

29th December 2021

His Excellency Shri Narendra Modi,
Prime Minister of India
Prime Minister's Office
New Delhi.

Your Excellency,

THE INDO-LANKA ACCORD AND THE POLITICAL ASPIRATIONS OF THE TAMIL SPEAKING PEOPLES FOR SHARING OF POWERS OF GOVERNANCE

Since Sri Lanka gained independence from the British in 1948, the Tamil speaking peoples have been demanding meaningful power sharing from all the successive governments that came to power. The political leadership of the Tamil speaking peoples wanted a solution in accordance with internationally accepted principles recognizing their legitimate aspirations. Although many attempts were made to find a solution internally as well as with the assistance of the international community, the Tamil Speaking Peoples National Question remains unresolved to date.

The Government of India has actively engaged in this pursuit for the past 40 years and we are grateful for the firm commitment expressed by India to find a just and lasting solution that satisfies the legitimate aspirations of the Tamil speaking peoples to live with dignity, self-respect, peace and security. We remain committed to a political solution based on a federal structure that recognizes our legitimate aspirations. The Tamil speaking peoples have always been the majority in the North and East of Sri Lanka.

The Government of India offered its good offices in 1983, which was accepted by the Government of Sri Lanka and consequently the Indo-Lanka Accord was signed on 29th July 1987. Thereafter the 13th Amendment to the Sri Lankan Constitution was introduced, establishing a provincial council system that envisaged devolution of powers to the Provinces. But the Amendment was introduced into a Unitary Constitution making the exercise one of decentralization instead of devolution. It is against this background that every effort made thereafter moved in the direction of surpassing the Thirteenth

Amendment towards a federal structure. Several proposals and commitments warrant mention.

First, in 1993, the Mangala Moonesinghe Select Committee during President R. Premadasa's tenure recommended devolution based on the Indian model. It suggested that the Concurrent List be either abolished or that most of the subjects in it be transferred to the Provincial List. It further proposed an Apex Council linking the Northern and Eastern Provincial Councils.

Second, the government proposals for constitutional reforms in 1995 and 1997 under President Chandrika Bandaranaike Kumaratunga, and the Constitutional Bill of 2000, all proposed extensive devolution of power, and abandoned the unitary state structure.

Third, in December 2002, talks were held between the Government of Sri Lanka and the LTTE in Oslo. At these talks, the parties agreed to explore a solution founded on the principle of internal self-determination in areas of historical habitation of the Tamil-speaking peoples, based on a federal structure within a united Sri Lanka. The Sri Lankan government delegation was led by Prof. G.L. Peiris, who after reaching this agreement, said the following at a press conference:

Responding to a proposal by the leadership of the LTTE, the parties agreed to explore a solution founded on the principle of internal self-determination in areas of historical habitation of the Tamil-speaking people, based on a federal structure within a united Sri Lanka. The parties acknowledged that the solution had to be acceptable to all communities...And the parties agreed to, on that basis, discuss matters further.

Fourth, in 2006, President Mahinda Rajapaksa appointed an All Party Representative Committee (APRC), and a committee of experts to formulate proposals for a new constitution. At its inaugural meeting, President Rajapaksa outlined their task in the following words:

We must explore past attempts from the Bandaranaike-Chelvanayakam Pact onwards...People in their own localities must take charge of their destiny

and control their politico-economic environment. Central decision-making that allocates disproportionate resources has been an issue for a considerable time. In addition, it is axiomatic that devolution also needs to address issues relating to identity as well as security and socio-economic advancement, without overreliance on the centre. In this regard, it is also important to address the question of regional minorities...There are many examples from around the world that we may study as we evolve a truly Sri Lankan constitutional framework including our immediate neighbour, India...

Any solution must be seen as one that stretches to the maximum possible devolution without sacrificing the sovereignty of the country given the background to the conflict.

President Rajapaksa rightly pointed out that the Co-Chairs of this process, i.e. the European Union, Japan, the United States (U.S.), and Norway, did not condone separation. However, they also expressed their view with regard to what the solution should be. They stated:

It must show that [Sri Lanka] is ready to make a dramatic political change to bring about a new system of governance which will enhance the rights of all Sri Lankans, including the Muslims. The international community will support such steps; failure to take such steps will diminish international support...The Tamil and Muslim peoples of Sri Lanka have justified and substantial grievances that have not yet been adequately addressed.

Meanwhile, one of the Co-Chairs, the U.S., also made some specific statements with regard to Sri Lanka. The Assistant Secretary of State of the U.S. for South and Central Asian Affairs, Mr. Richard A. Boucher, visited Sri Lanka on 1st June 2006, and stated:

We also think the government should provide a positive vision to Tamils and Muslims of a future Sri Lanka where their legitimate grievances are addressed and their security assured. President Rajapaksa has spoken of 'maximum devolution'. Previous negotiations have agreed on 'internal self-determination' within a federal framework. However the idea is expressed,

it could offer hope to many in the North and East that they will have control over their own lives and destinies within a single nation of Sri Lanka.

The multi-ethnic expert committee involved in the APRC process, in their main report, proposed an extensive power-sharing arrangement similar to the Constitution Bill of August 2000. The final APRC report meanwhile suggested important improvements to the Thirteenth Amendment including the abolition of the concurrent list.

Finally, following the conclusion of the armed conflict in 2009, the government made certain pledges to implement and build on the Thirteenth Amendment.

