



On the 60th Anniversary of the Universal Declaration of Human Rights

It is this lesson of history that the Universal Declaration of Human Rights set out to teach sixty years ago after the 'untold sorrow' of two world wars - the lesson that 'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world' and the lesson that 'if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law'.



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It was sixty years ago on 10 December 1948 that the United Nations General Assembly adopted the Universal Declaration of Human Rights. It was also sixty years ago, on 4 February 1948, that the British ended their colonial rule of the island of Ceylon (Sri Lanka as it is now known) and handed over power to a permanent Sinhala majority within the confines of a single unitary state.

And for the people of Tamil Eelam in the island of Ceylon, it was also sixty years ago that British colonialism was replaced by Sinhala colonialism.

The facts are incontrovertible. Ceylon, was ceded to the British Crown in 1802 by the Treaty of Amiens. The map of Ceylon attached to the Treaty of Amiens called the Arrow Smith Map of Ceylon depicted the Island of Ceylon as two (if not three) different countries - a Tamil country composed of the Northeast and a Sinhala country composed of the South West and central parts.

In an oft quoted minute, Sir Hugh Cleghorn wrote in June 1799 to the UK Government : "Two different nations from a very ancient period have divided between them the possession of the Island. First the Singhalese, inhabiting the interior of the country in its Southern and Western parts, and secondly the Malabars who possess the Northern and Eastern Districts. These two nations differ entirely in their religion, language and manners." (Malabar meaning Tamil).

The Cleghorn Minute of 1799 and the Arrow Smith Map of 1802 are proof enough that the Island of Ceylon consisted of two separate countries. It was in 1833 that for the first time, the British unified the administration of the island of Ceylon.

The people of Tamil Eelam are a Fourth World nation - a nation without an internationally recognised state. The Tamil people, like many other peoples of the Fourth World, have often turned to the growing body of international human rights law and humanitarian law, and to non governmental organisations for support in their struggle for freedom from alien Sinhala rule. Again, hundreds of thousands of Tamils have fled the land of their birth, sought political asylum and turned to the international refugee conventions for protection.

The 60th Anniversary of the Universal Declaration of Human Rights adopted by the United Nations General Assembly in Paris on 10 December 1948 is therefore of more than ordinary significance to the people of Tamil Eelam.

The Universal Declaration of Human Rights represented a watershed. The end of the Second World War saw the birth of the United Nations Organisation. The United Nations Charter (signed on 26 June 1945) proclaimed the determination of the United Nations 'to save succeeding generations from the scourge of war, which twice in our lifetime' had brought 'untold sorrow to mankind'. It proclaimed the need 'to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace'.

The Drafting Committee charged with preparing the necessary instruments to give effect to the UN Charter originally decided to prepare two documents: one in the form of a declaration, which would set forth general principles or standards of human rights; the other in the form of a convention, which would define specific rights and their limitations. It was the second document which eventually emerged in 1966 as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

It is also not without significance that on 9 December 1948, the day before the United Nations General Assembly adopted the Universal Declaration of Human Rights, it unanimously adopted the Convention on the Prevention and Punishment of the Crime of Genocide.

The preamble to the Universal Declaration of Human Rights declared in ringing tones that 'it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law' and further that member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of not only 'human rights' but also 'fundamental freedoms'.

For the people of Tamil Eelam, the 60th Anniversary of Universal Declaration of Human Rights is a painful reminder of the gap between

the words and deeds of the member states of the United Nations - a gap made all too visible by their responses to Sinhala Sri Lanka's 60 year record of tyranny and oppression – a tyranny and oppression that led the people of Tamil Eelam to have recourse, as a last resort to rebellion and armed resistance, with all the suffering that that resistance entailed, and continues to entail.

