

Proceedings of the Roundtable Discussion

On

Power Devolution

Council for Public Policy

July 4, 2006

Bandaranaike Center for International Studies Auditorium

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Council for Public Policy

The Council for Public Policy (CPP) is a private Sri Lankan policy institute founded in 2005 that is engaged in the development of public policy options in democratic good governance and peaceful conflict transformation. CPP believes in dialogue as the process of developing policy, combined with a strong research component. Through such dialogue processes CPP seeks to provide information and options to policy makers, civil society and other stakeholders regarding issues of public policy, with a core focus on the areas of conflict transformation and democratic good governance. CPP has a wide network of active government and civil society contacts that were established through its staff, most of whom have held key positions in the state and private sectors. CPP also has a memorandum of understanding with the Ministry of Constitutional Affairs, as its key interlocutor with government.

Among its core activities are a variety of programs designed to assist the Sri Lankan Government's attempt to engage the LTTE in a non-violent conflict transformation process. The aftermath of the Tsunami provided an opportunity to engage the LTTE in the post Tsunami reconstruction, culminating in the Post Tsunami Operational Management Structure (PTOMS) agreement between the Government of Sri Lanka and the LTTE. CPP activities included a series of discrete bi-lateral consultations with political stakeholders in the North and East and a series of workshops that sought to engage a wider cross section of civil society in the process. In 2006 CPP also launched a series of track-two workshops on key issues relating to the peace process and governance in Sri Lanka, targeting ministerial policy advisors and technical experts.

In addition CPP seeks to be a source of information and advice to the Sri Lankan government and international actors in the peace process through a series of white papers. These white papers are distributed in a targeted fashion to senior government officials, donors, and other key stakeholders in the Sri Lankan peace process. Through the white papers CPP also makes strategic forecasts and presents policy options for key government persons / agencies and donors.

Acknowledgments

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This workshop was conducted using the Chatham House Rules of non-attribution. The opinions articulated in the proceedings are those of the individuals present at the workshop and do not necessarily represent the position of CPP.

Acronyms

CFA	–	Ceasefire Agreement
CPP	–	Council for Public Policy
EPDP	–	Eelam People’s Democratic Party
GA	–	Government Agent
GOSL	–	Government of Sri Lanka
JHU	–	Jathika Hela Urumaya (National Sinhala Heritage)
JVP	–	Janatha Vimukthi Peramuna (People’s Liberation Front)
LTTE	–	Liberation Tigers of Tamil Eelam
NEPC	–	North East Provincial Council
PLOTE	–	People's Liberation Organization of Tamil Eelam
PSC	–	Parliamentary Select Committee
SLFP	–	Sri Lanka Freedom Party
SLMC	–	Sri Lanka Muslim Congress
TULF	–	Tamil United Liberation Front
UNP	–	United National Party

The roundtable discussion on power devolution was hosted by the Council for Public Policy (CPP) on Tuesday July 4, 2006 at the Bandaranaike Center for International Studies (BCIS) with the participation of 14 significant political advisors and actors, all of whom have either had direct experience in efforts to implement devolved government or can potentially play an important role in implementing policy related to local government in the future. Participants in this discussion included senior advisors to current and former government ministers, political party leaders, former members of parliament, former ambassadors and other related activists and decision-makers. They comprised representatives from the Sinhalese, Tamil and Muslim communities.

Introduction and Welcome

In the introduction, the speaker welcomed all those present at the roundtable and stated that the objective of this discussion was to explore the current terrain with regard to the devolution of power in Sri Lanka. As the present is an opportune moment to look at this issue, the speaker said that the purpose of the meeting would be to examine the current status of power devolution and the way forward from this point.

Related to this discussion are the keystones of the peace process that is recognized by everyone.

- 1) Reform of the Sri Lankan State to reflect the full diversity of the Sri Lankan society. To quote the late Mr. Neelan Tiruchelvam, to “avoid the anomaly of imposing a mono ethnic state on a multi ethnic polity”.
- 2) Reform of the LTTE to enable political pluralism and democratic rights within Tamil society.

The focus of this roundtable discussion would mainly be on the first point and the discussion on reforming the LTTE would have to be deferred to another workshop.

There is a space today in Sri Lanka for a dialogue on devolution due to the following factors;

- 1) The President and others have now called afresh for devolution models, including UK and Indian.
- 2) Increasing military engagement with the LTTE creates the space for a policy and political dialogue with the non LTTE, Tamil parties.
- 3) Almost two decades after the 1987 Indo-Lanka Accord, there is a need to reconsider where we are on devolution and multiculturalism.

