

The devolution drift

The Peoples Alliance (PA) government gained power in August 1994 on a peace platform and initiated peace talks with the Liberation Tigers of Tamil Eelam (LTTE) to end the war which has cost thousands of lives in Sri Lanka. Peace negotiations began in October 1994 in Jaffna. The election of Chandrika Kumaratunge as President of Sri Lanka on 9 November that year by an unprecedented majority, was seen as an opportunity for peace.

After three rounds of talks, the gulf between the parties remained. The Government rejected Tiger demands that the Pooneryn Army camp near Jaffna should be removed to allow safe civilian passage between the peninsula and the mainland, and armed Tiger cadre in the east be permitted freedom of movement. The Tigers were also adamant that the northern people's needs such as food and shelter must be satisfied before negotiations on political issues. The Government agreed to remove the ban on fishing and shift the Pooneryn camp away from the civilian crossing-point.

Tiger leader V Prabhakaran issued an ultimatum in March 1995, insisting that the two LTTE demands - removal of the Pooneryn camp and freedom of movement for Tiger cadre in the east - should be met by 19 April. The fourth round of talks on 10 April, in which the Government included leading NGO figures Charles Abeysekera and Jayadeva Uyangoda, failed to come up with any solution. The LTTE sank two naval vessels in Trincomalee harbour on 19 April 1995, exploding the truce and plunging the island nation again into turmoil.

Once the truce was broken, President Chandrika declared that the Government would achieve "peace through war". She stipulated that the LTTE must lay down its arms and agree to complete negotiations on political issues within a specified time frame, before any future peace talks.

The Sri Lankan government's devolution package, presented as a solution to the ethnic conflict, was made public in August 1995. It recognised that existing provisions for devolution of power to the

President Chandrika proclaimed that the People's Alliance government was committed to building a new society based on equality and, in achieving its objectives, it would shun short-term political gains.

Provincial Councils under the 13th Amendment to the Constitution (following the Indo-Sri Lanka Accord of 29 July 1987) and the Provincial Councils Act of 1988 were inadequate to satisfy the political aspirations of the Tamil minority. Presenting the proposals, President Chandrika proclaimed that the PA government was committed to building a new society based on equality and, in achieving its objectives, it would shun short-term political gains.

The Government proposals envisaged a union of regions in place of the present unitary state, each region governed by an elected regional council. A regional list designated the subjects over which the council would have legislative authority. The reserved list for the central government included defence, foreign affairs, national planning and monetary policy. Under the proposals, the central government would have no authority to dissolve a regional council. The Tamil-dominated north-east would form one region, but exclude Sinhalese and Muslim areas. The council would have the power to negotiate foreign aid directly.

The Tamil parties opposed the redrawing of the regional boundaries believing that the Government aimed to excise the Sinhalese-colonised Veli Oya area from Mullaitivu District to divide the north-east region which the Tamils regard as their traditional homeland. That there would be no second chamber of Parliament to represent regional interests at the centre was also regarded as a major defect. Sinhalese parties were concerned that under the proposals, large areas of

land and the coast would be controlled by the north-east council, thus affecting the fishing and other rights of the Sinhalese people. Fears were also expressed that foreign aid negotiated by the regional council will be manipulated by the Tigers to strengthen their drive for *Eelam* or a separate Tamil state.

The LTTE rejected the peace package, describing it as a mask to conceal the Government's military intentions. Observers believed that while the government views the problem as addressing minority grievances with devolution, the LTTE regards itself as a liberation movement, struggling to assert the Tamil people's right of self-determination.

The Army launched *Operation Sunray* in the Tiger-held Jaffna peninsula in October 1995 and captured Jaffna town on 5 December that year. The town had been evacuated on the orders of the LTTE and some 400,000 people fled to the Vanni on the mainland.

The revised government devolution proposals to a Parliamentary Select Committee on Constitutional Reform (PSC) were released in the form of a draft constitution in January 1996. Following internal pressure, the Government made significant changes in the draft from the August 1995 proposals. The President was now to be given power to dissolve any regional council promoting rebellion or posing danger to the unity of Sri Lanka. The provisions according the highest place to Buddhism in the 1978 Constitution were strengthened to allay the fears of Buddhists.

Tamil organisations criticised the provisions in the draft constitution as ambiguous and pointed out that in the past, provisions of the 13th Amendment have always been interpreted in such manner as to reduce devolution to mere decentralisation. Such ambiguity and overlaps in power boundaries would enable the Government to supersede delegated powers of the regional council.

The PSC began discussions on the Government's proposals in March 1996. Meanwhile, the LTTE's international representatives suggested an asymmetric relationship between the Tamil north-east

region and the central government as compared with other regions and greater power-sharing for Tamils at the centre as in the case of the US-brokered Dayton peace accord in Bosnia. The LTTE also said that the distrust between the parties was too deep and called for international mediation. The Government ruled out foreign involvement declaring that the conflict was an internal problem.