On 26th May 2009, President Rajapaksa issued a joint communique with the visiting UN Secretary General Ban Ki- Moon stating:

President Rajapaksa expressed his firm resolve to proceed with the implementation of the 13th Amendment, as well as to begin a broader dialogue with all parties, including the Tamil parties in the new circumstances, to further enhance this process and to bring about lasting peace and development in Sri Lanka.

The very next day, on 27th May 2009, the UN Human Rights Council adopted a resolution in which the aforesaid commitment by President Rajapaksa was incorporated in the following words:

Welcoming also the recent assurance given by the President of Sri Lanka that he does not regard a military solution as a final solution, as well as his commitment to a political solution with the implementation of the thirteenth amendment to bring about lasting peace and reconciliation in Sri Lanka.

It is noteworthy that in June 2010, Dr. Manmohan Singh, the former Prime Minister of India made a statement with regard to Sri Lanka. He stated:

The Prime Minister emphasised that a meaningful devolution package, building upon the 13th Amendment, would create the necessary conditions for a lasting political settlement. The President of Sri Lanka reiterated his

determination to evolve a political settlement acceptable to all communities that would act as a catalyst to create the necessary conditions in which all the people of Sri Lanka could lead their lives in an atmosphere of peace, justice and dignity, consistent with democracy, pluralism, equal opportunity and respect for human rights. Towards this end, the President expressed his resolve to continue to implement in particular the relevant provisions of the Constitution designed to strengthen national amity and reconciliation through empowerment. In this context, he shared his ideas on conducting a broader dialogue with all parties involved. The Prime Minister of India expressed India's constructive support for efforts that build peace and reconciliation among all communities in Sri Lanka.

This commitment was then repeated in May 2011 when External Affairs Minister G.L. Peiris visited New Delhi. A joint press statement with the Minister of External Affairs of India stated:

...the External Affairs Minister of Sri Lanka affirmed his government's commitment to ensuring expeditious and concrete progress in the ongoing dialogue between the government of Sri Lanka and representatives of Tamil parties. A devolution package, building upon the 13th Amendment, would contribute towards creating the necessary conditions for such reconciliation.

This commitment was reiterated once again in Colombo in January 2012. After meeting President Rajapaksa, visiting Indian Minister for External Affairs, Hon. S. M. Krishna speaking at a joint press conference with Minister G.L. Peiris, stated:

The Government of Sri Lanka has on many occasions conveyed to us its commitment to move towards a political settlement based on the full implementation of the 13th Amendment to the Sri Lankan Constitution, and building on it, so as to achieve meaningful devolution of powers. We look forward to an expeditious and constructive approach to the dialogue process.

Most notably thereafter, on 13th March 2015, Your Excellency spoke in the Sri Lankan Parliament and stated:

“Today, my top priority is to make the States in India stronger. I am a firm believer in cooperative federalism. So, we are devolving more power and more resources to the States. And we are making them formal partners in national decision-making process.”

On the occasion of the State Visit of President Gotabhaya Rajapaksa to India, on 29th November 2019, Prime Minister Shri Narendra Modi stated as follows:

We also openly exchanged views on reconciliation in Sri Lanka. President Rajapaksa told me about his inclusive political outlook on ethnic harmony. I am confident that the Government of Sri Lanka will carry forward the process of reconciliation, to fulfill the aspirations of the Tamils for equality, justice, peace and respect. It also includes the implementation of the 13th amendment. India will become a trusted partner for development throughout Sri Lanka including North and East.

From all of the above, it is clear that the Government of Sri Lanka has on multiple occasions promised to fully implement the Thirteenth Amendment to the Constitution. But it did not stop there. The promise also included the very specific undertaking to “build upon the 13th Amendment so as to achieve meaningful devolution.” Even though the Tamil speaking people do not expect a proper and full-fledged devolution under a unitary constitution yet such promises have mostly been given to India, quite appropriately, since it is with India that Sri Lanka has signed an international bilateral agreement, the Indo-Lanka Accord, in which these ideals were set out.

However, successive Sri Lankan governments have not only failed in full implementation of the provisions in the Constitution with regard to devolution and parity of status to the Tamil language, but have unilaterally reacquired powers and institutions from the provinces, which continues to date. In addition, lands belonging to the Tamil speaking peoples are continuing to be grabbed by the State under various pretexts, with a view to radically alter the demography of the North and East. This must be halted immediately, or else the provisions of the Indo-Lanka Accord will be rendered nugatory. In this regard, we

enclose hereto the list of matters of serious concerns to our peoples namely North and East Tamils and Up Country Tamils for your Excellency's information.

In this situation, we appeal to Your Excellency to urge the Government of Sri Lanka to keep its promises to:

- (i) fully implement the provisions of the Thirteenth Amendment to the Constitution
- (ii) implement the clear commitments made by all sections of government from 1987 onwards

and enable the Tamil speaking peoples to live with dignity, self-respect, peace and security in the areas of their historic habitation, exercising their right to self-determination within the framework of a united, undivided country.

Yours truly,

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Mavai Senathiraja
Leader- ITAK (TNA)
Ilankai Tamil Arasu Katchi

Justice C.V. Wigneshwaran, MP
Leader-TMK/ TMTK
Tamizh Makkal Kootani

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President-TELO (TNA)
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Darmalingam Sithhadthan MP
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