There is agreement that the LTTE is too extremist, therefore, it is necessary to engage the less extremist view. There is consensus on the 13th Amendment, as it is already in the Constitution. It is important to deliberate on whether there is scope for moving forward with what is already available. Another issue is multiculturalism, we pay lip service to it, but it is not been practiced. For instance, there is an initiative by the Ministry of Constitutional Affairs and National Integration to create a bilingual public service. This program could be used as a cornerstone to demonstrate that we are serious about the national language act.

The speaker proposed some principle policy positions;

- 1) Incremental devolution as a first step towards a permanent settlement.
- 2) First steps should not be an obstruction to further measures as part of peace process.
- 3) Some progress on devolution and multiculturalism would assist in a permanent solution.

Some ideas and issues to reflect on; 1) is there a political role for the non-LTTE Tamil parties in creating political will for devolution, 2) how do we assess the non functional North East Provincial Council (NEPC), 3) is there a scope for an appointed Council on this issue, 4) what is the viability of such institutions and the implementation of the 13th Amendment in the North and East.

A solution to consider would be the Indian model - there is currently high domestic support for India to be involved and also the Indian model is a hybrid between federal and unitary. In addition, it is difficult to make a case for greater devolution than the experience of integrating Tamil Nadu into India. The Indian model has also proven to be flexible with respect to language policy and multiculturalism.

Remarks by Facilitator

The facilitator invited contributions from everyone at the roundtable and said that she was encouraged by this gathering of very seasoned people who have actually suffered due to the very problem that was going to be discussed as well as having a good understanding of the issue. She asked all participants to consider the following points when engaging in the discussion;

- 1) Is the continuation of the unitary state an obstacle to devolution and recognition of mutual rights? She raised the examples of India and South Africa which insist on the unitary nature of their states, but recognize and embody in their constitutions the concepts of individual and group rights.
- 2) That language is the heritage of all humanity and it is not meant to be an obstacle to communication.
- 3) Not to dwell on long past injustices except where it has created in itself an obstacle or problem of its own.

Speaker 1

The first speaker presented his reflections on the Parliamentary Select Committee (PSC) that examined issues related to devolution of government institutions in the early 1990s.

At the outset he noted that the steps recommended by the Committee's report could not be considered and implemented as Parliament was dissolved soon after the report was issued and the new government approached the subject in a "fresh manner". Nonetheless it is worth considering three proposals that were brought forward by the Committee at that time:

- 1) De-merge the North and East provinces.

It was found by the Committee that the preference of the people from the North and East was to have it de-merged especially since this merger took place without consulting the people from these two provinces. The Committee therefore could not go against this weight of evidence.

Many other alternatives were also proposed prior to this decision;

- a) Following the de-merger to create an apex body over both provinces which would have powers over certain political subjects relevant to both provinces, while two bodies elected respectively for the North and East would have power over the remaining subjects.
- b) To elect the Chief Minister from the North for the first three years and then the East for the next three.

2) Adopt a constitution on the lines of the Indian Constitution.

The Committee recommended that an expert body be set up to study the Indian Constitution. The speaker stated that the Committee did not mean that our Constitution should be identical to that of India, but that it could be adapted to suit our needs without demarcating it as "federal" or "unitary". He also commended the Indian Constitution for being flexible and being able to adjust according to the needs of the time.

3) Devolve more powers from the Concurrent List or completely eliminate the list and devolve powers to the periphery.

The Committee found that though the Central government had devolved powers to the provinces through the Concurrent List, these powers were revoked. So the entire Committee recommended that the Concurrent List needed to be abandoned.

The first speaker stated that this PSC in the early 1990s was the first time in the entire history of the conflict where the United National Party (UNP) and the Sri Lanka Freedom Party (SLFP) actually reached an agreement on the ethnic question.

Speaker 2

The second speaker gave a short presentation on the semiotic aspects of the discourse of devolution, which he stated is an angle that is usually not discussed. According to him, semiotics is the science dedicated to the production and communication of meaning in society.

The discourse on the devolution of power has suffered greatly because hundreds of words used in this debate have confused the general public. This state of affairs is advantageous to those who do not wish any type of devolution.

Therefore, analysis from this point of view is necessary to grasp the basic problems inherent in the ethnic problem.

The concept of devolution has caused a great confusion among the Sinhala people. The Sinhalese translation of the word devolution is '*balaya bedhima*', which means 'division'. Hence conveys a confused meaning from the semiotic point of view. People who are against devolution have used this confusion to promote their agenda that *balaya bedhima* is to divide the country. On the other hand, the Tamil language conveys the correct meaning of the word devolution.

