sri Lanka a multi-ethnic, multi-linguistic country, it was necessary to devise a polity which would recognize, preserve and harmonize the interests of different communities. The failure to evolve such a system resulted in the ethnic conflict.

The Tamils enjoyed privileged positions both inside and outside the Government at the time of Sri Lankan independence and were a part of the national mainstream. However, the dominant Sinhala political parties ever since independence fell prey to chauvinistic sentiments and over a period of time denied equality to the Tamils. In the process a political culture was created which legitimised the domination of the entire country by the majority community culminating in 1956 in the Sinhala Only Act. Over the years the interests of the Tamils were denied. When the Tamils pressed their legitimate demands and grievances, it was regarded as subversive talk and state force was applied against them.

So as the years went by, the list of injustices inflicted upon the Tamils was paid little heed. Each successive Sinhalese government pursued policies serving its own ends to draw the Sinhalese voters. These policies were generally either discriminatory in nature, or placed the Tamils in a position of disadvantage.

The leaders of the Tamil minority did make several attempts to negotiate a settlement which would redress the grievances. The more notable among these were the Bandaranaike- Chelvanayakam Pact of 1957, the Dudley Senanayake- Chelvanayakam Pact of 1965, and the talks that led to the establishment of District Development Councils in 1981.

India's involvement in assisting Sri Lanka to work out a political solution to the ethnic crisis in that country began in the wake of the large scale violence which engulfed the island in July/August 83. Over a thousand Tamils were killed in these riots. Around 130,000 refugees left their homes to seek refuge in India. The violence in Sri Lanka aroused great concern in India because of the close linguistic, cultural and family ties between the Tamils of Sri Lanka and the Tamils in India. After discussions with the Sri Lankan Government it was agreed that India's good offices will be availed of to seek a solution to the ethnic conflict in Sri Lanka. Ever since then India's efforts were aimed at bridging the differences between the Sri Lanka Government and the Tamil groups so that a negotiated political solution is found which meets the legitimate Tamil demands and aspirations within the framework of Sri Lanka's unity and integrity. These negotiations had their ups and downs and went on for over four years. Meanwhile thousands of Tamils were killed. But for India's sustained efforts, the Sri Lankan Government would have perhaps sought a military

solution to the Tamil problem. After the Vadamaracchi offensive in February 1987 India showed that it would not stand by and watch the Government of Sri Lanka from imposing a military solution. India's air drop of relief supplies and later shipments of relief to Jaffna were significant events which eventually led to the signing of the historic Indo-Sri Lanka Agreement on July 29, 1987.

The Indo - Sri Lanka Agreement of July 29, 1987 has given the Tamils of Sri Lanka a framework to achieve what they had been striving to attain for decades. Historically, what the Tamils desired was :-

- 1) Recognition of the status of the Tamil as an official language— with consequent effects on equality of opportunity in education and employment,
- 2) A traditional homeland for the Tamils,
- 3) The merger of Northern and Eastern Provinces,
- 4) The recognition of a distinct Tamil ethnic identity,
- 5) Initial decentralisation, and later devolution of meaningful powers, which would enable the Tamil minority to exercise a worthwhile measure of autonomy in their province of administration, and
- 6) an end to Sinhalese colonisation of what was perceived as traditional areas.

We must now attempt to briefly outline each grievance and the way it has been redeemed by the Indo-Sri Lanka Agreement. We will also mention how each of these had been treated by earlier pacts.

LANGUAGE

The Official Language Act No. 33 of 1956, which came to be known as the Sinhala Only Act, laid down that "the Sinhala language shall be the official language of Ceylon." This legislation changed the Tamils overnight into second class citizens. Discrimination on the basis of language led to discrimination in recruitment policies. Tamils were also slowly deprived of equal opportunity in education through such techniques as reservation and standardisation, which required Tamil students to obtain a significantly higher percentage of marks for admission than the Sinhalese.