The sixty year genocidal record of Sinhala Sri Lanka shows that the intent and goal of all Sinhala governments (without exception) has been to secure the island as a Sinhala Buddhist Deepa. The Sinhala Buddhist nation masquerading as a multi ethnic 'civic' 'Sri Lankan' nation set about its task of assimilation and 'cleansing' the island of the Tamils, as a people, by

- depriving a section of Eelam Tamils of their citizenship.
- declaring the Sinhala flag as the national flag,
- colonising parts of the Tamil homeland with Sinhala people,
- imposing Sinhala as the official language,
- discriminating against Tamils students seeking University admission,
- depriving Tamil language speakers of employment in the public sector,
- dishonouring agreements entered into with the Tamil parliamentary political leadership,
- refusing to recognise constitutional safeguards against discrimination,
- later removing these constitutional safeguards altogether,
- giving to themselves an autochthonous Constitution with a foremost place for Buddhism,
- and changing the name of the island itself to the Sinhala Buddhist name of Sri Lanka

When these attempts at ethnic cleansing were resisted by the Tamil people by non violent means and parliamentary struggle, Sinhala governments resorted to murderous violence in 1956, in 1958, in 1966, in 1977 and in 1983 - a murderous violence directed to terrorise the Tamils into submission.

"..Communal riots in which Tamils are killed, maimed, robbed and rendered homeless are no longer isolated episodes; they are beginning to become a pernicious habit..."(Paul Sie-

ghart: Sri Lanka-A Mounting Tragedy of Errors - Report of a Mission to Sri Lanka in January 1984 on behalf of the International Commission of Jurists and its British Section, Justice, March 1984)

"...A (Sri Lanka) government spokesman has denied that the destruction and killing of Tamils amounted to genocide. Under the Convention on the Prevention and Punishment of the Crime of Genocide, acts of murder committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such are considered as acts of genocide. The evidence points clearly to the conclusion that the violence of the Sinhala rioters on the Tamils amounted to acts of genocide..." *International Commission of Jurists Review, December 1983*

The inevitable rise of Tamil armed resistance to State terror was then met with enactment of laws which were described by the International Commission of Jurists as an 'ugly blot on the statute book of any civilised country', with arbitrary arrest and detention, torture, extra judicial killings and massacres, indiscriminate aerial bombardment and artillery shelling, wanton rape, and genocide - together with press censorship, disinformation and murder of journalists. And the impunity granted to Sinhala armed forces, paramilitary groups, goondas and Sinhala thugs, exposed the encouragement, support and direction given by successive Sri Lanka governments for the crimes committed against the Tamil people.

In August 1983, Sri Lanka enacted the infamous 6th Amendment to the Sri Lanka Constitution which which violated Article 25 of the International Covenant of Civil and Political Rights - a Convention which Sri Lanka had ratified.

"...The key to its (the 6th Amendment's) effect is paragraph (1) which runs as follows:- 'No person shall directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of a separate State within the territory of Sri Lanka'. Anyone who contravenes that provision becomes liable to the imposition of civic disability for upto 7 years, the forfei-

ture of his movable and immovable property... the loss of his passport... the right to engage in any trade or profession. In addition if he is a Member of Parliament, he loses his seat.

The freedom to express political opinions, to seek to persuade others of their merits, to seek to have them represented in Parliament, and thereafter seek Parliament to give effect to them, are all fundamental to democracy itself. These are precisely the freedoms which Article 25 (of the International Covenant of Civil and Political Rights) recognises and guarantees - and in respect of advocacy for the establishment of an independent Tamil State in Sri Lanka, those which the 6th Amendment is designed to outlaw.

It therefore appears to me plain that this enactment constitutes a clear violation by Sri Lanka of its obligations in international law under the Covenant ..." (*Paul Sieghart: Sri Lanka-A Mounting Tragedy of Errors - Report of a Mission to Sri Lanka in January 1984 on behalf of the International Commission of Jurists and its British Section, Justice, March 1984*)

In 2006 and 2007, the President Rajapakse government pursued the Sinhala assimilative agenda by reneging on the 2002 Oslo Declaration where Sri Lanka and the Liberation Tigers of Tamil Eelam, (as the representatives of the people of Tamil Eelam) had agreed "...to explore a political solution founded on the principle of internal self-determination in areas of historical habitation of the Tamil-speaking peoples, based on a federal structure within a united Sri Lanka...", by refusing to recognise the existence of the Tamil homeland, and by perpetuating a Sri Lankan state structure within which the Tamil people may continue to be ruled by a permanent Sinhala majority.