The word 'federalism' translates to '*federal wadaya*' in Sinhalese. This creates antipathy among the Sinhala people who link this word to the Federal Party that was established by the Tamils in 1949. Therefore, a majority of Sinhalese think that federalism leads to a division of the country.

The discourse on the devolution of power has suffered greatly because hundreds of words used in this debate have confused the general public. This state of affairs is advantageous to those who do not wish any type of devolution. Therefore, it is necessary to be careful with the language that is used and to spread awareness on this aspect.

Speaker 3

The third speaker stated that the 13th Amendment has changed the course of the Tamil struggle in this country. She said that following the Indo-Lanka Accord, alternate Tamil parties were forced to come into the political mainstream, but have not achieved anything by doing so. While the Tamil community has had to face two more wars, these parties have either been reduced to nothing, joined the LTTE or been branded as paramilitaries. The governments of Sri Lanka as well as that of India have not owned the problem, but consider it as a 'Tamil problem'.

Alternate parties don't consider the LTTE as the sole representative of the Tamil community. Even though the Government of Sri Lanka (GoSL) and the international community are aware of this, they negotiate with the LTTE just to end the violence. Nobody cares about the suffering in the North and East or consider the voices of the alternate parties.

The Ceasefire Agreement (CFA) has legitimated the LTTE as the representative of the Tamils and in this manner it has been imposed on the Tamil community. The voices of the Tamils have been silenced by this agreement. The CFA has also facilitated the removal of alternate Tamil parties in the North and East.

The LTTE is not bound by rules, but the governments of Sri Lanka and India who introduced the 13th Amendment need to take responsibility. The Tamils are facing a very pathetic situation. Before talking of devolution, the problems of the Tamil community need to be addressed. The following lapses on the part of the GoSL need to be addressed;

- 1) The Provincial Councils were primarily introduced for the North and East, but these provinces are being deprived of its benefits. The GoSL has been able to hold Presidential and General elections in these areas, while stating the conditions are not conducive to hold Provincial elections. This demonstrates that the GoSL has not handled the situation in a responsible manner.
- 2) The people displaced by the war and the tsunami have not been rehabilitated.
- 3) No developmental or economic activities are taking place in the region. Furthermore, every item and service in the area is being taxed by the LTTE following the CFA and the international community and the NGOs are turning a blind eye to this double taxation for the sake of achieving peace in the South.
- 4) The alternate parties have not been treated fairly and recognized for their efforts in bringing normalcy to the war torn areas. Whenever the governments talk peace with the LTTE, they let down the alternate political parties which have struggled to safeguard the Tamil rights in spite of the LTTE's onslaught.
- 5) The CFA was aimed at enhancing the LTTE's military capacity while depriving the basic protection the other parties had for their self defense. Agreements not only facilitate the elimination of alternate voices but also add injury by branding them as 'paramilitaries' in order to project them as 'irrelevant parties' in this whole episode. If the GoSL feels that the LTTE is obstructing a solution, then it should encourage other parties who are ready to face any challenges from the LTTE and entrust them with adequate powers to take care of the people and manage the affairs in their region.

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- 6) There must be a genuine effort by the government to treat the Tamil people as equals. Under the secular Constitution in India, minorities enjoy more rights than the majority community. On the other hand, in Sri Lanka, the minorities feel not only alienation from the GoSL but also deprivation of their rights by successive governments. Language is a key issue; Tamils are often offended by the domination of the Sinhala language.

Therefore the GoSL, as a democratically elected government, should own the problem and needs to take responsibility for all communities in this country. Knowing the nature of the LTTE, the GoSL cannot hand the Tamil community over to the LTTE. Tamils need recognition as human beings, then as Sri Lankans and then as Tamils.

There is a need to devolve power to the Provincial Councils without any further delay and start implementing the provisions of the Indo-Lanka Accord immediately to give confidence to the Tamil community.

Speaker 4

The fourth speaker stated that the two issues that needed to be addressed are to reform the GoSL and to reform the LTTE. However, rather than reforming the government, it is more appropriate to say that it is necessary to reform the South.

There have been enough meetings and discussions on the Tamil issue. At this point, the Tamil issue is known very well. Now, it is a matter of delivering. The obstacles are in the South, so unless we reform ourselves, this problem cannot be solved.

The LTTE survives because other democratic Tamil parties have failed to deliver to the Tamil people. The LTTE is telling the people that democratic means have not delivered anything up to date.

