



DEVOLUTION OF POWER: THE ERRORS OF THE PAST AND OPPORTUNITIES FOR THE FUTURE

Introduction

The issue of the devolution of power has undoubtedly been the hottest topic debated in the Sri Lankan society in the greater part of the 20th century. It is the failure of this society to reach a consensus over this issue that has led to a virtual collapse in its united, cohesive structure which is now threatening Sri Lanka's territorial integrity.

Ironically, devolution of power is not new to Sri Lanka. In fact it has been a fundamental characteristic that has existed in all the systems of government that Sri Lanka has had in her 2500 year history. Traditionally the island had been divided into three semi independent states, Ruhunu, Maya and Pihity. While the states of Ruhunu and Maya were ruled by provincial rulers, the king had his seat of government in the capital city of the state Pihity.

This stable system collapsed never to rise again, in the 11th century with the South Indian invasion led by Kalinga Magha and the country remained fragmented into several small Kingdoms (except for a brief period during the rule of Parakramabahu the 6th of Kotte), until reunified by the British for the convenience of administration. The unitary state of Sri Lanka is largely a creation of the British colonial rulers, and one jealously protected by the Sinhalese majority. Though, control over the entire island, has always been a major aspiration of the Sinhalese people and their Kings, it had almost never been achieved during the six to seven centuries that preceded British take over. When the rule of the country was returned to the natives by the British in 1948, the Sinhalese majority took as their prime responsibility, the protection of the unitary system, and any attempt at devolution of power was viewed as a step in the direction of fragmentation of the country. This view even today remains the main barrier on the path to devolution of power.

This paper first intends to analyze the arguments for and against devolution of power and reservations expressed by skeptics, for the purpose of understanding the need for devolution of power. It will then study the several failed attempts of the past for the devolution of power in Sri Lanka to identify the reasons for their failure. Finally it will look for the opportunities that could be exploited and the alternatives available for a successful devolution of power that would satisfy all the communities that call Sri Lanka their home.

I. The Need for Devolution

Even the unitary states like Sri Lanka, United Kingdom, and France do not govern their countries exclusively from the Centre. There are small local government bodies like Village and Town Councils and Municipalities, with very limited Legislative and Executive authority. What is considered here as devolution of power is the establishment of an intermediate level of government between the two referred to above, with greater Legislative, Executive and Perhaps Judicial powers. Three reasons can be given to explain the commonly expressed need for the devolution of power or the creation of a second tier of government exercising regional autonomy. First, is the increasing complexity of government functions, which calls for a delegation of information collecting and decision making authority for greater efficiency. Second is the need to translate the general policies decided by the Centre to suit the local situations and conditions and the need to formulate and enact policies in response to the local situations and conditions. Third, is the universal demand of the people for greater local / regional autonomy as a vehicle for greater participation in the process of government. There are several arguments for and against devolution of power to regional bodies.



II. Arguments for and Against Devolution of Power to Regional Bodies

Many people believe that larger regional authorities would constitute a more democratic counter balance to the power of the central government than the smaller local government bodies and will have more resources and power to influence central government policy. There is also a view that more economical use of capital and manpower is possible through larger organizations having authority over larger areas than local government bodies. Regional authorities are also claimed to be in a stronger position to raise capital in the open market for regional investment. Being larger and having authority over wider areas, regional authorities are also expected to have the ability to undertake larger projects for regional development.

The main argument against the devolution of power to regional level is the instability it is feared to bring about due to the existence of seemingly insoluble problems; what should be their areas of responsibility, what should be their authority relationship with the central government, and what is the viable and acceptable size of the unit of devolution. It is also argued that the developments in transport and communication is steadily expanding the concept of locality / region and as a result any regional body of government could make little difference in the lives of the people. As there is no necessary connection between size and democracy it is also argued that a regional government could be psychologically as remote for the electorate as the central government, if it is organized in a similar structure and functions through similar processes.

In spite of the existence of very valid arguments against devolution of power to regional authorities, the universal demand for devolution, regional autonomy and even separatism is on the rise and this trend can be understood by returning to the roots of Nation States.

The Nation States are essentially collections of communities who have voluntarily joined each other for collective security and to lay claim to a certain territory. (Although the Nation states rising in power may have absorbed other communities and territories, their continued presence in the union depended on the absorbing state's ability to win the willing participation of the new community). State, is the mechanism built by these collective communities to exercise their sovereignty on their behalf. As the regulation of the interactions between individuals and communities became necessary to maintain the cohesion of the union, this regulatory function became a primary role of the government. Further expansion of the government systems occurred with the allocation of guidance and facilitation roles to the governments in recent times. The expansion and the rising complexity of government systems have widened the distance between the people and their governments, and have now led to a universal call for a hand over of the governing authority "back to the people". Recognition of the voluntary nature of the union of communities is the basis of the concept of "right for self determination".

III. Reasons for the Failure of Past Attempts at Devolution in Sri Lanka

An analysis of the failed attempts made by Sri Lanka in the past at devolution of power reveals seven main reasons for failure.

1. Unwillingness to devolve

The primary reason for the failure of earlier attempts at the devolution of power was the unwillingness of those who made up the central government to accept a diminution of powers granted to them by the unitary state system they inherited from the British. The proposal made by Mr. SWRD Bandaranayake as early as 1926 for the establishments of Provincial Councils, never got implemented despite being formally approved by the State Council in 1940, due to this reason.



