

# THE PACKAGE AND IT'S POLITICS

Jayadeva Uyangoda

Describing Sri Lanka's present political conjuncture as "our moment of history", President Chandrika Bandaranaike Kumaratunga on August 03 presented officially the People's Alliance government's 'political package', which is intended to form the basis of a solution to Sri Lanka's ethnic conflict. When addressing the nation on state-run television with a message for all Sri Lankans "to dispel hatred and distrust and frame a common future," President Kumaratunga did not demonstrate her usual exuberance. In measured words and carefully placed intervals between sentences, Sri Lanka's President outlined her government's reform proposals; their acceptance or rejection by the people will have equally far reaching consequences for Sri Lanka's future as a nation-yet-to-be formed.

The 'package', as it had been known for many months, remained a closely guarded secret until the last week of July when the Colombo press published an unauthorized version. Whether it was an inspired leak intended to test the political waters or the journalistic scoop of the decade, the leak enabled proponents as well as opponents of a political solution to set the terms for a wide-ranging public debate as soon as the President authenticated the most expansive set of devolution proposals to have emerged in post-independence Sri Lanka.

The proposals envisage a radical re-constitution of the existing system of devolution in Sri Lanka, which was established in 1987 consequent to the Gandhi - Jayewardene Accord. Maximum possible devolution to provinces is the key feature of these proposals. And in this regard, Sri Lanka's new system of devolution, if implemented, will go substantially beyond the Indian model of devolution. The proposed plan entails greater autonomy to 'Regional Councils' which will replace the existing 'Provincial Councils.' The powers of the Centre and the Regions will be re-constituted on the principal of a sharing of legislative, executive and judicial power. Doing away with the 'concurrent list of powers' — a much criticized feature in the Indian and existing Sri Lankan systems — is intended to erase an area of ambiguity which, according to critics in both India and Sri Lanka, has enabled the central government to exercise arbitrary control over devolved power.

Maximum devolution, as outlined in the Kumaratunga proposals, will require constitutional amendments in two specific areas: the 13th Amendment which created Provincial Councils in 1987, and three key clauses in the main body of the Constitution.

The required amendments to the 13th Amendment emanate from a range of powers from which the center will divest itself and should provide for clear division of legislative, executive and judicial powers between the Centre and the Regions. The Councils will have full legislative competence in areas where powers are devolved. In re-defining the executive power of the

regional councils, the powerful office of the Governor will be made that of a nominal head of the executive. While the executive powers in the region will be vested with the Chief Minister and the Board of Ministers, the appointment of the Governor of a Region will be made by the President only with the concurrence of the Chief Minister. The devolution of judicial power will enable each region to have a High Court with criminal, appellate and writ jurisdiction within the region. Regional Judicial Service Commissions and Regional Attorney Generals are also new elements to be introduced through the proposed reforms.

The package will also require amending three other provisions in the main body of the Constitution. To enable a substantive sharing of legislative powers, Article 76 of the present Constitution, which stipulates that "Parliament shall not abdicate or in any manner alienate its legislative power, and shall not set up any authority with any legislative power" will be rescinded. Similarly, Article 4 of the Constitution will be amended to empower the Regional Councils as bodies that jointly share with the center the legislative and executive powers of the people.

The most controversial, however, is the envisaged re-writing of Article 3 of the present Constitution which says that "the Republic of Sri Lanka is a Unitary State." Under the proposed revision, this key sentence which characterizes the existing constitutional foundation of the Sri Lankan state will be replaced by a new formulation that will call the 'united and sovereign Republic of Sri Lanka' a 'Union of Regions.'

The Sinhalese nationalist intelligentsia are particularly incensed with the PA government's move to amend this clause of the Constitution. Such passionate responses apart, Article 3 is one of the problematic provisions in the Sri Lanka's Constitution in the sense that any proposed alteration or repeal will require a two-thirds majority support in Parliament and the people's approval at a Referendum. Interestingly, the Jayewardene Constitution of 1978 has ten such 'entrenched clauses.'