It has been 20 years since the 13th Amendment in 1987 and the government has not even been able to fulfill the one clause which states that Tamil will be an official language. It is unacceptable that this cannot be fulfilled in twenty years.

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Therefore, it is obvious that there is no will on the part of the South to deliver. A particular government cannot be blamed, after all, a government is a body constituted by taking the aspirations of the people into account.

Changes need to take place step by step. So as a first step, implement what is available and agreed upon. Therefore the 13th Amendment should be implemented in full because it does not require any consensus or changes to the Constitution. One of the main obstacles to implementing it in full so far is because the bureaucracy is not willing to give up any power to the periphery.

The LTTE is not the immediate problem. First solve the problems with the Tamils and the LTTE issue will work itself out. The LTTE is thriving on the slogan that the South is not willing to give anything and so the LTTE will need to get it themselves. Therefore, the way out is to implement what is available by fully executing the 13th Amendment and then talk about what can be done further.

Speaker 5

The fifth speaker commended CPP for this initiative and agreed with the emphasis on practical points of view. He stated that this is a gathering of practical people, some of who have been victims of this conflict themselves, who are keen to work out of existing arrangements.

He stated that it is very necessary at this time to reform the Sri Lankan polity. It is also very important for the government of the day to accept suggestions that could be implemented to prevent and all out war.

Following the Presidential election in November, Prabhakaran made a statement that he was waiting for a reasonable political framework to be put forward by the government that would meet the aspirations of the Tamil people. This speaker did not want to argue about which party legitimately represents the Tamil people but felt that on the Southern side, it is the belief that all Tamil parties, including the LTTE and the alternate parties, are seeking justice and equality for the Tamil people.

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The speaker completely agreed with the issue brought up about the bureaucracy. In fact, it is not the politicians, but the bureaucracy which has been a huge stumbling block as it is determined to preserve what it believes to be the rights of the majority.

Consider the 13th Amendment and the practical approach of working with what is already agreed upon. Reflecting on the history of this Amendment, it was pushed through Parliament with a great amount of pressure from the President at that time. There must have been very strong reasons, even at that time, which urged people to defeat the amendment rather than support it. Even when it came to the Supreme Court, due to the objections raised by the SLFP (which was concerned that it violated the unitary state) the ruling came in favor of the Amendment with a tiny majority. It passed in Court only because of the presence of the Concurrent List (which defined shared powers as opposed to national ones) and because there would be national policies handled by the Center. So it can be said that the Provincial Councils started out with a curse on it. The following difficulties need to be addressed when devolving power through the 13th Amendment;

- 1) On strengthening the amendment, the first step would be to dissolve the Concurrent List in order to push for more devolution. This is a better approach because the unitary state is a fundamental obstacle as it is entrenched in the Constitution. This declaration cannot be changed by a usual 2/3 majority in Parliament, but requires a referendum of the whole country.
- 2) Currently, only 10% of the national budget is allocated to the Provincial Councils. So these units do not have the money and resources to function beyond paying the salaries.
- 3) The North-Eastern Provincial Council needs to be elected.

Touching on the Indian model, the following impediments need to be considered;

- 1) Indian states are divided on a linguistic basis. So if this model is going to be applied in Sri Lanka there will be a question of how to draw boundaries.
- 2) The Center can remove the Chief Minister of the state, which is an imposition from the Center. This can be a problem when creating areas close to being autonomous.

Finally consider the idea of the Oslo Communiqué where it was agreed to discuss an evolved solution close to the federal model within a united Sri Lanka. This proposal should not be put aside simply because it was brought up by the UNP.

Speaker 6

The sixth speaker presented his experience with the first North East Provincial Council (NEPC).

In the 13th Amendment, the list reserved for the provinces included education, agrarian services, social services, housing etc. However, when the NEPC tried to exercise authority over these subjects, the Center obstructed this effort and stepped in and took over the management. In fact, in the case of agrarian services, the NEPC was taken to court by the Minister of Agriculture and the courts ruled in favour of the Minister.

The Concurrent List (defining shared powers) included fisheries, electricity, tourism, urban development etc. In these areas, the attitude of the Center was that these subjects would be entrusted to the province only if the Center decided it was acceptable to do so. So in fact, the Concurrent List was treated like a second Reserved List (that defined Central powers). As a result, when the NEPC tried to administer these departments, since it was considered a subject belonging to the Center, no money was given and the NEPC departments had to be closed.