2. Fear and distrust

With the emergence of the Federal Party in 1949 with an ethnic identity and its selection of Federalism as a main plank in its political platform, made the issue of devolution of power, which had previously received nationwide support, a controversial one and linked it with separatism, which has been the reason for the vehement opposition by the Sinhalese of all proposals towards any form of devolution.

3. Hasty draft and implementation

The attempt made by the government at devolution of power at provincial level in 1957 and at district level in 1965 were done hastily under the pressure of the Federal Party which gave no room for nationwide consensus building. The District Development Councils Act of 1980, was forwarded to the parliament and approved even before the Presidential Commission appointed to make proposals on the subject could reach a consensus. No attempt was made to secure the support of the representatives of the Muslim community and no consensus was reached at national level due to sheer lack of time, as the Act was passed in a hurry under pressure of Tamil United Liberation Front (TULF). The thirteenth amendment to the second Republican Constitution, approved in 1987 was done in so much of a hurry under Indian pressure, the nation was largely unaware of its content at the time of its enactment. Hasty draft and implementation of past "solutions" has prevented the securing of the nation's commitment and has kept many of their weaknesses hidden until found out too late after implementation.

4. Lack of room for evolution

If a system of devolution is to last, its initial implementation should be followed by a period of evaluation and evolution prior to final adoption. The period of evaluation and evolution would permit the identification of unforeseen weaknesses and the introduction of corrective measures which would make the finalized product last longer. All the previous systems of devolution adopted were approved by the parliament and implemented leaving no room for evaluation under operational conditions, and for evolution.

5. Impatience of the key parties involved

The District Development Councils introduced in 1980 actually seemed to work. However the funds meant to be allocated to the councils were not allocated on time firstly due to administrative delays and secondly due to the general budget cuts introduced by the government to keep inflation in check in the run-up to the presidential election of 1982. There were other delays inherent in the introduction of a new institutional framework and its administrative structures. The lack of patience shown by the Tamil political parties in seeing the system through these teething troubles prevented its successful implementation.

6. 1983 Communal riots and the escalation of the war.

The escalation of the war after 1983 riots made the issue of devolution of power a part of the "ethnic problem" and the general benefits of devolution to all the people has now got virtually forgotten. The talk of a "military solution" to the "ethnic problem" has even made the issue of devolution of power seemingly irrelevant to the present day. The issue of devolution is approached by the national leaders with a bargaining mentality ("give the least, keep the most"), and there is even talk of asymmetric devolution which would deprive the non Tamil citizens a part of their share of say in the running of government in their provinces or regions.



7. Muslim Opposition

The Muslim citizens of this country have always protested the idea of devolution of power on the basis of geography as it would only reduce their status to a minority within a minority due to the thin distribution of the Muslim community all over the island. The lack of regard of the decision makers for their concerns and their apparent blindness to other non-geographical models of devolution successfully practiced in other parts of the world could lead to further chaos and prolong the agony that Sri Lankan Society is going through.

IV. The Remedy

If Sri Lanka is to achieve successful devolution of power her leaders will have to realize the reasons for the failure of previous attempts made in that direction. First and foremost is the need to overcome the reluctance to delegate centrally held power and to view devolution as an essential step in the nation's general progress and not merely as a means to solve the ethnic problem. The project of finding a suitable system of devolution requires the participation of the entire nation and should begin with a campaign to educate the public of the benefits of genuine devolution of power and the importance of their participation in the process of government. Adequate time should be allowed for the nation to reach consensus, and the system of devolution the nation agrees to, should be initially experimented in absolute transparency for evaluation and possible modification prior to final implementation. Teething troubles, mostly those created by the rigidity of conventional minds, should be expected and faced with courage and patience.

The process should begin with a genuine belief that all, yes all, differences are reconcilable. The preoccupation with the idea of a geographical model of devolution should be avoided and other options considered, especially in relation to the concerns of the Muslim community. The constitution of Belgium could shed some light on this direction. The constitution defines Belgium as a Federal state made up of (ethnic) communities, geographical regions and linguistic regions. Interests which are exclusively of a regional or communal nature are ruled over by Regional or Communal Councils. Communal Councils have authority across regional boundaries. A central Court of Arbitrage is established to prevent conflicts of responsibility between different councils and to decide on conflicting rules, decrees and laws enacted by these authorities. The Senate, members of which are selected through a highly complex system to ensure proper participation of each community and giving no community or region the decisive power to rule over others, is responsible for settling conflicts of interest between different Regional and Community Councils.

V. Conclusion

Sri Lanka's is a multi-ethnic, multi-cultural, multi-lingual society, in which different community groups live in different concentrations in all parts of the country. The issues concerning them may not be national in character all the time and could often be regional, communal, linguistic or cultural in nature. People should be provided with the opportunity to actively participate in the resolution of these issues through different mechanisms and institutions. The system of devolution of power Sri Lanka some day adopts, should be designed taking into account the complexity of those needs. A mere replication of the central government at regional level may not serve the purpose.

References

MP Barber, Public Administration, Plymouth : Macdonald and Evans 1983.

KM. De Silva, "Regionalism and Decentralization of power", in KM De Silva (ed.), Sri Lanka : Problems of Governance, Kandy : International Centre for Ethnic Studies 1993.

Government of Sri Lanka, The Constitution of the Democratic Socialist Republic of Sri Lanka (Certified on 31 August 1978), Colombo : Government Publications Bureau 1991.

Squadron Leader IAH Wijegunawardane,
SLAF Base,
Katunayaka.