

India's Bilateral Agreements and Centre-State Relations – A Perspective from Tamil Nadu

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The Constitution of India, which came into operation on January 26, 1950 introduced a federal form of government, but the extent of federalism, both in theory and practice, was diluted in order to make the Central Government extremely powerful. When the founding fathers were discussing the provisions of the Constitution, a matter of great concern for them was the preservation and promotion of the unity and territorial integrity of the country. The question of incorporation of nearly 600 princely states into India, the problems relating to the accession of Jammu and Kashmir and the volatile situation in the northeast tilted the debate in favour of a strong centre. In fact, the Constitution of India does not use the term “federal” it refers to India as a “Union of States”. Dr. BR Ambedkar, the Father of the Indian Constitution, has stated that the use of the term “Union” was deliberate. The Drafting Committee was crystal clear that although India was to be a functioning federation, the federation was not the consequence of an agreement among the constituent units. None of the constituent units was sovereign like the thirteen American colonies after the Declaration of Independence or the Swiss Cantons before they decided to enter into a federal compact. Equally important the component units had no freedom to secede from the federation. As a well known scholar has pointed out, in normal times, India would function as a federation, but it can be and has been, in exceptional circumstance, transformed into highly centralised State.

According to the Constitution of India, Foreign Affairs and the powers to make treaties vest within the exclusive jurisdiction of the Central Government. What is more, Article 253 of the Constitution empowers parliament to make any law for India for implementing any treaty, even on subjects reserved exclusively for State Legislature. In theory and practice, the state governments do not have any role in this significant area of Indian political system. However, it is essential to keep in mind the reality of Indian geography and how it influences bilateral and multilateral relations. India has land boundaries with Pakistan, China, Nepal, Bhutan, Bangladesh and Myanmar and maritime boundaries with Pakistan, Bangladesh, Myanmar, Thailand, Indonesia, Sri Lanka and Maldives. And, what is more, India's neighbourhood policy has its immediate fallout on contiguous Indian States. Thus the vagaries of India-Pakistan relations have their immediate fallout on Punjab, Jammu and Kashmir, Rajasthan and Punjab; the twists and turns in India-Nepal relations affect Bihar, Uttar Pradesh Sikkim and Uttarakhand; the tranquility in the long Sino-Indian boundary is vital from the point of view of stability of Arunachal Pradesh, Sikkim, Uttarakhand, Himachal Pradesh and Jammu and Kashmir (including Pakistan Occupied Kashmir); India-Bhutan relations will affect Sikkim, Assam, Arunachal Pradesh and West Bengal; India-Myanmar relations impinge on the polity and economy of Mizoram, Manipur, Nagaland and Arunachal Pradesh; India-Bangladesh relations will have their fallout on West Bengal, Meghalaya, Tripura and Mizoram. The fate of thousands of Malayalees working in West Asia is a matter of great concern for the people and Government of Kerala and the State of Tamil Nadu has a vital stake in the political stability of Sri Lanka and also better relations with Myanmar, Malaysia, Singapore and Indonesia.

It is also essential to keep in mind the basic transformation that has taken place in the Indian political system. During the era of one-party dominance, 1947-1977, when the Indian National Congress was in power in the Centre and in most of the States, the Central Government could afford to ignore the feelings and sensibilities of the regional actors in the name of "good neighbourly relations". After 1977, the reality is that the party, which rules in the Centre, cannot remain in power without the support of regional parties. The regional parties wield considerable influence in the formulation and implementation of domestic and foreign policies. In that process, one may argue, the regional parties have also become "national". Coalition governments have become the order of the day. Unlike the early years of independence, when the dominant opinion was in favour of a strong centre, today the opinion is veering round to the point of view that strong states and strong centre are not mutually contradictory. A successful co-operative federalism implies greater co-operation and consultation among the various constituent units of the Indian political system.

In this essay, I have tried to focus on two important issues, which were of vital concern to the Governments and people of Tamil Nadu, where the Central Government ignored the wishes of the State and entered into bilateral agreements with Sri Lanka. The first is the Sirimavo-Shastri Pact of 1964 and the subsequent Sirimavo-Indira Gandhi Pact of 1974, by which New Delhi agreed to confer Indian citizenship on thousands of people of Indian origin in the Island and decided to repatriate them back to India as Indian citizens. The second relates to the India-Sri Lanka Maritime Boundary Agreements of 1974 and 1976, which ceded the Island of Kachchatheevu to Sri Lanka and also sacrificed the traditional fishing rights enjoyed by the Indian fishermen in the Palk Bay region. These agreements have left a trail of bitterness in the State of Tamil Nadu and sections of people in the State have begun to feel that the interests of Tamil Nadu are not safe in the powers that be that determine foreign policy from "distant" New Delhi.

