Tamil Nadu, the Indian Model and devolution

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by: Dr. Dayan JayatillekaThe devolution debate has been sharpened by the highly interesting and significant results of the public opinion poll recently conducted in Tamil Nadu, with regard to Sri Lanka’s ethnic issue and its internal arrangements. The poll has had the effect of strengthening both pro and anti-devolution camps in their chosen opinions. I suggest that a realist reading should result in a more nuanced approach to devolution, which escapes the trap of overreaction in either direction, namely allergic rejection and imitative appeasement. With or without the new data from Tamil Nadu, the debate on devolution in Sri Lanka reveals roughly seven and possibly eight points of view or "lines". These are: 1. Zero or small unit devolution: Abolition of the 13th amendment and Provincial Councils, replacement with District level devolution, if at all.2. 13th amendment Minus or Provincial Councils Lite: Retention of Provincial Councils, but deduction or non-implementation of even those powers granted by the 13th amendment.3. 13th amendment Classic: The full and speediest possible implementation of the existing 13th amendment, meaning the full devolution of those powers already granted by the 13th amendment. 4. 13th amendment Plus: the enhancement of the powers of the 13th amendment by relocating or partially redistributing the powers of the Concurrent list. This position subdivides between those who are willing to risk a constitutional amendment and those who seek only that which is possible without one. 5. The Indian model: quasi-federalism; powers no less than those of an Indian state.6. Full or classic federalism.7. ISGA/Confederation of two states. Indian Prime Minister Dr. Manmohan Singh, with Sri Lanka’s President H.E. Mahinda Rajapaksa at the Colombo SAARC Summit August 20088. No ethnic based federalism or two unit model; a radical reform of the state, citizenship and identity, reflecting hybridity, secularism and pluralism. Positions 1-7 are present to varying degrees in the political domain, national and international (including the twin Diasporas) while the last arises from within the civil society intelligentsia (Prof Nira Wickremesingha in Open Democracy). While administrative decentralisation is needed for purposes of development, devolution or transfer of some measure of power from centre to second order units at the periphery, is needed as a bridge between the North and South, the Tamils and the Sinhalese. Therefore any and all devolution proposals must pass the test of enjoying the support of some segment of both communities. It must at the least, be at the interface of the two "sets", namely Sinhala and Tamil opinion. No sustainable solution can be unilaterally imposed upon either the Sinhalese or the Tamils. Positions 1 & 2 (abolish or weaken Provincial Councils) have no takers outside the Sinhala community, and therefore fails the test of acceptability by at least some Tamils. The international and regional blowback of any such move (which would have many powerful opponents and no supporters whatsoever outside the island), would be disastrous for our military efforts and our overall stability and security. Similarly, Positions 6 and 7 (federalism, con-federalism) have no takers among the Sinhalese, going by public opinion polls, the results of which, ranging from the 1997 polling by Research International Pvt Ltd, up to today’s CPA polls, have been remarkably consistent. Indian Prime Minister Rajiv Gandhi and Sri Lanka’s President J.R. Jayewardene signed The Indo-Sri Lanka Peace Accord in Colombo on July 29, 1987Position 5 that of Indian model quasi federalism, enjoys, according to the CPA (and much to its regret) 5% support among the majority Sinhala community— that’s 5% of 74%. No mainstream political party or candidate in a competitive electoral democracy (and that includes Senator Obama) would treat as anything other than radioactive, a position that was so hopelessly unpopular. And yet, otherwise sensible Tamil politicians expect the two main Southern parties to agree on this. If there were any such possibility, President Kumaratunga’s 1995and 1997 "union of regions" packages, or her admirable August 2000 draft Constitution would have obtained bipartisan support, instead of suffering the highly visible fates they did. The new argument, basing itself on the Ananda Vikatan opinion poll, is that Sri Lanka can best protect itself from pro-Tamil Eelam sentiment by adopting the Indian model of quasi-federalism. This argument runs up against several counter-considerations. Cover of Ananda