

International Seminar: Envisioning New Trajectories for Peace in Sri Lanka

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Session 8: Re-envisioning Sri Lanka – Lessons learned & Challenges and Opportunities

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Envisioning Sri Lanka

The evolution of self-determination has a certain force which cannot be stopped. Formulated first to root out the domination of the powerful colonial states over the dependent states of Asia and Africa, it is now going through the phase of acting as the guarantor of the rights of ethnic minority communities caught up in majoritarian states which were themselves creation of the imperial powers. There was no Sri Lanka, Indonesia or Malaysia before the advent of the imperial powers in the Asian region. Sri Lanka was constructed by the colonial powers. Prior to the advent of the colonial powers, there were three separate kingdoms in Sri Lanka. Self-determination has not spent its force with the ending of colonialism. Its European phase after the First World War, it must be remembered, was to settle the minority problems of Europe. The issue is whether self-determination justifies the restoration of the old ethnic divisions of territory or the making of other arrangements, particularly in circumstances where the majority race or community seeks to transplant itself in place of the departed imperial power.

The Canadian Supreme Court's examination of the role of self-determination in relation to Quebec can be taken as a neutral starting point for the discussion of the issue. In the Canadian context, the situation of Quebec was not the result of colonialism. Yet, with this distinction in mind, the statement of the law by the Supreme Court should be taken as reflecting the modern position in international law.

The Supreme Court stated that in the event of there being gross persecution and denial of rights of a minority, there would be justification in that minority resorting to a claim of secession as a last resort. This situation has come about in Sri Lanka. The problem was not created by the Tamils. It was successive denial of Tamil rights by Sinhalese governments that has created the problem. The declaration of Sinhalese as the only official language, the forced colonization of Tamil homelands, the brutal suppression through violence of assertion of Tamil rights through Gandhian principles of non-violence, the denial of access of Tamil youth to education and the prolonged massacres of Tamil civilians by the Sinhalese army are the causes of the problem. The Tigers were not created by the Tamils. The Tigers were a response to the oppression of the Tamils by the Sinhalese terrorist state.

There is little profit to be had from characterizing minority movements for self determination, which result from oppression, as terrorist movements. The movements in Aceh, in Southern Thailand and Mindano (and elsewhere in Chechnya, Southern Sudan and elsewhere) are not terrorist movements but result from government suppression. They have to be addressed through solutions which deal with the root causes of the problem and not through the band-aid rhetoric of terrorism justifying the unleashing of official terrorism. States faced with wars of self-determination may find it convenient to ride on the bandwagon of terrorism. But, they are unlikely to succeed in solving the essential problems involved in such wars. The war in Sri Lanka as well as those in other parts of the world demonstrates this essential truth. These wars existed well before September 11, 2001 for it to be muddled with the so called war on terror.

Solutions have to be found to such wars. History tells us that such wars can never be won. A people's determination cannot be cowed down by the force of arms, however sophisticated and whoever given by. The futility of such war and the enormous cost in life and resources must be recognized. It is best to seek peaceful solutions to such problems. Such a solution alone can ensure that the affected peoples on both sides can restore normalcy to their lives. The island of Sri Lanka can blossom into a haven of peace if chauvinism that keeps some politicians in power at the cost of the lives of people can be rooted out. If peace is established, there will be no work for the many rabble rousing politicians in the country.

From the high point of outright secession to the low point of federalism, a range of solutions are on offer in terms of the law. The acceptability of the solution is what matters. Federalism is of little acceptance. It was what the Federal Party claimed and was denied despite a long and non-violent protest. An opportunity for settlement on the basis of federalism was lost. After so much of tribulations, it would be difficult to persuade the Tamil community to accept federalism within the unitary state.

This may be the solution that India desires but it is not a feasible solution in terms of the history of the problem. Indian federalism which recognizes ethnic states was a relatively peaceful solution which provided an accommodation of the different forces at play within India. It was achieved with little effort and has cemented a nation. Difficult issues like Punjab and Nagaland were weathered quickly without too much rancour. The Indian situation offers little parallel with that in Sri Lanka. The pull of an India, united and great, animates Indians. That can never be said of people in Sri Lanka, certainly not the Tamils of the NorthEast or the Tamils of the hill country, denied citizenship for several generations. Too much has happened for the federal solution to be revived.

The same would go for devolution of power on the English model which is held up as an example by the new President like a Rip Van Winkle who had woken up anew from a long slumber. For such solutions, a certain amity must exist. When a people have taken up arms, such amity is absent and is unlikely to recur for many long years. It is not a solution that the Tigers can accept. The solution that is put forward must at least be capable of success.

The ground reality is that the Tigers are in control of substantial territory. They cannot be shifted from such control. They have also established an administration in this area. In terms of international law, a de facto situation has arisen in which the external indicia of statehood, - a defined territory, a definite group of people, exact boundaries and effective administration-exist in the large part of the area which the Indo-Sri Lanka Accord characterized as the "traditional homelands of the Tamils".

The solution must take this ground reality into consideration. A unitary state does not exist in Sri Lanka at present. There is already a state in creation within Sri Lanka. To prevent its creation, a war has to be waged. That is something that the majority of the people of Sri Lanka do not want. It is also something that the international community does not want. Therefore, a meaningful proposal to end the problem must be presented. A solution within a unitary state is not such a one. There is little point in attempting to fly kites that do not have the slightest chance of taking off the ground.

What then is the solution? An acceptable solution would be to establish a confederation of states. The recognition that there are two principal ethnic groups in Sri Lanka would be reflected in such an arrangement. There will be a single central administration which will be responsible for defence and monetary affairs. There could be common foreign policy. The other mechanics of administration could be worked out. There are models like Switzerland and other states which could provide a basis for the making of a constitution.

The Tigers are for secession. They may agree to a confederation in which the aspirations of the Tamil people for pursuing their own cultural and political life can be achieved. From the Sinhalese point of view, the notion of a confederation can be sold as the country remains together and the price to be paid for that is

not too dear except in the eyes of the chauvinists who will not want any solution to the problem. For them, a solution will deny them the riches that conflict brings.

The international community will accept this. India will see it as a solution not too removed from its own system. There are constraints on the Tigers. After so much bloodshed and agony, the Tamil people will not permit the Tigers to settle for devolution of power or federalism. The Tigers must therefore be made an offer that enables them to justify acceptance of it on the ground that it goes close to what they were fighting for.

One has to envision a Sri Lanka of peace and prosperity. The solution of a confederation will lead to the achievement of such a Sri Lanka. The solution will also be capable of ensuring that the aspirations of the smaller communities – the Muslims and the hill country Tamils- can be accommodated. The recognition of the cultural and political rights of minorities through a diversity of arrangements is a change that is taking place in the modern world. It cannot be resisted. These trends will justify the claims that the Tigers are making. Instead of further bloodshed, it would be best to offer a solution that could be acceptable to both parties and provide the basis for the building of a prosperous Sri Lanka.

There is a general movement within the world towards organization of governance in smaller units. In the Sri Lankan case, such organization, in the form of a confederation, will bring to an end a festering problem that has hindered progress over half a century. It is time when chauvinists who have fed on this problem are sent packing and a meaningful way of solving the problem is devised. The idea of a confederation provides a good starting point for discussion. It is pointless to proceed from any other position as other positions simply will not be accepted by the Tamil parties. A confederation stands a chance of success and has to be considered seriously. It is in the interests of all, except a few politicians who will be in the wilderness if not for the ethnic problem, to solve the present mess through peaceful means.