The ideal situation that we should strive to create is for the affected Indian States to make benign inputs into the making of India's neighbourhood policy. This pre-supposes the functioning of vibrant and dynamic research departments in various Universities and research institutions outside the University system with the avowed objective of analyzing various problems in depth and sensitise the general public and the policy planners about various policy options. How can the State Governments be involved in the decision making process? Should the representatives of the State be included in the decision making process? Should bilateral treaties be ratified by the concerned State Legislatures? Should Rajya Sabha be reconstituted so that it becomes an institution like the American Senate which has the powers to ratify international treaties? It may be recalled that the establishment of the League of Nations after the First World War was based on President Wilson's fourteen points. But the United States itself could not become a member of the League of Nations because the Senate did not ratify the proposal. Similarly the Comprehensive Test Ban Treaty, in the formulation of which the US State Department played an important, role could not be adhered to because the US Senate did not ratify it. Should India set up an organization like the Committee on Foreign Relations in the United States which plays a dynamic role in US Foreign policy? The Committee on Foreign Relations is a Standing Committee of the US Senate. It is the leading body for foreign policy legislation and debate. It is generally responsible for overseeing (not administering) and funding foreign aid programmes as well as funding, arms sales and training for national allies. The Committee also undertakes hearing on important policy matters in which experts from diverse fields from different parts of the world participate. The Committee has debated, considered and reported on important treaties and legislations. All diplomatic nominations take place after the approval of the Foreign Relations Committee. It is also interesting to note that the federal units in Yugoslavia, before its disintegration, had their own departments of foreign affairs and these departments could formulate foreign policies towards contiguous states, but these

should be in conformity with the principles and practices of national foreign policy. However, it should be pointed out that Yugoslavia could continue to exist as a united country because of the towering personality of President Tito. Though federal in theory, it was highly centralized in practice and after Tito's demise, the contradictions, which were lying dormant, came out into the open and the country soon disintegrated. We can learn from the experience of other countries, while establishing our own unique system. I hope the deliberations in this Seminar will trigger a healthy debate on this issue and related matters.

SIRIMAVO-SHATRI PACT, 1964 AND SIRIMAVO-INDIRA GANDHI PACT 1974

According to the bilateral agreement in October 1964 between the Governments of India and Sri Lanka, popularly known as the Sirimavo-Shatri Pact, India agreed to confer citizenship on 5.25 lakh persons, with their natural increase, over a period of fifteen years. The agreement was followed by another in 1974, as a result of which India was to receive another 75,000 persons of Indian origin, within a period of two years, after those under the first agreement had been repatriated. The entire process was expected to be completed by October 1981. Sri Lanka agreed, in turn, to absorb 3, 00, 000 persons and their natural increase under the first agreement and another 75,000 persons under the second as its nationals, at the ratio of four Sri Lankan nationals for every seven repatriated to India.

These two agreements sealed the fate of the overwhelming majority of the people of Indian origin in Sri Lanka. They are popularly known as the Indian Tamils. Unlike the Sinhalese and the Sri Lankan Tamils, who are indigenous to the island, the Indian Tamils are the descendants of those Indians who went to Ceylon under the protective umbrella of the British in the 19th and 20th centuries. They were taken to the island to provide the much needed labour for the development of the tea plantations and also construct public works like railways, roads and the harbour. They formed the bulk of labour which turned the malaria infested forests of Sri Lanka into smiling plantations of tea, which sustained the Sri Lankan economy up to modern times. The British government which ruled Ceylon and the Sinhalese leaders, who collaborated with the British, actively encouraged the recruitment of labour from Madras Presidency.

Though in the beginning, the Indian labourers were merely "birds of passage" gradually they began to take roots and became permanent settlers in the island. In 1928, the Donoughmore Commission estimated that 40 to 50 per cent of the Indian labourers were permanently settled in the island. In 1939, the Jackson Report estimated the permanent settlers to be around 60 per cent. The Soulbury Report, 1947 estimated that the degree of permanent settlement was in the region of 80 per cent.

