

Pravāda

Vol. 4 No. 5 & 6
DOUBLE ISSUE

Rs. 25.00

ISSN 1391-104X

Contents

NOTES AND COMMENTS	03
NGOS, HATE POLITICS & QUESTIONS OF DEMOCRACY <i>Jayadeva Uyangoda</i>	06
THE NGO BOGEY <i>Kumari Jayawardena</i>	10
NEW TIMES & THE LEFT <i>Sudip Ray</i>	12
GENDER ISSUES	15-41
MANUFACTURING CHAMPIONS: <i>Janaka Biyanwila</i>	42
FAITH & MILK MIRACLE <i>Seema Mustafa</i>	43
DOCUMENTS	45
CHILDREN IN THE NORTH-EAST WAR: 1985-1995	46

Pravada in contemporary usage has a range of meanings which includes theses, concepts and propositions.

FROM PACKAGE TO LEGAL DRAFT: STEP IN WHICH DIRECTION?

The release of the legal draft of the devolution package, like the package itself, had an element of surprise in its timing. It came at a time when many 'friends of the package' had become somewhat despondent; questions raised even in casual discussions about politics suggested an air of pessimism: Why was the government delaying the legal draft? Will it be diluted in spirit? Will it be presented to the Parliamentary Select Committee at all?

The anxiety among the PA-allied Tamil parties to see that the government did not delay the parliamentary process concerning the package had arisen in the wake of the government's military success over the LTTE in Jaffna. Code-named 'Operation Riviresa, this major military offensive, launched in November, not only forced the LTTE to abandon its politico-military stronghold but had also generated an atmosphere of euphoria about the possibility of a military victory in government circles.

Meanwhile, stories were aplenty in the press about the imminent extension of the military campaign to the Eastern Province suggesting that the government's political approach to the ethnic conflict may have been pushed into the backseat. Adding to the discomfiture of the Tamil parties was the humanitarian problem of hundreds of thousands of Tamil refugees who were forced out from Jaffna by the army operations as well as by pressure and intimidation from the LTTE. The government's apparent reluctance to resume the political dialogue with the Tamil parties, after the military

success in Jaffna too was slowly creating a confidence gap between the Chandrika Kumaratunga administration and the Tamil parties whose parliamentary support was needed by the PA to buttress its slim parliamentary majority.

Hoping against hope has been the fate of those Tamil parties who have, for many years now, been expecting any government in power to initiate a political process to which they could relate. The PA government's devolution proposals are thus far the best package and they obviously felt comfortable with it when its contours were first revealed in August. The delay in the Select Committee process was therefore a cause for great disappointment to them. Meanwhile, in a political situation of flux and uncertainty, the element of superstition too had its say; or at least it was adduced in Colombo's political circles as a possible explanation of the government's relative silence on the legal draft.

Good timing, in this explanation, was not only a matter of rational political reckoning but also of astrological calculations. Actually, Hindus were awaiting an important event in their annual religio-cultural calendar — *Deepawali* on January 14; the more optimistic among them thought that this would be most auspicious timing for President Kumaratunga's 'new year gift to the Tamils.' Even that hope could not be sustained after Parliament was prorogued by the President in the first week of January with re-assembly set for the 9th of February.

Pravāda

Vol. 4 No. 5 & 6
December/January 1996

Editors

**Charles Abeysekera
Jayadeva Uyangoda**

Pravada is published monthly by:

**Pravada Publications
425/15, Thimbirigasyaya Road
Colombo 5
Sri Lanka.
Telephone. 501339
Fax. 595563**

Annual subscriptions:

Sri Lanka	Rs. 300
By Air mail:	
South Asia/Middle East	U.S. \$ 28
S. E. Asia/Far East	U.S. \$ 30
Europe/Africa	U.S. \$ 30
Americas/Pacific countries	U.S. \$ 40

The government, meanwhile, appears to have decided to generate its own political momentum, by releasing to the press the legal draft of the package, while Parliament was in prorogation. This is a step with precedents, as all draft chapters of the new Constitution had been released to the press, before or while they were presented to the Parliamentary Select Committee on Constitutional Reforms.

