

India's abstention in the vote against Sri Lanka at Geneva: Likely Implications

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India's decision to abstain at the UNHRC vote on the resolution against Sri Lanka in Geneva on March 27 this year came as a surprise to many who have looked at India's Sri Lanka policy only through the prism of Tamil Nadu factor and have discounted New Delhi's foreign policy considerations that might have dictated its approach. Does this mean that Tamil Nadu has ceased to be a factor in India's Sri Lanka policy or is it a course correction as indicated by some observers?

Popular opinion within Tamil Nadu and electoral calculations may not be playing as big a role as it is made out to be. This is evident from the fact that even when electoral campaign is in full swing at the moment; New Delhi chose to abstain instead of voting in favour of the US sponsored resolution. Moreover, one does not see too much of a contradiction between New Delhi's action and demands of Tamil political parties motivated by populist considerations, keeping electoral calculations in mind. Had the electoral calculation and alliance politics been so important, as some analysts tend to argue, India would have voted in favour of the resolution. Alternately, had it been a course correction, then India would have voted against the resolution. Abstention implies that India supports most of the clauses in the resolution excepting those related to international investigation.

India's voting in 2012 and 2013 was as much in line with India's interest as its voting in 2014. Earlier it was a reaction to Rajapaksa government's approach to reconciliation and its reluctance to deliver inclusive political settlement as assured to the government of India

while enlisting India's support in its war efforts.¹ Now, it has much to do with the wording of the US sponsored resolution which for the first time sanctioned international investigation under the Office of High Commission of Human Rights (OHCHR). India has always regarded any international investigation into conduct of war within a state as illegitimate intrusion into the sovereign sphere of a state. Hence, New Delhi chose to abstain rather vote in favour of the resolution brought by the US in the UNHRC in Geneva.

Explaining its earlier stance and justifying its present one, India's Permanent representative to the UN Offices in Geneva, Dilip Sinha explained that India was "supportive of close engagement of the UN Special Procedures with the government of Sri Lanka. It was in this spirit that India supported the resolutions adopted in 2012 and 2013, which sought to promote such cooperation". He further stated, "India believes that it is imperative for every country to have the means of addressing human rights violations through robust national mechanisms... *It has been India's firm belief that adopting an intrusive approach that undermines national sovereignty and institutions is counterproductive...* We are, therefore, concerned that the resolution has the potential to hinder the efforts of the country rather than contribute constructively to its efforts, and hence inadvertently complicate the situation."²

Since the end of the war, India's policy has focused on asking Sri Lanka to implement the recommendation of Lesson Learnt and Reconciliation Commission (LLRC) and full implementation of 13th Amendment and, as it was promised by the government of Sri Lanka, to go beyond it to promote genuine political reconciliation. India believes that Sri Lanka has made partial progress in fulfilling some of its commitments to the international community last year. It has held the first ever election to the Northern Provincial Council (NPC); it is in the process of implementing trilingual policy and promoting official use of

¹ "Full Implementation of 13 Amendment Plus, MR tells Krishna", Daily Mirror, 17 January 2012, <http://www.dailymirror.lk/top-story/16141-full-implementation-of-13th-amendment-president-tells-krishna-.html>, Also see The Hindu, March 26, 2011, <http://www.thehindu.com/news/the-india-cables/13th-amendment-plus-india-sceptical-of-sri-lankan-promise/article1571806.ece>. Jehan Perera, The Promise of 13th Amendment Plus, The Island, January 13, 2012, http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=43793

² www.mea.gov.in/Speeches-Statements.htm?dtl/23150/Explanation+of+Vote+by+the+Permanent+Representative+of+India+to+the+UN+Offices+in+Geneva+Amb+Dilip+Sinha+at+the+UNHRC+on+Agenda+Item+2+on+the+resolution+on+Promoting+reconciliation+accountability+and+human+rights+in+Sri+Lanka, March 27, 2014

Tamil language; it has a National Action Plan in place to implement LLRC; and it has constituted a three-member Commission to investigate Missing Person.