And finally in January 2008, the Sri Lanka government unilaterally abrogated the Norwegian sponsored ceasefire agreement which it had solemnly entered into in February 2002 and which agreement had received internationally recognition.

The genocidal intent of the President Rajapakse government was reflected in the war crimes committed by the Sri Lankan armed forces under

the President's command and by the Sri Lanka para military. They have raped, murdered Tamil Parliamentarians, Tamil journalists, executed Tamil students with impunity, arbitrarily arrested and detained Tamil civilians, abducted Tamil refugee workers, orchestrated attacks on Tamil civilians and Tamil shops, bombed Tamil civilian population centres and displaced thousands of Tamils from their homes.

The gross, consistent, and continuing violations of the rights of the Tamil people, by the Sri Lankan government and its agencies during the past several decades, include grave breaches of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Genocide Convention, and the Geneva Conventions relating to the humanitarian law of armed conflict.

These violations by Sri Lanka have been well documented by several human rights organisations and independent observers as well as by eye witnesses - and have been the subject of hundreds of statements and interventions at the United Nations Commission on Human Rights.

What then are the lessons of the past 60 years? The principal lesson that the people of Tamil Eelam have been taught during the past 60 years, is that international human rights law is political.

Today, some legal scholars contend that the right of self determination is a part of the jus cogens - international common law. There are others who would limit the right to self determination to sea water 'colonial situations' and they find support from those countries who abstained from voting on the UN General Assembly Declaration on the Granting of Independence to Colonial Countries and Peoples 1960, and who are now engaged in attempts to limit the legal right of self determination to those earlier colonial struggles.

Compelled to reconcile themselves with the success of the colonial struggles for freedom, these countries now propound the theory of 'internal' self determination and seek (in the name of stability) to preserve the territorial boundaries of the patch work states of the fourth world. Former colonial rulers and those to whom they had transferred state power, now find common cause in protecting existing state boundaries.

But self determination, if it is to mean anything at all, must mean exactly what it says - self determination means a people have the right to themselves freely choose their political status and that includes the right to secede, if they so choose. A people cannot be told: 'You have the right to freely choose your political status, but you may exercise it only in the way we tell you i.e. within the territorial entity of the existing state'.

The right of self determination of a people and democracy are closely interwoven. One cannot exist without the other. If democracy means rule of the people, by the people, for the people, then democracy also means that no one people may rule another. Those who would deny the right of self determination to a people deny them democracy.

And to those who ask who are a 'people' we would respond together with 14 Non Governmental Organisations (consisting of International Association of Educators for World Peace, International Educational Development, International Indian Treaty Council, Consejo Indico de Sud America, Comision de Deeches Homonas de El Salavador, Commission for the Defence of Human Rights in Central America, World Council of Churches, International Movement against all Forms of Discrimination and Racism, Action des Christians Pour L'Abolition de la Torture, FI-MARC, International Council of Women, American Association of Jurists, Centre Europe-Tiers Monde, Servieiv Pax Justica America Latina, Pax Romana, International League for the Rights and Liberation of Peoples, and World Christian Live Community) who declared at the UN Human Rights Commission in February 1994 -

"...A social group, which shares objective elements such as a common language and which has acquired a subjective political consciousness of oneness, by its life within a relatively well defined territory, and by its struggle against alien domination, clearly constitutes a 'people' with the right to self determination and in our view, the Tamil population of the north-east of the island are such a 'people'... The Tamil population in the North and East of the island.. have lived from ancient times within relatively well defined geographi-

cal boundaries in the north and east of the island, share an ancient heritage, a vibrant culture, and a living language which traces its origins to more than 2500 years ago... "

The right of self determination provides the framework within which democracy and human rights may flower. It is unsurprising that it is this right of self determination that finds pride of place as Article 1 in the 1966 International Covenant on Civil and Political Rights. And the lesson of the last 60 years is that there is a compelling need to attend to the words of of Yelena Bonner (widow of Andrei Sakharov) that 'the inviolability of a country's borders against invasion from the outside must be clearly separated from the right to statehood of any people within a state's borders.'

