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A 'Power-Sharing' Moment in Sri Lanka

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Abstract

The outcome of the latest elections to Sri Lanka's Northern Provincial Council can indeed catalyse the search for an equitable political settlement of the troubled ethnic equations within the framework of a truly united country. For this to happen, the Sri Lankan leaders across the ethnic divide face the formidable task of harmonising President Mahinda Rajapaksa's agenda of 'political empowerment and reconciliation' with the Tamil National Alliance's focus on parity (as different from secession).

Hopes Laced with Doubts

By the general standards of nation-building in the context of a prolonged internal war, Sri Lanka's latest success in holding elections to the Northern Provincial Council (NPC) in a conflict-scarred area deserves to be commended. In this limited but significant sense, due credit should certainly accrue to Sri Lankan President Mahinda Rajapaksa and his administration. This applies also to the electoral authorities in the Sinhala-majority island-republic that nestles near India. At another and equally significant level, praiseworthy indeed is the democratic instinct of those who participated in the polls in the Northern Province, which is widely regarded as the emblematic home of Sri Lanka's Tamil-minority.

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However, it is too early to judge the sustainability of emerging realities which are traceable to the NPC elections held on 21 September 2013 in the troubled context of the decades-long Sinhala-Tamil ethnic turmoil. The turmoil has defined and defiled Sri Lanka almost since its independence 65 years ago. Not surprisingly, the new promise of genuine hopes is now laced with cautious optimism and even outright scepticism in both Sri Lanka and the wider international community. For a variety of reasons, the global community has been evincing much interest in the affairs of this strategic Indian-Ocean state – more so today because of Sri Lanka’s blooming ties with China.

Grasping the coincidental opportunity to ‘internationalise’ Sri Lanka’s latest success, Mr Rajapaksa has happily taken the matter to the annual United Nations General Assembly (UNGA) session. Addressing the UNGA on 24 September, Mr Rajapaksa said: “I am proud that Sri Lanka has eradicated separatist terrorism, spanning three decades, and is in the process of addressing the issues of development and reconciliation”² since 2009. He was referring to the military defeat of the Liberation Tigers of Tamil Eelam (LTTE), which had resorted to an armed conflict with the Sri Lankan state to carve out a new sovereign entity out of the island-republic. There is near-universal consensus that terrorism became an integral aspect of the political DNA of the secessionist LTTE as it took on its rivals among Sri Lankan Tamils and waged a war against the island-republic besides angrily targeting India, which was a ‘benefactor’ of the Tigers at one stage.³

New Mantra of ‘Political Empowerment’

Shining the spotlight on the latest bright spot of the NPC elections, Mr Rajapaksa told the UNGA: “A significant event in this regard [of ongoing post-conflict national ‘reconciliation’ in Sri Lanka] is the opportunity, which the people of the Northern Province enjoyed at the elections, held three days ago, to elect their representatives in the Provincial Council. It is a matter of legitimate satisfaction to me that this was made possible after the lapse of almost a quarter of a century. There can be no doubt regarding the crucial importance of this measure in the context of *political empowerment and reconciliation*. It is clearly *the responsibility of the international community to assist with these efforts and to ensure their success for the benefit of all the people of Sri Lanka*”.⁴ (Emphasis is added by the author).

In Sri Lanka’s latest moment of hope for ethnic reconciliation, Mr Rajapaksa has identified three critical factors – political empowerment, benefits for all the communities in the state, and the responsibility of the larger global community. Despite being highly unexceptionable,

² Sri Lankan President’s address to the United Nations General Assembly in New York on 24 September 2013, http://www.president.gov.lk/speech_New.php?Id=133

³ For details of the LTTE’s strategies until and immediately after the Indo-Lanka Accord of 1987, see P. S. Suryanarayana, *The Peace Trap: An Indo-Sri Lankan Political Crisis*, Affiliated East-West Press, Chennai, 1988

⁴ Sri Lankan President’s address to the United Nations General Assembly in New York on 24 September 2013, http://www.president.gov.lk/speech_New.php?Id=133

these three aspects have come to mean different things to the different protagonists in the island-state: the Sinhala-majority and the Sri Lankan Tamils as the principal minority. The challenge before these protagonists as also the global community, inclusive of the Sinhala and Sri Lankan Tamil Diasporas, is to reconcile their different perceptions of these critical aspects, in the first place. This is easier said than done, but the outcome of the latest NPC elections in Sri Lanka has raised the prospect of a congenial atmosphere to attempt genuine reconciliation across the country's ethnic divide.

