

# ILANKAI TAMIL ARASU KADCHI (ITAK)

DISTRICT BRANCH, COLOMBO

## THANTHAI CHELVANAYAGAM MEMORIAL LECTURE

( to mark the 36<sup>th</sup> death anniversary of S.J.V.Chelvanayagam, Q.C.)

### on **'WHITHER SRI LANKAN TAMILS'**

on 26/04/2013 FRIDAY at 5.30 P .M.

AT NEW KATHIRESAN HALL, GALLE ROAD, BAMBALAPITIYA COLOMBO 4

**Ajnaana Timiraamdhasya Gnaanaanjana Shalaakayaa**

**Chakshuru Miilitam Yena Tasmai Shrii Gurave Namah**

### **Honourable Chairman, Distinguished Members of the Diplomatic Corps, Honourable Parliamentarians, my dear Brothers and Sisters!**

Recently, I was called upon on different occasions to address different groups of the legal fraternity. The present period, as you know, is the most perilous in the history of our justice system, and to date the crisis remains unresolved. The future of an independent judicial system seems bleak, and despite the immense courage shown by some of its members, the community seems to feel despondent and desolate.

Delivering an Oration on the topic of "Whither Sri Lankan Tamils?" today, I address a community that is in an exponentially worse situation. The precarious position in which

the Tamil speaking community is placed today is highlighted by the aftermath of my recent speeches.

Whilst many had sent me messages of congratulations on the occasion of one of my speeches, a State sponsored Newspaper thought it fit to print the most unprofessional epithets. Worse still, the newspaper had no compunction in casting Chief Justice Shirani Bandaranaike and the speaker today as essentially LTTE proxies. A tenuous link was drawn to cast a discourse on judicial independence as an “Eelam Project” thus seeking to demonise the entire discourse. If the legal community cannot escape being cast as LTTE proxies for pointing out severe shortcomings in the working of the judicial system, what hope does the Tamil community have? Is it possible for Tamils to discuss frankly the problems faced by them without being labeled as LTTE?

The habit of this type of labeling reminds me of a passage in Animal Farm. Even though Snowflake had been driven out of the farm, his spectre was raised whenever convenient. As Orwell narrates

He stole the corn, he upset the milk-pails, he broke the eggs, he trampled the seedbeds, he gnawed the bark off the fruit trees. Whenever anything went wrong it became usual to attribute it to Snowball. If a window was broken or a drain was blocked up, someone was certain to say

that Snowball had come in the night and done it, and when the key of the store-shed was lost, the whole farm was convinced that Snowball had thrown it down the well. Curiously enough, they went on believing this even after the mislaid key was found under a sack of meal. The cows declared unanimously that Snowball crept into their stalls and milked them in their sleep. The rats, which had been troublesome that winter, were also said to be in league with Snowball.

This is typical in any sort of fascist society. The tactic is simple – you identify a vilified group and attribute all ills to it. As the regime is against that group, any voice of dissent must be in league with that vilified group - or so the logic runs.

Therefore let me start this lecture by stating initially that Tamils were discriminated and victimised almost from the beginning of the last century, long before the phrase Liberation Tigers of Tamil Eelam was ever coined and long before its leader saw the light of day. Those belonging to the majority community of this Country must not fall for this diabolical habit of referring to all who profess minority rights as LTTEers or LTTE sympathizers. The term LTTE has become the bogey man behind whom many cover up their naked aggression and dictatorial demeanour. I do understand it as a ploy adopted to silence minorities from

articulating their miseries and misgivings. But the pernicious tendency must be done away with.

It must be remembered that none of us have condoned violence of any sort whether it be by the State sponsored hoodlums, the Military forces or by youngsters of whichever community. At most we have stated that the violence of the youth among the minorities as well as the down trodden among the Sinhalese, have been direct results of the violence of the State and its handmaids, its discriminations and diabolical deportment. Identifying the cause of a reaction is not the same as espousing such reactionary behaviour.

It is useful to bear in mind the causes for our recent unfortunate history. The members of the majority community must not forget the pogroms and riots of the past against the minorities directly referable to State sponsorship. They should not forget the loss of nearly a lakh of books, including rare manuscripts that were offered as oblations to the Fire God in one night, with a senior Cabinet Minister staying a stone's throw away from the Jaffna Library, at that time said to be the best Library in the Eastern Hemisphere. Let them not forget or ignore the hardships Muslims are today put into, thanks to the lethargy and indifference of the Police Force and powers that be who could have prevented such hardships if they so desired.

Before dealing with “Whither Sri Lankan Tamils” let me start with “Whence Sri Lankan Tamils”.