We have said that during the past 60 years, the people of Tamil Eelam have been taught that international human rights law is political. We say that because on the one hand, non governmental organisations have expressed support for the struggle of the people of Tamil Eelam for freedom from alien Sinhala rule. One such instance was when 54 Non Governmental Organisations declared in a Joint Written Statement at the UN Commission on Human Rights, 1998 -

"We are gravely concerned by the continued Sri Lanka-Tamil Eelam war and by the increasing genocidal dimension of that war as evidenced by: (a) targeting of the civilian population by the Sri Lankan forces; (b) epidemic proportions of disappearances, torture, extrajudicial killings, rape, arbitrary arrest and indefinite detention of Tamil civilians; (c) a sweeping embargo in the North and East of subsistence food and essential medicine in contravention of humanitarian law; (d) the existence of more than 850,000 displaced persons living in appalling conditions at risk now of starvation and death.

In his message to the Tamil people on National Heroes Day in November 1997, LTTE leader Mr. Velupillai Pirabaharan stated that any political solution should take into account the following four points of the Thimpu Conference of 1985 to which all Tamil political parties agreed:

1. Tamil people are a national entity and have

- a distinct language, culture and customs;
2. Tamil people have historically inhabited a contiguous territory in the North-East of Sri Lanka which is their homeland;
 3. The Tamil people have the right to decide their political destiny based on the right to self-determination of peoples;
 4. All Tamils, including the Plantation Tamils, should enjoy full rights in the island.

To contribute to resolution of the Sri Lanka-Tamil Eelam War and to provide meaningful international support to secure the aspirations of the Tamil people we urge the Commission to adopt a resolution that

1. calls on the government of Sri Lanka to withdraw all its armed forces from the Tamil homeland;
2. calls on both the government of Sri Lanka and the Liberation Tigers of Tamil Eelam to secure a political solution that allows the Tamil people to realise its right to self-determination and that establishes full human rights to all the people of Sri Lanka; and
3. appoints a Special Rapporteur with a mandate to investigate the situation and monitor a peace process. "

- Agenda Item 10 on the " Question of the violations of human rights and fundamental freedoms with particular reference to colonial and other dependent countries and territories" [E/CN.4/1998/NGO/120, 21 April 1998] signed by 1. Franciscans International 2. Worldview International Foundation 3. International Peace Bureau 4. International Association Against Torture 5. Society For Threatened People 6. International Work Group For Indigenous Affairs 7. North-South XXI 8. African Commission of Health and Human Rights Promotion 9. International Indian Treaty Council 10. International Organisation of Indigenous Resource – Development Category 11. The Saami Council 12. Federation Internationale des Journalistes Libres 13. International Right to Life 14. International League for the Rights and Liberation of Peoples 15. International Education Development 16. World Society of Victimology 17. Liberation 18. REDHRIC 19.

World Federation of Democratic Youth 20. Movement contre le Racisme et pour Amitie des Peuples 21. FEDEFAM 22. International Association of Democratic Lawyers 23. AZADHO Association de Defense de Droits de l'Homme 24. World Muslim Congress 25. World Federation of Trade Unions 26. American Association of Jurists 27. Agence des Cites Unies pour la Co-operation Nord-Sud 28. Parliamentarians for Global Action 29. Asian Women's Human Rights Council 30. International Federation of Human Rights Leagues 31. International Centre for Human Rights and Democratic Development 32. International Human Rights Association of American Minorities 33. Change 34. Commission for the Defense of Human Rights in Latin America 35. New Humanity 36. World Alliance of Reformed Churches 37. Human Rights Internet 38. Felix Varelar Centre 39. Centre for European Studies 40. International Federation of Journalists 41. General Arab Women Foundation 42. World Movement of Mothers 43. International League for Human Rights 44. Movimento Cubano per la Paz 45. International Human Rights Law Group 46. Canadian Council of Churches 47. Pax Romana 48. World Confederation of Labour 49. International Commission of Jurists 50. Arab Lawyers Union 51. World Organisation Against Torture 52. International Org for the Elimination of all forms of Racial Discrimination 53. Arab Organisation for Human Rights 54. Association for World Education

