

Referendum For Tamils Seeking The Right To Self Determination

Dr Paul Newman

The author is Associate Professor of History, St. Joseph's College, Bangalore, India

Abstract

The island of Sri Lanka until 1834 was divided into three kingdoms, one Tamil kingdom of the North and East, known as the kingdom of Jaffna, the central kingdom called the Kandyan kingdom and a south western kingdom of Kotte. The British unified them and administered them until the time they gave freedom to Sri Lanka in 1948. When the British left the island, they transferred power into the hands of the majority Sinhalese who denied all the basic rights to the Tamils prompting them to take up a peaceful struggle for self-determination for thirty years and then an armed struggle for the next thirty years ending with a brutal genocide of 150,000 Tamils in 2009. One of the most workable solutions to this problem of post colonialism to assert for the right to self-determination and a referendum as per internationally accepted democratic norms for a peaceful solution to settle the Tamil issue.

Key word: Referendum, UN, Self determination, democracy, Eelam

Provisions for referendums demonstrate devotion to democracy, not to bias, discrimination or prejudice.

Justice Hugo Black¹

The primary objective of a referendum is the promotion of government by the people in their land to preserve their history, culture, traditions and more importantly exercise their political right to choose what they want.

A BRIEF BACKGROUND OF THE TAMIL PROBLEM

Sri Lanka got its independence from the British in 1948. Till 1833, the Tamils lived as an independent state with Jaffna as their capital. For administrative purposes, the British set up Colombo as their capital and unified the whole island as one country. In 1948 when the British left, power was passed on to the majority Sinhalese and since then the Tamils who are a majority in the North and East of the island have been treated like second rate citizens.

The Sri Lankan government introduced the Citizenship Act of 1948 and disenfranchised the Tamils of Indian origin. They had been living there since 1824, thus reducing the Tamil population from 33% to less than 20% and making them politically insignificant. This was followed by the SINHALA ONLY Act of 1956. A series of ethnic cleansing riots on the Tamils were carried out in 1956, 1958, 1977, 1981 and 1983.

Politically the Tamils were suppressed with the STANDARDIZATION OF EDUCATION and JOB BANK schemes which facilitated the Sinhalese. The Constitution of 1972 removed all the safeguards of the Soulbury constitution provided to the Tamils it made Sri Lanka a unitary state with Sinhala being the sole official language and Buddhism becoming the state religion. Earlier accords signed including Bandaranaike-Chelvanayakam Pact and the Dudley-Chelvanayakam pact were not implemented by the Sri Lankan

Government². These two pacts were towards establishing a Federal state where the Tamils would enjoy their rights.

Since the early 1960s, the Tamils led a very peaceful protest to secure their rights to only being subdued by harsh violence. In the early 1970s, the young Tamils who were denied admission into the Universities in the Tamil areas took up to arms to fight the injustices done to them. In 1976, the Tamil United Liberation Front (TULF), the largest Tamil political party adopted the popular Vaddukoddai resolution seeking a separate sovereign Tamil state comprising, the Tamil speaking Hindus, Muslims and Christians of the North and East of Sri Lanka.

The TULF contested the elections in 1977 on the promise of implementing the Vaddukoddai resolution and the election was taken up as a referendum by the Tamils. The TULF won a landslide in the Tamil areas with 18 seats including all the 14 seats in the North and become the principal opposition party, the first Tamil party to do so.

In 1979, the Prevention of Terrorism Act came into effect and this has been exclusively used against the Tamils till date. In 1981, the most important cultural symbol of Tamil heritage and culture, the Jaffna library was burnt down by the state sponsored mobs. In July 1983, more than 3,000 Tamils were burnt alive in marking the beginning of a Genocide which continues unabated even to this day.

The Tamils were forced to take up arms and fight for their existence in their own homeland. In 1987, the Indo-Sri Lankan Peace Accord recognized the Tamils a NATION and to merge the North and East into one state. Later, the Sri Lankan state went back on its promise and continued its genocidal war on the Tamils.

During the final course of the War in May 2009, thousands of Tamils perished and faced untold misery at the hand of the Sri Lankan armed forces. The UN Panel of Experts in 2011 estimated that 40,000 civilians may have been killed during the final phase of war. The Charles Petrie commission appointed by the UN in 2012 estimated that more than 70,000 Tamil civilians may have been killed. The Bishop of Mannar in his submission to the Government appointed Lessons Learnt and Reconciliation Commission gave details of 146,679 unaccounted Tamils. The Government has accepted that there are 89,000 war widows and 40,000 war orphans. More than 60,000 acres of Tamil land is occupied by the 99% Sinhala dominated Sri Lankan armed forces. All economic, social, cultural and political activities are controlled by the Sinhala armed forces.

Referendum- A democratic, peaceful path towards to political solution for Tamils

Referendum constitutes a purer form of democracy and expression of the will of the people than legislation by representative assembly.

