

CRISIS IN SRI LANKA: IS THERE A WAY OUT ?

DESCENT FROM A MODEL ASIAN DEMOCRACY TO CHRONIC VIOLENT CONFLICT

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For many decades, up to the time of national independence, Sri Lanka appeared to be pre-eminent among the countries of Asia, perhaps excluding Japan alone, in respect of social development, economic prospects, and political stability. But it was an illusion as shown by our disastrous record since then, particularly over the last quarter century. In terms of some key social indices, we are yet ahead of many of our neighbors but have fallen behind several others. In economic development, we have fared even worse. The few countries which were ahead of us have drawn away and many of those who were behind have overtaken us or seem likely to do so in the not too distant future. But our biggest failing has been in the political field.

At the time of independence, it appeared that our political institutions were more advanced and better equipped to meet the many challenges of a modern democracy in the second half of the 20th century than those of almost any other country in Asia. But we have since got repeatedly bogged down in a long succession of political disasters. Every attempt to escape from our crisis appears to first bring a glimmer of hope, but then to lead us into a deeper crisis.

By the eighties, the most pessimistic among us had begun to compare our predicament with those of others seemingly caught up in the most hopeless of ethnic problems—such as those in Palestine, northern Ireland and Cyprus. Today, from our perspective, such a comparison looks unreasonably optimistic. Unlike in those countries, war is continuing in Sri Lanka and not even a stalemate is in sight. In addition to the miseries directly contributed by the violence in our island, there is more misery on account of its very considerable ill effects on socio-economic development and political democracy. The downward spiral is continuing. Is there a way out ?

All of us have surely some hope that, however dismal the immediate prospects may be, the answer, eventually, is yes. If we had no such hope, this paper would not have been written or published, and will not be read. If there is a way out, how can we progress along it ?

I will not waste time in tracing the origins of the crisis in Sri Lanka (most of us know the facts well enough) or in apportioning blame for past mistakes. That is history. We do need to look at history. But we can use or misuse it to escalate the conflict, or we can learn from it and use that knowledge and understanding to extricate ourselves from the mess we are all entangled in.

The Futility of war and the need for a negotiated settlement

The first and most important lesson that our history, especially our recent history, could have taught, if we were willing to learn, is that war does not solve our problems but makes them worse. We need to draw a distinction between rebellion based on the felt grievances of an ethnic group (such as the ongoing LTTE revolt) and that based on class or other conflicts (such as the JVP revolt). In the context of recent events in, and the ancient history of Sri Lanka, without external intervention, revolt of the former kind cannot succeed (since it is inconceivable that the government of Sri Lanka will ever consider division of the country as an option); nor can it be crushed (without first dealing with the political causes of the conflict to the satisfaction of the minorities). In other countries too, since World War 2, very few rebellions based on the felt grievances of large ethnic groups have been crushed without first negotiating a political settlement; in turn, few such rebellions have succeeded without the backing of foreign governments. The only alternative to a negotiated settlement is continued violence with indefinitely prolonged and increasing suffering.

What could be the parameters of a negotiated solution ? Judging from our past attempts to find one, there is broad understanding on what type of solution we must seek. We need some kind of federal constitution with considerable devolution to the provinces. It is occasions when we worked towards such a goal that we came close to an end to the conflict. Regional autonomy was broadly the basis of the Bandaranayake-Chelvanayakam Pact in 1958, the UNP government's Provincial Council scheme of which the 13th Amendment to the Constitution was the first step, and recently, what has been called the Package, which is yet alive but in considerable difficulties.

I need to qualify my reference to federalism and regional autonomy. Although one of the objectives is to enable the populations of the north and East to enjoy a substantial measure of self government, the units of devolution need not be engineered to be exclusively mono-ethnic or mono-linguistic. There are in fact benefits in taking advantage of the measure of correlation existing between ethnic identity and the provinces we have historically inherited, and dangers in the redrawing of provincial and district boundaries. Perhaps some adjustments may be found to be necessary but these should be kept to the minimum. In any case these details should emerge from the negotiations and should not be pre-determined.

I need to further clarify that the devolution package sought should not be seen as fixed for all time. A lasting solution does not imply a static one but, rather, reaching a stage from which, in time, further

progress can be made. For example, there could, in due course, without compromising the unity and integrity of the State, be a greater degree of devolution or further devolution to sub-units or both. We need to solve our present problems without precluding the options of subsequent generations to solve theirs.