As long as the British ruled, the Indian Tamils had the same legal status as the Sinhalese and the Sri Lankan Tamils, for all were British subjects. As Jawaharlal Nehru wrote in 1948, "One of the conditions for emigration to other countries to which the Government of India have always attached utmost importance... has been that an emigrant labourer shall be given facilities to settle in the country... on equal terms with the members of the indigenous population". Colombo did not subscribe to this point of view. According to WT Jayasinghe, former Defence and Foreign Secretary to Sri Lanka, the Indian settlers were Indian nationals. In his book, *The Indo-Ceylon Talks: The Politics of Immigrant Labour*, Jayasinghe has written "The fact of their Indian nationality was never in question". Colombo wanted to absorb only a small fraction of the Indian population as Sri Lankan citizens. From this perspective they argued that it is necessary to prescribe rigid tests for proving the permanent, abiding interest of the Indian community. Herein lies the seeds of the "absorbable minimum" put forward by successive Sri

Lankan Governments. Girija Shankar Bajpai summed up the apparent discrimination: "The Indian who has worked in Ceylon is to be thrown back to India as a squeezed lemon".

Despite the restrictions on franchise, in the 1947 elections held under the Soulbury Constitution, the Indian workers elected six representatives of the Ceylon Indian Congress (CIC); where no CIC candidates were fielded, they voted for the Marxist candidates and tilted the balance in Marxist favour in about nine seats. The leftward swing of the plantation voters made the conservative United National Party (UNP) leadership determined to debar the vast majority of Indian Tamils from Ceylonese citizenship after independence. If the government could restrict citizenship and, therefore, the franchise of the Indians, a large number of Marxist candidates could be eliminated and the UNP could win the Kandyan seats very easily.

The Ceylon Citizenship Act of 1948 and the Indian and Pakistani Residents Act, 1949 not only disfranchised the Indian community, but these acts also made them stateless. When applications were invited, nearly 8, 25,000 applied for Ceylonese citizenship, which was clear evidence that the overwhelming majority of Indians wanted to permanently stay in Ceylon. But the Government granted citizenship to only 1, 34,618 applicants. All others were characterised as "stateless". It must also be pointed out that the provisions of the Citizenship Act were complicated and cumbersome and naturally the plantation workers were not able to produce certificates to the satisfaction of the Ceylonese authorities. The Indian Tamils were thus ostracized from the political mainstream of the country. Speaking on the Ceylon Citizenship Act, Pieter Kuneman said in Parliament that even Dudley Senanayake would not be able to comply with the clauses because according to his own admission, he could not trace his father's birth certificate.

If the Acts were discriminatory, their implementation was even more tardy and inflexible. By the end of 1953, only 65,714 applications of the total 2, 37,034 had been fully investigated and of this number only 7,687 applications, involving 26,360 persons had been allowed. By the end of 1954, a total of 9,672 applications, involving 33,012 persons had been allowed, and by the end of 1955, a total of 37,948 persons covered by 10,875 applications had been registered as Ceylonese citizens.

From the very beginning, it was Colombo's implicit assumption that those who failed to qualify for Ceylonese citizenship were unquestionably Indian nationals and that New Delhi should regard them as such. On the contrary, as far as New Delhi was concerned, its policy was to discourage Indians Overseas from applying for Indian citizenship. In the protracted negotiations that took place between New Delhi and the successive Prime Ministers in Ceylon – DS Senanayake, Dudley Senanayake, John Kotelawala and SWRD Bandaranaike – Jawaharlal Nehru emphatically maintained that except for those who voluntarily opted for Indian citizenship, the Indian immigrants in the island were the responsibility of Sri Lanka. Both C Rajagopalachari and Kamaraj Nadar, Chief Ministers of Tamil Nadu, supported Nehru's principled stand. The era of statelessness continued and the problem appeared to be interminable.

Following Nehru's demise in 1964, the time tested and principled policy enumerated above was derailed and sidetracked by Prime Minister Lal Bahadur Shastri, Minister for Foreign Affairs Swaran Singh and the Commonwealth Secretary CS Jha. During this period, New Delhi was eager to come out of the "diplomatic isolation in South Asia" following the Sino-Indian conflict in October-November 1962. Lal Bahadur Shastri wanted fresh efforts to be made to put Indian- Sri Lanka relations on a sound footing. Officials in the Sri Lanka Division of the Ministry of External Affairs, who subscribed to the Nehruvian principles on the question of stateless people in Ceylon, were either transferred or sidelined. New Delhi's desire to solve the problem on the basis of "give and take" (which meant more conceding than demanding) becomes

evident if one reads CS Jha's reminiscences, *From Bandung to Tashkent: Glimpses of India's Foreign Policy*.