The legal draft, however, appears to fall short of the expectations of Tamil parties as demonstrated by their less-than-enthusiastic response to it. They were in any case adopting a somewhat hardline attitude towards the government in December and January, in response to various reports that suggested that the government, under pressure from Sinhalese hardliners, was altering its position concerning the powers of the proposed Regional Councils. The fact that the President had not positively responded to their request to allow them to see the final draft before its public release was also a source of worry to them.

It is against such a backdrop that the legal draft appeared in the press on January 16. And some features in the legal draft do not appear to clear up the bleakness of this backdrop. The most controversial is perhaps the introduction of a dissolution clause in the new draft which enables the President to dissolve a Regional Council by proclaiming a state of emergency, on the perceived threat 'to the unity and sovereignty of the Republic.' No such provision appeared in the August proposals. However, during the public debate on the package, it was clear that the government was contemplating a dissolution clause, but with clear judicial safeguards against arbitrary exercise of the President's powers to dissolve an elected Regional Council. The critics of the package had kept on harping on this lack, saying that its absence left the center helpless in the face of an intransigent Regional Council.

Contrary to the assurances earlier given by the Minister of Constitutional Affairs, the legal draft does not make the Presidential proclamations of dissolution justiciable. Moreover, the powers to be granted to the President to bring any errant Council under central administration appear to be too sweeping and too dependent on subjective rather than objective criteria. This alone is likely to create further anxieties between the government and Tamil parties.

The legal draft omits the provisions for a Devolution Commission envisaged in the original package. Earlier, the need for a Devolution Commission had been conceived as a mechanism to settle disputes between the central government and regional units. Quite apart from the principle that an independent and effective body is required to mediate between the center and the regions in a political system in transition to a devolutionary polity, Sri Lanka's own experience under the existing Provincial Councils system clearly suggests that the Center has not been very generous in strengthening the provincial units, even within the current legal framework. The legal draft seeks to replace the Devolution Commission with a Chief Ministers' Conference powers of which are restricted to the settlement of inter-regional disputes. This may be seen as a step backward from the package itself. And indeed, the Draft

appears to strengthen the Center vis a vis the Regional Councils. The draft also continues to retain the entrenched clause that gives Buddhism 'the foremost place' and requires the state to protect and advance this particular religion.

These measures are obviously concessions to the criticisms of the original package made by more nationalist Sinhala-Buddhist elements. It is, however, highly doubtful whether these concessions will gain their support to the proposals.

On the other hand, the government has been totally unresponsive to those shades of opinion that sought to improve the package in the direction of greater democratic participation. Many of these critics had pointed out that the proposals lacked any mechanism that gave the regions some power at the center. To obviate this drawback, they had suggested a second chamber with equal representation from all the regions. These suggestions do not appear to have been heeded.

In these circumstances, the unfolding scenario is characterized by a less-than-warm relationship between the PA government and Tamil political parties. This is a rather strange situation to develop particularly at a time when the Government is pursuing a costly military response — the outcome of which could very well be precarious — against the 'common enemy' of all of them, the LTTE. To make the matters further difficult for the government, some Tamil parties are likely to revive their maximalist demand of the non-negotiability of the North-East merger.

These developments are likely to force the Colombo-based Tamil parties to adopt a hard line in bargaining on the draft as a response to what may be perceived as the government's strategy of appeasing unitarist opposition to devolution.

It is rather sad that the political debate on the most far-reaching effort to solve the ethnic conflict through the creation of a devolved political structure has to take place under these debilitating conditions. Nevertheless, one hopes that sufficient advantage will be taken of the opportunity that has now been presented to at least launch a political process that will eventually lead to a solution of the ethnic conflict.