



THE INDO-SRI LANKA ACCORD AND THE 13TH  
AMENDMENT TO THE SRI LANKA CONSTITUTION

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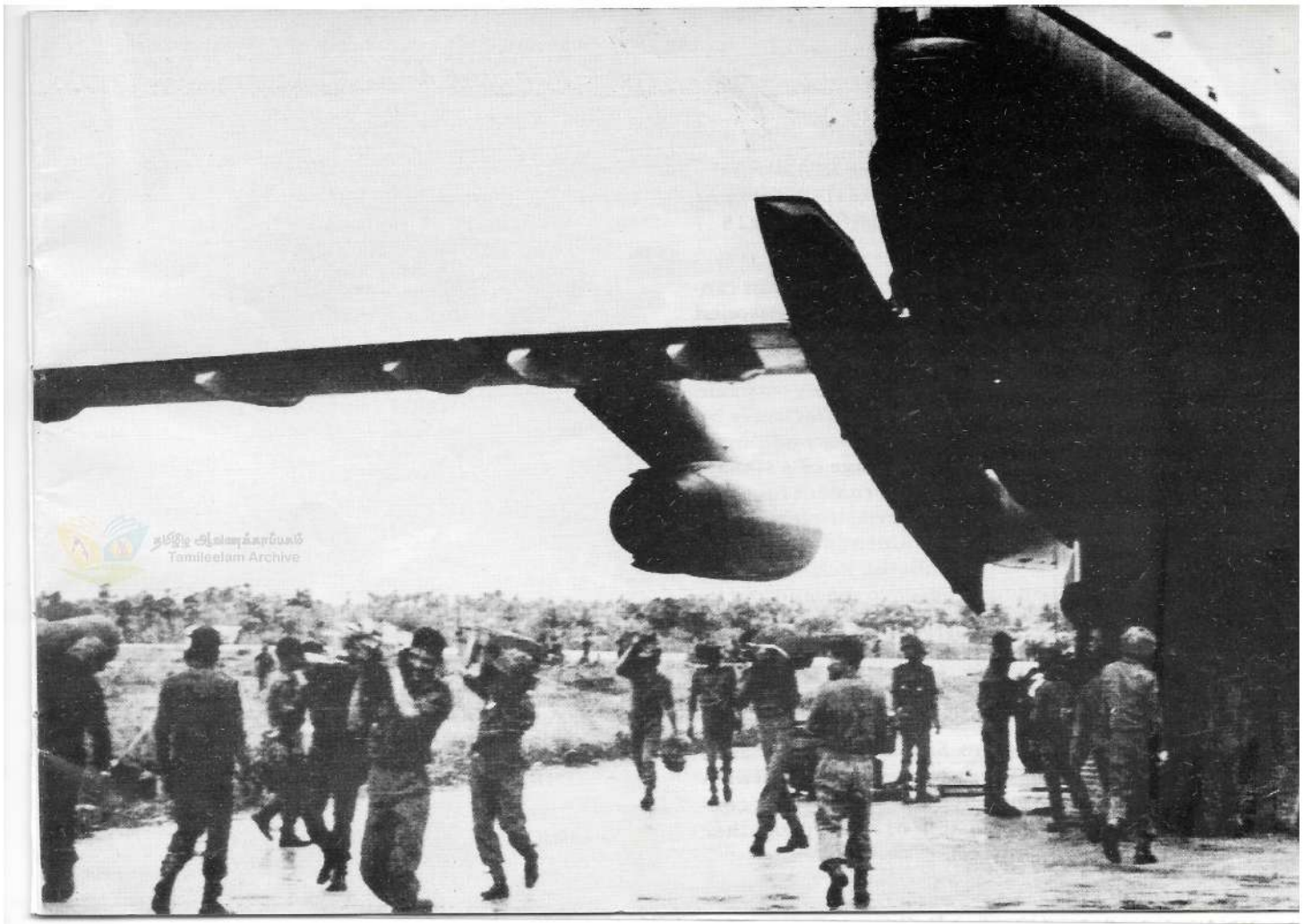
“THE SET OF PROPOSALS ENVISAGED IN THE INDO-SRI LANKA ACCORD OF THE 29TH OF JULY 1987, FOR THE SETTLEMENT OF THE TAMIL NATIONAL QUESTION HAS SERIOUS LIMITATIONS AND FALLS SHORT OF FULFILLING THE POLITICAL ASPIRATIONS OF OUR PEOPLE. HENCE WE PLEDGE TO EXTEND OUR CO-OPERATION TO THE IMPLEMENTATION OF THE ACCORD ONLY IN SO FAR AS IT UPHOLDS THE RIGHTS OF OUR PEOPLE. IT IS UNFAIR AND UNREASONABLE FOR A DEMOCRATIC COUNTRY LIKE INDIA TO DEMAND UNCONDITIONAL SUPPORT FOR THE ACCORD AT THE POINT OF A GUN.”

