



Tamil Information Centre

தமிழ் தகவல் நடுவம்
Est. 1983

Committed to Human Rights and Community Development

THULASI

Bridge End Close (Off Clifton Road)
Kingston Upon Thames KT2 6PZ, (UK)
Telephone: + 44 (0) 20 8546 1560
E-Mail: contact@ticonline.org
: @tamilinfocentre



5th October 2021

The Right Honourable Narendra Modi
Prime Minister of India
Prime minister's Office
South Block, Raisina Hill
New Delhi ,110011
India

Your Excellency,

The future of Sri Lankan Tamils and the Indo-Lanka Accord of 29th July 1987

The Tamil Information Centre (TIC) was established in 1983. It aims to promote the rights and aspirations of the Tamil people of Sri Lanka. It does so by providing information and raising awareness of Tamil issues and promoting an effective and lasting solution to the Sri Lankan ethnic conflict.

We address this urgent communique to your good self to draw your attention to a very serious development in Sri Lanka concerning the Tamil people in the North and East of the country.

Your Excellency is aware of the important international bilateral agreement India entered into with Sri Lanka on 29th July 1987, known as the Indo-Lanka Accord. This provided for the establishment of Provincial Councils in Sri Lanka as a basis for power-sharing to address the long-standing Tamil National Question. This resulted from India expressing legitimate concerns over the massacre of Tamils in July 1983 and Sri Lanka accepting India's good offices in resolving this issue.

The Indo-Lanka Accord, among other matters, recognized the Northern and Eastern provinces of Sri Lanka as the historical homelands of the Tamil-speaking people. The Accord further provided for the amalgamation of the two provinces to form one administrative unit.

It is accepted by all parties that the Thirteenth Amendment to the Sri Lankan Constitution, intended to implement the Accord, did not measure up fully to the principles enunciated in the Accord. Thus, successive Sri Lankan governments have made numerous promises to Your Excellency – starting with President J. R. Jayewardene in November 1987 and more recently by President Gotabaya Rajapaksa – that a meaningful scheme of power-sharing would be established in Sri Lanka. First, by implementing the Thirteenth Amendment in full and thereafter by building upon the same. It was in this context that Your Excellency also made that momentous speech in the Sri Lankan Parliament on 13th March 2015 stating that Your Excellency was a firm believer in cooperative federalism. You told the Sri Lankan Parliament:

"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."

Thirty-four years after the Accord and 11 years after the end of the war, the Sri Lankan government continues to pursue policies diametrically opposed to what was agreed in the Accord. Despite the constitutional changes and assurances, Sri Lanka continues as a 'Unitary State' thus enabling the Central Government unilaterally to reacquire powers from the provinces by the Centre. Several central legislations can be cited as examples. In any case, the provisions of the Thirteenth Amendment were not fully implemented from the beginning and this situation continues even now.

To make matters worse, successive Sri Lankan governments, including the current one, have continued to aggressively to pursue a policy of destroying the linguistic contiguity between the Northern and Eastern Provinces. The 13th Amendment (1987) to the merger of the two provinces, originally recommended by the Indo-Lanka Accord as an interim measure, was set aside by a Supreme Court judgement in September 2006; with the result that the governance and constitutional status of the Northern and Eastern provinces remains unresolved to this day.

Meanwhile, lands belonging to the Tamil people in the North and East are continuing to be grabbed by the State under the pretext of protecting archeological monuments and various other pretexts. If this trend is permitted to continue, the provisions of the Accord will be totally negated, as seems to be the intention of the Sri Lankan State.

It is against this background that we decided to urgently appeal to Your Excellency to intervene and ensure that the provisions of the Accord are fully implemented in Sri Lanka. We hope that the attached Memorandum and its annexes will clearly demonstrate the urgency and the importance of India's action in this regard.

We assure Your Excellency our highest regards.

Yours truly,



Dr S Ratneswaren MRCS Eng, MRCP UK, MRCGP, FRCP Lond, FRCP Edin.

Director

On behalf of Tamil Information Centre

cc:

Dr. Subrahmanyam Jaishankar
Indian Minister of External Affairs
Ministry of External Affairs
South Block, Raisina Hill
New Delhi, India

Her Excellency Gaitri Issar Kumar
High Commissioner for the Republic of India
India House
Aldwych
London WC2B 4NA



The Crisis Faced by the Tamils of Sri Lanka An Appeal to the Prime Minister of the Republic of India by Tamil Information Centre



The Appeal

We urgently appeal to the Republic of India, as Guarantor of the Indo-Sri Lanka Accord, to ensure:

1. The implementation in full the Thirteenth Amendment to the Sri Lankan Constitution, so as to devolve entrenched powers to the locally elected Provincial Councils with provisions that such powers devolved cannot be over-ridden by the Central government.
2. The implementation of the Indo-Sri Lankan Accord in full as it was originally contemplated for a just solution to the Sri Lankan conflict.
3. Demilitarisation and ending land grabs in the North and East. The pervasiveness of the military to the level of population or their actual tasks twelve years after the war outweighs their need in such vast numbers. The military's presence and the land grabs are only to achieve the intention of eradicating the objective of the Indo-Sri Lanka Accord that unified the Northern and Eastern provinces as the traditional homeland of the Tamil people.
4. Limiting the selling or providing long leases to foreign investors, instead promoting sustainable forms of investment that take account of the needs of the local community, in consultation with the Provincial Councils.
5. Establishment of a committee comprising officials nominated by the Indian government to deal exclusively with Sri Lankan issues and to interact with the Tamil speaking people in Sri Lanka and in the Diaspora with the purpose to bilaterally evolve measures that will address their grievances on the basis of a co-federal system as outlined by His Excellency Prime Minister Modi in Parliament, or a co-federation constitution enshrining provision that such powers conferred cannot be withdrawn through arbitrary majority.

We firmly believe that without direct pressure and active oversight by India none of the viable recommendations by the Tamil political leadership to Sri Lanka or assurances given by Sri Lanka will be implemented.



Tamil Information Centre

தமிழ் தகவல் நடுவம்

Committed to Human Rights and Community

Consultations to this Appeal

This appeal is submitted following intensive discussions over several weeks with the Tamil political parties and civil society activists within Sri Lanka. This also included persons in the Diaspora and other stakeholders who were identified to be sincere contributors to the consultation, desiring a just solution to the conflict.

The Tamil Information Centre

The Tamil Information Centre (TIC) is an institution based in London, UK, established in 1983 for the purpose of supporting and providing information and advocacy on the Tamil people of Sri Lanka.

It is independent and is not affiliated to any Government, group or organisation but has an extensive network of individuals and organisations involved in humanitarian and human rights work.

The TIC interacts widely to raise awareness of and to promote dialogue, understanding and more effective solutions to the Sri Lankan national conflict. It also seeks to promote the socio-economic development and social justice of all people of Sri Lanka without any political or other vested interest.

It addresses the challenges of the Tamil speaking people in Sri Lanka to ensure their rights are protected and their freedoms are respected.

The TIC's mission is to empower people suffering persecution and subjected to human rights abuses through access to knowledge and representations on their behalf.

Contact Info:

THULASI

Bridge End Close (Off Clifton Road)
Kingston Upon Thames KT2 6PZ,
UK

Telephone: + 44 (0) 20 8546 1560
E-Mail: contact@ticonline.org

October 2021

International community expect Sri Lanka to implement the 13th Amendment and devolution of power to Provincial Councils.

1. Background to the Appeal

The Indo-Lanka Accord, signed in 1987, is an international treaty between India and Sri Lanka intended to ensure a solution to the conflict between the Sinhalese and Tamil nations in Sri Lanka.

It commences with an acknowledgement of “the imperative need of resolving the ethnic problem of Sri Lanka, and the consequent violence, and for the safety, well-being and prosperity of people belonging to all communities in Sri Lanka”¹.

In order to implement the Accord, the Sri Lankan Parliament enacted the Thirteenth Amendment to the Constitution of Sri Lanka and the Provincial Councils Act (see further below).

Recent Resolutions by the UN Human Rights Council (46/1 of 23 March 2021), US Congress (18 May 2021) and European Parliament (10 June 2021) have brought to the attention of the international community the importance of the Indo-Lanka Accord and the Thirteenth Amendment and the urgent need to address the ongoing conflict in Sri Lanka. UN Resolution 46/1 of the UNHRC included the following:

“Calling up on the Government of Sri Lanka to fulfill its commitments on the devolution of political authority, which is integral to reconciliation and the full enjoyment of human rights by all members of its population, and encouraging the Government to respect local governance, including through the holding of elections for Provincial Councils, and to ensure that all Provincial Councils, including the Northern and Eastern Province Councils, are able to operate effectively in accordance with the 13th Amendment to the Constitution of Sri Lanka.”

It is the view of the TIC that the terms of the Accord have not been implemented as intended and that the Thirteenth Amendment, passed into law by a Sinhalese majority Parliament, has enabled the Sri Lankan Government to circumvent any obligation to devolve real power to the Northern and Eastern Regions inhabited by the Tamil people as envisaged by the Accord.

It has become apparent that the Sri Lankan Government is intent on imposing its will on the Tamils to assimilate, rather than allowing them to remain as a distinct group of people, in a variety of ways including the following:

¹Paragraph 2 of the Indo-Sri Lanka Agreement of 29 July 1987

North-East is a heavily militarised province in Sri Lanka.

The Tamil speaking population has been denied the right to remember their dead.

1.1 Militarisation and Violence

The North-East region, the historical habitation of the Tamils, is ruled by the military without any accountability. A leading US policy think tank, the Oakland Institute², in 2021, estimated that there are 107,000 army personnel stationed in the North and East provinces (Air Force, Navy, Special Task Force and Special Commandos are not included in this figure). They found that there was one soldier for every six civilians in the North; and in the Mullaithivu, it is estimated that there are 45,500-78,000 army personnel based in the district alone, which amounts to one soldier for every two civilians during peace time.