We Sri Lankan Tamils, it must be noted, were never a minority. We were made a minority. It is not essential to go into the question of whether Tamils were here a thousand years ago, two thousand years ago or were the original inhabitants. The recent revisionist historians should note that, as recently as ninety years ago, the then Sinhalese leaders Sir James Peiris and E.J.Samarawickreme having promised Sir Ponnambalam Arunachalam, that they would support the demand for a Tamil Seat for the City of Colombo, repudiated their pledge after winning the election. They directed the Sinhalese Electorates created under the 1921 Constitution, drafted almost entirely by Sir P. Arunachalam, to nominate only Sinhalese candidates for election. The ground on which they objected to the provision of any safeguards for the Tamils, was that (I quote) **“the Tamils like the Sinhalese and unlike any other people of the Island were in themselves a majority community and as such had no reason to be classed with the minorities nor to stand in need of any safeguards”**.(Unquote). This gives credence to the fact that “the Sri Lankan Tamils far from being a minority have from remote ages been and continued to be a full blooded majority in their ancient homelands where their own kings and potentates had held unquestioned sway”. Mr.M.Vythilingam, former Principal of Hindu College, Chavakachcheri states in his

Book entitled “The Life of Sir Ponnambalam Ramanathan” at page 534 of Volume II published in 1977 as follows – “ **It was when the evil genius of a foreign conqueror subdued the whole Island with its separate and sovereign people , pulled down age-old national frontiers and for no other reason than his own ‘supervisory convenience’ made the Island a single political and administrative unit, that the Tamils became a minority in the conglomerate mass of the Island’s population”.**

The Tamils of the North under the leadership of Hon’Sabapathy were reluctant to accept Territorial representation under the British, preferring the Community based representation, for fear that in a unified Ceylon due to the excess of Sinhalese held Territories, the latter would outnumber others and Laws detrimental to the minorities would be passed. It was Sir P.Arunachalam who spoke to Hon’ Sabapathy and convinced him that Territorial Representation would not be detrimental to the Tamils since the Sinhalese leaders had solemnly promised him a Seat for the Tamils in Colombo to prove their goodwill and genuineness towards the creation of a truly National State of Ceylon. But once the Sinhalese leaders got the consent of the Tamil leaders for the passing of Territorial Representation *vis-à-vis* the 1921 Constitution, they went back on their words. This trait of the Political Leaders has been visible right throughout the last ninety years. The non-implementation of the

Thirteenth Amendment to the Constitution, whether beneficial or not as far as the Tamils are concerned, is hardly surprising when it is viewed in the context of the abrogation of the Bandaranaike-Chelvanayagam Pact and the abrogation of the Dudley Senanayake- Chelvanayagam Pact. Unfortunately the political leaders of the majority community have declined to forego the advantage they obtained by the passing of the 1921 Constitution which gave them the whip hand against the minorities. In recent times having got the help of various countries, mainly India, to overcome the insurgency of the Tamil Youth, promising to solve minority problems in return, the slogan is that minorities must not ask for too much! The Muslims are the latest group of minorities taught that lesson.

So from our recent past history we perceive an important issue. The Sinhalese political leaders, having admitted the individuality of the Tamil speaking areas with their distinct culture, language, religions and defined areas of habitation, are now refuting all that since it had been possible for them to use their majority in Parliament to intrude into such areas, colonise them and in recent times to dominate all aspects of civil life of the local inhabitants through their armed battalions. This trait has been prevalent in the majority community political leaders from whichever party they come from. It is a trait in their leadership to speak with forked tongues. I am puzzled by this fact, given that the Sinhalese with whom I have lived all my life,

having been born, bred and educated in Colombo, are not given to this kind of duplicity.

But the reality of the situation today when we are examining the question “Whither Sri Lankan Tamils” is that lands traditionally owned or occupied by Tamil speaking people are being forcibly inhabited by outsiders. Many temples, churches and mosques at which local inhabitants worshipped for long periods of time have been destroyed or are in danger of being destroyed and new places of worship whose votaries are not locals but armed military men and their cohorts have been established with the might of the State. Cultural degradation and social degeneration are being surreptitiously engineered. History is being distorted to find the necessary excuses to embark upon such pre-planned adventures. New antique nomenclatures have been found for recent constructions in the North and East. Demography is consciously and continually being intermeddled with. The fundamental differences that existed between two Nations for centuries, which were appreciated and adjusted upon by and among such National Groups until recent times, are now being consciously erased and effaced to make way for a single Nation in the image of the Sinhala majority. In a Memorandum Mr.S.J.V.Chelvanayagam submitted on behalf of the Tamils to all the Delegates attending the 20<sup>th</sup> Commonwealth Conference in Sri Lanka in 1974, he referred to this tendency in the following words which appear



