

DEVOLUTION OF POWERS PROVINCIAL COUNCILS

H. M. Wikramanayake

Mr. Wikramanayake hails from Ruhuna. He is a practising actuary and a member of the Citizen Committee for National Harmony.

* For Provincial Councils to function effectively, certain essential pre-requisites are necessary. They include:

- (a) Development Oriented boundaries and viable units-of-devolution.
- (b) Adequate autonomy including several ingredients of the right of self-determination.
- (c) Restatement of Science and Technology Policy in consonance with the departures from centralised government.
- (d) Personnel, including Hard-Scientists and Soft-Scientists whose Primary Loyalty is to the Unit-of-Devolution.
- (e) Adequate Finance including provision for Research and Development.
- (f) Answerability to the Voters and Accessibility by the Voters to Annual Budgets, Annual Performance Reports, etc.
- (g) Political Will and Commitment of Parties in the Central Legislature.

For successful devolution of powers, meaningful development oriented boundaries are essential. A Development Oriented Boundary is a boundary that does not cut across a river and does not fragment a Catchment Area/River

Basin. The present Southern Province and the land-locked Uva and Sabaragamuwa Provinces are by no means meaningful territorial units from the point or view of Economic Development. The entire country must eventually be re-organised into viable Economic Units. The emphasis must be on Integrated Rural Development and efficient watershed management including equitable sharing of water as between upstream farmers and downstream farmers. The re-demarcated Units-of-Devolution must be the units of Planning and of Accountability.

Page 6 of the Economic Review of January 1990 indicates that the following were among the recommendations of the Land Commission appointed by the President in 1985:

"The best strategy would be to develop and conserve land and related natural resources by plan-

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ning their use within a watershed management framework."

As the present provincial boundaries are a relic from the colonial past established without reference to the natural resources base, the Commission recommended a redefinition of boundaries in relation to natural resource management.

The Accord of July 1987 prejudiced the power of the Sri Lanka Government to alter all the Provincial boundaries. Re-demarcation of the Northern Province and the Eastern Province boundaries cannot be accomplished until after the de-merger poll in the Eastern Province.

So, at the present moment, only a two-stage operation can be attempted. Only the boundaries of the Sinhala majority Provinces can be altered at the present moment.

New Provinces can be carved out of

- Catchment Areas 4 to 12
- Catchment Area 3
- Catchment Areas 1 and 2
- Catchment Areas 99 to 103.

These areas do not touch the Northern & Eastern Province boundaries. They are not land-locked. See National Atlas at page 39.

Mahaveli Catchment Area No. 60 less those parts thereof that belong to the Eastern Province could be a new Province as an interim measure. (Eventually, no Province should be land-locked). As a matter of expediency, the southern parts of the Catchment Areas 51, 52 and 54 and the west-

ern parts of Catchment Areas 44, 56 and 59 and also the north-western part of Catchment Area 54 would have to be tagged on to this new Province as an interim measure. The Muslims of Kinniya and of Mutur should be free to decide whether they prefer to be a minority within a majority or a minority within a minority. If they opt for the former, then, Catchment

area No. 60 could be a Province by itself and it will not be a land-locked Province.

The Eastern Province boundary cannot be altered without the consent of the people of the Eastern Province.

Catchment Areas 13 to 31 could be a new Province but, as a matter of expediency, the western parts of Catchment Areas 35, 36 and 37 would have to be tagged on to it for the same reason, namely that the Eastern Province boundary cannot be altered without the consent of the people of the Eastern Province. Catchment Areas 32 to 59 cannot be made a new Eastern Province without the consent of the people in the present Eastern Province.

The remainder of the Sinhala majority Provinces could be a new Province as an interim measure. The Northern province boundary cannot be altered without the consent of the people of the Northern Province.

Devolution of powers to meaningful territorial units (not exceeding 9) is conducive to stability and to accelerated Economic Development and sharing of prosperity by all. It will help to reduce the Concurrent List to a bare minimum. As a necessary consequence, Integrated Rural Development will become an Unit-of-Devolution subject. Important functions such as provision of employment opportunities, increasing production levels, making the best use of local raw materials, ensuring equitable distribution of food, alleviation of poverty, ensuring at least primary education for all, etc. will then be Unit-of-Devolution subjects.

RIGHT OF SELF-DETERMINATION

In the Lanka Guardian of 1st May 1985, Mr. Nihal Jayewickrema said:

"The principle of self-determination is contained in Article 1 of

the U.N. Charter and in Article 1 of each of the Human Rights Covenants, to all of which the Government of Sri Lanka now subscribes. It means that cohesive ethnic groups have the right to choose for themselves a form of political organisation, and through such organisation to freely pursue their economic, social and cultural development...."

Later, he proceeded to say:

"However, if the ethnic group concerned already has a home within the territorial boundaries of a sovereign state and if that state has a government which is representative of all the people irrespective of race and if the government respects the twin principles of non-discrimination and self-determination, then, the choice of

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the ethnic group does not extend to the creation of an independence state."

