
SOME PARAMETERS FOR A PEACE SETTLEMENT

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There is no doubt, irrespective of the campaigns against peace negotiations by the extremist forces; Sri Lanka is close to negotiations between the PA government and the LTTE. Most probably the UNP will be completely out of this process at least initially. What we had witnessed in the last three months over the issue of "ceasefire vs. LTTE ban" in the UK was merely a dress rehearsal, though a bitter one, by the two parties to test their diplomatic wherewithal contemplating not so distant actual negotiations.

Any intelligent observation of the nature of events since last April on the ground would guarantee that the LTTE would never be in a position to achieve its separate state through military means. What the LTTE has done by its adventurous attack on Jaffna last April is to strengthen the military muscle of the Sri Lankan state in no uncertain terms quite detrimental to their own interests. Anyway a separate state carved out from the existing regions is not a solution to the rightful grievances of the Tamils given the intermixed and interdependent nature of different ethnicities living in many parts of the island. For a lasting and a reasonable solution to the ethnic crisis, the interests of all communities should be taken into equal consideration.

But what would be worrying the moderate Tamils at the moment is the sheer disadvantage that the Tamil side would encounter in any negotiations in the near future. Perhaps this is why the most of the Tamil parties objected to the banning of the LTTE in the UK. But whatever the reason, the LTTE or any other party would not have any escape from gross violations of human rights including terrorism within the evolving international trends in the world today. This is why the moderate Tamils and their parties should speak up and speak up independently from the LTTE on the issues of the Tamils. If this was not possible due to duress a year ago, this is not the case today given the national and international circumstances. It would be difficult for anyone to believe that the LTTE is the sole representative of the Tamils under any circumstances. The proposition is so mystical and even dangerous.

What is necessary to work out a reasonable solution to the ethnic crisis is to temperate the extreme positions of all sides on issues that are controversial at the moment. This does not mean that a solution should be based on a "common denominator" without perhaps satisfying any party in their main interests. Or it should not be a "marble trick" as Justice Vignesvaran has explained (*Daily News*, March 9, 2001), where you "offer few marbles after confiscating all." The moderation of positions should be done on a rational and a reasonable basis taking into full account the

democratic and human rights principles, the world has so far developed.

There are two main areas of controversy where the moderation of positions should take place for a possible agreement or a lasting solution. First is in the area of political principles. Second is in the area of political structures. It is in the area of political principles that the Tamil side almost unanimously has put forward the demand for an "equal nation," "self-determination" and much controversial "homeland" concept.

In respect of political principles, I don't see any reason why the Sinhalese cannot accept the Tamils, as well as the Muslims, as nations while they address them as *Jati* (nations) in day-to-day practice. The recognition of Tamils as a nation was one of the Thimpu principles in 1985 that the then government totally rejected. The term nation is used in two meanings in many countries including Sri Lanka, on the one hand, as a cultural or ethnic identity and, on the other, as a political or country identity. This is equally true in academic *parlance*.

It is true that when the cultural/ethnic identity is over emphasized as the nation, the political nation would become undermined and the political stability diluted. That is what happened in Sri Lanka since independence and both communities are culpable of this mistake perhaps not on equal terms. However, there is no point in harking back on history and try to blame each other as to who did the most damage. What is important is to understand the corollary of cultural rights, language and religion being the most important, implicit in the recognition of all three communities as cultural nations. This is of course has to be done on an equal basis and perhaps enshrined in the constitution. It is best in this respect that Sri Lanka becomes a secular state without any particular recognition to any religion in the constitution.

What are perhaps inimical to the extremist view are not the recognition of the Tamils or the Muslims as cultural nations, but the recognition of equality of them with the Sinhalese nation. The standard objections are based on history and numbers. There is no question that the history is important and all communities should respect each other's heritage with mutual admiration. However, it is in terms of quality and not quantity that we talk about equality between nations. This primarily means the equal recognition of cultural identity, dignity and respect of all communities recognized in the constitution. It does not mean equal representation in decision-making institutions or division of resources irrespective of numbers.

Another apparent misunderstanding or controversy is in the area of self-determination. The right of self-determination of peoples cannot be simply ignored, as Sri Lanka is legally binding to respect and promote this right by virtue of its ratification of two international covenants (ICCPR and ICESCR) on human rights. Self-determination is a basic principle of democracy that allows different peoples to "pursue their economic, social and cultural development." It does not necessarily mean the right of peoples to form separate states unless they are under colonialism. The said international law (covenants) does not confer the right of self-determination to nations but to peoples. This distinction is important. Peoples are composed of several cultural nations within countries as well as within regions of countries. What is important is to achieve self-determination as far as possible within viable and rational political divisions (regions) through devolution, autonomy or federalism.

It is true that not only the LTTE but also many Tamil groups consider the demand for "homeland" to be somewhat sacrosanct. But this cannot be the case. This demand does not satisfy the modern standards of human rights except in the case of indigenous people where they may require territorial protection to preserve their culture or other interests. This is an issue that the moderate Tamils should seriously reconsider. There are possibilities of preventing a threat of "ethnic cleansing," if there is any, without recognizing a homeland concept. The recognition of a homeland of one group in a particular region would amount to the denial of equal rights of other groups in the same region. The rights and the status of the Muslims and the Sinhalese in the North-East should be taken into account seriously in this respect.

In terms of political structures, the two extreme positions have traditionally been between federalism and unitary state. However, the divided nature of the Supreme Court decision on the thirteenth amendment had already indicated, the Sri Lankan constitution is at the verge of a federal system. It is true that the PA government has offered more in terms of a "union of regions" and eliminating the ambiguity between the "provincial functions" and the "central functions." However, the recognition of a federal structure would undoubtedly go a long way in reassuring the Tamils about their rightful rights. Federalism has been their key demand since independence although it was raised and interpreted in different ways. A clear-cut acceptance of the federal principle also might facilitate any necessary re-drafting of the constitution without leaving any ambiguities as at present.

Another area of structural consideration is the unit of devolution. The best policy for any practical settlement is to follow the existing demarcations as far as possible. This means the existing nine provinces. The Tamils may need to re-consider their demand for merger of the two provinces on the basis of more autonomy for provincial parliaments under federalism. The demarcation of units purely on ethnic grounds would betray the highest intentions of the equality of cultural nations and the application of self-determination on the basis of peoples. What might in addition be necessary is the "devolution within devolution" to mean the strengthening of local government institutions within provinces to reassure the minorities within minorities. This type of a policy will go a long way in reassuring, particularly the Muslims in the Eastern Province and the Hill Country Tamils in the Central Province. ■

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