very relevant and topical in relation to the circumstances today too, when we are again going to host another Commonwealth Conference soon in our Country nearly forty years later. He said- **“The Sinhalese leaders have one objective of converting the bi-national, bi-lingual, multi religious state of Ceylon into a uni-national state with one Nation –the Sinhalese, a uni-lingual state with Sinhala only and with one religion Buddhism - involving genocide against the Tamils. This is substantiated by the following statement to the Press by a Cabinet Minister of the present Government and reported in the Ceylon Daily News of 27<sup>th</sup> August 1974- “In fact one of the things happening now is that many Indian Tamils who were earlier isolated are now learning Sinhala and even adopting our names and religion. This is part of the social assimilation”.** (unquote) May be nowadays Ministers are more discreet and do not openly say so. But the pernicious attempts are continuing.

The information gleaned from several reputed news sources is that 16 out of 19 Divisions of the Sri Lankan Army are stationed at present in the Northern Province. The ratio of soldiers to civilians in Vavunia is said to be 1 is to 3. Further, I am informed that Sri Lankan Military owns a Ferry Service, a 180 acre Farm, owns several Hotels and Resorts and also innumerable Restaurants and Cafes. They are in charge of Whale Watching Trips undertaken by Tourists, they run two Airlines, they

manage three Cricket Stadiums, one Golf Course among many other undertakings, which local Civilians should be involved in. It is possible that the powers that be could deny all this as they have been denying every crime committed by their armed forces or for that matter even a single civilian casualty in International Fora. Recently a Member of Parliament from the North was taken to the Fourth Floor to question him as to how he got similar such information. What cannot be denied are that a Military Man, who is not from the North, is the Governor of the Northern Province, that there is Military presence everywhere in the Northern Province even after four years almost have passed since the end of the War, and that there has been no election to the Northern Provincial Council even though promises were made that it would be held. It appears that the powers that be are reluctant to allow a democratically elected local administration to function lest the tremendous powers wielded by the Central Government presently, might get affected. It is possible that a democratically elected Provincial Council might want the recall of the Military Man from the Office of Governor and the immediate garrisoning of Troops who are interfering with the day to day life of the people of the Northern Province. Whatever the powers available to the Provincial Council under the Thirteenth Amendment might be, such a situation will not be conducive towards the Centre's Subjugation Project.

**What prevents the powers that be from granting the legitimate political and civil rights of the traditional inhabitants of the Northern Province?** I have spoken to well meaning Sinhalese to find out their point of view. They say a Sinhala majority Government fears that if you grant the Tamils their legitimate rights they would make that as a springboard for separation. The idea is to keep the Tamils well under control, commit even crimes against humanity, but nip any attempt to organise themselves into a political force. The idea is to assimilate them with the Sinhalese by colonising their areas with Sinhalese whether Civilian or Military, convert them to Buddhism by constructing Buddhist places of worship with the help of the armed might of the Military, make them learn Sinhalese and Buddhism, lure them and condition them to look upon the Sinhalese as their saviours, employ outsiders in any economic undertakings in the North and East, create dissensions among their political leaders and by many other means. The construction of carpeted roads to the North and East is said to be an auxiliary measure undertaken to help achieve such diabolical results.

In other words the very *modus operandi* adopted is what the International Covenants say should not be undertaken by States. If undertaken such activities would give the affected community the moral right to secede. Allen Buchanan in his book "Secession –The Morality of Political Divorce" (1991) at

page 154 states thus- **“ Thus to say that under certain conditions a Group’s need to protect itself from unjust threats to the existence of its members or to escape the continued perpetration of injustices against it by the State can generate a valid claim or right to territory on the part of the Group, is simply to say that circumstances have come into existence which supply adequate moral grounds for according the Group this protected freedom to control the territory. In other words, even if it were the case until now that the Group did not have a right to the territory, a sound moral case can now be made for concluding that it is permissible for the Group to exercise control over the territory and that others have a very weighty obligation to respect its efforts to do so.”**

Thus the type of activity which the State is embarking upon seems to be the very basis for a Group of people to clamour for secession and an antithesis to reconciliation and peace. This is a vicious circle, which the State does not seem to be taking into consideration, may be due to the political ambitions of individual politicians. It is therefore in the best interests of the State to grant civil and political rights in conformity with domestic and International Law relating to every Group of persons living in this Island. The very repression adopted to prevent a clamour for separation, might give rise to the International Community becoming convinced that separation is the only solution to the Group affected. The ground situation

could convince them that external self determination is to be preferred to internal self determination in the light of what they observe.

While educating the powers that be of the dangers that lie on the path they are treading it is our duty to re-examine the manner in which we should deal with the situation that has arisen.