On this basis, the Tamils of the North ought to be able to determine for themselves whether they want Pradeshiya Sabhas, Gramodaya Mandalayas, Village Committees, etc. and if so, what number and what boundaries.

At the Political Parties Conference of August 1986, it was agreed that all local bodies should be brought directly under the units-of-devolution instead of directly under a central government Minister. This decision should be implemented.

The U.N.P. manifesto of October 1988 said:

"It is a new responsibility of Local Government to facilitate the organisation and empowerment of needy groups on a Gamgoda or hamlet basis so that they have access to resources and support which have been hitherto unavailable."

Accordingly, central government need not directly attend to matters such as social welfare, vocational training, domestic agriculture, agro-based industries, etc. at hamlet level. There is no case for a mobile Presidential Secretariat. There is no case for a parallel administration for Janasaviya.

Report No. 7 of the Administrative Reforms Committee on Rationalisation of Functions in Government, Sessional Paper II - 1988 contains the following observations viz:

"35. A final important principle is the need to ensure that the two key points which monitoring and evaluation of the functions of the system as a whole to be carried

out should not be cluttered with operational responsibilities of a sectoral and programmatic nature. The Committee considers the two such key points where systemic supervision is carried out to be the office of the President and the office of the Prime Minister. These sectoral and programmatic responsibilities should, instead, be entrusted to appropriate sectoral and functional ministries."

"46... a central ministry is not an operational organizational unit. Operational activities belong to a level or levels removed from a central ministry, namely, in departments, corporations and authorities and in sub-national operational units. Therefore, unless the organization which one normally refers to as "a ministry" at the Centre stands apart from the operational organizations such as departments, etc., it cannot adequately discharge its responsibility of monitoring and evaluating departmental and parallel operational organizations."

"47. The Committee, therefore, regrets the increasing tendency on the part of ministries to become

directly involved in operational activities. It also considers the organic integration, which has occurred in several instances, of operational departments with the respective ministry structures as being a counter-productive development. This also runs counter to the need for flexibility in the periodic allocation of subjects and their linked departments to Ministries at times of formation of Cabinets. The Committee recommends that the process be reversed wherever this has occurred."

It cannot be denied that Articles 44 and 45 of the Constitution have conferred on the President the power to allocate subjects among ministries. But this power is circumscribed. In the first place, there is the entrenched requirement that the President must act in a reasonable and sane manner. Next, there are provisions in Article 27 (4) and in the 13th Amendment to the Constitution by which the President has to concede a genuine scheme of devolution. Finally, there is the ground situation. At least one party in the North will not be laying down its arms unless and until a genuine scheme of devolution is conceded.

Control is essential because it is the Central Government that is a Party to the Covenant and not the units-of-devolution. It is the Central Government that is answerable to the International Community for breaches and not the units-of-devolution.

The Indian Constitution provided for Executive Governors. This provision was exploited by the central government to substantially curtail the autonomy of the constituent states. The result was frustration, and demands for secession in some states. In Canada however, after Quebec was given more autonomy, the demand for secession ceased. Our Constitution provides for an Executive President and for Executive Governors. The Executive Presidency is unsuitable for Sri Lanka. It should be done away with. And there should be ceremonial governors instead of executive governors.

SCIENCE & TECHNOLOGY POLICY

In 1984/85, 9 Science & Technology Policy documents were prepared. All were based on the Centralist Model of Science & Technology Policy. This was because devolution of powers to sub-national units was not envisaged at that time.

A Science & Technology Policy Document must deal with principles and methods, legislative provisions at national and at sub-national level, personnel factors, organizational and managerial factors and financial factors needed at national and at sub-national level for the purpose of identifying, stimulating, mobilising, using and organizing scientific and technological potential for improving the standard-of-living/quality-of-life of the people, whilst avoiding regional disparities therein.

It must be a document that keeps abreast of administrative reforms designed to make the administration people-oriented.

It must anticipate re-demarcation of the boundaries of sub-na-

tional units for the purpose of rationalising the use of land, water and other natural resources.

Where Central Government has subscribed to an International Covenant pertaining to economic, social and cultural matters and has subsequently devolved functions and powers pertaining thereto, the Science & Technology Policy Document must prescribe the formats of periodical reports needed by the Central Government from the units-of-devolution for control purposes. Control is essential because it is the Central Government that is a Party to the

Covenant and not the units-of-devolution. It is the Central Government that is answerable to the International Community for breaches and not the units-of-devolution.

Where peoples' participation in the decision-making process has been encouraged, the Document must not detract therefrom.

The Document must seek to increase the volume of work necessitating the application of science and technology within each sub-national unit. It must seek to contain the brain-drain primarily by providing opportunities for job-satisfaction through service to the people within such units. It must avoid unit-wise disparities and promote national harmony.

Under the Pluralist model of Science & Technology Policy, resources are made available directly to various research objectives in various sectors. Sectoral policies are determined independently. The overall national science policy is the constellation of the sectoral policies. Under this approach, research and development objectives are more easily linked with the real problems of different sectors and with individual national goals. But there is a tendency to ignore long-term problems which may not be sectorally relevant.

