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by Col. R. Hariharan

Indian Ministry of External Affairs took the unusual step of issuing a strong press statement cautioning Sri Lanka not to dilute the 13th Amendment (13A) at the end of a Tamil National Alliance (TNA) delegation's meetings with Indian leadership including the Prime Minister on June 19, 2013.

It was in response to Colombo's hectic moves to dismantle the constitutional provision of 13A that confers a level of autonomy to Tamil minority. If 13A is abolished it would not only be negation of the promises President Rajapaksa made to the nation and India but it would set the clock back on the national reconciliation process that is stalled at the start line since 2009.

The much maligned 13A reached its episodic climax during May-June as the September 2013 Northern Provincial Council (NPC) elections neared. There was a flurry of activities in Colombo as the President was averse to allow the Tamil National Alliance(TNA) – erstwhile political ally of the LTTE- to capture power in the NPC. There was a bit of confusion as the President was making up his mind on how to go about doing this. This resulted in the administration and Gotabaya Rajapaksa, the all powerful Defence Secretary sending confusing signals on future course of action. Lalith Weeratunge, President's Secretary, added his penny's worth in twitter justifying the dilution of powers of the "while elephant" provincial councils had not served any purpose, a discovery that came 23 years too late.

In this context TNA MP Sumanthiran's twitter was interesting: "If PCs have not worked so far, then why has this discovery not taken place all these years? Only when the Tamil people were going to vote did they decide that provincial councils are not required... This shows their malfeasance," he added.

In a political tear jerker that would vie with mid-day television soap, the last two episodes saw the dramatic change in the ruling UPFA coalition's political strategy. It hopped from bringing an "urgent bill" to replacing 13A with the 19th amendment (a morphed 13A with its non-flyer wings clipped) to refer it to yet another parliamentary select committee (PSC). Obviously, the quick change of mind came after India hinted dark forebodings and some of the coalition partners loudly protested, while Tamil parties watched.

The President has used the PSC as time-tested weapon to bring to heel recalcitrant Tamil political nit-pickers as much as chief justice. The PSC has two advantages –it buys time and rarely does it produce acceptable results because key parties usually do not participate in it. In the present instance also, only the ruling UPFA coalition was quick to nominate 19 members while the main opposition UNP and yesterday's opposition JVP remained non-starters. TNA's participation is anybody's guess, as the troika that pulls it ensures it runs in the same place without moving forward.

As the government appears to be reconciled to hold the NPC elections as scheduled in September 2013 without any change in the 13A, the PSC's purpose is probably to delay a decision on the issue till the Commonwealth Heads of Government Meeting (CHOGM) is seen through in October 2013. As the President has appointed a PSC to "to speed up the process," Colombo hopes to smoothen India's ruffled feathers lest it decides not to participate (India never boycotts) in the CHOGM. We can expect the PSC to stretch itself to see through the CHOGM where the President would be anointed lead the CHOGM for two years.

Sri Lanka needs to seriously introspect why the 13A still survives when all politicians, including President Rajapaksa and his brother Gotabaya speak periodically about changing it or getting rid of it.

The 13A fathered by the wily of Sri Lanka *neta* JR Jayawardane as political expedience to weather a brewing confrontation with India in 1987. It was a deformed child at birth, with low life expectation. It was never allowed to articulate fully and remained a cradle baby after Prabhakaran massacred hapless policemen and other Tamil activists of EPRLF in hundreds in 1990 and killed the hopes of the Northeastern Provincial Council ever functioning. Prabhakaran's stand against 13A to give substance to his quest for a free Tamil Eelam suited Southern Sinhals who were in any case averse to "Tamil terrorists" - regardless of their stripes - coming to power.

However, political parties in the rest of Sri Lanka took to provincial council system with surprising agility because it created one more layer of dispensation of power and favours. It also gave local politicians and their underlings the trappings of non-existent power. So the 13A continues its ambulatory existence as Sri Lanka polity has not been willing to find a suitable substitute that would provide decentralized powers to the provinces.

As the 13A owes it to the India-Sri Lanka Accord 1987 (ISLA), it has another "useful" political purpose – to make India the whipping boy. India is an essential "evil denominator" in Sri Lanka politics; political and military memoirs written by Sri Lankans are replete with instances to

describe this phenomenon. Tamil and Sinhala leaders of all hues ranging from Rajapaksa to Prabhakaran to Weerawansa have emphasized 13A's as an Indian machination thrust upon an unwilling Sri Lanka.

