



Release of Five Indian Fishermen Facing Death Sentence by Sri Lanka: A Positive Step in Indo-Sri Lanka Relations

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The Government of Sri Lanka's decision to release five Indian fishermen on 19th November 2014 is a positive development, which will further strengthen the multi faceted relations between Sri Lanka and India. Fishermen issue has become an irritant in Indo-Sri Lanka relations and both the governments are cautious in not letting the issue disrupt mutual cooperation and trust, which is vital for both the countries' internal peace and stability.

The five Tamil Nadu fishermen were arrested in 2011 on drug trafficking charges and were sentenced to death by the Colombo High Court on October 30 this year. The fishermen were released by President Mahinda Rajapaksa 'using the powers vested in him through the Constitution'. The fishermen issue triggered furious protests and sporadic violence in Tamil Nadu.

Initially, the Ministry of External Affairs, India, filed an appeal in Supreme Court of Sri Lanka against the verdict and maintained that the Tamil Nadu fishermen were not guilty and it would pursue all legal processes to 'prove their innocence'. However, due to the sensitivities involved in this matter, the government of India placed high priority to the issue and used all avenues to ensure the release of fishermen, which paid off. Accordingly, the Indian High

Commission in Colombo withdrew the case from the Supreme Court, finally paving the way for Sri Lankan Presidential pardon.

The issue has to be looked at in the context of domestic political developments within Sri Lanka and India, and the external environment, which promoted the Government of Sri Lanka to take a calculated decision.

The domestic political situation within Sri Lanka is charging up for the upcoming presidential elections. In a situation where opposition parties are trying to put up a common candidate to defeat President Rajapaksa, the ruling United People's Freedom Alliance (UPFA) needs the support of minority parties to win the elections, particularly in the Northern Province. This is the only minority dominated province not ruled by the ruling UPFA. The Tamil National Alliance (TNA), has been consistently raising the issue of minority rights, resettlement and rebuilding of war affected population and discrimination towards Tamil minority by the Rajapaksa government. Since it is also an emotional issue based on ethnicity, the government took a pragmatic decision to release the fishermen, because the prosecution would have resulted in more resentment towards the ruling coalition. The fact that the ruling alliance partner, the Jathika Hela Urumaya (JHU) broke ranks with the government recently, the ruling alliance is cautious about maintaining its alliance partners as well as getting new support.

Opposition parties are also questioning the constitutional validity of President Rajapaksa's wish to contest for a third term. The United Nations (UN) and opposition parties raised concerns over the 18th Amendment to the Sri Lankan Constitution, which empowers the President to dismiss or appoint members of the Judiciary and other independent bodies. Opposition parties alleged that since the judiciary in Sri Lanka is controlled by the government, the death penalty was a move to target the Tamil minority.

Sri Lankan government's willingness to maintain cordial bilateral relationship with the new government in India was evident on various occasions. Immediate acceptance of the invitation extended by the Prime Minister of India to attend the swearing-in ceremony in May

this year, and release of all the Tamil Nadu fishermen in custody in Sri Lanka on this occasion as well as on India's Independence Day as a 'good will gesture' are some of the examples.

India and Sri Lanka development cooperation and the assistance provided by India from time to time to deal with natural disasters also worked as one of the positive factors in the release of the fishermen. Recently, India committed to provide relief goods worth Sri Lankan Rupees (SLR) 5 million for the October 29 landslide victims in Uva Province and also promised to construct houses for the victims' families. India's assistance to reconstruct the Northern Railway line in Sri Lanka under a concessional credit line amounting to about US\$ 800 million, which is implemented by Ircon International Limited (IRCON), will help in rebuilding the lives of people affected by thirty years of ethnic conflict. The inauguration of Yal Devi Express connecting Jaffna with Colombo was a positive signal in enhancing connectivity between Tamil dominated Northern Province and Colombo.

The Indian Central government was also sensitive towards reactions in Tamil Nadu. Immediately after the sentence was delivered, the Tamil Nadu Chief Minister, O. Panneerselvam expressed 'shock at the sentence and said that the fishermen were "innocent and the Narcotics case was foisted on them." The state government also sanctioned special assistance to pay for the legal fees of the fishermen. Political parties in Tamil Nadu also sought India's immediate intervention to secure the release. Violent reactions and protests against the verdict in Tamil Nadu and Puducherry were also a security concern for the Government of India. Another angle is that death penalty was not awarded in Sri Lanka since 1976, and the only penalty awarded to those guilty of drug trafficking was a fine.

Another factor that influenced decision making in this particular case was the increasing international pressure, particularly from the UN, the West and European Union (EU) on the Sri Lankan government to cooperate with the UN investigation. Time and again, the Sri Lankan government has been refuting charges made by the above mentioned external actors of human rights violations during the final phase of the war with the Liberation of Tigers of Tamil Eelam (LTTE). For instance, on the issue of extending deadline to collect information by the UN team from Sri Lanka and difficulties faced by the team to collect material from some quarters, in early

November, the United Nations Human Rights Commission (UNHRC) chief released a press statement stating that ‘the UN condemns persistent disinformation designed to discredit UN investigation on Sri Lanka’. The Ministry of External Affairs, Sri Lanka issued a press release on 17th November 2014 and ‘expressed extreme discontent regarding the unprofessional manner in which the investigation on Sri Lanka is being conducted by the Office of the High Commissioner for Human Rights (OHCHR)’ and does not want the deadline to be extended as desired by the UN. Therefore, Indian government’s support to Sri Lanka in international fora is vital for refuting charges made by external actors.

Apart from the above mentioned reasons, the release of Tamil Nadu fishermen is another positive step for India and Sri Lanka bilateral relations. Both India and Sri Lanka took a political view of the matter and acted accordingly. However, there is a need to go beyond case to case approach and develop common legal approach, if possible, to deal with matters of drug trafficking between India and Sri Lanka, particularly those involving Indian and Sri Lankan fishermen. Lack of understanding of legal procedures in dealing with sensitive matters might lead to strain in bilateral relations in future. Secondly, there is a need to sensitise fishermen on both sides on the implications of illegal activities and there is a need to explore possibilities for more patrolling along the maritime borders.

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