Consequently due to these troubles, the NEPC informed the President that unless there is institutional devolution, this 13th Amendment devolution would not be effective. Pitching it high, they also stated that they wanted the key officials and institutions such as Government Agents (GA), *Kachcheris*, *Grama Sevakas*, under the PC. The President compromised on this request and suggested dual control for the GA while the NEPC would have control over the others. However, this compromise had an in-built failure mechanism in that all appointments and transfers would be administered by the Center.

Later on, the Center proceeded to create its own infrastructure in the North and East, which was a duplication of the North East Provincial Council. At this point, the NEPC could not make much headway with the President and beyond this stage could not function effectively.

There were other specific challenges that were faced by the NEPC in its efforts to implement the 13th Amendment;

- 1) In preparing Provincial Statutes, the NEPC could not find legal experts to make the drafts.
- 2) The NEPC also lacked human resources; there was a shortage of administrative staff, accountants and especially engineers.
- 3) NEPC wanted to set up its own police force, but the LTTE obstructed this initiative. So this resulted in establishment of the Civilian Voluntary Force, which was to be later absorbed into the Police.

The overall point here is that a large number of functions under the Provincial list were infringed upon by the Center and unless there are institutional changes, devolution will not have any meaning.

In reality the NEPC has been reduced to a glorified municipality. Therefore, if institutional restructuring and reorganization does not take place, nobody will

Summary of recommendations;

- 1) The anti-devolution mindset of certain politicians and management services officers needs to be overcome.
- 2) Every one of the all island management services should be restructured, fixing cadres for each of the Provinces, and the National Public Service Commission delegating its powers of recruitment to a Provincial Public Service Commission in respect of recruitment to the particular Provincial cadre.
- 3) The Central Ministers in charge of the subjects of Agriculture, Social Service and Housing who have infringed upon the powers of the Provinces enumerated in List I should be directed to hand them over to the Provinces.
- 4) Executive action by the Cabinet of Ministers could restructure the institutional arrangements in the Provinces, with particular emphasis on reducing the number of Central institutions in the Districts and in bringing the *Kachcheri* system under the Provinces.
- 5) A committee of experts with experience in devolution should be entrusted with the task of assisting the political leadership in revising the Lists of Devolution of Powers.
- 6) Serious consideration should be given to granting asymmetric powers of devolution to the North-East Province.

In conclusion, when approaching the exercise of improving the 13th Amendment, the first need is to deal with the administrative problems of the Provincial Councils and build confidence. In reality the NEPC has been reduced to a glorified municipality. Therefore, if institutional restructuring and reorganization does not take place, nobody will be in a position to implement devolution under a federal system, let alone a unitary one.

Speaker 7

The seventh speaker stated that the primary step that needs to be taken at this juncture is to bring the LTTE to the negotiating table or to justify why they need to be kept out. The last few years have proven that the LTTE is not interested in any solution. People are living like slaves under the iron clutches of the LTTE. The government needs to consider if it wants to continue legitimizing the holdings of the LTTE in various areas where they are terrorizing the people. For whom is this peace being offered? Peace is for the people who are suffering. So to strictly interpret it, it is not for the people in the South.

Everyone agrees that the LTTE will never come to the negotiating table. Simply take into account, the joy ride they took to Oslo last month. Even if a separate state is offered to the LTTE, they will still demand many conditions, so it is now the responsibility of the government to come out with a proposal.

The international community is fully involved in this process. The travel ban that was initially imposed on the LTTE was a signal to them that they would not be tolerated for a long time. However, the LTTE chose to accept this as a challenge and continued with its activities and subsequently, a total ban was imposed on them. This ban is also a signal to the government that the international community is on its side and the government on its part needs to come out with a proposal to solve the conflict.

This proposal should not be to repeat the 13th Amendment. It is not acceptable to say that this Amendment has more devolved powers than the Indian Constitution. The 13th Amendment is now dead; it has

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The LTTE can be trapped by bringing the Indian model to Sri Lanka. Keep in mind, that 50 million Tamils living across the Palk Straits are concerned about this issue. The Indian model is a good solution for Sri Lanka as it can silence the Tamils in India who cannot possibly say that the Indian model is not sufficient for Sri Lanka. In turn the Sri Lankan Tamils will also have to accept it. Remember the separation crisis in India started in Tamil Nadu in the early 1950s and Nehru solved the problem by bringing in the current Indian Constitution.