The Tamil speaking population faces persecution by the Military in the form of intimidation and arbitrary arrest. There are also other forms of violence faced by the community, such as enforced detention, under the Prevention of Terrorism Act disappearances and torture, and violence against women.

The Tamil speaking population has been denied the right to remember their dead; memorials and monuments, including whole burial grounds, have been vandalised and destroyed in places occupied by the army and navy in the Northern and Eastern provinces.

1.2 Land Grabs

The Mahaweli Development Programme is the largest multipurpose development programme, ever launched in Sri Lanka to harness the waters of Mahaweli Ganga (River), the longest river in the country. The programme includes the provision of irrigation facilities for dry zone cultivation, the settlement of landless and unemployed families by constructing and developing physical and social infrastructure required for human habitation.

However, the so-called development schemes under the Mahaweli Development Programme including housing are exclusively given to the Sinhalese community in the North-East, at the expense of the Tamil speaking community. Further land encroachments are taking place in the form of Military camps, Military Buildings, Buddhist temples and hospitality centres run by the Military. All land taken over from the Tamil speaking community by the Sri Lankan government within the high security zones created during the conflict is yet to be released back to the original owners, 12 years after the end of the armed conflict.

²Endless war, The destroyed land, life and identity of the Tamil people, The Oakland Institute, USA, 2021, www.oaklandinstitute.org/sites/oaklandinstitute.org/files/endless-war-web.pdf

The Accord acknowledges ...Sri Lanka is a multi-ethnic, multi-lingual, plural society consisting, inter alia Sinhalese, Tamils, Muslims (Moors) and Burghers.

1.3 Exploitation of the Natural Resources

Natural resources in the North-East are being sold to foreign investors and their local accomplices from outside of the North-East region, thus denying the local populace opportunities for their livelihood.

The Sri Lankan Cabinet on 18 January 2021 approved a project for China to install hybrid renewable energy systems on three islands, Nainativu, Neduntivu (Delft) and Analaitivu in the west coast of Jaffna lying between India and Sri Lanka in the Palk Bay. This decision was taken without consultation with the local communities or their local representatives who will be directly affected by this project.

Whilst we recognise that building renewable energy capacity is important in combating climate change, our perception is that these projects are being undertaken not out of consideration for the environment but with the ulterior motive to the detriment of the local communities.

2. The Indo-Lanka Accord (the “Accord”)

The Accord entered in 1987 followed the intervention by India in an attempt to bring to an end the state of civil war between the Sinhalese and Tamil speaking nations of Sri Lanka.


It aimed to preserve the “unity, sovereignty and territorial integrity of Sri Lanka”, while at the same time acknowledging that Sri Lanka is a “multi-ethnic and multi-lingual plural society, consisting, inter alia, of Sinhalese, Tamils, Muslims (Moors), and Burghers”³ and “recognising that each ethnic group has a distinct cultural and linguistic identity which has to be carefully nurtured”⁴.

The Accord provided for the merger of the Northern and Eastern provinces to form one regional administrative unit with one elected Provincial Council during an interim period and, subject to a referendum, for this to be made a permanent arrangement.

It was understood by the Indian government that under a Sinhalese Buddhist nationalistic government, without the presence of a third-party, the Tamil speaking

³ Paragraph 1.2 of the Accord

⁴ Paragraph 1.3 of the Accord



regions might not be permitted to enjoy the freedom and benefit of the devolution of power to the Provincial Councils provided for in the Accord or the merger of the provinces. The Accord therefore also provided for the deployment of an Indian peacekeeping force in the North-East region of Sri Lanka to ensure the proper implementation of the Accord.

The Government of India underwrote and guaranteed the provisions in the Accord and the Sri Lankan government agreed to cooperate in its implementation. In order to implement the Accord, the Sinhalese majority parliament enacted the Thirteenth Amendment to the Constitution of Sri Lanka and the Provincial Councils Act. In practice however the manner in which the Thirteenth Amendment and the Provincial Councils Act were drafted (and have been interpreted by the Courts) has enabled the Sri Lankan government to circumvent the true intentions of the Accord, particularly with regard to devolved powers for the North and Eastern provinces (for examples of this, see further below).

3. The Thirteenth Amendment

The Thirteenth Amendment came into force in October 1987 and the Provincial Councils Act was introduced in November 1987. They remain in force, but its operation is currently suspended. The Thirteenth Amendment provides for a Provincial Governor, a Provincial Board of Ministers with a Chief Minister, and a Provincial Council for each of the nine provinces.

Under the Provincial Councils Act, the Governor is not elected but is a nominee of the President.

Governor's role

- The President appoints the Provincial Governor and can dismiss him/her. The Governor holds executive power in the province in relation to those matters, which are within the competence of the Provincial Council.
- Since the constitution vests executive power in the President, it follows that the Governor is subject to control by the President.
- The Governor can exercise his/her executive power either directly or through an elected Board of Ministers or through the Members of the Provincial Public Service.
- The disciplinary control of officers of the province is vested in the Governor.