– VELUPILAI PIRABAKARAN, LEADER,  
AND MILITARY COMMANDER,  
LIBERATION TIGERS OF TAMIL EELAM,  
STATEMENT OF NOVEMBER 1987



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Indian armed forces arriving in Sri Lanka after the signing  
of the Indo-Sri Lanka Accord, 29 July 87



**13th AMENDMENT DENIES REASON TO  
THE TAMIL PEOPLE AND THEREFORE  
DENIES PEACE TO THE LAND AND ITS  
RULERS**

Tamil national liberation movement cannot be snuffed out. It can be reasoned with. The 13th Amendment, however, seeks to create a Constitutional frame within which the Sinhala people may rule the Tamils of Eelam more effectively by creating and nurturing a class of Tamils dependent on the patronage of a Sinhala dominated Central Government for their political and perhaps, even their physical survival. The 12th Amendment denies reason to the Tamils of Eelam – and it therefore denies peace to the land and its rulers. Because to seek peace without securing justice, is but to chase an ever receding mirage. And so, not surprisingly, a year after the enactment of the 13th Amendment, 'peace and normalcy' has yet to return to Sri Lanka. But reason denied will nevertheless prevail and then the 13th Amendment will find itself consigned to the dustbin of history together with its architects.

Atrocities committed by the so-called Indian peace-keeping forces, published in "India Today"







**EXTRACTS FROM A STATEMENT  
OF THE POLITICAL COMMITTEE  
OF THE LIBERATION TIGERS OF  
TAMIL EELAM MADE AT THE  
INTERNATIONAL TAMIL  
CONFERENCE HELD IN LONDON  
ON 30th APRIL AND 1st MAY  
1988**

... The euphoria and high hopes that were displayed when the Indo-Sri Lanka Accord was signed in July 1987 have all but disappeared. What prevails now is gloom and hopelessness because the Accord has brought violence and misery, instead of the promised peace, harmony and happiness. The Accord failed because it failed to grasp the basic elements of the Tamil national question. The Tamil liberation struggle is concerned with the fundamental political rights of a nation of people. And by any and every test, the Eelam Tamils constitute a distinct nation. We are a people with a homeland, a historical habitation with a well defined territory, a unique culture and tradition, a rich language, and a distinct history which extends to pre-historic times. Our

struggle for self determination arose as a consequence of state repression, terror and genocide, as a consequence of the rejection by successive chauvinistic Sinhala regimes of our reasoned demand for federal autonomy, and as a consequence of the ever growing conflict between the Tamil nation and the Sinhala nation, which made coexistence within the framework of a unitary constitution intolerable and impossible. And our struggle transformed itself into an armed struggle when our people were presented with no other way of defending themselves against a continuing Sinhala state terrorism. As the liberation movement of our people, we have been fighting an armed struggle for the last twelve years, to gain our right to self determination. Over a thousand of our freedom fighters have laid down their lives so that their brothers and sisters may live in equality and freedom. Our people have faced immense suffering and more than twenty thousand civilians have lost their lives. But distress has bound us together and thus united we, as a people, have found our strength. Ours is a national liberation struggle, a struggle for freedom to shape our political destiny. But the Indo-Sri Lanka Accord rejects the fundamental



