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PEACE TALKS IN THAILAND: THE CASE FOR A FRAMEWORK OF PRINCIPLES

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The talks between the government of Sri Lanka and the Liberation Tigers of Tamil Eelam that are to commence on 16 September, are doubly significant in that they are the process through which a political settlement of the ethnic conflict is to be found and indeed, the definitive process through which the redefinition and restructuring of the state of Sri Lanka will be formally effected. Ironically the latter part of this thesis holds irrespective of whether these talks are to conclude or be stalemated once an interim administration is agreed upon; it does not of course hold in the event the talks do not result in any such agreement. Whilst the interim administration will not provide the constitutionally guaranteed political settlement of the ethnic conflict, it will nonetheless have an impact on the authority and powers of the Sri Lankan state.

Any formal agreement on an interim administration will acknowledge LTTE primacy in the northeast and recognize their right of access to resources and the institutional apparatus for administration. This will include – the precise extent will be agreed upon in the negotiations - issues of taxation, the enforcement of law and order and the administration of justice. Official sanction for the erosion of the classic notion of sovereignty embodied in a unitary state, will be registered at this point. And to the extent that a final settlement will not entail a whittling down of the powers agreed upon in an interim arrangement but rather a scaling up, this will also signify the commitment to jettison the unitary state as integral to the success of the process in Thailand.

This begs the question, therefore, as to the agenda regarding substantive issues, for the deliberations in Thailand. Specifically, the need for an explicit declaration of mutual understanding regarding the principles and values that inform the talks in Thailand in particular and the peace process in general, given their potentially profound consequence. Are the deliberations to be framed by a notion of ultimate objective and if that is too difficult or not politic, then a set of principles that would serve as guidelines for an interim arrangement as well as a permanent one? Or is it the case that the agenda should not be overburdened by naïve challenges such as this, which could risk paralyzing the whole process from the very outset? It is a political process after all and the possibility of a deal should not be lost by the insistence on a better one, leave aside the best one.

The debate popularized

The debate has been popularized, as one between those who advocate the inclusion of “core issues” on the agenda of the talks versus those who argue that it should constitute the “interim administration only”. There is a partisan dimension to this and accordingly, the risk of caricature.

The “interim administration only” approach is seen as one preferred both by the UNF government and the LTTE on pragmatic grounds. The incrementalism defining this perspective is favoured on the grounds that it will yield results, build confidence over time and better position both sides to address the final settlement in a politically propitious context. The grand project of confronting the “core issues” at the outset, is a recipe for failure and will retard the process indefinitely by exposing its fragility and vulnerability. Neither the constituencies of the UNF government or of the LTTE, and indeed the public at large on both sides of the ethnic divide, it is argued, are ready for this. The PA tried and failed in the 1994-2000 period. Continued PA advocacy of the “core issues” approach is seen as mala fide; advanced only to rob the current peace process of legitimacy and any prospect of success.

PA supporters and advocates have responded that the ostensible incrementalism only camouflages a deal between the UNP and the LTTE, struck before the former came to power – a deal, which according to them, was at the heart of the UNP –LTTE “conspiracy” the PA made its main platform in the 2001 election . The deal, it is contended, does not extend beyond an interim administration dominated by the LTTE and this is as far as the UNF government intends the peace process to go. The interim administration is the final settlement, although it will not be hailed as such. Both the UNF government and the LTTE want the war out of the way; peace is not the issue. It never has been for them; power is. And at this point, war stands in the way of its retention and consolidation. An interim administration gets the war out of the way for both sides and facilitates their hold on power.

Stripped of their partisan packaging, the doubts and apprehensions regarding the trajectory of the peace process that can be identified in this critique, have wider subscription. And if the current peace process is to have widespread support as indeed it should, they cannot be dismissed. They must be assuaged. Moreover they are not the only ones. There are those that relate to the nature of the governance that will be forthcoming under an interim administration and to the fundamental question of the conscious fashioning and facilitation of a democratic peace and a peace with dignity.

The case for a statement of mutual understanding on principles

As the debate has moved along in the run up to the talks in Thailand, this dichotomization between the “core issues” and “interim administration only” approaches has also been disbanded as overly simplistic. Though not explicitly enunciated by either side – Dr Balasingham’s remark that “broader” issues will be dealt with, notwithstanding - there has been a growing realization that any discussion of the interim administration will also impact on a final settlement and cannot be self-contained.

The question though remains as to whether these discussions must engage the gamut of issues covered in the term “core issues” or as to whether the multiple aspects of any interim arrangement should be broken down into manageable problem solving components, in full realization nevertheless that these components constitute the practical expression of the “core issues” to be addressed directly at a later date.

“Core issues” in this context, pertain to the overall restructuring and reform of the state to meet the twin imperatives of democratic governance and conflict resolution. They will include the issues of self-determination and homelands, pluralism and human rights amongst others, which will underpin any discussion of interim arrangements. In any discussion of interim arrangements, whilst labels are best avoided as needlessly distracting and distorting, concepts cannot be jettisoned and it is a fallacy to believe otherwise.

Concepts will influence negotiations irrespective of whether participants are consciously aware of them or alternatively, if participants make a conscious decision to keep them implicit. It would be disingenuous or at worst deceiving, for the two sides to rule the discussion of “core” issues out of order at the outset and yet proceed on the basis of their individual understandings of them. This is compounded by there being insufficient in common between these respective understandings on “core issues” however defined, and as a consequence, this exclusively positivist approach to the talks, justified ostensibly on the grounds of pragmatism, risks contributing to their failure.