The astute politician that Sirimavo Bandaranaike was, she made the best out of the changed situation. Ably assisted by Shirlie Amarasinghe, the Sri Lankan Government clinched the issue in October 1964. The Sri Lankan team pleaded with Prime Minister Shastri and CS Jha that if India could accept 10 million refugees from Pakistan, less than a million from Pakistan would not be a burden. The Indian side had a team, which because of the brief given to them, "was like a set of fishermen who should keep the boat from sinking, but leave it to God to get them to the shore across". The most pathetic member of the Indian team was Ramiah, a Cabinet Minister from Tamil Nadu. According to informed sources, throughout the discussions, Ramiah did not utter a single word on behalf of the Tamil plantation workers, who wanted to remain in Sri Lanka and become Sri Lankan citizens. Finally these unfortunate people were converted into a merchandise to be divided between the two countries in the name of good neighbourly relations.

As the negotiations progressed, it was apparent that the Sri Lankan team was racing towards the winning post. The number to be accepted by New Delhi as Indian citizens began to increase. As P. Ramaswamy, the well known columnist based in New Delhi, has written, the Ceylon delegation "was chuckling at the rate of progress". 5, 25,000 was not far from 9, 75,000 and Mrs. Bandaranaike was convinced that Colombo could win hands down. Then an unexpected development took place. Ramaswamy informed Kamaraj Nadar, the Congress President, that Lal Bahadur Shastri was "going to bring back into the country all those whom Ceylon Government wanted to be repatriated". Kamaraj Nadar knew the complexities of the problem and, what is more, the unwillingness of the plantation workers to come to India and start a new life. Kamaraj Nadar presented his views forcefully to Lal Bahadur Shastri. On the last day of the negotiations, Prime Minister Shastri told a surprised Sri Lankan delegation, "thus far and no further" in a take it or leave it tone. But Since Mrs. Bandaranaike had already won the battle by achieving more than what she had hoped for, the negotiations came to an end with India agreeing to confer citizenship on 5,25,000 people of Indian origin, plus their natural increase, and Ceylon agreeing to confer citizenship on 300,000, plus their natural increase on the basis of 7.4. The fate of the balance 1, 50,000 was decided in 1974, with India and Sri Lanka agreeing to confer citizenship on 75,000 people with their natural increase.

Few significant features of the Sirimavo-Shastri Pact must be underlined. In his conversation with me, S, Thondaman, the undisputed leader of the Indian Tamils in the island, remarked that the Sri Lankan Government did not permit him to come to India to meet the Indian leaders to explain his point of view. What is more, his plea to the Indian High Commission that it should use its good offices to arrange his visit to New Delhi also fell on deaf ears. It is the tragedy of India-Sri Lanka relations that this agreement, which had a bearing on the lives of thousands of people of Indian origin, was finalized by the two governments without taking into consideration the feelings and wishes of the people concerned. All trade unions in the plantation areas, rivals among themselves, were unanimous in their opposition to the Pact. The Ceylon Workers Congress, the most representative organization of the plantation workers, vehemently opposed the Pact. The continuing trauma suffered by the people made the CWC revise its stand later and co-operate with the Government in its implementation.

The Sirimavo-Shastri Pact was also a bad precedent as far as India's policy towards Indians Overseas is concerned. If you can take a substantial number from Sri Lanka back as Indian citizens, why not from South Africa, Malaysia, Fiji and Mauritius? What was the fallout of the Sirimavo-Shastri Pact on centre-state relations in India? Bhaktavatsalam was the Chief Minister of Madras Presidency and he deputed Ramiah, his

colleague in the Cabinet, to be a member of the Indian team. And, as mentioned earlier, Ramiah was a silent spectator throughout the negotiations. But outside the ruling circles in the State, there was strong opposition to the Pact. C. Rajagopalachari, the leaders of the Communist Party of India, and the Dravida Munnetra Kazhagam expressed their strong resentment and opposition to the Pact. VK Krishna Menon, the ideologue of Jawaharlal Nehru, out of power by then, was also critical of the Sirimavo - Shastri Pact. C. Rajagopalachari, the elder statesman, echoed the feelings of the vast majority of the Tamils in India when he stated, "Why should nearly a million children and grand children born in Ceylon to parents who toiled and sweated for Ceylon and who had gone there from South India and settled down in the plantations be disentitled to be citizens of Ceylon? Why should a single child born in Ceylon and desiring to be in Ceylon, and be a working citizen thereof, be turned out to wander as homeless refugees in India?"