In Sri Lanka's recent debate on devolution, two fundamental issues had deterred consensus among political parties: the extent of devolution and the unit of devolution for the North-East. While in recent years, there has been a clear recognition that the 13th amendment was inadequate to satisfy the aspirations of the minorities, the question of the unit remained unresolved, primarily due to deep differences among Sinhala, Tamil and Muslim parties concerning the merger or de-merger of the Northern and Eastern provinces. The provision made in the Indo-Lanka Accord for an eventual solution of the problem through a Referendum in the region has never been implemented and the Tamil claim for the non-negotiability of the merger has been resisted by Sinhalese and

Muslim parties. A compromise proposal made by the Mangala Moonesinghe Parliamentary Select Committee in 1992 to have an over-arching Regional Council and two Provincial Councils for the North-East was spurned by the Tamil parties as a device 'to bifurcate the homeland of the Tamil speaking people.'

It is to the credit of President Kumaratunga to separate these two issues and address primarily the question of the extent of devolution. The question of the unit is left for future deliberations. The package addresses this intractable question very briefly by saying that the existing boundaries of the present North-East Province would be re-defined "in full consultation with a view to reconciling Sinhala, Tamil and Muslim interests."

The package has, as expected, given rise to a lively debate in the country. The press is dominated by arguments for and against the proposals. The Sinhalese nationalist opposition, which has yet failed to gather any passionate momentum, revolves around three key arguments. Firstly, they point out that the immediate task of the government should be the successful conclusion of the war against the LTTE and it should not allow any political objectives to divert it from the military thrust. Secondly, the entire package is seen as a foolish move on the part of the government to appease the Tamils whose designs for a separate state of Eelam would be expedited by such an extensive devolution of powers. And thirdly, the establishment of eight regional councils is seen as resulting in substantially weakening the central government and ultimately breaking apart the little island of Sri Lanka into eight separate entities.

The first to welcome the Kumaratunga proposals were Tamil and Muslim political parties and Colombo's Liberal and Left-wing intelligentsia. They see in the proposals a bold and imaginative political initiative that would lay a lasting foundation for a modern, democratic and multi-ethnic Sri Lankan polity. President Kumaratunga also succeeded in obtaining the support of her People's Alliance coalition partners for the package, except the somewhat vacillating Democratic United National Front, headed by Srimani Athulathmudali, the widow of ex- Security Minister, Lalith Athulathmudali.

The initial doubts about a possible revolt by more nationalistic sections of the Sri Lanka Freedom Party (SLFP) — the main partner in the coalition — were dispelled when the party's Central Committee, headed by Prime Minister Sirimavo Bandaranaike — the President's mother — endorsed the proposals. Interestingly, the Freedom Party has travelled a long way from its total opposition to devolution when the Provincial Council system was introduced in 1987. President Kumaratunga's enlightened approach to the ethnic question, ably supported by her Justice Minister Professor Lakshman Peiris, has transformed the traditionally nationalistic SLFP into a party of moderation and ethnic accommodation.

The opposition United National Party (UNP) has, meanwhile, decided not to oppose the package, thereby denying any political vigor for a mass campaign by extremist Sinhalese

nationalist forces. The UNP took one week to react, perhaps measuring the public responses to Kumaratunga proposals. In the absence of a passionate anti-package campaign and also reflecting the UNP's recognition of the reality of devolution, the Party's Working Committee has opted for moving 'appropriate amendments' to the draft legislation when the Parliamentary Select Committee on Constitutional Reforms takes up the reforms.

This re-alignment of Sri Lanka's political forces, generally in the direction of more devolution, will leave extreme Sinhalese nationalist opposition significantly weakened. Since their electoral debacle in last year's Parliamentary and Presidential elections, politicians of the Sinhalese nationalist right have not yet been able to arouse much ethnic hysteria among the majority Sinhalese - Buddhist populace. Their rather traditional slogans of Sinhalese political hegemony, based on the fear of the Sinhalese motherland being split, do not appear to be capable of mobilizing frenzied crowds on to the streets.

