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## Sri Lanka: Consolidation of Rajapaksa Inc. – Update No. 225

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The walk out of Chief Justice Mrs Shirani Bandaranayake and her team of lawyers from a Parliamentary Select Committee (PSC) hearing on an impeachment motion against her Thursday was an eloquent testimony to the charade being enacted in Sri Lanka in the name of democracy. Probably it is a matter of time the PSC would find her guilty of the charges of corruption slapped against her.

Mrs Bandaranayake, who was picked by the President for the high office though she lacked adequate judicial experience, fell out of favour with her ruling on the Dive Neguma Bill. She ruled that the Bill required the approval of all provincial councils before enactment as it impinged upon their constitutional powers. Apparently she had taken her job too seriously and stopped the Bill from being passed forgetting it was moved by President's brother Basil Rajapaksa, Minister for economic development.

The Divineguma Bill aims to create a department merging three authorities - Samurdhi, Southern Development and Udarata (up-country) Development involved in savings and loan schemes. Though the Bill appears innocuous, its enactment would deprive the limited financial powers of provincial councils have over rural development. The Bill is important for the Rajapaksa clan because it forms part of President Rajapaksa's grand plan to consolidate his hold on power. And as a masterly stroke, it would strike one more nail in the coffin of the much maligned 13<sup>th</sup> Amendment (13A) to the Constitution which created the provincial councils.

The Rajapaksas are set on getting rid of the 13A. The first call for abolishing 13A came up from the President's brother and defence secretary Gotabaya Rajapaksa in September 2012. It was vigorously backed by some coalition partners - the Right wing Jathika Hela

Urumaya (JHU) and the former JVP-leader Weera Wansa's National Freedom Front (NFF) and the Mahajana Eksath Party (MEP). Both JHU and NFF feared if it is not abolished the "anti national" and pro-LTTE Tamil National Alliance (TNA) was likely to gain control the Northern provincial council in September 2013. Basil Rajapaksa vexed by the opposition criticism of the Dive Neguma Bill spoke of the need to replace 13A and suggested introducing 19<sup>th</sup> amendment. The ruling coalition immediately reacted to say there was no move to abolish the 13A when probably the Chief Justice's ruling was not factored in the scheme of things.

So the President cleared the air when addressed the parliament on November 8. In his budget speech he said, "A change in the prevailing Provincial Council system is necessary to make devolution more meaningful to our people. Devolution should not be a political reform that will lead us to separation but instead it should be one that unifies all of us." He added "the elimination of provincial disparities using national standards" was the main weapon "through which national reconciliation can be promoted... That will be an effort which ensures greater self-respect than having to lobby foreign countries to interfere in our internal problems."

The three operative ideas in the above quote are – devolution should not lead to separation, use of national standards to eliminate provincial disparities, and ensuring greater self respect "than having to lobby foreign countries to interfere in our internal problems." In other words he wants centralised dispensation of powers, use standards as decided by him and his coalition to eliminate provincial disparities, and keep foreign powers (obviously India) off the political turf of Sri Lanka.

Obviously, 13A introduced to implement India-Sri Lanka Agreement 1987, is central to all the three operative ideas of the President. But what was the hurry to get rid of 13A – the toothless tiger caged by Colombo? After all, 13A implementation was handy for the President to make repeated promises to India on devolution. New Delhi also found it useful to save its face in its nebulous coalition predicaments in Tamil Nadu. But every move the President has made so far, not only on the issue of 13A or Dive Neguma or impeachment of Chief Justice, but also on many other acts of omission and commission is part of the jig saw puzzle of his game plan. At the heart of it is implementing his vision on devolution of powers to minorities envisaged in the *Mahinda Chinthana* released on the eve of his election as President in 2005.

The *Chinthana* expounds Rajapaksa's ideas and plans on rights of citizens including media, equality of citizens, social development and welfare. Its portions relating to the Liberation Tigers of Tamil Eelam (LTTE) are obviously no more relevant. The President has been implementing his vision selectively, ignoring some inconvenient parts like those relating to free media. But as far as devolution is concerned he is going by the Book.