- The Governor also determines terms and conditions of their employment. He/she can delegate his/her powers to a Public Services Commission, but it will also be appointed by him/her and controlled by him/her.

The Board of Ministers, in such circumstances, in effect becomes redundant. The Governor holds all the powers; and the provincial ministers, though elected, virtually have no power. As such, there is no devolution of power to the provinces, but merely a delegation of power which the Governor wields on behalf of the President.

The Functions of Chief Minister and Board of Ministers:

- The functions of the Chief Minister and the Board of Ministers are to aid and advise the Governor in the exercise of his/her functions.
- The Chief Minister must communicate all decisions of the Board of Ministers to the Governor.
- The Ministers also must respond when the Governor calls for information. The Governor will exercise executive power also in respect of all provincial legislation passed by the Provincial Council.
- The Governor is empowered to make rules for allocation of business among ministers. The Governor can summon the Provincial Council, including Ministers, and give instructions.
- If the Provincial Council fails to comply with any instruction, the President can declare that the powers of the council will be exercised by Parliament and that the powers of the Ministers will be exercised by the President.
- The Governor has the discretion to ignore the advice of the Chief Minister and Board of Ministers.
- Whether any matter requires the advice of the Chief Minister will be decided by the Governor on the direction of the President and this cannot be called into question in any court.
- Under the Thirteenth Amendment, a Finance Commission consisting of the Governor of the Central Bank, Secretary to the Treasury and three other members each representing the three major communities, (appointed by the president), will recommend the amount to be allocated from the annual budget to meet the needs of the province. The President will decide the amount.

The Provincial Council cannot pass any laws imposing, altering, or abolishing any taxes in the province without the recommendation of the Governor. No money can be withdrawn or utilised from the provincial fund (which will include money allocated by the Central Government and taxes and levies) without the sanction of the Governor.

Areas of devolution under the Thirteenth Amendment

The Thirteenth Amendment provides three lists:

- (1) Provincial Council list - allowing laws to be made regarding matters on this list;
- (2) Concurrent list - allowing the Sri Lankan Parliament and the Provincial Council to make laws jointly; and
- (3) Reserved list - allowing only Parliament to make laws.

However, on the grounds of national policy, Parliament could legislate on matters listed on all lists by a simple majority. In the circumstance of inequality of seats in Parliament, it is impossible for Tamils to prevent any legislation against them.

In effect, the Provincial Council does not have any power such as granted to the Indian States as originally envisaged by India, and in reality, administers the authority of the President through the Governor.

Following the enactment of the Thirteenth Amendment and the Provincial Councils Act, the Tamil political leadership immediately brought to the attention of India that the Sinhalese majority hegemony had no sincere intention of sharing power. The Tamil political leadership decided to be patient, pointing out that under the Accord the Sinhalese had at least agreed to recognise the plurality of Sri Lanka, that the North-East is the traditional homeland of the Tamil people, and to the interim merger of the two provinces. It was felt that the Sinhalese feared any devolution would be a step towards separation, the need to build confidence to allay such fears and that the Tamils should give time for such process to take place.

The Provincial Council does not have any power such as the power granted to the Indian States as originally envisaged by India.

The absence of any real powers of the Provincial Councils led to directives from central government superseding the purported delegated powers of the council regarding health, education, fisheries, agriculture and other resources, finance, and aid.

The Sri Lankan Government has announced its intention to take away further control from the Provincial Councils and transfer the following, to the Central Government:

- Public hospitals in Mannar, Vavuniya, Kilinochchi and Mullaitivu - The reason for such a transfer is said to be due to the hospitals lacking adequate facilities to serve the people. There is an assumption that taking control of these hospitals will improve the services provided; however, this is not the case. If public hospitals in one region are lacking in facilities or operational standards, the logical solution would be adequate resourcing rather than taking away control from the administration of the region.
- Schools - Similarly, there are moves underway to take responsibility for schools away from Provincial Councils.

In our view, the implementation of the Thirteenth Amendment has been manipulated by successive political regimes in Colombo to achieve the objective of denying real power sharing with the Tamil speaking people. During the last 30 years, North and East Provincial Councils have never been given the necessary resources and support to prove their skill and commitment to the governance of Sri Lankan communities within a unified state.

The attitude of the present government towards devolution and the provincial councils indicates that the situation will deteriorate. Following their victory in the war it is re-establishing the agenda of the Sinhala-Buddhist hegemony that no power is to be shared and all of it is to be conserved to the Sinhala Buddhists.

Tamil political leaders with a stake in the struggle have always feared that any apparent concessions to devolved powers by the Sri Lankan government would only be pretence for the sake of preserving diplomatic relations with India.

It is the realisation of the Tamils and a reawakening from the events following the

*Sinhalese and Tamils
maintain a united front in
the struggle for
independence.*

war and by the long years of such historical experiences, that a confederation and co-existence between the two nations, constitutionally enshrining provisions that cannot be withdrawn through arbitrary majoritarianism, is the only way to preserve the unitary intentions of the Sinhalese and the pluralistic aspirations of the Tamil-speaking people.

