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US Entrenchment in Sri Lanka in Context of Indian Ocean Geopolitics

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Key Points:

- On July 1, Sri Lankan Cabinet Spokesperson Minister Bandula Gunawardene publicly acknowledged that the Government of Sri Lanka has entered into a Status of Forces Agreement with the United States
- The takeaways from the draft US-Sri Lanka SOFA clearly indicate that the Government of Sri Lanka is considerably restricted and handicapped from oversight into US military activities on its soil.
- If the Millennium Challenge Corporation Compact Grant for Sri Lanka is approved by the country's parliament, it would pave the way for US interference in Sri Lanka's development sectors in a direct competition with China leading to political consequences for the Rajapaksa administration.
- Signing of the SOFA could indicate the Rajapaksas' eagerness to mend relations with the US Government as quid pro quo in exchange for increased political patronage leading to a decline in insinuations of human rights violations.

During a press conference on July 1, Sri Lankan Cabinet spokesperson Minister Bandula Gunawardene publicly acknowledged that the Government of Sri Lanka has entered into a Status of Forces Agreement (SOFA) with the US.¹ The agreement automatically activates a new US-Sri Lanka Acquisition and Cross-Servicing Agreement (ACSA) that was drafted in 2017.

SOFAs establish a framework through which US military personnel operate in foreign countries. The first US agreement with Sri Lanka was in 1995 for joint exercises and 'other official duties.'² In 2007, then Sri

¹ Daya Gamage, "Sri Lanka-U.S. sign SOFA: License for U.S. Military to Enter," *Asian Tribune*, last modified July 3, 2020, <http://www.asiantribune.com/node/94361>.

² R. Chuck Mason, "Status of Forces Agreement (SOFA): What Is It, and How Has It Been Utilized?," Congressional Research Service, last modified March 15, 2012, <https://www.files.ethz.ch/isn/126384/187406.pdf>.

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Lankan Defence Secretary and incumbent President Gotabaya Rajapaksa signed the first US-Sri Lanka ACSA for a period of 10 years. Leaked diplomatic cables from the time reveal that the erstwhile US Pacific Command (now US Indo-Pacific Command) had been eyeing Sri Lanka as a country of interest on account of its strategic location and the shift of political-military battlegrounds from the Atlantic to the Indian and Pacific Oceans.³

The previous ACSA (2007-2017) facilitated exchange of non-lethal supplies but the terms of the new ACSA (2017) remain unclear. In fact, signing of the SOFA and ACSA is itself mired in a fantastic web of secrecy and half-truth speculations.

Reportedly, the new US-Sri Lanka ACSA was discreetly signed in August 2017 during then President Maithripala

³ "Sri Lanka: press coverage for signing of Acquisition and Cross Servicing Agreement (ACSA)," *WikiLeaks*, last modified February 20, 2007, https://wikileaks.org/plusd/cables/07COLOMBO304_a.html.

Sirisena's government without parliamentary approval and public discussion. Although former Defence Secretary Engineer Karunasena Hettiarachchi confirmed to Sirisena that he was the key negotiator, he added that there was considerable pressure from then Sri Lankan Foreign Secretary Prasad Kariyawasam to ensure its passage. For his efforts, Kariyawasam was assisted by Finance Minister Mangala Samaraweera who was previously the Foreign Minister and co-sponsored a bill with the US at the United Nations Human Rights Council (UNHRC) implicating his own country's military of alleged war crimes. Both Kariyawasam and Samaraweera are referred to in Sri Lankan political circles as American 'assets'.⁴

The entire secret negotiations on ACSA and SOFA were supervised by Indian-American Atul Keshap who completed his concurrent Ambassadorship to Sri Lanka and Maldives on 15th July 2018 before proceeding as Vice President of the US National Defence University.⁵ Keshap was a staunch pro-India lobbyist in the US administration and served in a variety of positions overlooking Indian Ocean and Pacific affairs. Prior to his stint in Colombo, he worked closely with Assistant Secretary of State for South and Central Asia Neha Biswal (another Indian-American) for policies on India, Bangladesh, Sri Lanka, Nepal, Maldives and Bhutan. Earlier, during his deputation as Deputy Minister Counsellor for Political Affairs at US Embassy in New Delhi (2005-2008), he played an influential role for the passage of 2008 India-US Civil Nuclear Agreement. Keshap's career reflects lobbying for Indo-US strategic interests in the region.⁶ Although he left with only ACSA as a major success, seeds for the inevitable passage of SOFA were already laid.

The latter-half of 2018 witnessed political turmoil in Sirisena's cabinet that culminated with the sacking of Prime Minister Ranil Wickremesinghe in October. While the general public was focused on internal political uncertainty, the US Embassy in Colombo quietly exploited the opportunity by once again mobilising the Kariyawasam-Samaraweera duo. They were in such a hurry to pass the SOFA that they even risked ignoring comments from the Ministry of Defence. On finding out,

⁴ "Sri Lanka's sovereignty and the US," *The Sunday Times*, last modified June 30, 2019, <http://www.sundaytimes.lk/190630/columns/sri-lanka-sovereignty-and-the-us-355926.html>.

⁵ "Indian-American Atul Keshap confirmed Ambassador to Sri Lanka," *The Economic Times*, last modified August 6, 2015, [U.S. Department of State, last modified July 22, 2019, <https://www.state.gov/biographies/atul-keshap/>.](https://economictimes.indiatimes.com/nri/nris-in-news/indian-american-atul-keshap-confirmed-ambassador-to-sri-lanka/articleshow/48371084.cms#:~:text=Indian%2DAmerican%20Atul%20Keshap%20has,region%20after%20Richard%20Rahul%20Verma.&text=He%20was%20the%20deputy%20political,Delhi%20from%202005%20to%202008 and)

⁶ Former Ambassador Atul Keshap, *U.S. Embassy in Sri Lanka*, accessed July 8, 2020, <https://lk.usembassy.gov/embassy/colombo/former-ambassadors/former-ambassador-atul-keshap/>.