Referendums have become an important part of political life in many parts of the world, both in democratic and in non-democratic countries. After the First World War, and especially after the establishment of the League of Nations, the referendum has been used to solve various territorial disputes. Also during the decolonization process in the 1950s and 1960s, the referendum has been used to legitimize the declarations of independence and the constitutions of the newly independent states³

In recent times, Nations seeking legitimacy to exercise their rights to govern themselves have conducted referendums. In 2017 the Kurds of Iraq and the Catalonians in Spain exercised this democratic right to express their Right to Self Determination.

In the case of Tamils in Eelam, the majority Sinhalese have always decided their rights, constitutional provisions as well as political representations. The Genocide of May 2009 followed by the continuing structural genocide have forced the Diaspora Tamils to look for political alternatives in a democratic and peaceful manner to resolve the political crisis faced by the near and dear ones back home for nearly seven decades.

A 1981 resolution adopted by the United States Massachusetts House of Representatives called for the restoration and reconstitution of the separate sovereign state of Tamil Eelam, supporting the right to self-determination of the Tamils of Eelam⁴

Lee Kuan Yew, the Singapore great was one person who stood for a Tamil Nation. In his words, he said, "One-man one-vote led to the domination of the Sinhalese majority over the minority Tamils who were the active and intelligent fellows who worked hard and got themselves penalized. And English was out. They were educated in English...The country [Ceylon] will never be put together again. Somebody should have told them – change the system, loosen up, or break off. And looking back, I think the Tunku was wise. (The reference is to Tunku Abdul Rahman the Malaysian Prime Minister under whose rule Singapore separated from Malaysia). I offered a loosening up of the system. He said: "Clean cut, go your way". Had we stayed in, and I look at Colombo and Ceylon, I mean changing names, sometimes maybe you deceive the gods, but I don't think you are deceiving the people who live in them. It makes no great difference to the tragedy that is being enacted. They failed because they had weak or wrong leaders"”⁵.

Though the world has sought a just political solution to the Tamil issue, the hardcore Sinhala Buddhist dominated political structure in Sri Lanka has not offered any meaningful solution to the Tamil problem. The Tamils have no similarities or bonds with the Sinhalese and its only over the last seventy odd years they have lived alongside the Sinhalese and this experiment has failed. One in every four Tamil lives as migrants or as refugees in Europe, America or Australia. Their identity is at stake, to preserve their race and heritage they must seek separation from Sri Lanka and live as they lived in the pre-British period.

In this context the UNHRC where the case of the Tamils is being discussed since 2009 must take immediate steps towards seeking a solution and should refer Sri Lanka to the UN Security Council as Sri Lanka has defied the UNHRC time and again with false and unfulfilled promises.

- UN Security Council should refer Sri Lanka to the International Criminal Court for investigation and prosecutions into war crimes, crimes against humanity and Genocide.
- Tamils should be recognized as a separate Nation
- The Right to Self Determination of the Tamils should be recognized by the International Community
- A referendum in Tamil Eelam must be conducted under the UN supervision
- International Investigation into the crime of Genocide against the Tamils must be conducted immediately
- Demilitarisation of the Tamil areas must be implemented immediately
- Release all Tamil political prisoners
- Adequate compensation must be paid to all Tamil victims

Speaking of referendum no two issues are the same, East Timor and Southern Sudan are not the same as Kashmir, Khalistan or Eelam. They are unique and each case has its own merit. Though Muslims in India are more than the Muslims in Pakistan, the wishes of the Muslim people at that time were to have a country of their own. The Chinese in Malaysia are more than the Chinese in Singapore, but Singapore was carved out of

Malaysia. When UNO was formed there were only 51 member countries, today there are 193 members. Since 1990, 26 countries have been formed and there were no Genocides in these countries to emerge as independent entities. Sikkim in India existed as an independent country till 1973, they could not survive on their own, and they joined India.

The Tamils in Sri Lanka lived independently in their geographic territories of North and East until the British brought them together with the Sinhalese for administrative convenience in 1833. When leaving the island, the British trusted the Sinhalese to treat the Tamils and other minorities as equals, that misplaced trust was proved the very same year they left when the Ceylon Citizenship Act of 1948 was enacted. Since then the Tamils have been at the receiving end. Now the question is after six and a half decades of continued animosity can the two nations coexist as a unified country, if so for how long? In this context Sri Lanka is a stand out case of a country that has failed as a multi-lingual, multi-ethnic, multi-cultural and multi-religious country, though it still boasts of being a democracy! The future of the Tamils in Sri Lanka must be decided by them not others.

¹ James V. Valtierra, 402 U.S.137,141 (1971)

² Kearney, Robert. "Ethnic Conflict and the Tamil Separatist Movement in Sri Lanka". *Asian Survey*. University of California Press. 25 (9, Sep., 1985). doi:10.1525/as.1985.25.9.01p0303g. JSTOR 2644418.

³ Butler, David; Ranney, Austin (eds.) (1994): *Referendums around the World*, McMillan, 313 Hampshire.

⁴ "Resolution of US Massachusetts House of Representatives Calling for the Restoration of the Separate Sovereign State of Tamil Eelam". *TamilNation.org*. 18 June 1981.

⁵ Fook Kwag, Han; Warren Fernandez; Sumiko Tan (1998). *Lee Kuan Yew – The Man and his Ideas*. Times Editions. ISBN 978-981-204-049-7.