Vikatan, Aug 8 Firstly, by the same logic, Cuba can best protect itself from the extreme anti-Cuban Revolution sentiments of Florida—and by extension Washington DC, since Florida has a significant influence on American elections-- by adopting an economic and political model such as that which prevails in the USA. Any self –respecting Cuban, and there is an island full of them, would reject that argument with the contempt it deserves. Secondly, by what logic do 50 million ethnic Tamils in Tamil Nadu and a tiny fraction of that number in Sri Lanka require the same quantum and therefore model of devolution? Thirdly, by what measure is the opinion of the citizens of Tamil Nadu of greater validity with regard to the internal arrangements of Sri Lanka, than those of over 95 % of Sinhalese citizens of this country, comprising 74% of the population, who oppose Indian model quasi-federalism? Fourthly, this pro-Tamil separatist opinion in Tamil Nadu is a news flash? It would not have been so to generations of Sinhalese going back millennia, into antiquity. The anti-Sri Lankan and anti-Sinhala sentiment in Tamil Nadu represents an existential threat of long historical duration, which we must permanently protect ourselves against. The new polling data must neither be ignored and brushed aside as irrelevant, nor appeased by mimicry of models. Many Tamil politicians and liberal commentators forget Sri Lanka’s bitter experience with the Vardharajaperumal administration (from which I had resigned a year before, alarmed at the trends behind the scene), which made an Unilateral Declaration of Independence but could not be instantly dissolved by the Government without first bringing amending legislation which mde that possible. What is needed by way of response is neither a model that is so tightly closed and claustrophobic that it generates irredentist sentiment, nor one that is so carelessly open that it permits irredentism. This brings us to positions 3, 4 and 8. The last is probably the most attractive but seems unrealistic at the moment. The lamentable fate of the Equal Rights Bill presented by President Kumaratunga in 2000, withdrawn in the face of agitation by alumni of certain leading (boys and girls) schools in Colombo and the JVP run Inter University Students and Bhikku Federations, shows how far we are from that level of enlightened consciousness. As Mr Anandasangaree correctly reminds us, the easy abolition of Section 29, the anti-discrimination clause of the Soulbury Constitution, gives the minorities no reason to trust a solution devoid of political space and some measure of self

governance. That leaves Positions 3 and 4: 13th amendment Classic and 13th amendment Plus. Position 3 and possibly 4 are the only ones with significant support from the Sinhala public and some support from some Tamils (both North and East). Thus 13th amendment Classic passes the test. (Arguably, so does 4, but this is a stretch,). Sri Lanka’s President H.E. Mahinda Rajapakse addressing the Colombo SAARC summit. August 2008Most recently at the SAARC summit, President Rajapakse has rightly re-iterated his government’s commitment to Position 3, "the comprehensive implementation of the 13th amendment", drawing attention to the Eastern process with its elected Chief Minister and expressing his belief that the Northern Province will similarly possess a Chief Minister. Given that the Sri Lankan armed forces have gained the strategic initiative and are on the strategic offensive, this is a prospect for the foreseeable future. In his remarks the President also left room for submissions by the APRC. Recent retrospectives surrounding the Karadzic trial regarding the events in former Yugoslavia recall the disaster of the holding of a referendum in Bosnia in 1992, with the Serbs abstaining and the Bosnian Muslims voting in favour. This was the schism that resulted in civil war. Bosnia shows the absolute imperative on avoiding a referendum in an ethnically or ethno-religiously polarised society, and therefore the imperative of avoiding any proposals that require a referendum. This is why the only man with a roadmap, Douglas Devananda, has embraced President Rajapakse’s "comprehensive implementation of the 13th amendment" as the only feasible start, while placing the 13th amendment Plus, and even consideration of the Indian model, as subsequent stages of political evolution. Between the various stages of his gradualist formula lie periods of the broadening of consensus and the building up of trust between the communities over time and through practical experience. (These are the personal views of the writer)(Courtesy : The Island & Federal Idea)