Riding the crest of an emphatic victory in the latest NPC polls, the Tamil National Alliance (TNA), a coalition of non-secessionist moderates including those who drifted away from extremism, has sounded as conciliatory a political note as Mr Rajapaksa might have wanted. Winning 30 out of the 38 NPC seats, the TNA, in its "victory statement", spelt out a political agenda as follows: "The democratic verdict of the people [i.e., the Sri Lankan Tamil minority] is clear. *Within the framework of a united, undivided country, they want to live in security, safeguarding their self-respect and dignity with adequate self-rule*, to be able to fulfil their legitimate political, economic, social and cultural aspirations. The Tamil National Alliance is committed to the achievement of the above objective and expects that the [Sri Lankan] Government [dominated by the Sinhala-majority] would also extend its fullest cooperation to the achievement of the same. The result of this election offers everyone an opportunity which should be fully utilised in a positive manner"⁵. (Emphasis is added by the author).

TNA appears to be in 'Sync' with Rajapaksa

It stands to reason that *the TNA's latest provincial agenda*, as articulated in this "victory statement", *is by and large in sync with Mr Rajapaksa's pan-national agenda of political empowerment and reconciliation*. The accent here is on a by-and-large synchronisation of the relevant agendas of the TNA and the Sri Lankan President's governing United People's Freedom Alliance (UPFA). There is abundant harmony between Mr Rajapaksa's desire to keep Sri Lanka intact and the TNA's stated willingness to work "within the framework of a united, undivided country". Under this overarching commonality, perceptible indeed are some nuances of differences between the TNA's agenda and the President's ideas. "Adequate self-rule" – the TNA's hold-all catch-phrase of real political substance – has not yet been tested on the touchstone of the President's idea of "political empowerment". Going forward, it will be necessary to re-address and resolve an old and recurring issue of reconciliation. The Sinhala-majority's idea of a measured "empowerment" of the Sri Lankan Tamil minority needs to be reconciled with the notions of self-rule as periodically articulated by the moderates among this community's leaders and opinion-makers.

⁵ NPC Election 2013 Victory Statement by R Sampanthan, Leader, TNA, 22 September 2013, <http://tnapolitics.org/en/npc-election-2013-victory-statement/>

Going forward, central to this new challenge is the ongoing government-initiated move to determine the future of the 13th Amendment to Sri Lanka's 1978 Constitution. It should be noted that the existing provincial councils in the essentially-unitary Sri Lanka owe their origin to the 13th Amendment which was enacted towards the end of 1987 as a result of the Indo-Lanka Accord of July 1987. While the existing provincial councils enjoy a somewhat-minimal degree of powers devolved from the central or national government, the issue of optimal or Sri Lanka-consistent devolution of powers is far from settled yet. This, in a sense, is the crux of Mr Rajapaksa's post-LTTE dilemma in the current environment which is not skewed by any overtly-secessionist agenda of any particular group.

Focus on 13th Amendment

The President's move on the future of the 13th Amendment must be settled to the satisfaction of all communities in Sri Lanka and also, arguably, to the diplomatic 'pleasure' of India, which looks upon itself as the legitimate external 'stakeholder'. For a denouement, if it is at all possible, on the future of this Amendment, it is quite immaterial as to how the constituents of the TNA have collectively come to acquire their present political complexion. Moreover, two assumptions, relevant to the government-initiated process over the fate of the 13th Amendment, are: (1) the TNA is genuinely willing to settle for "adequate self-rule" within a truly united Sri Lanka, and (2) Mr Rajapaksa and the Sinhala-majority are indeed seeking to evolve a nationally-acceptable framework of "*political empowerment and reconciliation*". Outwardly at least, the President's latest comments on this particular *mantra*, in the specific context of the 21-September NPC elections, do signal his willingness to seek a nationally-acceptable formula in this regard.

Two issues – one of them being a politically-volatile procedural matter and the other being a substantive constitutional question of power-sharing across the ethnic divide – will determine the future of the 13th Amendment.