INDIA-SRI LANKA MARITIME BOUNDARY AGREEMENTS, 1974 AND 1976

The second illustration, where the Government of India was insensitive to the interests of the State of Tamil Nadu took place in 1974 and 1976, when the India-Sri Lanka maritime boundary agreements were concluded. The agreements resulted in the ceding of the island of Kachchatheevu, which was a part of the Zamindari of the Raja of Ramnad, to Sri Lanka and also sacrificed the traditional fishing rights of the Indian fishermen in the Palk Bay region. But since fishermen are no respecters of maritime boundaries and since they move wherever there is fish, the Indian fishermen used to move into Sri Lankan waters and in that process get killed, injured, their boats get destroyed and the fish dumped into the sea. The rich fishing grounds on the Sri Lankan side of the Palk Bay have become a bone of contention among the fishermen of the two countries and the Sri Lankan Navy. If a satisfactory solution is not arrived at amicably and quickly it may bring about tensions between the two countries and between the Central Government and the State Government.

While researching on the subject, I had to face lot of problems. All documents relating to Kachchatheevu and the ownership claims of the Raja of Ramand had been taken away to New Delhi and kept under the stonewalls of official secrecy. The 30 year old restriction on the use of official records is over, but these important documents are yet to be made available for reference to scholars. The materials I have used are mainly secondary and they are scattered in various places in Tamil Nadu and in New Delhi. I had the good fortune to discuss the problems with number of political leaders from Tamil Nadu, senior officials in the Government of India, Sri Lankan and Indian diplomats and senior officials of the Government of India. They were able to provide important information on the subject. Can the research scholars seek access to the all important official files through the Right to Information Act?

Kachchatheevu is a small barren island in the Palk bay, with not even a drop of drinking water. Historically the island was important, because it was leased out for pearl fisheries. It was also used by the Indian fishermen to dry their nets. There is a Church, dedicated to St. Anthony, who is considered to be the guardian angel of the fishermen. The Church was constructed by one Seenikuppan Padayachi, a fisherman from Thakachi Madam. What makes the island extremely important is the fact that the surrounding seas are extremely rich in prawns and the prawns have a good export market. The surrounding waters were also the traditional fishing grounds of the Indian fishermen for several centuries.

My argument that the island of Kachchatheevu belonged to India is based on the evidence of the Zamindari rights that the Raja of Ramnad exercised over the island. Though the official records have been taken away to New Delhi, there is irrefutable secondary evidence to substantiate these Zamindari rights. New Delhi did not dispute the Zamindari rights, but it was

not sure that Zamindari rights conferred ownership. This argument is fallacious and has dangerous implications. It threatens the very unity of India. On the eve of independence, large parts of India were under the Zamindari system. In the nine provinces of British India, the Zamindari system covered 57 per cent of the area, the Ryotwari system covered 37 per cent and the Mahalwari system 5 per cent. In Madras Presidency 27 per cent of the land holdings were under the Zamindari system. It is in this context that the Zamindari rights of the Raja of Ramnad over the Island of Kachchatheevu have to be viewed. According to the Gazetteer of Ramnathapuram, published by the Government of Tamil Nadu, the survey number of Kachchatheevu was 1250. What is more, the Raja used to enter into several lease agreements with various parties for the exploitation of marine resources in and around Kachchatheevu. And when the Zamindari was abolished in 1948, Kachchatheevu naturally became a part of the Madras Presidency. As Madhu Limaye, the Socialist leader, mentioned in the Parliament, the island was part of the Ramnad Zamindari system and when Ramnad was merged with the Madras Presidency, it became part of the Ramnathapuram district.