The Bandaranaike-Chelvanayakam Pact of 1957, did not accept the Tamil demand for a parity of Tamil as an official language, along with Sinhala. Even the limited provisions for Tamil to be recognised as a national language and for it to be used in the administrative work of the Northern and Eastern Provinces could not be implemented due to Sinhalese reactions that followed as these resulted in the formal abolition of this Pact.

The Dudley Senanayake-Chelvanayakam Pact of 1965 stated that action would be taken under the Tamil Language Special Provisions Act to make provisions for Tamil to be the language of administration and record in the Northern and Eastern Provinces. The Tamil Language Special Provisions Regulations made it possible to use Tamil in the Northern and Eastern Provinces for all governmental and public business and correspondence.

The discriminatory provisions of the Sinhala Only Act and the provisions for the limited use of Tamil agreed to in 1965 continued in the 1978 Constitution. **The 1978 Constitution reiterated that the official language of Sri Lanka was Sinhala.** Thus the

discrimination, both in terms of status of language, and the prejudice in recruitment and education continued.

The issue of language did not even come up in the District Development Council legislation of 1981.

The Indo-Sri Lanka Agreement of 1987, has provided for the first time since the enactment of the Sinhala Only Act of 1956, that Tamil will be given the status of an official language, in addition to Sinhala. English has been given the status of a link language. The injustice done by the Sinhala Only Act to the Tamil people has thus been fully revised by the Agreement. This certainly is a momentous achievement for the Tamils.

TRADITIONAL HOMELAND AND MERGER

The demand for the Northern and Eastern Provinces to be recognised as a traditional homeland of the Tamils is rooted in history. Tamils firmly believe that the territories presently constituting the Northern and Eastern Provinces are Tamil, historically. The discriminatory policies of the Sinhalese governments, the state sponsored colonisation schemes affected the demographic structure of the Eastern Province reducing the percentage of Tamils.

The Sinhalese reject the argument that the Eastern Province has been traditional base for the Tamil community. They contend that the presence of Buddhist temples are evidence that this is not true. They also argue that the mingled population of the Eastern Province—namely of Tamils, Sinhalese and Muslims—gives it a multi-ethnic character, and hence it cannot be called exclusively Tamil.

The differences on this issue have resulted in the Tamil demand for the merger of the Northern and Eastern Provinces. This has been consistently opposed by the Sinhalese. Prior to 1983, repeated demands for the recognition of the area as a traditional habitation of the Tamils, were rejected. In 1985, at the Thimpu discussions, the demand was again put forward, but to no avail. The militant cadres of the Tamils have demanded recognition as a nationality and the merger of the two provinces. The moderate TULF has also insisted on the merger between the two provinces.

The Indo-Sri Lanka Agreement recognises that the Northern and Eastern Provinces have been areas of historical habitation of the Sri Lankan Tamils, who have lived at all times with other ethnic groups. The Agreement emphasises the multi-ethnic and multi-lingual character of Sri Lankan society. It also recognises that each ethnic group has a distinct cultural and linguistic identity which has been carefully maintained. But the most important fact is that **the Agreement indirectly accepts the point that the Eastern and Northern Provinces have been the traditional homeland of the Tamils by describing these Provinces as being of their historic habitation.**

As regards the merger of the Northern and Eastern Province, **the Bandaranaike-Chelvanayakam Pact of 1957 did not provide the merger.** In any case the pact had to be abrogated because of the public agitation. **Similarly there was no agreement on a merger in the Dudley Senanayake - Chelvanayakam Pact of 1965.** The 1978 Constitution and the District Development legislation reverted the discussion back to the district as a unit. This meant going even below the region or the province as a unit. Here therefore, the question of a merger could not arise. A glimmer of hope came from the

proposals made in December 1986 which provided for the consideration of a merger after a referendum.