political demands of the Tamil national struggle – demands which were proclaimed at the Thimpu talks in 1985 and which gave expression to the unanimous will of the Tamil people viz. the demand for the recognition of our homeland, the demand for the recognition of our people as a nationality, and the demand for the recognition of our people's right to self-determination. The 13th Amendment and the Provincial Councils Act which the Sri Lankan Parliament has passed to give effect to the Indo Sri Lanka Accord, fail to address the specific grievances of the Tamil people. Instead, these laws propose the creation of an island wide administrative structure rigidly controlled by the centre. The Government of India appears to be concerned only with securing her immediate geo-political interests in the Indian region. And the Government of Sri Lanka is concerned only with the destruction of the Tamil freedom struggle. The Tamil people have become the unfortunate victims of the geo-political interests of a regional super power and the chauvinism of a racist Sinhala state. And it is because of our earnest and genuine commitment to the cause of our people that we stand today in conflict with both the Indian Government and the

Sri Lankan Government. It is this conflict of interests which has exploded into war. This war undertaken by India against our liberation movement commenced in October 1987 and continues to the present day. The real objective of this massive military exercise by the 4th largest army in the world, is to terrorise the Tamil people and to impose upon them – against their will – a defective political arrangement. Morally and spiritually we are opposed to this war because we regard the people of India as our friends. As a revolutionary liberation movement committed to an anti-imperialist policy, we recognise India's security concerns in the region and support her cardinal foreign policy of making the Indian Ocean a zone of peace, free from the interference of extra-territorial powers. We do not seek a conflictual relationship with India. But this war has been imposed on us against our will. We are fighting to defend ourselves against a formidable military machine which is determined to wipe us out. Whilst fighting a defensive war against severe odds, we seek to impress upon the Government of India that the will and determination of the Tamil people cannot be crushed by military power however formidable it may be.






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**And we remain confident that the land of Mahatma Gandhi will recognise that reason denied will nevertheless prevail and that the principles enunciated at Thimpu constitute the only rational basis for a permanent solution to the Tamil national question. The future direction of our struggle is contingent upon the actions and responses of the Government of India and the LTTE will continue the struggle in the forms and modes that are suited to concrete conditions and historical necessities but always with a view to advancing the cause of our people – a cause for which many thousands of our brothers and sisters have given their lives . . .”**



**“The fate of the Tamils in Sri Lanka remains a matter of international concern” –  
INTERNATIONAL COMMISSION OF  
JURISTS REPORT, 1981**

**“The Tamil demand for a separate state is predicated on the conviction that as an identifiable people with a defined terri-**

**tory, they are entitled to self determination under international law . . .** Articles 1 of both the Civil and Political Covenant and the Economic, Social and Cultural Covenant provide that ‘All peoples have the right to self determination. By virtue of the right they freely determine their political status and freely pursue their economic, social and cultural development’ . . . The Tamils could be considered to be a ‘people’. They have a distinct language, culture, a separate religious identity from the majority of the population, and to an extent, a defined territory . . . **The application of the principle of self determination in concrete cases is difficult. It seems, nevertheless, that a credible argument can be made that the Tamil community in Sri Lanka is entitled to self determination. . . .** What is essential is that the political status of the ‘people’ should be freely determined by the ‘people’ themselves . . . **The fate of the Tamils in Sri Lanka remains a matter of international concern.**”

**Professor Virginia Leary, Report of a Mission to Sri Lanka in July-August 1981 on behalf of the International Commission of Jurists.**

LTTE Women guerrillas after successful destruction of Indian tank, October 1987





**THE THIMPU DECLARATION:  
THE JOINT, UNANIMOUS AND  
REASONED WILL OF THE TAMIL  
PEOPLE**

At Thimpu in Bhutan, in July 1985, during negotiations with accredited representatives of the Sri Lankan government, the Liberation Tigers of Tamil Eelam and all other Tamil political organisations, expressed the joint and unanimous will of the Tamil people and declared:

“It is our considered view that any meaningful solution to the Tamil national question must be based on the following four cardinal principles:-

**1. recognition of the Tamils of  
Ceylon as a nation**

- 2. recognition of the existence of an identified homeland for the Tamils in Ceylon**
- 3. recognition of the right of self determination of the Tamil nation**
- 4. recognition of the right to citizenship and the fundamental rights of all Tamils in Ceylon.”**

“Different countries have fashioned different systems of governments to give effect to those principles. We have demanded and struggled for an independent Tamil state as the answer to this problem arising out of the denial of the basic rights of our people . . . However, in view of our earnest desire for peace, we are prepared to give consideration to any set of proposals, in keeping with the above mentioned principles, that the Sri Lankan government may place before us.”

**THE INDO-SRI LANKA ACCORD  
AND THE THIRTEENTH  
AMENDMENT TO THE SRI LANKA  
CONSTITUTION**

DEVOLUTION OF POWER OR  
CONSTITUTIONAL SCRIPT FOR  
COMIC OPERA?

by *Nadesan Satyendra*

One year ago, on the 29th of July 1987, Prime Minister Rajiv Gandhi of India and President J.R. Jayawardene of Sri Lanka signed the Indo-Sri Lanka Accord with the stated objective of bringing 'peace and normalcy' to Sri Lanka. Sometime thereafter, in August 1987, the Sri Lankan Parliament passed the 13th Amendment to the Constitution as well as the ancillary Provincial Councils Act declaring that the enactment of these laws fulfilled the promises made in the Accord to 'devolve power' on the Tamil people. The Liberation Tigers of Tamil Eelam, who were recognised as 'combatants' by the Accord, and who had emerged as the true leaders of the Tamil national struggle, rejected the basic provisions of the 13th Amendment. And on the 10th of October 1987, the so called Indian Peace Keeping Force, which had arrived in Sri Lanka 'to keep the peace' launched a widespread and indiscriminate attack on the Tamil people with the

objective of bending them to the will of the Indian Government. This offensive against the Tamils of Eelam continues to the present day and a reward of one million rupees has been offered for the capture of Velupillai Prabhakaran, the leader of the Liberation Tigers of Tamil Eelam, dead or alive. At the same time the Indian Government has sought to 'persuade' the LTTE to surrender their arms, and enter the electoral process by participating in elections for Provincial Councils established under the 13th Amendment. But the 13th Amendment fails to devolve power on the Tamil people – instead the Chief Minister and the Provincial Council provide light comedy relief in a constitutional comic opera, where real power will lie in the hands of a Provincial Governor appointed by a Sinhala President, and holding office 'during his pleasure'. The 13th Amendment offers the Tamil people form without content. It denies reason to the Tamil people – and it therefore denies peace to the land and its rulers. Because to seek peace without securing justice is but to chase an ever receding mirage. And so, not surprisingly, one year after the signing of the Indo-Sri Lanka Accord, 'peace and normalcy' has yet to return to Sri Lanka. But, reason denied will nevertheless prevail and then the 13th Amendment will find itself consigned to the dustbin of history together with its architects.



**CONSTITUTIONAL TRINITY OF  
MARVELS: GOVERNOR, CHIEF  
MINISTER, AND PROVINCIAL COUNCIL**

**It is difficult to discuss the provisions of the 13th Amendment to the Sri Lanka Constitution seriously – they are so impossibly burlesque and farcical. Yet, they have a serious aspect. They show that Sinhala despotism, like all despotisms in the same predicament, has made the time honoured, ineffectual effort to evade a settlement of the real question by throwing belated and unacceptable sops to Demogorgon. And so let us take one by one the precious and inestimable boons granted to the Tamil people by the 13th Amendment. The boons are three in number, a trinity of marvels: a Provincial Governor, a Provincial Board of Ministers with a Chief Minister, and a Provincial Council.**