There is no escaping the argument, however, that “core issues” however does conjure up a notion of issues that need to be **resolved** ; this terminology and the popular meaning it conveys could therefore be entrapping at the commencement of talks. This leads back to the point about a statement of mutual understanding on principles to serve as a set of guidelines that will frame and inform the process – give it coherence and direction without mortgaging it to a preordained objective or

destination. The discussion of “core issues” too will be framed by this mutual understanding on principles and the case for this can be made on pragmatic and political grounds as well.

What then are the arguments for a set of principles as guidelines, made explicit in a statement of mutual understanding.

They are in summary as follows:

1) Every aspect of the interim administration has a bearing on a final settlement and will be practical expression and demonstration of principles such as self – determination and power sharing, human rights, pluralism, transparency and accountability.

2) The statement of principles will ensure respect and regard for the concerns and welfare of civilians and redress the balance in this respect, after a ceasefire agreement which focussed primarily and to the point of virtual exclusivity, on the interests of the combatants and confidence building between them.

3) A self contained interim administration agreement with no explicit reference or clear connection to a final settlement will arouse suspicion, exacerbate fear and doubt and erode public confidence.

A statement of mutual understanding on the principles that will frame the negotiating process and the agreements to be reached through it, will serve as a reference point for the public at large as well as a point of reference for a constructive critique of what transpires in it. The principles enunciated will have to be general in nature and yet of sufficient clarity and general validity to serve this purpose. They will have to include the following:

1. **Self –determination** within the framework of a **united** Sri Lanka. This will have to be presented in terms of an objective incorporating the principles of self – determination and unity, expressed perhaps in the formulation of shared rule and self-rule.
2. Respect, protection and strengthening of human rights and internationally accepted standards thereof
3. Democratic pluralism, especially the fundamental rights to speech, expression, association and dissent
4. Respect for the Rule of Law and due procedure
5. Representation of all stakeholders in political decision making structures, especially regional minorities

6. Legitimization of the above through elections as soon as feasible and the commitment to move towards this as a matter of priority
7. Assured access to resources and financial autonomy for any structure agreed upon for the North and East, combined with its obligation to establish procedures and mechanisms for accountability and transparency

Whilst the argument against the discussion of the “core issues” at the outset is that it risks paralyzing the whole process and the arguments against the self contained discussion of interim arrangements as outlined above, the argument against the statement of principles will invariably be one of vagueness and of monitoring their practical realization on the ground.

The answer that the responsibility in this regard will lie with the public at large and be expressed in the bestowing or withholding of legitimacy on agreements reached, is not as glib as it may appear to some. Political dynamics that prevail at a pre negotiation stage are highly likely to change in a post negotiation one; they will affect the negotiations and be affected by them in turn. The statement of mutual understanding on principles made public, carries with it more than a statement of the desirable; as such it also carries with it a commitment to bridge the gap and to reconcile the differences between the desirable and the attainable.

In any event, were there to be a statement as advocated above or not, the issue of monitoring will be valid. The issue here is as to whether local civil society action in this respect will be sufficient or as to whether it will have to be buttressed by international monitoring as well. In one sense, international monitoring is factored in through the requirement of financial resources for relief, rehabilitation and economic development. The current situation indicates that international assistance will carry with it conditionality in respect of accountability and transparency at the very least. Nevertheless, international monitoring in this or any other form will not in itself be sufficient. A combination of international and local efforts will probably be the most satisfactory.

“Interim interim”

There is every likelihood that discussions on interim arrangements too will be some way off – likely to commence towards the end of the year but unlikely to conclude by then. The question arises as to whether there will not be a need to maintain momentum for the peace process on the ground and dispel a possible public perception of stalemate or paralysis.

In this "interim interim" situation, the relief, rehabilitation efforts come to the fore and the modalities of coordination involving the active participation of all stakeholders. Currently the institutional architecture comprises government ministries for this with regional briefs, plus the putative institutional architecture of the 3R framework. There is a case here, a strong one, to quell suspicion that any one stakeholder seeks the monopoly of political capital that could accrue from these efforts, to establish a steering committee for this purpose composed of all concerned, including international donor representation. This will also serve as a point of entry for the introduction of good practices of governance and human rights on a systematic basis, which can in turn be incorporated into the interim administration once agreed upon.

An overarching steering committee could subsume sub-committees set up to deal with particular areas of competence and requiring specific expertise. At this level too, inclusiveness, representativeness and pro-active involvement of all stakeholders is crucial.

An argument against it, is that akin to one made against the interim administration. "Interim interim" may indeed become the interim in the way that the interim could become the permanent solution. The response to this is as much a political one as it is anything else. The rationale for an interim interim arrangement is quintessentially political – maintaining momentum in the peace process. Accordingly, the comprehensiveness of the interim interim arrangement should be with regard to its composition and not with regard to the issues it deals with. The limited comprehensiveness on the latter score, will provide the rationale and space for moving to discussion of interim arrangements without undue delay.

Conclusion

Given the political dynamics, preparedness and dispositions of the principal actors, agreements and understandings of differing degrees of formality are likely. The argument for a statement of mutual understanding on principles is one that seeks to yoke all of this into a continuum of conflict transformation and resolution with public support and legitimacy. A declaration of principles that will frame a settlement will go a long way in assuaging apprehension that a separate state is being created on the ground or that a unitary one will always be with us in spirit, if not in law. It will serve as a compass in the exploration and making of agreements that meet the aspirations of all the peoples of Sri Lanka within a united Sri Lanka.