The question of merger had therefore been a major obstacle in the path of any settlement. **The Indo-Sri Lanka Agreement represents a major breakthrough in this crucial issue. Not only has the Sri Lankan Government agreed to the point that the Northern and Eastern Provinces are traditional Tamilian areas, but it has also agreed to a merger of the two before the referendum.** This means that now the merger will take place first and the referendum to determine whether the Eastern Province will continue to be linked to the north, will be held a year later. This goes a great deal further than what any Sri Lankan Government had ever been willing to concede. **The very fact that the merger has come into being before the referendum is a very significant concession made by the government. It is now upto the Tamils and the Muslims, to sustain the merger at the referendum.**

TAMIL IDENTITY

The Tamil demand for a distinct Tamil ethnic identity is a long standing one. There has never been any doubt in this claim. But successive Sri Lankan Governments have refused to acknowledge it. In its extreme form this demand had been voiced as an assertion of Tamil "Nationality." However such a terminology is applicable only in the case of division of a country, without leading support to such an extreme position.

The Indo-Sri Lanka Agreement has gone to the fullest possible extent in this context. It acknowledges that Sri Lanka is a multi-ethnic and multi-lingual plural society consisting of Sinhalese, Tamils, Muslims and Burghers. It also recognises that each group has a distinct cultural and linguistic identity which should be carefully nurtured.

DEVOLUTION OF POWERS

The Tamil demand for decentralisation and devolution of meaningful powers arose essentially because the Tamils perceived that in a centralised set up, they were bound to be neglected. Hence they demanded a federal form of government. But successive governments at Colombo, catering as they did to the majority, refused to accept such a demand. Sensing therefore that the establishment of a federal form of government in Sri Lanka was not possible, the Tamils tried to acquire as many concessions as possible under the prevailing unitary and highly centralised government. What they sought was some measure of regional autonomy.

The Bandaranaike - Chelvanayakam Pact of 1957 agreed to regional councils becoming the unit to which some parliamentary powers would be delegated. But since this Pact was annulled, the Tamils reiterated the demand for a federal constitution in 1969. Yet nothing was done in this direction. **The Dudley Senanayake-Chelvanayakam Pact of 1965 again reduced the unit of administration to the district council.** Even the 1978 Constitution maintained this. Subsequent agitations by the Tamils led to the establishment of District Development Councils in 1981. **Although, from the Tamil point of view, a district was too small a unit to exercise really meaningful powers on, the TULF accepted this in good faith.** Elections were held the same year. But the DDC's failed to function because of Colombo's reluctance to part with funds.

Apart from the fact that the district was not an area sufficiently large for meaningful powers to become devolved, the very structure of the DDC scheme was flawed. If meaningful devolution of powers was intended, a constitutional amendment should have been made. Therefore, the DDC's with limited subjects, limited powers, and very limited funds came into existence.

It was only in discussions with the Government of India in 1986, that the Sri Lankan Government conceded that Provincial Councils would be formed after a constitutional amendment. A Provincial Council as a unit of devolution is large enough to provide power.

Yet it was only the Indo-Sri Lanka Accord and the 13th Amendment that followed that not only provided for the establishment of directly elected provincial councils along with a chief minister, but also for clear and substantial devolution of powers to the provincial council. **It is significant that for the first time since independence, the Sri Lankan Government had agreed to give powers to the provincial council and provide for a system of power sharing through three separate lists analagous to powers enjoyed by states in India.**

List 1 empowers the Provincial Council to take charge of police and public order within the province. The provincial division of the police would be under the Chief Minister, and recruitment to the Provincial Division would be entrusted to a Provincial Police Commission. **Thus law and order within the Province will be controlled by the Provincial Government and the Chief Minister duly elected by the Tamils.**

Among other notable powers devolved to the provincial council are Land—which includes the rights in and over land, land tenure, land settlement and land improvement. These are subject to the provisions set down in an Appendix which institutes a system of checks and balances. **The Provincial Government will be able to get all land required for its functions and the Centre can use land in the provinces only in consultation with the Provincial Government.**

Other powers that come under the purview of the provincial council are education and health as defined in the lists, local administration, irrigation, colonisation, co-operatives, and the power to raise taxes in specified areas. The Provincial Councils will get adequate finances from the Centre for their effective functioning. Foreign aid meant for projects in a Province shall be diverted by the Centre only to such projects.