The PA government has a one-vote majority in Parliament and needs the support of the main opposition United National Party (UNP) to ensure that the devolution proposals are accepted. The replacement of the present Constitution requires a two-thirds majority in Parliament, as well as approval by a national referendum.

The UNP formally rejected the Government's peace package in July 1996 and confrontational politics between the two main political parties continued. The situation was worsened by the Government's dissolution of two Provincial Councils controlled by the UNP in January 1996 and the postponement of provincial elections under Emergency regulations in August 1998.

Throughout 1996, the President stressed the conditions for peace talks - saying that the Tigers must lay down arms and agree to complete negotiations within a fixed time frame to prevent them rearming. Mr Prabhakaran declared grave doubts about peace offers from a government that was making every effort to have the LTTE banned abroad.

The LTTE continued to launch attacks in the south, including Colombo. The Army began *Operation Jayasikurui* (Certain Victory) in May 1997 to open a landroute to Jaffna through LTTE-held Vanni. The Government's economic blockade of the Vanni affected the basic needs of the people and living conditions of civilians deteriorated.

As peace efforts took the backseat and war became a priority, a surprise initiative came from Britain in April 1997. Liam Fox, the British Foreign Office minister, brokered a bipartisan agreement between the PA and the UNP. Since Sri Lankan independence from Britain in 1948, a number of agreements between governments and Tamil leaders (most importantly the Bandaranaike-Chelvanayakam Pact 1957 and the Senanayake-Chelvanayakam Pact 1965) on autonomy for the Tamil regions have failed, following violent protests by the respective opposition party, usually the UNP or the PA's main constituent, the Sri Lanka Freedom Party (SLFP). In such

light, the Fox agreement was seen as an important step forward and many believed that it would ensure the passage of a new constitution in Parliament.

The Fox agreement laid down that discussions or decisions between the government and any other party, including the LTTE, should be undertaken in concurrence, and would not be undermined by the opposition. Either party will also fully honour such decisions on election to government. Within weeks it was clear that the Fox agreement was heading for failure. Increasing violence between the PA and the UNP and electoral ambition made the agreement unworkable. Justice minister GL Peiris conceded in August 1997 that the whole devolution exercise would be as abortive as other attempts in the past if the LTTE was not involved, and that the two main parties should reach a consensus before the Tigers were expected to respond.

Mr Peiris tabled the report of the PSC in Parliament in October 1997. After deliberations for 22 months, the PSC had not reached a consensus on two vital issues - the unit of devolution and whether the Sri Lankan state should be a unitary state or a union of regions. The Tamil parties cooperating with the government were disappointed and stated that the permanent merger of the north-east forming one contiguous unit of devolution was non-negotiable.

The UNP criticised the "union of regions" concept proposed by the draft constitution as an alternative to the current "unitary state", claiming that the Indo-Sri Lanka Accord of 1987 and the 13th Amendment had settled the unit of devolution issue. The party submitted its own proposals in January 1998, urging power-sharing for minorities in central government and asymmetric devolution.

New problems were added to the complex situation. In the same month that the PSC report was tabled in Parliament, the United States government included the LTTE in its list of terrorist organisations. Following an attack on the Buddhist tem-

ple the *Dalada Maligawa* in Kandy, Sri Lanka banned the LTTE under Emergency regulations which prohibited contact with the Tigers.

A month after the US ban, LTTE leader Prabhakaran repeated his earlier demand that any solution to the conflict should be based on three principles promoted by the Tamil parties at the Indian-sponsored Thimpu peace conference in 1985 - recognition of the Tamil community as a distinct nation, the Tamil homeland and the right of self-determination.

The business community in Sri Lanka, having experienced the detrimental effect of the war on the economy of the island, launched a peace initiative in October 1998, declaring that the achievement of a lasting solution to the conflict would henceforth be its primary task. The political parties have welcomed the initiative but are not inclined to cooperate to make the plan work. Some politicians have denounced the business community's move as interference.

In November 1998, LTTE leader Prabhakaran reiterated the demand for third-party mediation and again urged initial talks to remove pressures - meaning a ceasefire and the lifting of the economic blockade of the north-east. President Chandrika rejected third-party mediation and demanded that the LTTE must abandon the struggle for a separate Tamil state. But she has welcomed facilitation by a foreign government.

Some foreign governments insist that the devolution plan is working, whereas other commentators state that after the draft constitution was published in January 1996 no real progress has been made. Observers have expressed concern that the 'government appears unduly disposed to pursuing war while abdicating its responsibility to revitalise the peace process in the face of setbacks and LTTE intransigence'. Colombo sources say that the architect of the devolution proposals, GL Peiris himself, is worried that the peace package remains in cold storage.

In a special issue of the Conciliation Resources publication *Accord* titled *Demanding sacrifice: War and negotiations in Sri Lanka*, Colombo University's Rohan Edrisinha writes: "Given the failures of the past decade, the gulf between the main parties and the distrust and bitterness on all sides, it seems clear that any future attempt will require a skilled, professional approach to conflict resolution. Third party mediation or facilitation must be a component of such a new initiative. Sri Lanka cannot afford to repeat the mistakes of the past ten years".

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