

Tamils Political Destiny: A Call for Action for a Referendum

Visuvanathan Rudrakumaran, LL.B.

Attorney-at-Law, Transnational Government of Tamil Eelam

Abstract

Following the French Revolution, in certain instances, referendums were used in lieu of conquest. During the inter-war period, referendums were also used with respect to nations/nationalists questions. Following the collapse of the Soviet Union, referendums have been proposed in various peace-settlements involving claims for self-determination. The Tamil Parliamentary leaders have also used referendums either as a statement of political aspiration and/or as a cause of action towards political resolution. In 1974, Mr. S.J.V. Chelvanayagam resigned his Parliamentary seat and called for a bi-election as a referendum on the issue of 1972 Sri Lanka Constitution. The major Tamil political party (TULF) stated that the 1977 general elections as a referendum for the establishment of an independent Tamil state. During the armed struggle which entails immense risks and sacrifices, the National Liberation Movement was perceived as the embodiment of the will of the people and was viewed as more authentic than referendum.

Following the Mullivaikal Genocide and the destruction of the de-facto Tamil state, the Tamil Diaspora has been calling for a referendum to ascertain the will of the people. Emphasizing the importance of procedural due process, the proposed referendum is not just a “yes or no” vote but provides rooms for various political resolutions. It is also believed such an action will result in greater participation by all segments of the Tamil nation and add to the legitimacy of referendum.

Since the present call for the referendum is from the bottom to the top, it is emphasized that the Tamil nation should take the initiative. In this strategy, it is envisaged after demonstrating the will of the people that through referendum only the Tamil national question can be resolved. The Tamils will be in a better position to garner international support. It is emphasized that it is a process. Given the restrictive conditions back home, the Tamil Diaspora should take the initiative. In fact, in many instances when there are restrictive conditions in homelands, Movements emerged in the Diaspora communities for the political struggle. Given the political participation opportunities in Diaspora countries it is believed that mass mobilization is a doable endeavour.

Citation

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Introduction

Holding in my heart the sacred memories of Maaveerar who through their courage and sacrifice demonstrated the will of the Tamil nation, and the Tamil nation’s political aspiration to realize their inherent right to national self-determination, I would like to share my thoughts on the idea of a Referendum.

Referendums were employed to decide the political destinies of nations and to legitimize annexations following the French Revolution and during the interwar period. However, they were not universal but selective. Following disintegration of the former Soviet Union and Yugoslavia, referendums were held to determine the political status of the constituent units or legitimize the independence of those entities. During the last two decades, in almost all peace accords, whether it be South Sudan peace accord, Good Friday Agreement, the Bougainville Peace accord, or Serbia-Montenegro Peace Accord, it was proposed that the final status of those entities would be decided through referendums.

The Eelam Tamil Parliamentary leadership also dabbled with referendum as a statement of a political position and as an instrument for a future course of action. Following the promulgation of the 1972 Constitution, late Mr. S.J.V Chelvanayagam resigned his Parliamentary seat and called for a by-election. He stated that the by-election would be a referendum on whether the Tamils accepted the new Constitution or not. The Sri Lankan government called for by-election in his electorate two years later, in 1974, in which S.J.V won the election by more than 16,000 votes – the largest majority he ever had. Then, following the 1976 Vaddukodai Resolution which called for an independent state the Tamil United Liberation Front (TULF) called the 1977 general election as a referendum on the issue of an independent Tamil state. The Tamil people considered it as a referendum for an independent state and gave an overwhelming Mandate.

Due to the failure of Parliamentary politics resultant of the fact that, in Sri Lanka, the numerical minority always constituted a political minority due to pervasive racism, coupled with the military aggression, the Tamil political campaign evolved into an armed struggle for self-determination, self-defense and self-help. As Justice Ammon of the International Court of Justice stated in the Western Sahara case, since a liberation struggle was undertaken with multiple risks and immense sacrifice, what entails was more decisive, sincere and authentic than a referendum. Thus, during the armed struggle, since the LTTE embodied the will of the people, a call for referendum did not arise. Nor does the ISGA contain any provision for holding a referendum.

In 2009, when the *de facto* state was destroyed, when guns were silenced, a new mode of struggle emerged. The TGTE is the embodiment of that new *modus operandi*. In 2012 in an interview to the Sunday Leader, as the Prime Minister of the TGTE, I called for a referendum with the participation of the Tamils in the homeland and the Tamil diaspora to resolve the Tamil National question. In December 2014, during the TGTE Parliamentary sitting, we passed a resolution calling upon the international community to conduct a referendum among the Tamils living in the island and the Tamil diaspora for them to exercise their freedom to determine their political future, including an option for independent state, to resolve the Tamil National question. Following the resolution, in 2015, we launched a campaign titled 'Yes to Referendum'.