**HEADED BY A PROVINCIAL GOVERNOR  
APPOINTED BY THE PRESIDENT AND  
HOLDING OFFICE AT HIS PLEASURE.**

**At the head of this constitutional trinity stands the Provincial Governor.** And who will select and ordain him? Who else, but the President of Sri Lanka. Under the Sri Lankan Constitution executive power is vested in the

President. Accordingly, the 13th Amendment provides that in relation to provincial matters, executive power will be exercised by a Governor appointed by the President, holding office 'during the pleasure' of the President, and who will be the faithful and loyal servant of the President. And it is the Governor who is empowered to appoint, dismiss and control the Provincial public service. And, who will control the purse? The amount of moneys that will be made available for the province will be determined by the President, in so far as Central Government grants are concerned and by the Governor, in so far as provincial taxes and levies are concerned. But that is not all. The custody of the Provincial Fund, the payment of moneys into the Fund and all other connected matters shall be regulated by rules made by the Provincial Governor. And finally, no moneys may be expended from the Provincial Fund except on the recommendation of the Governor!

And perhaps, not surprisingly, in May 1988, two long standing Sinhala members of the ruling party who had served as Ministers in the Sri Lankan Cabinet resigned their offices and gratefully accepted appointment as Governors of the North Western and Uva Provinces, so that they may serve the President 'during his pleasure'. And in June 1988, a Tamil who had served the Government of Sri Lanka with ex-





emplary loyalty and acceptance as its Chief Justice for the past few years, was selected and appointed by the President as the Governor of the Western Province – a Province which has a Sinhala majority. It was an appointment which was, amongst other things, presumably intended to pave the way for the appointment of a Sinhala Governor for a Tamil Province. **And, of course, it is always possible that the Sri Lankan government, in a moment of great daring, may even consider it safe to appoint a Tamil as a Governor for a Tamil Province – so long, that is, that such Tamil will serve faithfully and loyally ‘during the pleasure’ of the President. After all, there should be no better way of governing the Tamil people than through a Tamil Governor appointed by, and holding office during the pleasure of, a ‘Sinhala President!’**

#### **WITH A COMIC OPERA ROLE FOR THE CHIEF MINISTER**

**But if the 13th Amendment secures that executive power in relation to provincial matters shall be exercised by a Governor appointed by the President and holding office at his pleasure, and that such Governor may exercise power through a provincial public service which is subor-**

**dinate to him, and that such Governor shall control the Provincial Finance Fund, what then, is the role of the Board of Ministers and the Chief Minister? And it is here that the comic opera nature of the constitutional script begins to unfold. A comic opera after all needs some of its participants to provide light comedy relief.**

And so let us ask: what are the functions of this illustrious Chief Minister and this august body, the Board of Ministers? In the delightful phraseology of the 13th Amendment, the functions of the Chief Minister and the Board of Ministers are ‘to aid and advise’ the Provincial Governor in the exercise of HIS functions. Democracy must be seen to be done – particularly when it is in fact not done. And so, we have an executive President, who will appoint a Provincial Governor, who will be aided and advised by Ministers, who will be elected by the people. And the 13th Amendment takes care to provide that in respect of any matter on which the Constitution requires the Governor to act in his discretion, the Governor shall NOT be required to act on the advice tendered by the Chief Minister. **The Tamil national struggle has borne fruit! The Tamil people should be duly grateful that they have at last been permitted to ‘aid and advise’ their rulers. And there are**



#### **AND THE DISPOSITION OF STATE LAND**

Apart from the subject of 'police and public order', there was another which was close to the hearts of the Kings of old – and that was 'disposition of state land'. It was not only a way of making friends and influencing people – it was also a way of bringing about demographic change and managing a whole people. And **during the past several decades, successive Sinhala Governments have used their control of state land to settle traditional Tamil homelands with Sinhala colonists and thereby secure hegemony over the entirety of the Island. And so, not surprisingly, the 13th Amendment enacts that in the future as well, disposition of state land within a Province will be retained in the hands of the President and the Central Government.**

#### **A PROVINCIAL COUNCIL SUBJECT TO THE OVERRIDING WILL OF CENTRAL PARLIAMENT**

But let us not lose patience. Let us continue with our efforts to examine seriously the provisions of the 13th Amendment which have been touted as a panacea for the ills of the Tamil people. Let us turn to the third of the constitutional trinity of marvels – the Provincial Council.