4. The Historical Context

The Tamils and Sinhalese have been living on the island for over 2000 years, with the Tamils mainly inhabiting the North-East, and the Sinhalese the South and West. There have always been religious, cultural, and linguistic differences between the two nations.

Sinhalese and Tamils maintained a united front in the struggle for independence from the British. But since Independence in 1948, a systematic campaign of denying the political and human rights of the Tamils has been pursued by successive Sinhalese majority Governments. Since Independence, the deep divisions between the Sinhalese and Tamil nations in Sri Lanka combined with an unbroken period of majority Sinhalese rule has resulted in civil strife and ultimately, civil war.

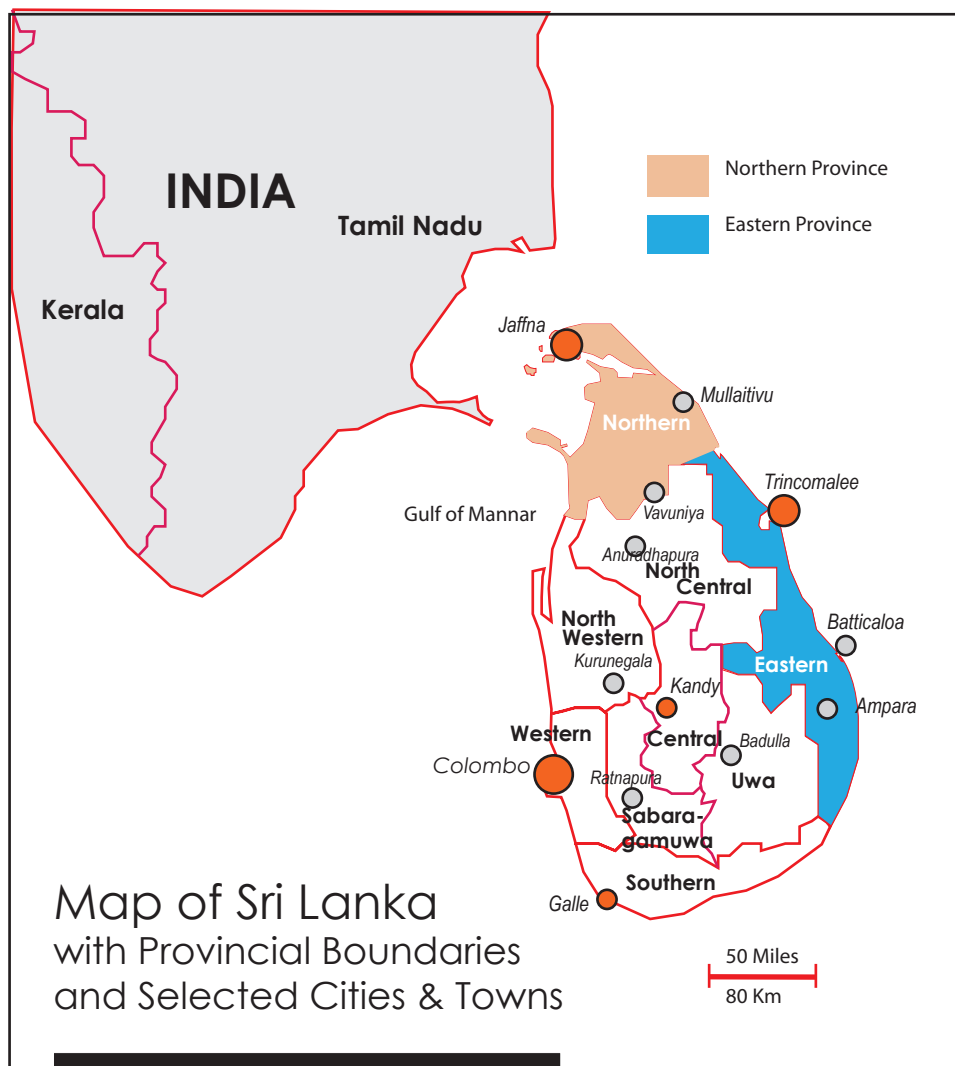
An early example of the abuse by the Sinhalese of their majority position was the legislation passed in 1948 and 1949 by which more than one million Tamils living in the Hill Country (who were brought from India by the British) were made stateless and voteless. The counting of these disenfranchised people to carve out electorates without providing them with voting rights, gave the 70% Sinhalese population 80% of the parliamentary seats in the country.

Successive Sinhalese governments have deliberately pursued policies intended to deprive the Tamil speaking communities of their traditional homelands in the North -East by bringing in Sinhalese settlers. During the pogroms against the Tamils of 1956, 1958, 1960, 1977, and 1983, the Sinhalese settlers in Tamil areas such as Kantalai, Allai and Morawewa committed horrific and shocking atrocities to drive out the Tamils from their homeland. These atrocities and the persistent efforts to drive out the Tamils are planned and designed to deny the Tamil people their homeland. The Accord specifically recognises the North and East as the traditional homeland of the Tamils.