Regarding the Sinhalese, this speaker stated that he has convinced the Janatha Vimukthi Peramuna (JVP) and the Jathika Hela Urumaya (JHU) of the idea that the Indian model should be considered and it was not hard for him to do so. Some people have become averse to the words "federal" and "unitary". So following the Indian example, some found that "unity in diversity" was a better term. It was also pointed out to them that India should be commended for its recognition of minorities. As the biggest democracy in the world with a large percentage of Hindus, it is now being headed by a Muslim, and has a Prime Minister who is a Sikh. Bear in mind that Sikhs, only 2% of the population, were fighting for freedom not too long ago. Furthermore, Sonia Gandhi who is Italian born is heading the Congress Party. Finally, it was highlighted that Sri Lanka has strong ancestral ties to India and all our religions, languages, cultures originated from India.

Successive Indian governments have reassured us that it will never allow the separation of Sri Lanka. This is of course due to the fact that India does not want to stir up problems in Tamil Nadu. The key is that the LTTE should be warned of this fact. Even if the LTTE succeeds in creating a Tamil Eelam, it will not survive 24 hours as India will oppose it.

Keep in mind that even if you devolve more powers than the Indian model, people will not be satisfied and will find fault with a new untried framework. The Indian model is an accepted model; it has proved beyond doubt that the minorities are satisfied. Any Tamil will say that they prefer the Indian model and the speaker asserted that when he spoke of Tamils, he meant the Muslims too.

Therefore, a proposal to this effect needs to be put forward by the government and that proposal should be recommended by the Co-chairs or a group of countries where federalism has thrived. This proposal must be one which the

LTTE cannot reasonably reject and the international community must be in a position and willing to tell the Tamils that such a proposal is all they can expect and that there can be nothing more beyond that point.

Speaker 8

The eighth speaker stated that he could not add much more to the previous participant's position. However, he differed on the point that it is not the government that should put forward a proposal, but that it is actually the Sinhala polity that must put forth a proposal. He explained that if the government brings in a proposal, the opposition will definitely reject it.

The Sinhala polity must come together and present a proposal which must meet the aspirations of the Tamil people and be acceptable to the international community. As a result, the LTTE will find it difficult to survive. As long as the cause is still with the LTTE, there is no way that the LTTE can be alienated from the Tamil masses.

All of the Tamil parties started with the cause of a separate state, but after the Indo-Lanka Accord, they joined the democratic process believing that a solution could be found. Unfortunately after 20 years it has achieved nothing. He stated that the weapons given to protect their cadres have been surrendered twice before, during the time of the IPKF and then after CFA. He hoped that they will not have to surrender weapons a third time.

Unless the Sinhala polity takes a firm decision, there is no point in arguing who represents the Tamil people. Today, everyone knows what the problem is and if a solution is put forward there is room for hope, otherwise, the country is sliding back to a very dangerous situation.

Speaker 9

The ninth speaker stated that it is the duty of the government to address the needs of the Tamil people; however the government will do so according to their own understanding.

Though several other speakers all said that everyone knows the problems of the Tamil people and knows what needs to be done, this speaker is not quite sure. In a broad sense everyone understands that the Tamil people's aspirations need to be addressed, however, there is a difference of opinion in the Tamil polity on what meets these aspirations. For instance, the LTTE started out with a demand for a separate state and then stated they are prepared to accept a viable alternative. The seventh speaker has proposed the Indian model and there is a lot to be said about this. After all it is a tried and tested system, rather than something abstract that must be worked out.

So it is the government that must give the lead in presenting a framework solution that will address the needs of the Tamil people. Unfortunately, the LTTE resists the government dealing directly with the Tamil people. This invitee commended the seventh speaker for speaking on behalf of the Tamil people. The armed struggle has destroyed the Tamil community and the space to voice people's opinions has been diminished. This speaker stated that he is encouraged that people such as the ones present at this roundtable are creating such a space for Tamil opinion. In fact, one of

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the failures of the Sri Lankan state in resolving the problem is that it does not communicate with the Tamil people. In reality, because of the ground conditions, the information that reaches the Tamil community is tailored to suit the needs of the LTTE.

Whatever form of devolution ensues, the complex situation in the East needs to be considered. Presently, there are approximately an equal number of people from all three communities living in this area. Whatever the differences the Tamil parties may have, they all agree on the point that the North and East should be merged. In this respect, the concerns of the Muslims and Sinhalese of the East need to be kept in mind. The concept of an Apex Council suggested in the Parliamentary Select Committee is ideal for this situation. In this manner, the East can be made into a model where all communities can work and live together.