Under the Co-ordination Model of Science & Technology Policy, various departments, Ministries and Research Agencies independently take initiatives. They have common policy objectives. Various Advisory bodies link the activities of the different departments, Ministries and Research Agencies.

In the case of devolved subjects such as domestic agriculture and small-scale agro-based industries in particular, the Science & Technology Policy Document must leave no room for ambiguity regarding the Model to be adopted.

The Centralist Model of Science & Technology Policy must be adopted only in the case of subjects on the Central Government List in the 13th Amendment to the Constitution.

STAFF

There are over 3,000 trained scientists in the country. The work that these scientists do is very much connected with the subjects on List I. Not many scientists are needed for work pertaining to the Reserved List III. Each unit-of-devolution should have not less than 300 hard-scientists and soft-scientists. Centralised government was conducive to brain drain.

Neither in the 13th Amendment to the Constitution nor in the Provincial Councils Act was it provided that persons in the public service who were performing functions pertaining to List I on the date of commencement of a Provincial Council should be automatically absorbed into the Provincial Council service on terms not less favourable than what they enjoyed in the public service. This omission must be rectified.

FINANCE

Not less than 1% of estimated Gross National Product should be voted as a first charge on the Consolidated Fund each year for Research & Development, Science & Technology. Of this, each unit-of-devolution should be allocated not less than one-tenth of 1% of estimated Gross National Product.

Not less than 70% of current revenue needs of each unit-of-devolution should come from within the unit. The unit should be permitted to collect all business turnover tax. Consignment tax should also be permitted.

Any unit wishing to promote ayurveda should be permitted to have its own customs barriers against MNC pharmaceuticals.

Dumping against the wishes of the voters in the unit should be disallowed.

LAW & ORDER

The D.P.A. manifesto of November 1988 said that "The Armed Forces of the country shall be enlisted strictly on the basis of ethnic proportions. Recruitment to the Armed Forces shall take place immediately so as to bring them to reflect the percentage of the ethnic composition of the country."

Once conditions return to normal, there should be large scale demobilisation in order to divert financial resources for development purposes. In the initial years after normalcy returns, demobilisation should be 100% sinhalese.

The role of the Army in a developing country needs reconsideration. Whether a Territorial Waters Authority is not imperative in view of the geo-political realities in the Indian Ocean Region also needs examination.

Over 95% of the territory of Sri Lanka comprises waters. The territorial waters cover over 500,000 sq. miles. In this area, a variety of activities takes place. eg. carriage of goods, (including smuggling, transport of narcotics and other items having an adverse effect on those who live on the land area), marine research, coastal fisheries, poaching, naval exercises, etc. There are also allied activities in contiguous areas eg. coast protection, maintenance of harbours including fisheries harbours, boat building and registration. For more reasons than one, it is desirable that all these activities should come within the administration of one central government authority, a Territorial Waters Authority. Legislation for this purpose should be enacted. Whether Municipal Jurisdiction in Ports, big and small, orthodox and unorthodox, must be ousted should be considered. A chain is

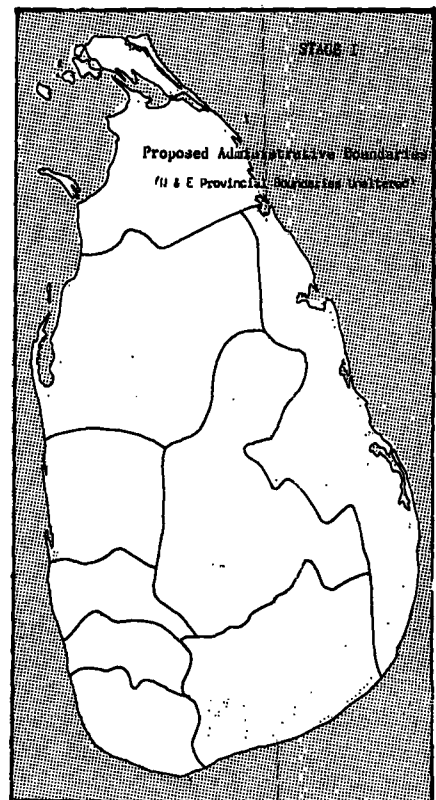
not stronger than its weakest link. The chain of sovereignty and territorial integrity of Sri Lanka needs examination in all its aspects.

Recruitment to the Armed Forces should be considered within the overall context of manpower planning for the purpose of accelerated economic development in consultation with the units-of-devolution. The more the amount of Funds voted for the Armed Forces, the less will be the amount of Funds available for development purposes.

COLONISATION

The D.P.A. manifesto of November 1988 said "There shall be no state-aided colonisation in such a way as to change the demographic composition of any area.

Where demographic imbalances have been created through schemes of land settlement since 1971, priority in future land allocation in those areas will be given to correcting such imbalances and



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