The 13th Amendment grandiloquently declares that every Provincial Council may make statutes applicable to the Province with respect to the matters set out in a list referred to as 'the Provincial Council List'. In addition there is a Concurrent List which sets out matters in respect of which both the Central Parliament may legislate. And finally, a Reserved List sets out matters in respect of which only the Central Parliament can legislate and in respect of which a Provincial Council shall have no power to make statutes. But, having set up three lists, the 13th Amendment continues with its comic opera by enacting that the Central Parliament may legislate in respect of all three lists! And thereby, the legislative power conferred on a Provincial Councils List will be at all times subject to the dominant will of the Central Government.

#### **WITH MEAGRE LEGISLATIVE POWER AND WITH NO CONTROL OF FINANCE**

And as for the matters on the Provincial Council List itself, subjects such as disposition of state land, maintenance of public order, and higher education are excluded. And significantly, whilst plan implementation is a subject on the Provincial List, planning and formulation of plan implementation strategies is not on the List. The Provincial Council will be no

ern Provinces because the disposition of state land will be in the hands of a Sinhala dominated Central Government. The 13th Amendment will do nothing to prevent discrimination in admission to universities, because higher education is a subject excluded from the Provincial List.

#### **IT WILL DO NOTHING TO PREVENT ABUSE OF POLICE POWERS**

The 13th Amendment will do nothing to control the abuse of police powers because the subject of 'Police and Public Order' in the Provinces will continue to be effectively vested in a Sinhala dominated Central Government. The 13th Amendment will do nothing to prevent the operation of the Prevention of Terrorism Act whose provisions were described by the International Commission of Jurists as a 'blot on the statute book of any civilised country' because this too will be within the competence of a Sinhala dominated Central Government. The 13th Amendment will do nothing to prevent the continued operation of emergency regulations which have enabled hundreds of Tamils to be killed and their bodies disposed of without a post mortem inquiry and which regulations have been condemned by Amnesty International as an invitation to the state security forces to indulge in extra judicial killings.

#### **IT SANCTIONS VIOLATION OF THE INTERNATIONAL COVENANT OF CIVIL AND POLITICAL RIGHTS**

And the 13th Amendment will do nothing to prevent the operation of the 6th Amendment to the Constitution which, according to the International Commission of Jurists, violated the right to freedom of expression. On the contrary, the 13th Amendment will require members of the Provincial Council to take their oaths under the 6th Amendment and acquiesce in and sanction such violation. And the 13th Amendment will do nothing to energise the Tamil people to work for the rehabilitation of their homeland, because it refuses to recognise the existence of the Tamil people as a people with a homeland.

#### **13th AMENDMENT PROVIDES A CONSTITUTIONAL SCRIPT FOR A COMIC OPERA**

**The 13th Amendment pretends that the Tamil nation does not exist. And it denies to the Tamil people the right to sit as equals with the Sinhala people and determine the political structure within which the two people may live in equality.** It would seem that both the Sri Lankan Government and the Indian Government lack the strength to deal with Tamil nationalism on





equal terms. And so in their fear they hug each other and proclaim loudly that the Tamil nation does not exist. And that which they pretend not to see, continues to haunt them. **It was said of the Bourbons that they forgot nothing and learnt nothing. It would appear that those who direct the affairs of the Indian Government and the Sri Lankan Government remember nothing and learn nothing. And, if the French revolutionaries were offered cake instead of bread, the Tamils of Eelam have been offered form without content. And the right place for this truly comic Provincial Council and its board of Ministers with its comic functions, created by the 13th Amendment, is an opera by Gilbert and Sullivan and not a Tamil Eelam seething with discontent and convulsed with conflict.**



Tamil Eelam  
Liberation Front



தமிழக விடுதலைப் போராட்ட அமைப்பு  
Tamil Eelam Aikath