Another significant point needs mention. In the protracted negotiations that took place between India and Sri Lanka on the issue New Delhi did not maintain that the island belonged to India, it maintained that it was a disputed territory. The reason for this line of argument is that if Indian territory were to be ceded to Sri Lanka, it required a constitutional amendment and its ratification by the state legislatures. But if it were a disputed territory it could be transferred to Sri Lanka when the maritime boundaries were delimited. Another point deserves emphasis. In the delimitation of maritime boundaries, the general principle followed is the principle of equi-distance. And if the principle of equi-distance was applied in the Palk Bay, the island would have fallen on the Indian side. Dr. SP Jagota, the Director in the Legal and Treaties Division, Government of India has pointed out, "The boundary line between India and Sri Lanka followed the median line, except as adjusted in the Palk Bay in relations to the settlement on the question of the island of Kachchativu".

It must also be mentioned that the Government of Tamil Nadu was completely kept out of the negotiations which took place between India and Sri Lanka on the delimitation of the maritime boundary. But before the agreement was finally signed, Kewal Singh, Secretary to the Ministry of External Affairs, came to Madras, met Chief Minister Karunanidhi and a few of his colleagues and explained the background to the signing of the Agreement. According to informed sources, Indira Gandhi requested Chief Minister Karunanidhi to appreciate New Delhi's position and support her stance. Karunanidhi was not happy with New Delhi's position; however, he did not want to confront the Centre on this issue. According to perceptive observers of the Tamil Nadu political scene, it is very likely that Chief Minister Karunanidhi, in turn, hoped to get Indira Gandhi's critical support in his efforts to consolidate his power in Tamil Nadu, which had come under increasing threat from the AIADMK and its charismatic leader MG Ramachandran. If the State Government had resorted to legal remedies in the Supreme Court against the Centre on the ceding of Kachchatheevu to Sri Lanka, or if it had insisted on a reference by the President to the Supreme Court on the ownership claims of the Raja of Ramnad, it is likely that India-Sri Lanka relations might have taken a different turn. It may be recalled that the great Congress statesman, Dr BC Roy, the Chief Minister of West Bengal, approached the Supreme Court when the Central Government wanted to transfer Beru Bari to East Pakistan and got it stalled. In the Kachchatheevu case, legal luminaries like MC Setalvad had upheld India's ownership claims. What is more, a few senior officials in the Ministry of External Affairs also subscribed to the same view. But Prime Minister Indira Gandhi unfortunately overruled them.

The most decisive factor in the ceding of Kachchatheevu to Sri Lanka was the personal friendship between Prime Minister Indira Gandhi and Prime Minister Sirimavo Bandaranaike.

The decision was political and it was done to boost the sagging political morale of the Sri Lankan Prime Minister and her political party. Since Sri Lanka, under Mrs Sirimavo Bandaranaike shared the larger foreign policy concerns of India, it was essential to assist Colombo in stabilizing and consolidating its regime. Kachchatheevu becoming a part of Sri Lanka would enhance the credibility of the government in Sri Lanka and the personal popularity of the Prime Minister. It would also blunt the arguments of the leftist elements in the island, for whom issues such as Kachchatheevu were symbolic of India's hegemonistic designs towards its neighbours.

The personal equation between the two Prime Ministers, which, as pointed out earlier, was the critical factor in the ceding of Kachchatheevu comes out in sharp focus in the following quotation from the book, *Ethnicity versus Nationalism, The devolution Discourse in Sri Lanka*, written by Prof. Partha Ghosh: "Kachchatheevu was the most typical case of a personal equation playing the role of diplomacy. When the negotiations had virtually failed, and the Indian official delegation was pressurizing Indira Gandhi not to give up India's claim on the islet, Sirimavo Bandaranaike made a personal appeal to Indira Gandhi to come to her rescue, as it would otherwise spell political disaster for her. Indira Gandhi appreciated Mrs. Sirimavo Bandaranaike's predicament and manipulated the situation in such a way that it became a fait accompli even before the Indian delegation could react. Sirimavo Bandaranaike remembered this gesture as late as 1990 with immense gratitude".