We say that international human rights law is political because though non governmental organisation have voiced their support, member States of the United Nations have not only refused to recognise the Tamil struggle for freedom from alien Sinhala rule but have actively supported Sinhala Sri Lanka's onslaught on the people of Tamil Eelam and Sinhala Sri Lanka's claim to the territorial boundaries bequeathed by the British colonial ruler sixty years ago.

"...Whilst the goal of securing peace through justice is loudly proclaimed by the international state actors, real politick leads them to deny the justice of the Tamil Eelam struggle for freedom from alien Sinhala rule. The harsh reality is that on the one hand international actors are

concerned to use the opportunity of the conflict in the island to advance each of their own strategic interests - and on the other hand, Sri Lanka seeks to use the political space created by the geo strategic triangle of US-India-China in the Indian Ocean region, to buy the support of all three for the continued rule of the people of Tamil Eelam by a permanent Sinhala majority within the confines of one state. The record shows that Sinhala Sri Lanka seeks to engage in a 'balance of power' exercise of its own by handing over parts of the island (and the surrounding seas) to India, US and China. We have India in the Trincomalee oil farm, at the same time we have a Chinese coal powered energy plant in Trincomalee; we have a Chinese project for the Hambantota port, at the same time we have the attempted naval exercises with the US from Hambantota (to contain Chinese presence in the Indian Ocean); we have the grant of preferred licenses to India for exploration of oil in the Mannar seas, at the same time we have a similar grant to China and a 'road show' for tenders from US and UK based multinational corporations; meanwhile we have the continued presence of the Voice of America installations in the island and the ten year Acquisition and Cross-Servicing Agreement (ACSA) was signed by the United States and Sri Lanka on 5 March 2007. " (*Nadesan Satyendra in International Dimensions of the Conflict in Sri Lanka - Published by Centre for Just Peace an Democracy, ISBN 3-9523172-3-3, June 2006*)

"...We have a very comprehensive relationship with Sri Lanka. In our anxiety to protect the civilians, we should not forget the strategic importance of this island to India's interests,... especially in view of attempts by countries like Pakistan and China to gain a strategic foothold in the island nation...Colombo had been told that India would look after your security requirements, provided you do not look around. We cannot have a playground of international players in our backyard." *Indian External Affairs Minister Pranab Mukherjee, 23 October 2008*

Said all this, the Tamil people continue to be mindful that reason is not without force - not least because liberal democracies themselves will have need to nurture their claimed liberal foundations and secure the support of their own peoples. Aspirations for freedom and liberty are not easily quelled. They have material force. This is the lesson of history.

"..A feeling or a thought ...the aspiration towards liberty, cannot be estimated in the terms of concrete power, in so many fighting men, so many armed police, so many guns, so many prisons, such and such laws, ukases, and executive powers. But such feelings and thoughts are more powerful than fighting men and guns and prisons and laws and ukases. Their beginnings are feeble, their end is mighty. But of despotic repression the beginnings are mighty, the end is feeble...". *Sri Aurobindo in Bande Mataram, 1907*

It is this lesson of history that the Universal Declaration of Human Rights set out to teach sixty years ago after the 'untold sorrow' of two world wars - the lesson that 'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world' and the lesson that 'if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law'. The last 60 years shows that there is a pressing need to continue to teach that lesson to the member states of the United Nations.