Where does the LTTE stand in this unfolding scenario? The fact that the LTTE has not yet responded to proposals is quite understandable, because the government did not officially communicate with them on this matter. Actually, there has been hardly any line of communication between the two sides since April 19, except the exchange of fire in the battle field. The government's current thinking is not in favour of resuming a dialogue with the LTTE. President Kumaratunga's recent public statements on the LTTE clearly indicate that there is still an enormous confidence gap between herself and Mr. Prabhakaran. It seems that the burden of initiating confidence building measures is now entirely with Mr. Prabhakaran, if he ever wants to open a new dialogue with the government.

It is however highly implausible that the LTTE would want talks with the government resumed under present circumstances. No doubt that President Kumaratunga's intention of isolating the LTTE from the Tamil people has thoroughly annoyed Mr. Prabhakaran. Both leaders have ample reasons to blame each other for further continuation of the present round of war. Such is the re-productive vitality of Sri Lanka's ethnic war.

Ironically, and unfortunately, the experience of 'peace talks' has left bitter memories in the minds of both leaders. President Kumaratunga feels badly led down by the LTTE's unilateral violation of the cease-fire agreement in April while Mr. Prabhakaran thinks that Tamils have once again been deceived by a Sinhalese government through a fraudulent peace move. It is in this atmosphere of deep distrust that the government did not think it appropriate to communicate with the LTTE on the peace package, before or after it was made official.

In the government ranks, there appears to be some grave misapprehensions about the very concept of communicating with the LTTE. This negative attitude emanates from the notion that the LTTE might ask for another cease-fire as a

pre-condition for considering the package. A cease-fire, or even a temporary suspension of military operations in the North-East, is viewed in Colombo as detrimental to its own politico-military plans. The widespread hostility in the South to any new political-level communication with the LTTE has also made it extremely difficult for the government to convince its own vital constituencies of the wisdom of taking even the first steps towards involving the LTTE in a fresh political initiative.

Looking at the issue more objectively, it is perhaps not entirely correct to assume that any move towards government-LTTE communication on the package should entail a cease-fire. The reality is that the two sides share a profound distrust of each other. If the LTTE and the government want to talk politics once again, they should take this reality into account and proceed from there. A simple lesson the world has learnt from innumerable experiences of conflict resolution is that political contacts between warring parties are not necessarily predicated on mutual trust. But all parties to the conflict in Sri Lanka have yet to learn this lesson.

What will then be the future of the package? While it is presently being subjected to an extensive public discussion, it will in a few weeks go before the Parliamentary Select Committee on Constitutional Reforms. Given the extreme volatility in the government-opposition relations in Parliament, it is highly unlikely that a sober discussion will take place in the national legislature. The Select Committee, which is consti-

tuted by delegates from all parties in Parliament, would be the forum where the proposals would be discussed in detail and further refinements made. But achieving a consensus at the Select Committee, without watering down the key aspects of the package that have already aroused much opposition from Sinhalese nationalist groups outside Parliament, will invariably require the cooperation of the United National Party. Without UNP support, the PA will not get the two-thirds majority in parliament, required for necessary constitutional amendments.

The UNP's support may not be entirely unconditional, in view of the UNP's own partisan agenda. The politics of the package has offered a vital opportunity for the UNP to bargain for the abolition of the Executive Presidency. Although the PA came into power on the promise of abolishing the Presidential system of government, the slim majority it has in Parliament makes the prospects of returning to a Westminster form of government highly problematic. The UNP is certainly trying to exploit in its favour the resultant credibility problem of the PA government. An attempt by UNP strategists at political horse-dealing — UNP support for the package in exchange for abolishing the executive Presidency — may not succeed, because the PA is presently not in a mood to commit political harakiri. Besides, the UNP's present leadership, despite the desire among more ambitious middle-rankers of the party to capture governmental power through a parliamentary coup in the aftermath of a constitutional change, may not want to take the responsibility of handling the LTTE problem which is

**An Index of all articles in Pravada Volumes 1,2  
and 3 is available at Rs. 100.00**

**Bound Volumes 1,2 and 3 are also available for  
sale at the Suriya Bookshop at Rs. 500.00 each.**