The Need to evolve a national political consensus

Working out a satisfactory solution is not easy. But the even bigger problem is to get it politically accepted. Again, learning from past experience, a solution cannot be unilaterally imposed by any government, however powerful, but needs the backing of a broad national consensus. The B-C pact negotiated by the then very powerful MEP government was scuttled by protests initiated by the then weak UNP opposition. The Provincial Council scheme worked out by then very powerful UNP government was not supported by either the SLFP, then politically very weak, or by the LTTE, which had no political representation whatever. The scheme nominally survives but has not contributed to solving the crisis. Now, the Package has been rejected by both the UNP and the LTTE. Hopes that it will bring peace are receding. The lesson is clear. At the very least, the SLFP, the UNP and the LTTE must, sooner or later, openly or tacitly, endorse any proposal if it is to progress and lead to a settlement of the conflict. Negotiating only with those with whom agreement can be easily reached may be comfortable, but may not end the conflict or lead to an effective and enduring solution.

It may appear that it would be easier to work out a settlement if the LTTE could be eliminated militarily or excluded from the negotiations. But again, judging from our past experience, the former may not be feasible in the near future, and the latter may render the negotiations irrelevant. Other countries have had similar experiences in attempting to avoid dealing with seemingly intractable groups claiming to represent minorities and engaged in violent activity against the state. Examples include the U.K. in relation to the IRA, and India and Pakistan in relation to several minority ethnic militant groups. Negotiating with such groups need not imply recognizing them as the sole representatives of the ethnic groups concerned. In the case of the LTTE, if it refuses to participate at the commencement of the negotiations, at least it should be induced to do so at an early stage. This will be less difficult to achieve if the main opposition party is in the negotiation process and the invitation to the LTTE and the terms of the invitation are endorsed by that party.

It is essential that before the final details are worked out, the leadership of the hill country Tamils and of the Muslims, especially of the North and East, should be brought in to the negotiations. Support of the parties of the left, the trade unions and one or two of the other Tamil parties of significant political standing is also necessary to form a consensus or a near consensus. To get the SLFP, the UNP and the LTTE to commence negotiations is the biggest hurdle. Once this hurdle is cleared, as negotiations progress, it is likely that most of the other parties would wish to enter the process.

Dynamic potential of the negotiation process

On the face of it, judging from past experience, it may appear that the common ground, the parameters of the acceptable to the SLFP, the UNP and the LTTE at any point in time, may not be adequate to even launch any meaningful proposal, let alone constitute the basis of a final settlement; that the main opposition party may not, in any case, find it in its interests to support any settlement proposed by the government; and that while the LTTE may, from time to time, be willing to enter into negotiations, it is unlikely to pursue the process to its conclusion, since the LTTE seems to be committed to secession to the exclusion of any kind of federalism. From a static perspective, this does appear to be the case.

But if we understand negotiation as a process which could constantly and, in time, profoundly change the political environment, it may be possible to achieve results which may not appear to be feasible at the commencement of the negotiation process. Parties which entered the negotiations which declared or undeclared reservations and commitments may feel compelled, as the negotiations progress, to abandon, gradually, some of their reservations and to revise some of their commitments. Several of the other parties which chose to keep out or were kept out in the early stages may be sucked in to the process once it gathers critical momentum. We may observe such developments in other countries, for example in relation to problems in northern Ireland, Palestine and Bosnia; in these cases the negotiation process has begun but is yet in the early stages.

Such an exercise has never been earlier false undertaken in Sri Lanka. We need to start from scratch, though we would learn from the last. In the past the starting point has been either a government backed package secretly worked out and abruptly brought in as the basis of a settlement or, even worse, the convening of an all party conference with free entry into the negotiation of virtually all including the most disruptive of groups with only marginal political support. The former is likely to provoke and crystallize outright opposition to critical components of the package from key parties excluded from its formulation, and the proposal is then doomed to failure; the latter, the all party conference, inevitably disintegrates under the centrifugal pressures generated by a babel of conflicting demands from a multiplicity of parties uninterested in reaching a settlement.

We should, instead, see negotiations as a dynamic process designed to incorporate, as early as possible, the parties whose support is critical to any settlement, simultaneously working out the elements of the package maintaining a consensus of those already within the process, and progressively attracting and incorporating parties outside in such a manner that the process is advanced and not disrupted.