The Accord says,

“Recognising that the Northern and the Eastern Provinces have been areas of historical habitation of Sri Lankan Tamil speaking peoples, who have at all times hitherto lived together in this territory with other ethnic Groups”,⁵ thus endorsing the Northern and Eastern provinces as the traditional homeland of the Tamil people.

⁵Paragraph 1.4 of the Accord



5. India's Policy and Its Efforts Prior to Indo-Sri Lanka Accord

India's policy on Sri Lanka is consistently demonstrative of the following:

- The Indian government has consistently voiced its concern about the plight of Tamils in Sri Lanka and has stated in no uncertain terms about its right to be concerned about the situation of the Tamils.
- India is legitimately concerned about the national and international implications of what is happening and the consequent turmoil in its close neighbour.
- Without wishing to interfere in the internal affairs of Sri Lanka, India has always maintained that it is keenly interested in finding a permanent solution to the Tamil national question that would satisfy the legitimate aspirations of the Tamil-speaking people.
- India has unequivocally expressed its desire to preserve the unity and national integrity of Sri Lanka, but that unity and integrity should be based on the Tamil people being treated with equality and with the Tamil speaking provinces having adequate power sharing arrangements with the Centre to meet their legitimate aspirations.
- India has always been sympathetic to the suffering of the Sri Lankan Tamils, particularly following the anti-Tamil violence unleashed on the Tamils living in the various Sinhalese areas at the start of the civil war in 1983, when many thousands of Tamils were forced to seek refuge in India and in many other countries across the world.

India has undertaken many initiatives to try and resolve the Sri Lankan conflict including the Thimpu, Bhutan conference in 1985, when the Tamil political leadership put forward a four-point plan:

- Recognition of the Tamils of Sri Lanka as a distinct nationality.
- Recognition of the North-East of the island as the traditional homeland of the Tamil-speaking people.
- Recognition of the right of self-determination of the Tamil nation.
- Recognition of the right of citizenship and other fundamental rights of all Tamils, who look upon the island as their country.

However, Sri Lanka rejected the proposals outlined by the Tamil political leadership and these aspirations, except for the last one, remain unfulfilled.

Parties agreed ... principle of internal self-determination ... federal structure within a united Sri Lanka.

Following the failure of this initiative, India entered into the Accord with the Sri Lankan government in July 1987.

The geopolitical situation in the region has since changed considerably following the formation of new alliances within SAARC, and initiatives to combat the growing influence of China in the Indo-Pacific region.

6. Other Negotiations Since 1987

There have been pacts and agreements before 1987, commencing from 1956, between the Sri Lankan Prime Ministers and Tamil leaders, none of which were implemented. Subsequent to the Indo-Sri Lanka Accord too there have been several failed negotiations and agreements, some of which are as follows:

6.1 Oslo Declaration, 2002

This followed a Ceasefire Agreement brokered by Norway in February 2002. This led to peace talks between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE), culminating in the Oslo Declaration, which laid down fundamental principles for a negotiated settlement to the conflict.

The parties agreed to explore a solution founded on the principle of internal self-determination in areas of historical habitation by the Tamils, recognised as the Northern and Eastern Provinces, based on a federal structure within a united Sri Lanka.

Guided by these objectives, the parties agreed to initiate discussions on substantive political issues including:

- Power sharing at central government level and between the centre and the North East region.
- Identification of the geographical region to which the agreement would apply.
- Human Rights protection.
- Political and administrative measures for implementation of the agreement.
- Public finance.
- Law and Order.

These discussions ultimately foundered over disagreements about the sharing of funds for redevelopment in Sri Lanka.

6.2 Government Proposal for “Provincial Administrative Structure”, 2003

In response to the LTTE’s demand for the establishment of an interim administration, the Sri Lankan government published its proposal on 18 July 2003 entitled ‘Provincial administrative structure for the Northern and Eastern Provinces’. The proposals envisaged a Provincial Administrative Council for the Northern and Eastern provinces consisting of members nominated by the Sri Lankan government, the LTTE and the Sri Lanka Muslim Congress (SLMC). The proposals promised adequate arrangements for the Provincial Administrative Council to participate effectively in the powers and functions exercised by the Sri Lankan government in respect of regional administration, including policy making, implementation and monitoring, rehabilitation, reconstruction, and resettlement.

6.3 Interim Self-Governing Authority (ISGA), 2003

On 31 October 2003, a proposal in response was submitted by the LTTE for an Interim Self-Governing Authority for the North-East region that would govern the North-East.

However, unexpectedly, due to division within the Sri Lankan government, the then-President Chandrika Kumaratunga dissolved Parliament; and the Norwegians suspended their participation from 14 November 2003, stating there was no

room for further peace efforts until the Sri Lankan government's leadership and political authority was clear.

President Kumaratunga was re-elected in the elections held on April 2004, but her party was in alliance with the Janata Vimukthi Peramuna (JVP) which opposed any concession to the Tamils.