This speaker stated that he is very opposed to community based devolution as it creates a situation where the Sinhalese can be trusted only to look out for the Sinhalese, the Tamils can be trusted only to look out for the Tamils and the Muslims can be trusted only to look out for the Muslims. It is more important that those who are ruling should treat every community with justice and equality.

Finally, a culture of devolution needs to be developed and the bureaucratic problems also need to be addressed.

Speaker 10

This invitee thanked the seventh speaker for coming out with a practical solution. He also stated that as the first speaker mentioned, the Parliamentary Select Committee has also recommended a solution along the lines of the Indian Constitution.

The militants and the moderate Tamils have openly said that they are prepared to accept a viable alternative to a separate state. What they have in mind as a viable alternative is a regional council merging the North and East Provinces.

The Muslims in the East feel very let down by the Indo-Lanka Accord. It has clustered the Muslims as Tamil speaking people. Tamil speaking people refers to three groups in Sri Lanka; Sri Lankan Tamils, Indian Tamils and Sri Lankan Muslims. It is not correct to identify the North and East areas as the traditional homeland of the Tamil speaking people, this area is the traditional homeland of the Tamils and the Muslims. In spite of this, the Sri Lanka Muslim Congress (SLMC) decided to work together and participated in the Provincial elections.

After the formation of the Provincial Council in the temporarily merged North and East, Tamil militants have continuously committed a large number of atrocities against Muslims, forcing thousands of Muslims to flee their traditional homes in the North and East.

This speaker stated that once he took delegation of Muslim MPs to have a discussion with the LTTE under the auspices of the Indian government. As a result, an understanding was reached on a power sharing arrangement in the merged North and East. Later an agreement was also reached with the leaders of the Tamil United Liberation Front (TULF) on a power sharing agreement. Despite these promises, in actual practice every effort is being made to cripple the legitimate rights of the Muslims in the North and East. Therefore, it has become an absolute necessity for these Muslims to take independent safeguards to protect their lives and property.

This invitee stated that he agrees with the seventh speaker on the Indian model. Regarding the 13th Amendment, it has been stated that there is a preference to de-merger the North and East. Yet, there is no provision in the 13th Amendment for this move. It does state though that a referendum should be conducted after one year for the people of the Eastern Province on whether they want a de-merger. Unfortunately, this referendum has not taken place in 18 years.

Furthermore, the North East Provincial Council was created in order to satisfy the ethnic grievances of the minorities. However, this power devolution has not taken place. All other types of elections have been held in these areas except the Provincial elections. Therefore as a first step, conduct the Provincial elections in the North and East and then have the referendum regarding the de-merger.

Various committees have already recommended solutions, but they are never put into practice. So it is an absolute waste of time to continue creating such committees. There is an opportunity now that there is a government and a President from the same political party. The UNP and the SLFP have indicated their support for federalism. So what could be preventing an amendment to the Constitution to restructure the state according to the Indian Constitution? He also stated that the Muslims of the North and East were also very interested in the India's Pondicherry Model of non contiguous units.

The Muslims do not want to stand in the way of the Tamil struggle. They want a solution, but not at the expense of their fundamental rights.

The Muslims do not want to stand in the way of the Tamil struggle. They want a solution, but not at the expense of their fundamental rights. The Muslims are the only community that has experienced ethnic cleansing. The community is suffering and is being terrorized. Consequently, if there is no satisfactory solution to the problems of the Muslims in the North and East, it is doubtful that there will be any peace in the region. Muslims will soon take up this issue with the international community and the human rights commissions.

Speaker 7 – Comment

The seventh speaker stated that a couple of years back, in a communication to Prabhakaran; he criticized the LTTE's attitude towards the Muslim people.

The TULF asked for merger of the North and East in the past for justifiable reasons. However, now there is no moral right to insist on this merger. According to this speaker, hundreds of Tamils in Jaffna say that they are suffering because of what the Tamils did to the Muslims. The Tamil people want the Muslims to come back and live in their respective areas. The Tamils and Muslims of Jaffna have historically got along well, in fact, a couple of times the Mayor of Jaffna was Muslim.

This speaker asserted that Tamils are god fearing people and that he once told Thamilchelvam that the LTTE should not give the international community the impression that Tamils are barbarians. This speaker stated that he pleads guilty for what the LTTE has done to the Muslim people.

Speaker 11

The eleventh speaker stated that he feels a twinge of guilt when talking about this subject as this conflict has not affected his family personally.

He asserted that the government should put forward a proposal. At the time, the UNP had a different strategy and that was to end violence and establish a ceasefire and then work on the permanent solution.