In 2017, we witnessed the Kurdistan referendum and the Catalan Independence referendum. What is remarkable in these referendums was that they were undertaken by the people themselves, in the face of opposition coming from the very states from which they wished to secede and from the international and regional powers. It is true that presently there are dark clouds over those referendums, and we should not be surprised about that. These referendums are not one-time events. They are part of a process. We do not expect to have a referendum today and get recognition tomorrow. We are fully cognizant of the fact that it is a process. The Kurdistan and the Catalan referendums give us inspiration and confidence. Thus coming on the heels of these referendums, we decided to take our referendum campaign more aggressively and have re-launched it with the slogan "Tamils Political Destiny is in Tamils Hands."

I also have to point out that the present government of Sri Lanka is also talking about a referendum for their new constitution, provided it ever sees the light of day. Their referendum is for entire Sri Lanka. Our proposed referendum is for the Tamil speaking people alone. Their proposed referendum is similar to the Hitler's referendum conducted in Germany and Austria to legitimize the annexation of the latter. Our proposed referendum is similar to the referendum held in South Sudan and the one proposed in Northern Ireland.

Our proposed referendum is not just a yes or no vote for an independent state. As elaborated by us in the 2014 December resolution, the referendum will contain all viable options including an independent state. Our position to have more than one option on the ballot paper is consistent with international law and practice. The UN GA Resolutions do not only call for independence but also for independence, integration or any other political status desired by the people. For instance, UN General Assembly Resolution 1541 states that "A Non-Self Governing Territory can be said to have reached a full measure of self-government by (a) Emergence as a sovereign State; (b) Free association with an independent State; or (c) Integration with an independent State." Similarly, General Assembly Resolution 2625 which is considered as customary international law states: "The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right to self-determination by that people." Along these lines, with; we are in a position to respect to the proposed Referendum in Western Sahara by the UN, it is stated in the Report of the UN Secretary General that the population would be entitled to opt for continued integration, for independence, or for a continuation of the interim autonomy settlement that was to apply over the period of four to five years. We also believe procedural due process is more important than substantive due process in these matters. In this regard, it is worth noting that the 2016 Brexit referendum in the UK was criticized in some quarters for limiting itself to only two options. Moreover, we believe by having more than one option, namely independence, we can involve all segments of the Tamil nation including those who do not call for an independent state and thereby give more legitimacy to this exercise.

We hear questions and murmurs that this is not a doable proposition, or that the UN is not going to sponsor it or that the Sri Lankan government will not allow Tamils in the island to participate and so on. Our response to these doubts has been that, firstly, we are not proposing to have a referendum tomorrow. For the international / regional powers to support a referendum, we must first demonstrate that this is what we want. Secondly, it is a truism that nothing is permanent in international relations. For example, in 1991 the US opposed the Ukraine referendum and called it as suicidal nationalism. Today, US is the main defendant of Ukraine independence. Thirdly, it is not our suggestion that we should sit idle and wait for the change of minds to happen. We are going to have to work to create that change. There is space in the present international order and in internal law for non-state actors like us to create that change. The duplicity of Sri Lanka with respect to transitional justice and the growing geo-political importance of the Indian Ocean and the strategic location of Tamil Eelam in it should serve us as the political opportunities we need to effect the desired change.

Since transitional justice and geo-political dynamics are primarily global phenomena, we the diaspora have the work cut out for us. Moreover, we have access to opportunity structures in the countries where we reside. We live in an open political space, unlike in Sri Lanka; we are in a position to influence the policy makers and opinion makers invoke universal jurisdiction. We take our political destiny in our own hand. The logical conclusion of all this becomes one of “If not us, then who? If not now, then when?”

I like to end my remarks with a line I caught from the late Mr V Navaratnam, who in 1969 founded the Tamils Suyaadchchi Kazahagam (Tamil Self Rule Party) and campaigned for Tamil self-rule and independence. In his book ‘The Fall and Rise of the Tamil Nation’ (1995) Mr Navaratanm revitalized a line attributed to Thomas Paine in 1791 in connection with the French Revolution: For a nation to be free it is sufficient that she wills it!

Tamils destiny is in Tamils’ hands.

The Thirst of Tamils is Tamil Eelam.