6.4 Post-Tsunami Operational Management Structure (P-TOMS), 2004

President Kumaratunga recommended that peace talks continue with the assistance of Norway on the basis of the Interim Self-Governing Authority (ISGA). However, this was affected due to the natural disaster, the Tsunami that struck the island on 26 December 2004.

Following the Tsunami, a joint memorandum was signed between the LTTE and the Sri Lankan government on 24 June 2005 for the re-establishment of a Post-tsunami Operational Management Structure (P-TOMS), as requested by the international donors for the release of \$3 billion pledge as aid. It was the expectation of the donors that peace talks suspended in November 2003 would resume.

The JVP and the ultra-nationalist Buddhist monks effectively destroyed the establishment of the P-TOMS. The JVP left the ruling coalition on 16 June 2005 and filed a case in the Supreme Court on 27 June 2005 for an injunction against the P-TOMS agreement. In July 2005 the Supreme Court issued interim injunctions on key aspects of the agreement. ⁶

⁶ Wimal Weerawansa and Others v The Attorney General and the Minister of Relief and Rehabilitation, Sri Lanka Supreme Court, SC PR 228/290/05



The Court pointed out that the exercise, performance and discharge of executive power were within the powers of the President. The Court granted an interim injunction against key elements of the agreement, blocking the main power of the Regional Committee, including management of funds and powers to approve and manage projects for post tsunami relief, rehabilitation and reconstruction as these clearly were functions of the government and could not be allocated to another body.

However, the court in its decision made a number of positive statements about the importance of P-TOMS. The Court said that if the agreement is not implemented immediately, urgent humanitarian assistance could not be granted to the people in the North-East, 'who have suffered and continue to suffer, untold hardship and tragedy from the natural disaster'. Despite these statements, after Mahinda Rajapaksa was elected as President in November 2005, the Supreme Court granted an indefinite injunction against the P-TOMS and postponed the inquiry indefinitely. A large number of people affected by the tsunami in the North-East suffered as a result of the Supreme Court decision.

*President
Rajapaksa assured India that the Provincial Councils
would be granted more powers, well beyond those
contained in the Thirteenth Amendment through an
'All-Party Conference'.*

7 . Election of Mahinda Rajapaksa as President and His Assurances

President Mahinda Rajapaksa gained power on 19 November 2005 on a 12-point agreement with the JVP and Jathika Hela Urumaya (JHU). This coalition rejected the principles of the Indo-Sri Lanka Accord, the Thirteenth Amendment and the Oslo Declaration as a solution to the conflict. However, President Rajapaksa assured India that the Provincial Councils would be granted more powers, well beyond those contained in the Thirteenth Amendment through an 'All-Party Conference'.

While President Rajapaksa communicated this publicly, his actions did not lead to the implementation of the Thirteenth Amendment or devolution of any power to the Provincial Councils. In July 2006, during Rajapaksa's term of office, a legal action, in the form of a fundamental rights petition by the JVP, was filed against the merger of the Northern and Eastern provinces. The Supreme Court ruled in favour of the petitioners and the merger of the provinces was discontinued.

There was no hesitancy on the Sri Lankan government's part in disregarding India's long-term trade and other assistance to Sri Lanka or India's vital commitment in the long and difficult negotiations for a settlement to the ethnic conflict, culminating in the Accord.

President Rajapaksa then convinced the Western nations, the US, India and other countries to support a military solution to eradicate the LTTE and that "once terrorism is wiped out" a reasonable settlement to the Tamil issue, will be found by all parties within the country. Apparently regional interests of the US, Western nations and India in the Indian Ocean region necessitated bringing Sri Lanka into their own international 'orbit' by assisting President Rajapaksa to remove the LTTE from the equation.

Having achieved his objectives in eliminating the LTTE, the Sri Lankan regimes, particularly of Rajapaksas, have wilfully neglected their undertakings. The circuitous path that all Sinhalese governments took the Tamils through since independence in 1948 was clearly to undermine any devolution or sharing of power, or recognize plurality. The intention was to appease the Sinhalese Buddhist ultra-nationalists at the expense of the Tamil speaking peoples' aspirations.

No positive change will be possible unless India works with Sri Lanka to implement the Indo-Lanka accord as it was initially intended.

8. Conclusion

Following the military victory in May 2009, there has been no real attempt by the Sri Lankan regime at reconciliation or attempt to resolve the underlying causes that led to war. The Rajapaksa regime is using its military victory with the aim of bringing more and more armed and other forces to control and intimidate the Tamils in the North-East. The military has now penetrated every aspect of civilian life and the Tamil people are trapped in a militarized repressive environment.

There are no further discussions with the Tamil political leadership about implementing the Thirteenth Amendment fully or any enhanced version. Instead, the Sri Lankan government has stated its intention to repeal the Thirteenth Amendment to ensure the Tamil speaking linguistic North-East provinces are de-linked and that Sri Lanka will remain a singular unitary state.

