

# தமிழ்த் தேசிய மக்கள் முன்னணி Tamil National People's Front

No.43, 3rd Cross Street, Jaffna

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Ms. Victoria Nuland  
Under Secretary of State for Political Affairs  
State Department  
Washington DC  
USA

Your Excellency,

**URGING USA SUPPORT FOR A FEDERAL CONSTITUTION IN SRI LANKA THAT  
RECOGNISES AND SAFEGUARDS THE TAMIL NATION AND FOR THE  
ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL TRIBUNAL TO PURSUE  
ACCOUNTABILITY.**

Your visit to Sri Lanka is arguably at a time that is most crucial in the country's history since independence from the British. It is crucial because, like at the time of independence, Sri Lanka needs to start afresh. The policies of the past 75 years in general, and the unresolved ethnic conflict in particular has led Sri Lanka to where it is today. Naturally therefore, if the future is to be substantially better, the policies have to be substantially different. The fact that the recent people's uprisings in Sri Lanka's south has consistently called for a complete "system change" underscores the realisation that business as usual is no longer an option.

One of the main causes of the ethnic conflict in Sri Lanka has been the Unitary State structure. Ever since the 13th Amendment to the Constitution of Sri Lanka was introduced, the Tamils have rejected it on the grounds that for as long as the structure of the State remains Unitary, no meaningful autonomy and self government can be achieved. 36 years after the introduction of the 13th Amendment, the situation is far worse than at the time it was introduced. There are over 30 judicial judgements from the highest courts of the country that have held that for as long as the State structure remains Unitary the Government in Colombo will be the sole repository of all powers and have specifically held against devolution.

The international community, including the US has been calling for the full implementation of the 13th Amendment as the basis for the solution to the Tamil National Question. But whenever the highest courts have been approached seeking implementation of the various provisions of the 13th Amendment the decisions of the courts have been as mentioned above. Given that the Supreme Court of Sri Lanka remains the last word on the constitution, and given that the Supreme Court's judgements have been against devolution, we respectfully submit that the way in which the 13th Amendment is practiced today is in fact the 13th Amendment being fully implemented and hence cannot be built upon.

There is an added political danger of the Tamils considering the 13th Amendment as a starting point to negotiations. Effectively it would mean that the Tamils for the first time in our history will be accepting a Unitary constitution. Such a step runs the very real risk of the Sri Lankan State taking up the legal position that since the Tamils have accepted the Unitary constitution by accepting the 13th



Amendment, there no longer remains an ethnic conflict in Sri Lanka. This once again will prevent any future negotiations on finding a solution to the ethnic conflict.

It is for these reasons that our organisation refuses to accept the 13th Amendment as even a starting point to negotiations and insists that if negotiations are to be serious and honest, the leaders of the Sinhala Nation must openly state that a solution can only be achieved by going beyond the Unitary state structure and by considering a Federal structure whilst at the same time seeking to constitutionally ensure the unity of the country.

Our organisation fervently believes in the core principles enunciated in the Thimpu principles that were pronounced unitedly by the Tamils during the talks with the Sri Lankan government under the auspices of the Government of India in 1985. Accordingly, when our organisation was asked to submit proposals to the experts committee headed by Romesh de Silva PC appointed by the Gotabaya Presidency, we submitted our proposals based on the Thimpu principles. In short, the proposals were for a Federal Structure that recognised the Sinhala Nation and the Tamil Nation along with each of its distinct sovereignties, within a United Sri Lankan state. The proposal also mentions the need for the Muslim peoples aspirations in the Northeast and the Upcountry Tamil people aspirations in Sri Lanka to be included. The proposals were completely consistent with the overwhelming electoral mandates given by the Tamils at every election for the last 75 years.

Our organisation fervently urges the US government to support the Tamil people in their rejection of any proposal within the Unitary state structure and instead support a Federal Constitution for Sri Lanka that will recognise and safeguard the Tamil Nation and will allow the realisation of the Tamil peoples inalienable right to self determination.

Along with the need to create a federal constitution to solve the ethnic conflict, accountability for the violations of International Humanitarian Laws and Human Rights Laws is fundamental for non recurrence to be ensured for the Tamil people. As victims, the Tamil people are convinced that the crimes committed against them are the worst crimes known to mankind, including the crime of Genocide. The US has been leading the international call for accountability. However the efforts have been by and large contained within the UN Human Rights Council. Eleven years since the first US sponsored resolution passing in the UNHRC has amply demonstrated that the Sri Lankan State will never deliver on accountability willingly, which makes the UNHRC an ineffective forum. It is our considered view that if ever accountability is to become a reality, it will have to be through a referral of Sri Lanka to the ICJ, the ICC, or setting up of an international ad hoc criminal tribunal.

At a time when Sri Lanka needs the support of the international community, we urge the US government to make its support conditional on the basis of our above mentioned advocacy. Thanking you.

Yours truly,



**GAJENDRAKUMAR G. PONNAMBALAM M.P.**  
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**(General Secretary, All Ceylon Tamil Congress)**