His concept of devolution differs from what has been evolved and understood in the last three years. Till his advent, major parties including his own Sri Lanka Freedom Party (SLFP) as well as the major opposition United National Party (UNP) as well as the Tamil National Alliance (TNA) had accepted it. And they recognised rights for minorities. But Rajapaksa does not distinguish minorities from majority but his solution is based upon majority consensus. But what does it mean in terms of unfinished narratives of devolution, equal rights of minority etc which have been discussed and debated for last five decades? What happens to his assurances to his home constituents as well as international

community notably India on this subject? Whatever he said so far does not matter because his ideas spelled out in the vision statement only will be implemented.

The relevant portions of the *Chinthana* say:

- Primacy for Buddhism: *“while preference will be given to Buddhism in terms of the Constitution will be consolidated, all other religions including Hinduism, Islam, Catholicism and Christianity will be treated on equal footing.”* What does this mean? What does consolidation of Buddhism in terms of “constitution” mean? These questions will probably figure in the minds of sections of Christians, Hindus and Muslims.
- Devolution: His *“primary aim is to arrive at a peaceful political settlement where the power of each and every citizen is strengthened to the maximum, without being trapped into the concepts such as traditional homelands and right to self determination. My intention is to devolve power to the level of the citizen....”* To do this, he would *“abide by the majority consensus which is a fundamental premise of democracy. The majority national view shall prevail over my view individual view.”* In other words, current discourse, talks and discussions on devolution of rights to minority Tamils are of marginal relevance as the final dispensation will require majority consensus and approval. With no minority recognised in the vision who will be the majority? Obviously, the larger Sinhala community. And this ‘consensus’ will be ratified by a referendum as the President promises to *“submit the national consensus that emerges from the consultative process to a referendum of the people as soon as a consensus is reached.”* This would mean when the PSC on devolution completes the job, a referendum will decide whether to accept it or reject it. So what is all the song and dance about 13A? Obviously, it is to buy time for the President to cobble up a solution of his liking. That means the whole process may be carried over to the President’s next term if TNA continues to stall the talks. If President Rajapaksa decides he may ask the PSC to evolve a consensus even in the absence of TNA and decide to get it validated by a referendum. Already at least one political party has asked for a referendum on getting rid of 13A. So at in near future we can expect whipping up of populist pressure for a referendum to remove 13A.

The President has the strength to implement his will; his brothers control key ministries, he has two thirds majority in the parliament with coalition partners eager to please him. He enjoys unchallenged public popularity. With these advantages we can expect the following results of his policy:

- **Executive presidency:** Executive presidency will be here to stay; and all strategies to abolish it will be thwarted. Any move on this count by Sarath Fonseka or other leaders will be defeated using all available instruments of power.
- **Judiciary:** With the executive and parliament already under the President’s control, judiciary is the only one that could spoil the game plan. The chief justice should be willing to conform to the wishes of the President and the government. Mrs Bandaranayake was not and she is facing the consequences. Soon a pliant candidate will replace when parliamentary formalities are over.
- **Tamil issue:** The Tamil issue will be handled the way President Rajapaksa would like to do rather than to fulfil assurances to India or

Tamil constituency or anyone else. The Provincial council elections in the Northern Province will be held only when TNA is 'tamed' and its tendency to lobby for "foreign interference in our internal affairs" is curtailed. (Already TNA is talking of creating five zones instead of provinces; does it mean it is abandoning 13A? ) If TNA does not fall in line by September 2013, the provincial council elections could be deferred.

- **Opposition:** Opposition activity will be tolerated as long as they conform to rules laid down by the government. Ditto for media and trade union activities. So all the talk of fundamental freedoms and human rights by civil society can continue but the executive will respond to only to issues of their choosing.

Only thing that will hold up Rajapaksa Inc., juggernaut is growing pressures on national economy. The year 2013 is going to be crucial when it is time for servicing debts. This could dictate the President to be cautious about India and the U.S. as they have economic leverages to pressurise Sri Lanka. Both nations probably understand the President's ploys and vulnerability. And they will be keen to protect their own interests. How will they respond? That is a question waiting to be answered.

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