All efforts by the Tamils since 1987 to construct an amicable solution to the conflict based on the establishment of a single administrative region in their traditional homelands of the Northern Eastern Provinces have been obstructed by the combined forces of successive Sri Lankan governments, the Buddhist clergy, the Parliament, and the Judiciary.

The experiences since 1987 have clearly demonstrated to the Tamils the need for devolution of power ensured by a third party, as echoed by Indian Prime Minister Narendra Modi in the Sri Lankan parliament. The Prime Minister emphasized the importance of “devolving more power and resources to the states” and “making them formal partners in national decision-making process” and expressed his firm belief in “corporate federalism”.

The Tamil Information Centre submits that the best hope for resolving the crisis facing the Tamil speaking people remains the creation of a unified North Eastern Province with devolved powers constitutionally entrenched and the implementation of related measures more particularly set out in the above appeal.

Tamil Information Centre

October 2021

“When we accommodate the aspirations of all sections of our society, the nation gets the strength of every individual. And, when we empower states, districts and villages, we make our country stronger and stronger.

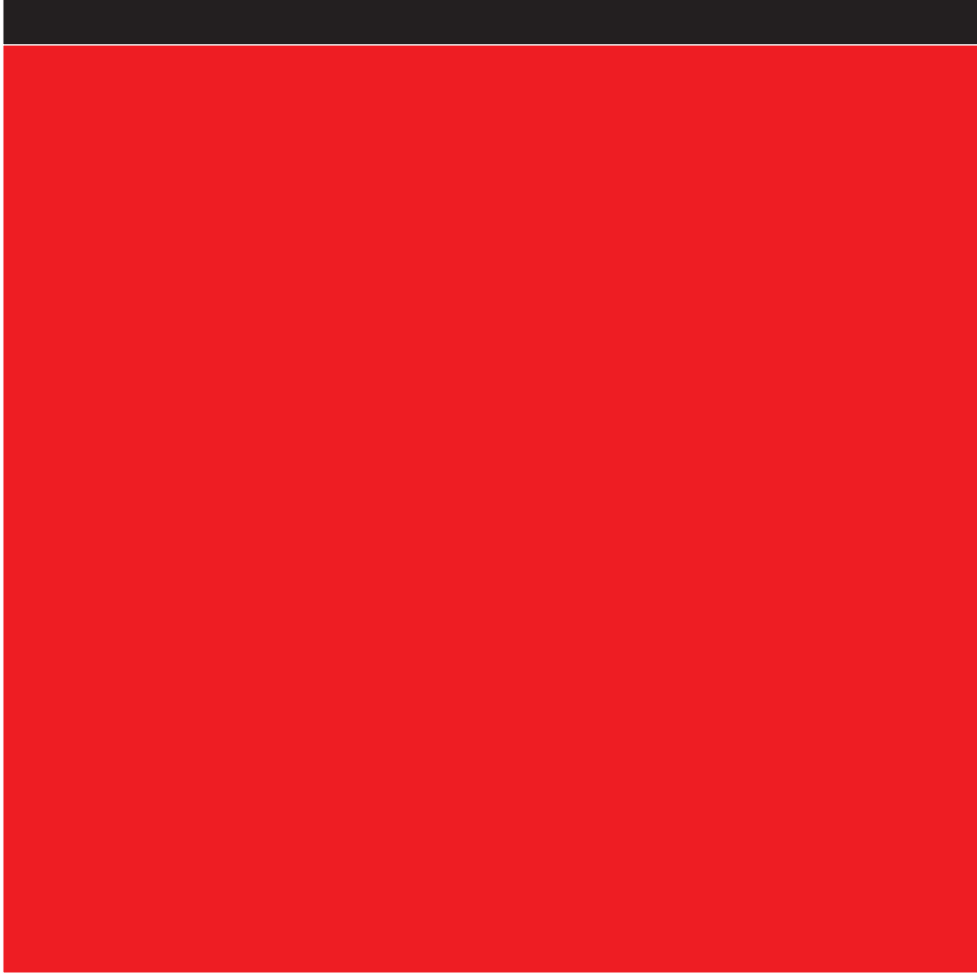
You can call this my bias. I have been a Chief Minister for 13 years; a Prime Minister for less than a year! Today, my top priority is to make the states in India stronger. **I am a firm believer in cooperative federalism. So, we are devolving more power and more resources to the states. And, we are making them formal partners in national decision making processes.”**

Honourable Narendra Modi

Address to the Sri Lankan Parliament

13 March 2015

Source: <https://www.narendramodi.in/>



Tamil Information Centre

தமிழ் தகவல் நடுவம்

Committed to Human Rights and Community



**The Crisis Faced by the Tamils of Sri Lanka
An Appeal to the Prime Minister of the Republic of India**
by Tamil Information Centre

Tamil Information Centre THULASI, Bridge End Close (Off Clifton Road), Kingston Upon Thames, Surrey, KT2 6PZ, UK.

**The Right Honourable Narendra Modi
Prime Minister of India
Prime minister's Office
South Block, Raisina Hill
New Delhi , 110011
India**