Sirisena asked for Kariyawasam's resignation that was tendered (also in October) thereby putting the SOFA on hold.⁷

After Kariyawasam was shown the door, the US Embassy in Colombo was eager to fast-track efforts to pass SOFA. It was among the subjects discussed during the third Sri Lanka-United States Partnership Dialogue (May 2019) in Washington. Then Foreign Minister Tilak Marapana led the delegation. Sirisena was visiting China around the same timeframe and refrained Marapana from signing any agreement since he was also holding the additional portfolio of Defence Minister and wanted appropriate time to deliberate.⁸

With the recent acknowledgement by Gunawardene that SOFA has been signed, it remains unknown whether it was secretly approved during the last days of Sirisena regime or by the Rajapaksas.

Salient Features of US-Sri Lanka SOFA

Some of the noteworthy takeaways from the draft US-Sri Lanka SOFA include:⁹

- "...US personnel be accorded the privileges, exemptions, and immunities equivalent to those accorded to the administrative and technical staff of a diplomatic mission under the Vienna Convention on Diplomatic Relations of April 18, 1961, that US personnel may enter and exit Sri Lanka with U.S. identification and with collective movement or individual travel orders."

Comment: Personnel and contractors working with US Department of Defence will not be liable to prosecution under Sri Lankan laws and will not be restricted to movement within specified areas. They can enter/leave Sri Lanka without identification of their actual designations/roles.

- "...vessels and vehicles operated by or, at the time, exclusively for the US Department of Defence may either, exit, and move freely within the territory of Sri Lanka, and that such vehicles (whether self-propelled or towed) shall be exempt from payment of overland transit tolls. Vessels and aircraft owned or operated by or, at the time, exclusively for the US Department of Defence shall not be subject to the payment of landing fees, or port fees, pilotage charges, lighterage, and harbour dues at facilities owned and operated by the Government of Sri Lanka. Aircraft owned and operated by or, at the time, exclusively for the US Department of Defence shall not be

⁷ "Sri Lanka's sovereignty and the US," *The Sunday Times*

⁸ "No new military deals with US: President," *The Sunday Times*, last modified May 26, 2019, <https://www.pressreader.com/sri-lanka/sunday-times-sri-lanka/20190526/283416308138439>

⁹ "Sri Lanka's sovereignty and the US," *The Sunday Times*

Observers had speculated that the latter would discard the proposal altogether but instead he formed a sub-committee to deliberate upon its contents thoroughly. One probable reason for this turnaround could be the pressure on the Rajapaksas since 2019 after frequent 'courtesy calls' by Lisa Curtis (National Security Council) and now-retired Alice G Wells (State Department).

If the MCC Compact Grant for Sri Lanka is approved by the country's parliament, it would pave the way for US interference in Sri Lanka's development sectors in a direct competition with China leading to political consequences for the Rajapaksa administration. Sri Lanka risks turning into a battleground for a 'micro-level influence competition' involving American and Chinese actors. Moreover, passage of the MCC grant would prompt US security assistance for teams on the ground already benefiting from unrestricted movement per the terms mentioned in draft SOFA.

Since MCC Compact Grants are concerned with transportation and infrastructure improvements, the US Government will have access to real estate records including those which are leased by China. Consequently, this would play to the advantage of American commercial enterprises and provide intelligence value to US forces stationed in the region.

Geopolitical Context

Some analysts strongly believe that China is on the path of completing a 'String of Pearls' in the Indian Ocean to encircle India through ports in Djibouti, Pakistan, Laos, and Maldives.¹⁴ While Myanmar is struggling to balance relations with India and China, so too is Sri Lanka.

Investments by Chinese infrastructure companies in Sri Lanka such as the contentious Hambantota port project are a shared concern between Washington, New Delhi and also Tokyo, fearing dual-use by the PLA Navy. This perception has prompted the US and Japan to fill up the vacuum created by India's inability to match Chinese strategic investments.

The ACSA (2017), SOFA (2020) and MCC (pending) should be seen as part of Washington's assurance to India that it is fully committed to the FOIP vision shared with Japan.

Sri Lanka is a fulcrum connecting Western and Eastern Indian Oceans, making it a desired military logistics facility for regional maritime powers. While India was unable to manage adequate finances sought by Sri

Lanka, Japan has already provided sufficient funds to develop the Trincomalee Port.¹⁵ Approval of the US-led MCC would complement Japanese efforts to fill the vacuum created by India's declining influence.

Conclusion

Since their initial deposition from power, the Rajapaksas have been struggling to counter allegations of war crimes allegedly committed against the forces of Liberation Tigers of Tiger Eelam. They have faced international embarrassment on multiple occasions due to persistent Indo-US lobbying.

Signing of the SOFA could indicate the Rajapaksas' eagerness to mend relations with the US Government as quid pro quo in exchange for increased political patronage leading to a decline in insinuations of human rights violations.

It is likely that Washington might ask New Delhi to stop troubling the Rajapaksas and focus on broader, shared geopolitical goals.

¹⁴ Aman Thakker, "A rising India in the Indian Ocean needs a strong navy," *Center for Strategic and International Studies* accessed July 8, 2020, https://csis-website-prod.s3.amazonaws.com/s3fs-public/181017_RisingIndia.pdf?CNzNznk914zhq9ZCTrXKchnU3WU6r6.

¹⁵ "Update on Trincomalee port," *LMD – The Voice of Business*, accessed July 8, 2020, <https://lmd.lk/trincomalee-port-set-to-double/>.