COLONISATION

Along with the issue of language, the Tamil grouse against state sponsored colonisation of the traditional Tamil belt has aroused much heart-burning. But with the establishment of the provincial councils, the Tamils have for the first time acquired total control over all land except state land. The establishment of a National Land Commission which will formulate a land policy, will further safeguard the interests of the Tamils against state sponsored colonisation schemes. The Commission will include representatives from all provincial councils.

All this has been done by the Indo-Sri Lanka Agreement taking into account the misgivings voiced by the Tamils of state sponsored colonisation. This grievance voiced by the Tamils asserts that colonisation has resulted in changes in the demographic structure of the Eastern Province. With substantial powers having been devolved to the Provincial Councils in regard to land and land settlement and the establishment of a Land Commission, effective measures have been set in motion to meet the Tamil misgivings on the question of colonisation.

The extent of devolution of powers, the provisions regarding the Tamil language, the merger of North and East, and the recognition of North and East as historical area of habitation of Tamils

prove the vast difference between the earlier agreements arrived at by the Sri Lankan Tamils and their Government and the Indo-Sri Lanka Agreement of July 29, 1987. In any case one should not forget that none of the earlier agreements were implemented. Not only have the demands of the Tamils been substantially granted by the Agreement and the 13th Amendment to the Constitution of Sri Lanka and the Provincial Councils Act, but they have been granted as part of a bilateral agreement between India and Sri Lanka. The agreement thus guarantees the fulfillment of the Tamil demands.

The Tamils of Sri Lanka must therefore understand the importance of what the Indo-Sri Lanka Agreement has achieved. They must try to make full use of the chance given to them and work diligently to better their own future. The Tamils must realise the significant victory they have won as regards the merging of the Northern and Eastern Provinces before a referendum. They should therefore establish, at the earliest, a government in the North Eastern Province under an elected chief minister and work towards promotion and consolidation of prosperity in their traditional homeland. They should also strive to undo the damage which has been done by the LTTE in damaging the traditional harmony which has existed between their Muslim brethren in the Eastern Province and restoring communal amity that has historically existed between the two communities who after all speak the same language.

The Tamils of Sri Lanka cannot deny the fact that the Indo Sri Lanka Agreement has given them almost all that they had been fighting for since independence - indeed in some respects more than what a minority community can ever hope for elsewhere on the globe. There is no denying the fact that their demands have been legitimate. But as history shows us whenever the Sri Lankan

Government was close to ceding even partially to the demands of the Tamils, public pressure from chauvinist elements prevented it from doing so. On all such occasions, the Government of Sri Lanka has had to go back on its word. The crucial difference now is that the Indo-Sri Lanka Agreement provides a guarantee to the Tamil people to see their demands through. Also, for the first time, the Constitution of Sri Lanka has been amended to the advantage of the Tamils.

The signing of an agreement like the Indo-Sri Lanka Agreement does not accomplish changes in attitude. These can be brought about only from the benefits that arise out of such a settlement. This can come about only by fostering a climate of communal harmony by all concerned so Sri Lankan society can build on pluralistic multi-ethnic lines. The majority community has a vital role to play in building the confidence amongst the minority. On their part, the Tamils must recognise the importance of these concessions as a breakthrough, and the opportunity provided must not be allowed to pass. India remains committed to meeting the genuine aspirations of the Tamils as enshrined in the Indo-Sri Lanka Agreement within the framework of Unity and Territorial Integrity of Sri Lanka.

The Indo Sri Lanka Agreement represents the best possible deal that the Tamils have got, during the past three decades.

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BENEFITS OF THE ACCORD

Provincial Councils to be formed through Constitutional amendment.

Northern and Eastern Provinces to be merged from the date of elections.

Tamil has been made an official language.

Tamil Chief Minister to head a Council of Ministers for merged North-East Province.

Provincial Council to have powers through a List dealing with law and order, land, education, culture, health and local administration.

High Court to be established at Provincial level.

Formation of Finance Commission to determine provision of finances to Provincial Councils.