It is undeniable that even though progress in some of these issues has not been satisfactory and the Tamils continue to accuse the government of not fulfilling its obligations under the LLRC, Indian pressures on Rajapaksa government have worked to some extent. It is a fact that Sri Lanka was not too keen to hold election to the NPC and even attempted to repeal the Thirteenth Amendment. However, Indian pressure on Sri Lanka not to repeal the 13th Amendment brought by the Jathika Hela Urumaya (JHU), an ally of Rajapakse government, seemed to have worked.³ The same can be said about India's insistence to hold the NPC elections. India thus, feels that by engaging the government of Sri Lanka and preventing international isolation on the issue it can nudge Sri Lanka in the right direction. There is already enough international pressure on Colombo and India's voting in favour of US resolution would not have added much.

Nevertheless, despite its abstention, India will continue to be evaluated negatively in Sri Lanka for its approach to the Tamil issue. Moreover, the government of Sri Lanka is also taking steps which may unnecessarily complicate bilateral relations. For example, the mandate of the Presidential Commission looking into cases of alleged disappearances in its Northern and Eastern Provinces (during June 10, 1990 - May 19, 2009) has now been expanded to include the period starting from 1983, thus bringing in the period during which the Indian Peace Keeping Force operated within Sri Lanka at the invitation of Sri Lankan government. This is intended to politicize the issue and stoke nationalist sentiments within Sri Lanka. Such divisive politics is being played to put pressure on India rather than make a sincere effort to heal the past wounds. It is not clear, how the Sri Lankan government is going to persecute those IPKF soldiers who might be found guilty, and what action it could take against those who were part of the then government that signed the Indo-Lanka accord under which the IPKF operated. Moreover, how is Rajapakse government going to deal with President Premadasa's supply of arm to the LTTE to fight

³ For MEA statement on the issue of 13A see, <http://mea.gov.in/media-briefings.htm?dtl/21835/Visit+of+delegation+from+Tamil+National+Alliance+TNA+Sri+Lanka+to+India>, June 18, 2013

IPKF which was used to intimidate and kill people opposed to the LTTE in North and East?

It is fact that while the Sri Lankan government has taken some political measures under Indian and international pressures, its overall approach to the resolution of the Tamil grievances has been rather cosmetic. It continues to drum up nationalistic sentiment by terming UNHRC resolution as international conspiracy against the regime, threat to its sovereignty, plot to punish the government for 'eradicating' terrorism, as was evident in the government's run up to election campaign in the Southern and Western provinces. Its arrest of human rights activist like Father Praveen and Ruki Fernando who were released subsequently, its continuing detention of Balendran Jeyakumari and her daughter in trumped up charges that they had provided shelter to the LTTE activists, and its constant efforts to raise the bogey of LTTE resurrection etc. points to the regime's decision to keep the North and East under tight security control and its lack of sincerity to fulfil its commitment to the international community.

The government of Sri Lanka has now banned 15 Tamil diaspora organisations "to combat terrorism and to control terrorist financing" citing UN resolution 1373. This prevents any Sri Lankan to have contact with some of these organisations who are involved in postwar reconstruction. Already, the Cabinet spokesperson has warned parliamentarians against testifying before the UN commission that has now been mandated to look into human rights violation in Sri Lanka. It has been said that since the parliamentarians have taken an oath to protect the sovereignty of the country, such deposition "would be tantamount to treason and that the government would initiate legal action against such individuals under the State Secrets Act". This has been done primarily to stop TNA MPs from deposing before the commission. How the UNHRC is going to implement the resolution passed in Geneva without any cooperation of the Sri Lankan government is yet to be seen.

In this context, India's abstention is not going to change the ground reality in Sri Lanka. It is unlikely that Colombo will engage New Delhi to resolve the long standing grievance of the Tamils. Its increasing propensity to use Sinhala nationalism and portrayal of Tamil political aspiration as terrorism provides less scope for New Delhi to engage in any meaningful dialogue over the issue. In spite of New Delhi's voting, the Tamils of Sri Lanka are losing faith in any internal mechanism which may be asked to probe the issue of

disappearance and human rights violations during the war. The Rajapaksa government must realize that any international probe by OHCHR and its likely confrontation with Colombo is likely to internationalise the Tamil issue further, a dynamic over which neither New Delhi nor Colombo would have any control. This is an eventuality Rajapaksa should better avoid.

Views expressed are of the author and do not necessarily reflect the views of the IDSA or of the Government of India.