To be realistic, there will be no Southern consensus, so if the two major parties can agree; the time has come to proceed forward. There has already been a lot of discussion on this issue, and it will be a waste of time trying to get everyone to agree.

A gradual approach to the problem is not realistic. A permanent solution needs to be put forth, where 'permanent' means it could evolve over time.

The interests of the Muslim community were ignored in the last approach. As much as there is a discussion in the South as to what this proposal should be, the people in the North and East outside of the LTTE should have a consensus on how they will co-exist.

There has to be a merger of a kind and a de-merger of another kind in the North and East due the practical realities of the ground situation. The Apex Council (suggested by the PSC) maybe one way of approaching this issue.

This speaker stated that he is not in favor of non contiguous devolved units or, in fact, any ethnically devolved units. He suggested that in the final constitutional arrangements, it must be ensured that even the Center must not be dominated by one ethnic group.

Regarding the immediate need for the de-escalation of violence, this invitee criticized the government for ordering retaliatory attacks by the Sri Lanka Air Force. He stated that the de-escalation of violence and confidence building measures are practical issues that need to be addressed.

This problem cannot be solved only by governments. It also needs new thinking and new orientation on the part of the Southern people. It is essential to raise the ethical and moral voice in the South and the power of ethics and morality should not be underestimated. If the clergy in the South should take up what is fair and just, it could put pressure on any government into taking bold steps.

Speaking as a Sinhalese, this speaker said that the minorities in this country have been treated unjustly. President Kumaratunga is the only national leader who has ever made a public statement that some of the events of the past were wrong and he stated that more statements in this vein need to be voiced.

Speaker 1 – Follow Up

This first speaker stated that everyone realizes that the country cannot afford to end up in war or even a guerilla war. The crucial aspect is to develop a strategy.

Even though the LTTE is banned by many countries, they are continuing with the killing. Yet, it is obvious that they are fearful of India and that India will never make amends with the LTTE. Therefore, the seventh speaker is correct that Sri Lanka could use India's position as the strategic weapon to bring the LTTE to heel.

This speaker believes that the ordinary people of Sri Lanka will accept a constitution on the lines of the Indian Constitution. However, the first step is to end the violence, and to do so a proposal must be put forth that will win the hearts of the Sinhalese, Tamils, Muslims and the international community. The international community has already said that the LTTE must mend its ways, so Sri Lanka should utilize this time, when there is world support and when the LTTE is in a weak position.

As for the Sinhala people, this speaker stated that he has represented a rural electorate. Rural people, from the North or the South, are civilized and moderate people. They have always rejected the chauvinism in the South. So judge the rural people who make up 85% of the population. Rural people are not communal; this is demonstrated in the instances where Muslim candidates have defeated Sinhalese candidates in the South.

Therefore, it is necessary to impress upon the major political parties and the other parties to present a proposal.

Speaker 6 – Follow Up

This speaker said that the main point he raised previously was that even when powers were devolved under the 13th Amendment, they were infringed upon by the Central government. Therefore, until there is a pro-devolution mindset, there will be difficulties even with a new constitution.

The key point is that whatever devolution model is chosen, it will be necessary to have an effective institutional structure for implementation. Therefore, even though the devolution proposal may not be ready right now, the changes in the institutional structures should get underway.

Facilitator – Closing Comment

The facilitator closed the discussion for the day and thanked everyone for their contributions.

Participants

- Mr. Anandasangaree – Leader, TULF
- Dr. Michael Fernando – Chairman, National Integration Programme Unit (NIPU)
- Mr. M.I.M. Mohideen – Leader, Muslim Rights Organization
- Mr. Mangala Moonesinghe – Former Parliamentarian, Long Serving Ambassador
- Ms. Manouri Muttetuwegama – Advisor, Council for Public Policy
- Mr. Harim Peiris – Senior Researcher, Council for Public Policy
- Mr. Sithadthan – Leader, PLOTE
- Mr. S. Tawarase – Private Secretary to Minister of Social Services & Social Welfare
- Ms. Maheswary Velautham – Advisor, EPDP; Secretary, Forum for Human Dignity
- Dr. K. Vigneswaran – Former Chief Secretary, North East Provincial Council
- Mr. Bradman Weerakoon – Former Secretary to Prime Minister; UN Consultant
- Mr. Eran Wickramaratna – Former Advisor to Minister of Science & Technology
- Mr. Nishantha Wickramasinghe – Private Secretary to Minister of Constitutional Affairs & National Integration
- Mr. Javid Yusuf – Former Ambassador; Former Secretary General, Muslim Peace Secretariat