Having failed to keep Kachchatheevu with India, Chief Minister Karunanidhi's objective was to ensure the continuance of the traditional fishing rights of the Indian fishermen in and around Kachchatheevu. Accompanied by S Madhavan, then Law Minister in the State Government, Chief Minister Karunanidhi went to New Delhi and had detailed discussions with Swaran Singh. Article 5 of the India-Sri Lanka Maritime Boundary Agreement provides for the continuation of these fishing rights. It must be highlighted that Article 5 does not specifically refer to the fishing rights. It says, "Indian fishermen and pilgrims will enjoy access to visit Kachchatheevu as hitherto" During the debate that took place in the Lok Sabha, Swaran Singh clarified that "although Sri Lanka's claim to sovereignty over Kachchatheevu has been recognized, the traditional rights of fishermen and pilgrims to visit the island remain unaffected". It must, however, be pointed out that the senior officials of the Ministry of Foreign Affairs of Sri Lanka did not concur with this line of reasoning. They explained to me that Article 5 did not confer any fishing rights, but only the right to dry the fishing nets and the right of pilgrims to visit Kachchatheevu without visa for religious purposes. There is a fallacy in this line of argument. Drying of nets pre-supposes that the nets become wet and this could happen only if the nets had been used for fishing in and around Kachchatheevu.

The desire to maintain friendly relations with Sri Lanka, even at the cost of the livelihood of Tamil Nadu fishermen, becomes further evident if one analyses the provisions of the India-Sri Lanka Maritime Agreement of 1976, which delimited the maritime boundaries in the Gulf of Mannar and in the Bay of Bengal. There was an Exchange of Letters between Kewal Singh, Foreign Secretary to the Government of India and WT Jayasinghe, Secretary to the Ministry of Defence and Foreign Affairs, Government of Sri Lanka. The Exchange of Letters, dated 23 March 1976, was held by the Minister of External Affairs YB Chavan to also "constitute an agreement between the two countries". Paragraph I of the Exchange of Letters reads: "The fishing vessels and fishermen of India shall not engage in fishing in the historic waters, the territorial sea and the exclusive economic zone of Sri Lanka nor shall the fishing vessels and fishermen of Sri Lanka engage in fishing in the historic waters, the territorial sea and the exclusive economic zone of India, without the express permission of Sri Lanka or India, as the case may be".

If Paragraph I quoted above, categorical in nature, is applicable to all sectors of India-Sri Lanka maritime boundary, including the Palk Strait, what happened to the fishermen's rights guaranteed under Article 5 of the 1974 Agreement? What happened to the assurance given by Swaran Singh in Parliament about traditional fishing rights of Indian fishermen? Unfortunately no satisfactory answer has come so far from the Government of India in this matter. The Tamil Nadu fishermen should have resorted to legal remedies, but there was no legal pandit to advise them on these matters. Moreover, India was under emergency rule at that time and it had taken a heavy toll of the rights of democratic dissent and protest. The prevailing atmosphere could be gauged from the fact that YB Chavan's statement in Parliament was not followed by any debate. Even in Tamil Nadu, which had to bear the brunt of the adverse effects of these agreements, there was not much open resentment. What is apparent is the fact that the astute Sri Lankan diplomats played their cards very well and by introducing Paragraph I in the 1976 Agreement they made it crystal clear that the Indian fishermen had no fishing rights in and around Kachchatheevu. As Shri Madhavan, the former Law Minister in the Tamil Nadu Government, explained to the author, the 1976 agreement sounded the death knell of Indian fishermen's rights.

CONCLUSION

The two illustrations given above substantiate the following points: 1) In the name of good neighbourly relations, the Government of India has sacrificed the interests and views of the federal units. 2) India has not yet evolved a mechanism by which the federal units could make benign inputs into the making of India's neighbourhood policy. In the negotiations which took place preceding the Sirimavo-Shastri Pact, a member of the Tamil Nadu cabinet was included in the Indian team, but he did not carry out his responsibilities as the representative of his government or of the political party of which he was a member. In the case of the maritime boundary agreements, the Chief Minister of the State was formally informed about the provisions, after an informal agreement was reached with Colombo; but the views of the State were not sought on the subject nor was any representative of the State included in the Indian team. 3) The political exigencies of the time and the desire to seek the Congress Party's support in order to remain in power made Chief Minister Karunanidhi not to resort to legal remedies to protect the interests of the State. 4) The University Departments specializing in international relations and non-governmental organizations involved in the study of diplomacy should sensitise the intelligentsia about the pros and cons of international treaties. 5) In the first part of the essay, I have cited the examples of the United States and former Yugoslavia as to how they strike a balance between the interests of the federal government and the federal units in the pursuit of foreign policy. In depth studies are the need of the hour and we must formulate practical suggestions to solve this conundrum, so that Indian federalism will be an example of how to live together even as we maintain our diversity in a democratic set up.

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