The 13A's ISLA linkage has been bringing India into the Sri Lanka political scene now and again, though less frequently after India's unpleasant experience of direct intervention from 1987 to 90. Even the present Indian interest in 13A came about only after President Rajapaksa thawed it out of cold storage when he came to power in 2005 to use it as a political ploy to ward off sermonising Western powers and retain India's support.

To sustain Indian support during the Eelam War, Rajapaksa went through various committee manoeuvres and promises to "improve" the 13A, which was never fully implemented. Fortunately, for him, New Delhi with its own other internal and external preoccupations had accepted his arguments during the Eelam War. However, after AIADMK dethroned DMK from power in Tamil Nadu using Eelam War issue, New Delhi was pushed into action.

The pay off time for Sri Lanka's double speak on the subject came at the UNHCR, after the Rajapaksa chose to ignore mounting allegations of war crimes at home and abroad. And New Delhi had little option but (to do the "right thing" as Hardeep S. Puri puts it in his op-ed piece in *The Hindu* "Why India is right on Sri Lanka") to vote for the UNHRC resolution calling for Sri Lanka's accountability for its conduct during the war.

The political scene in India is undergoing change and Sri Lanka will increasingly find its manoeuvring space getting more and more constricted even if the Congress-led alliance comes back to power in 2014. As Hardeep Puri wrote, "To dismiss popular sentiment in Tamil Nadu as the machinations of politicians is both a misreading of the situation and a recipe for disaster. Why should Sri Lanka not be held to account for not respecting understandings given bilaterally to India, such as those of April-May 2009?"

Unless Rajapaksa finds an answer to this vexing question, any government in India will find it difficult to wish away the issue because Sri Lanka's "accountability" is as much applicable to its promises on implementing 13A and devolution of powers to Tamil minority, as investigating allegations of war crimes.

The simple truth is devolution and 13A issues have come to haunt President Rajapaksa because he squandered four years of peace in strengthening his political base rather than bringing back Tamils to political mainstream. This has compounded his accountability problem with the international community. Even now many are not convinced that he would go through the NPC election as planned because he has given sufficient indications that he would like to do what he and the Sinhala right want, rather than accept the inevitability of the TNA gaining control of the NPC.

Surprisingly, the Defence Secretary Gotabaya Rajapaksa while rightly recognizing the rise of Eelam protagonists abroad as a threat to Sri

Lanka's national security, has failed to recognize the hot house conditions Sri Lanka is providing for them to propagate their cause. Acts of Sri Lanka Buddhist extremism increasing everyday against Hindu, Muslim, and Christian minorities, allowed with studied indifference of the state reinforces the growing belief that the Rajapaksa regime is becoming an inward looking, and intolerant. Political speeches on tolerance and brotherhood sound no more credible. These add to the climate of suspicion.

The present mess has given hope for revival of the Eelam Cause among Tamil Diaspora, though there is little enthusiasm among Sri Lankan Tamils. Thanks to Sri Lanka's indifference to war crimes allegations and implementation of LLRC recommendations, anti-Sri Lanka sentiment is lodged in Tamil Nadu's local politics. This poses a serious threat to not only India-Sri Lanka relations but also the interest of Tamil Nadu as has living links with Sri Lanka Tamils.

Like all half cooked and warmed up food, 13A seems to have finished its shelf life. It has neither met the aspirations of yesterday's Eelam secessionists nor satisfied Sinhala triumphalists. However, in the absence of a suitable substitute it stands as a sop, if not a symbol of hope, for Tamils. It also apparently satisfies President Rajapaksa's "liberal sentiments" to leave it for the time being while his coalition members are pandering to Sinhala right wing elements. And it keeps India at bay. Given this curious setting I expect the 13A, truncated or otherwise, to survive its nine lives.

I am one of those who had believed that Sri Lanka at the end of the Eelam War had a wonderful opportunity to open a new chapter in equitable ethnic relations. But what is happening in Sri Lanka mocks at my simplistic belief. I realise Sumanthiran's words "The Sri Lankan government from the word go was never interested (in devolution of power). The victory in the war meant, take it all...." are probably more than political rhetoric. And that is sad.

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