The politically-explosive procedural issue centres on the legitimacy and competence of the existing Parliamentary Select Committee (PSC) that has been mandated to decide the future of the 13th Amendment. Speaking to India's National Security Advisor Shiv Shankar Menon, Mr Rajapaksa said in Colombo on 9 July (before the latest NPC elections) that the "PSC is the best forum to reach a [national] consensus on the implementation of the 13th Amendment".⁶

Outlining "*the practical problems that exist with devolving land and police powers to the provinces of a small country such as Sri Lanka*", the President told Mr Menon that "*the*

⁶ http://www.presidentsoffice.gov.lk/index.php?option=com_k2&view=item&id=116:psc-the-best-forum-for-reaching-consensus-on-13th-amendment-president-to-menon

*structure [of devolution] that is [finally] implemented should apply and be acceptable to all parts of the country [not just the Tamil-majority areas]*⁷ (Emphasis is added by the author).

Addressing the issue of the PSC's perceived lack of plenary political authority, "the President agreed with Mr Menon [that] the participation of the Tamil National Alliance in the PSC is important ... and urged India to encourage the TNA to participate in the PSC".⁸ The political punch-line in Mr Rajapaksa's message to Mr Menon, on that occasion, was that the UPFA Government "is committed to taking the process forward *despite any obstacles*"⁹ (Emphasis is added by the author).

There is nothing in the celebratory statement, issued by the TNA upon its latest NPC poll victory, indicating any immediate change of heart on the part of the Tamil moderates to make a beeline for the PSC. The TNA's attitude will be shaped substantially by the practical amplification of Mr Rajapaksa's latest pledge to uphold "political empowerment and reconciliation". Closely linked to the overall political environment for re-distribution of powers as between the national or central government and the provinces in Sri Lanka are some issues that are still hanging fire. These relate to the President's ongoing projects of reconstruction and rehabilitation in the internal-war-scarred territory, especially the Tamil-majority areas.

There is an emotive dimension to Sri Lanka's generally-lukewarm enthusiasm for the 13th Amendment. In the eyes of the Sinhala-majority, India really has no moral or political authority to insist that the 13th Amendment – a Sri Lankan follow-up on the 1987 Indo-Lanka Accord – is sacrosanct. Such Sinhala sensitivities can be traced to some practical logic which cannot be easily brushed aside by the Indian side. For whatever permutation and combination of reasons, India had singularly failed to disarm the LTTE, contrary to the basic framework of the 1987 Indo-Lanka Accord and the documents related to it. In simple terms, two key dimensions of this basic framework were discerned as New Delhi's commitment to disarming the LTTE and Colombo's willingness to devolve powers to the Sri Lankan Tamil minority.

Parity as the 'Plus'

As for India's stand on this devolution issue, the External Affairs Ministry noted, in a statement on 24 September, as follows: "The Government of Sri Lanka has honoured its commitment to the international community to hold elections to the Northern Provincial Council. We look forward to the implementation by Government of Sri Lanka of other important commitments made to the international community, including the full implementation of the 13th Amendment and going beyond it".¹⁰

⁷ Ibid

⁸ Ibid

⁹ Ibid

¹⁰ <http://www.mea.gov.in/press-releases.htm?dtl/22248/Northern+Provincial+Elections+i...>

The issue of “13th Amendment-Plus” is not a big new idea in Sri Lanka’s political discourse in recent years. Given the huge trust hiatus between the Sinhala-majority and the Tamil minority in Sri Lanka – something far more acute than trust deficit – the search for a fair devolution-quotient remains as formidable as before the latest NPC polls. However, a statement by C V Wigneswaran, the TNA’s chief minister-designate for the Northern Province (as at the time this is written), is as moderate in tone as the President can get in Sri Lanka’s deeply-polarised ethnic context. In a statement in Tamil, Mr Wigneswaran, a former judge of the Sri Lankan Supreme Court, said: “What Younger Brother Prabakaran [the slain leader of the LTTE] had demanded was an independent state [of Tamil Eelam]. However, what the TNA is asking for is a solution based on parity [for the Tamil-minority] within the framework of a united Sri Lanka. ... In fact, if only the Sinhala [-majority] Government [of Sri Lanka] had kept in mind the [interests of the] Tamil [minority] as well when the Sinhala-Only [language] law was enacted in 1956, we [the Tamils] would not have come to this [sad] state”.¹¹

‘A Struggle for Final Solution’

Mr Wigneswaran’s statement, issued during the campaign for the NPC elections, must be read with the TNA leader R Sampanthan’s comments after the Alliance swept the national UPFA’s Tamil-constituent party off its feet in those polls. Declaring that the poll results would not lead to any course-correction in the TNA’s long-term agenda, he called upon the newly-elected councillors of the Alliance “not to give up the struggle for a final settlement”¹² of the issues concerning the Sri Lankan Tamil minority.