Need for an effective implementation strategy

Even if the agreement has been worked out and the new legislation is in place, there is no guarantee that it will be

effectively implemented. The settlement could be subverted by inertia or by sabotage or by a combination of these factors. Who will oversee and ensure effective implementation? In the case of the Provincial Councils scheme, the government ministers, secretaries and heads of departments at the center were, predictably, reluctant to let go the power they had been exercising. In consequence, they interpreted the laws and regulations designed to devolve some of their powers in such a manner that virtually annulled devolution.

In respect of this scheme, a small high powered team committed to effective devolution and charged with authority to interpret the new legislation and to give directions to the ministries and departments in respect of implementation could have made a difference. In the absence of such a body, it is virtually left to individuals in authority in ministries and departments in Colombo to voluntarily relinquish substantial components of their authority to the provinces in terms of the 13 Amendment which contained many ambiguities. It could not have worked, and did not.

A second major problem in respect of the Provincial Council scheme is that the seven provinces outside the North and the East were dominated by UNP Chief Ministers who were, by and large, political light weights in relation to the Cabinet Ministers at the center. Even if they were motivated to attempt to wrench power due to the Provincial Councils they were unable to do so. If the implementation strategy had included provision for several Cabinet Ministers to resign and take over as Chief Minister in the provinces, the political balance between the center and the provinces could have tilted in favor of the latter, resulting in more substantial devolution. This would have been even more effective if, together with the Cabinet Ministers, some of the senior Secretaries in Colombo were also transferred to the provinces to take over as Chief Secretaries.

The third major handicap to the Provincial Council scheme was the exclusion of the SLFP. They boycotted the first round of elections to the new Provincial Councils and had no stake in the effective functioning of any of the Provincial Councils. Had some of the Councils come under their control, they may have been motivated to support rather than oppose devolution. In fact, this was what happened when Provincial Council elections were next held. The SLFP won in some of the provinces and, thereafter, spearheaded the demand for effective devolution. But parliamentary elections quickly followed and the SLFP won those elections as well. In consequence, most SLFP politicians who were in leadership positions in the provinces moved over to the center hold office in Colombo. Understandably, having crossed the province-centre divide, most of them no longer champion devolution. In any case, the Provincial Council scheme is of now of little political relevance; in fact, the north-East Council of ministers functioned only very briefly and their powers have since been exercised by the Governor appointed by the President. What little devolution has been achieved is effective only outside the North East.

A fourth critical obstacle to the success of the PC scheme was that it did not include the LTTE. They were opposed to it, particularly to its effective implementation in the North East. The LTTE violently

and effectively sabotaged the working of the NEPC, with at one stage, considerable backing from Colombo. They did not take part in the Provincial Council elections, which they charged, were rigged by the IPKF. If the LTTE had a stake in the effective functioning of the scheme, they would have been motivated to make it work.

This may have required delaying the original NEPC elections, and providing an interim administration for the North East for a specified period with a dominant role for the LTTE in that administration. At the end of that period, elections could have been held under mutually accepted conditions and an elected administration could have taken over from the interim administration. In the event, NEPC elections were held under the umbrella of the IPKF but the exercise turned out to be counter productive. The Provincial Councils, particularly established to meet the demands of the people of the North and East, are functioning everywhere except in the North and East, and the scheme has become discredited.

The objective sought to be achieved should be seen by the principal parties involved as a national goal benefiting the whole population and not as the goal of the government or of an ethnic group. Perhaps this may be facilitated by the establishment at the center of an interim national government including the principal parties involved. But these details should emerge from the negotiation process which could begin with two or three parties getting together with no more than a skeleton structure of a proposal and working towards an expanding consensus, simultaneously, gradually, fleshing out the details including, most important the implementation strategy. The emphasis throughout should be on the negotiation process and the negotiation strategy.

Creating the climate for a settlement and facilitating negotiations

Finally, although I have focused attention on the political process, much can be done outside it. For example the civil rights movement in the USA paved the way for the Civil Rights Act of 1964, the Voting Rights Act of 1965, Affirmative Action, the end of the war in Vietnam and many other advances. There are peace/civil rights movements in Israel and Northern Ireland which have helped to advance civil rights and the prospects for peace. We do not have a significant peace/civil rights movement in Sri Lanka. Such a movement could mobilize the people outside the political arena, and bring political pressure to bear on action within it.