The firm but somewhat-conciliatory comments by both the President and the TNA leaders, before and after the latest NPC elections, signal the possibility of a protracted but perhaps civilised battle of wits for a Sri Lanka-consistent devolution-quotient. A new civilised dialogue will be in tune with the earlier efforts of Sinhala and Tamil leaders who had sought a practical solution through political means. On the Sri Lankan Tamil side in this regard, mention can be made of S J V Chelvanayagam, Appapillai Amirthalingam, M Sivasithamparam, and Neelan Tiruchelvam, among others. Illustratively, on the Sinhala side, Sri Lanka’s former President Chandrika Bandaranaike Kumaratunga ranks very high among those who have tried to find a minority-friendly pan-Sri Lankan solution.

In addition to the practical or political quantum of provincial rights over land and police, the battle of wits over the final package will be determined by a host of other issues. These relate to the nature and scope of “*security, self-respect, dignity, and adequate self-rule*” for the Sri Lankan Tamil minority in an overall ambience of *a fair and equitable deal for the Sinhala-majority as well*. This forms the core of Mr Rajapaksa’s theme of “*benefit of all the people of Sri Lanka*”.

¹¹ <http://tnapolitics.org/en/news-2/> (Mr Wigneswaran’s statement in Tamil has been translated by the author)

¹² <http://tnapolitics.org/en/news-2/> (Mr Sampanthan’s comments in Tamil have been translated by the author)

A close corollary is Rajapaksa's latest call to the international community to assist Sri Lanka in its post-conflict nation-building. There is more to this call than meets the eye, and the reason is not far to seek. The United Nations Human Rights Council (UNHRC) has consistently pulled up Sri Lanka for failing to translate the momentum of a decisive military victory over the LTTE in 2009 into a development dividend. Broadly, the global community has conceptualised the possible development dividend in terms of a quick rehabilitation of the affected survivors of the conflict and a simultaneous reconstruction of the war-ravaged areas.

The India Factor

India has been supportive of the UNHRC's moves,¹³ and this is still ranking in the minds of the Sri Lankan authorities. That apart, Mr Rajapaksa has now told the UNGA about the UN system's "disproportionate emphasis on Sri Lanka". According to him, the global organisation "should be astute enough to ensure ... that there is no room for suspicion of manipulation of the UN system by interested parties to fulfil their agendas".¹⁴

It can be argued that Mr Rajapaksa's current disappointment with the UN system flows from a suspicion that the United States and its associates, including India, are looking more closely at Sri Lanka because of its incremental ties with China now. He is also aware of the activism of Sri Lankan Tamil Diaspora over the issue of rights of the Tamils in the Sinhala-majority island-republic.

While the current dynamics of the equation between Sri Lanka and the UN system are quite complex, these dynamics apply principally to Sri Lanka's humanitarian issues, inclusive of the alleged 'war crimes' by the Sri Lankan armed forces and the LTTE. Relatively, a secondary but not-at-all insignificant UNHRC concern is about Sri Lanka's political process of devolution of powers to the provinces, particularly the minorities. Such a big-picture reading of the equation between the UN system and Sri Lanka can be inferred from the remarks made by the United Nations High Commissioner for Human Rights, Navi Pillay, during her visit to Colombo on 31 August.¹⁵

The political ambience for the current slow-paced devolution saga in Sri Lanka is in a vast measure determined by the cross-sensitivities of that country's principal ethnic communities. The Sri Lankan Tamils share historical and ethnic links with not just Tamil Nadu but also the other 'Dravidian' or South Indian states like Andhra Pradesh, Kerala, and Karnataka. It is indeed arguable that the Sri Lankan Tamils are the descendants of those 'South Indians' who had migrated to Sri Lanka long before the advent of linguistic plurality in peninsular India in ancient times. It can also be argued that historical reasons of amnesia and neglect on the part

¹³ For details of how India decided to make common cause with the United States against Sri Lanka at the UNHRC, see P. S. Suryanarayana, *India's Diaspora Vote*, ISAS Brief No. 234, 28 March 2012, <http://www.isas.nus.edu.sg>

¹⁴ http://www.president.gov.lk/speech_New.php?Id=133

¹⁵ For details of Ms Pillay's comments, see <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13673&LangID=E>

of Indians account for India's failure to count the Sri Lankan Sinhala-majority, too, as an important branch of the Indian Diaspora. These are the concealed cultural aspects that Sri Lanka may well have to recognise or contend with, going forward.

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