Cooperation is needed from all who desire a satisfactory (and peaceful) settlement of the national problem i.e., from virtually the entire population. But it is the government which is best placed to take the major initiative and to go furthest to create the climate for such a settlement. Tamil is an official language in Sri Lanka in law but, outside the North and East, there is not much evidence that it is so. In consequence, Tamil speaking persons are handicapped in respect of reading signboards, negotiating official businesses, finding Tamil medium technical education and training courses, finding good schooling (especially in the plantation areas) and in many other matters. Even more critically, they are acutely discriminated against in recruitment to employment (both public and private

sectors), access to housing and in respect of freedom of movement and physical security. It is necessary that they should receive equal treatment and enjoy equal access to the rights and privileges enjoyed by other citizens. Without at least substantial movement towards the elimination of discrimination there can be no progress towards a political settlement.

Before I conclude, I would like to touch on a controversial issue which has surfaced from time to time. Is there a role for a third party in the negotiations? Should any foreign government or international agency or other institution or individual be involved? If so, what type of involvement by what kind of institution or individual? We need not rule out third party mediation or external assistance altogether. It has been helpful in Palestine, Northern Ireland and Bosnia, although some kinds of interventions have aggravated the problems. In Sri Lanka, the initial intervention and mediation of India appeared to set the stage for a settlement, but there were many mistakes made and, in the end, it many have done more harm than good to India, to Sri Lanka, and to relations between India and Sri Lanka. Clear lessons from our experience are, first, that the external party must enjoy and continue to enjoy confidence of all the key parties and, secondly, that the role of the third party must be supportive, not dominating; attempting to impose a solution is likely to be counter productive. The third party may, possibly, need military muscle to enforce agreements; but the introduction of any such enforcement mechanism must be both altruistic and in terms of prior agreements freely entered into by the parties to the conflict. Perhaps we need to be open to, and even explore the possibility of using help from outside in making initial contacts and in promoting negotiations. The near total breakdown of mutual trust between the

key parties to the conflict in Sri Lanka have created an environment in which productive negotiations and credible commitments may not be possible without external intervention initially and at critical stages. But such interventions should be low key and always subject to the continued confidence placed in that agency by the key parties. The details of any agreement will have to be worked out by us and cannot be imposed by an external body, however well intentioned.

What are the prospects of achieving a just and workable settlement leading to a lasting peace? Right now the prospects do not look good. The government has a proposed solution which, by and large, contains the essence of a fair settlement, although, I believe, some important changes will be necessary. But the manner in which the solution has been presented have made both its acceptance by consensus and its effective implementation most difficult. It is seen as a solution which the government is seeking to impose. In particular, the major opposition party and the LTTE have had no hand in its formulation. Moreover, there is a war and acts of terrorism going on. There can be no durable solution worked out in such an environment.

Though shortcomings in the negotiation process leading to the formulation of the proposal may hinder its acceptance for the present it is, in some details, an advance on earlier proposals and has led to open discussion on some of the critical issues. Perhaps it could yet form the basis of a negotiated settlement. But we need to travel a long distance negotiating together, having confidence in ourselves, our negotiating partners and the negotiating process that we could and will reach a mutually acceptable destination, the coordinates of which we will jointly identify as we progress. ■

HERR KEUNER AND THE PRESS

Herr Keuner encountered Herr Wurr, an antagonist of the press. "I am a great opponent of the press", said Herr Wurr. "I want no press at all". Herr Keuner said, "I am still a greater opponent of the press; I want it different".

"Write down for me on a slip of paper", said Herr Keuner to Herr Wurr, "What you require of the press before it may publish. For the press will publish. But exact a certain minimum. If you were to allow them to practice bribetaking, for example, I'd be happier than if you demanded incorruptibility, for then I'd simply bribe them to improve the press. But even if you should exact incorruptibility we'd want to start looking for it, and if we don't find any we'd want to start begetting it. Write down on a slip of paper what the press should be like. If we can find even one ant who approves the slip of paper, we can start at once. This ant will assist us more in improving the press than does a universal outcry of the press' hopelessness. What I mean is, its easier to move a mountain with a single ant than by saying it's not to be moved".

If the press can induce to anarchy, it can also be a means to order. It is precisely people like Herr Wurr who prove the value of the press by their discontent. Herr Wurr believes it is the present worthlessness of the press that preoccupies him, while in reality it is its worth for tomorrow.

Herr Wurr thinks highly of man and thinks the press is hopeless, whereas Herr Keuner thinks little of man and thinks the press may be improved. "Everything can become better", said Herr Keuner, "but man".

Bertolt Brecht