There are those of us who believe that if you gain the confidence of the Sinhalese leaders, if you could convince them that the Tamils would not want to separate, then they would grant their legitimate rights. Is that correct? There was a time when many of the Muslim leaders from the East, including my friends M.H.M.Ashraf and Mashoor Mowlana, cut their teeth on the Federal Party platforms under the tutelage of Thanthai Chelva. But when they found that the Bandaranaike – Chelvanayagam Pact was abrogated and even the Dudley Senanayake –Chelvanayagam Pact was thrown to the winds they became convinced that discretion was the better part of valour. They did everything to please the Sinhalese leaders. They more or less distanced themselves from the Tamils. There was considerable annoyance consequently among the Tamil youngsters due to this. But did such activities help our Muslim brethren in the long run? What they are undergoing today is only too well known. The wrath of rogue elements among the

Buddhist Clergy which forced the abrogation of the Bandaranaike -Chelvanayagam Pact has now turned on the Muslims.

Thus it would be seen that ultimately it depends on how the members of the majority community view each community in relation to their day to day activities. Soon after Independence they felt the Tamils had more than their share of Government Jobs, were filling the higher educational institutions and that they were buying up lands in the South and prospering at their expense. So the first step taken mainly against the Sri Lankan Tamils was to introduce the Sinhala Only Act. The introduction of Sinhala as sole State language had its adverse effect on the continuance of Tamils in Public Service. There was exodus of those in service and intake of Tamils into Public Service became lesser and lesser not to mention the initially direct and subsequently disguised restrictions on Tamils entering Univeristy. Then as follow- through there were pogroms and riots starting from 1958 and culminating in the 1983 riots. The result was that the houses and lands of Tamils in the South were either destroyed or taken over by force by locals or abandoned or sold off for a pittance by the Tamils. There was a time when around half the paddy lands in Tissamaharama in the South were owned by Tamils. My father at that time was a Government Public Officer working in Tangalle. After the riots and pogroms the Tamils left those areas in large numbers.

Kathirgamam was a place of Hindu worship when I was a young boy where persons of other religions too came. Now most Hindus are occasional visitors to Katharagama.

Now the feeling of the members of the more vocal sections of the majority community is that the Muslims are flourishing. Hence the attack on the Muslim community. Successive Sinhalese political leaders have conveniently turned the frustrations of the Sinhala people towards successful communities, in order to deflect those frustrations targeting their mismanagement and corruption.

So you will see that the tactic of gaining the confidence of the majority community has not worked. Ultimately it is the viewpoint of the majority community at a given period of time which would prevail. When that happens there is nothing in Law to protect us. Even the Judiciary consisting of members of the majority community in large numbers sometimes allows extraneous considerations to colour its judgments.

Then there are Tamils who ask the question why not we consent to attend the Parliamentary Select Committee. I am not a member nor spokesman for the TNA in Parliament. But I fully endorse their view and share their apprehension to joining the bandwagon in a Parliamentary Select Committee. So many Committees of assorted names have burned the midnight oil to bring forth many useful suggestions to solve the Tamil Problem.

None of them have been accepted nor acted upon. All that the TNA asks if I understood them correct, is that there must be working documents to start with which take into account what had been discussed hitherto. Any discussion must proceed from the point of progress already reached. I believe the Government is reluctant to fix on any working documents in order to deliberately deny the progress already made and to start everything right from the beginning. For example after driving away the locals from certain areas in the North and East and bringing in outsiders and planting them there, the Government in a fresh round of deliberations could formulate new statistics and put forward new proposals erasing off boundaries earlier reached. It would also give the more articulate minority Sinhala parties who are dear to the current leadership an opportunity to torpedo the talks and tarry progress. But let me state this. With its two third majority in Parliament the present Government is in a powerful position to solve the problems of the Tamils legally and legitimately if only it has the will and willingness to do so. Mr.J.R.Jayewardene had that opportunity. But he preferred to aid and abet the 1983 Riots and extend the life of Parliament. This Government preferred to abolish term limits on the Presidency and do away with independent public institutions. If only half the propaganda that is expended in sustaining a Dynastic Project is



expended on educating the Sinhalese, popular support for devolution would be easily forthcoming.

There are also those among Sri Lankan Tamils who advocate the close liaison with the Diaspora Tamils to embarrass the Sinhala majority Governments in Sri Lanka. They feel they must prepare for another war. If King Walagambahu could have fought eight times to get back his kingdom they feel why not again. It was India which stood in the way of the Tamil Youth making any progress in the war and therefore if the widow of Rajiv Gandhi leaves politics or forced to leave politics, India would not be so virulent they feel. They are emboldened by the feelings presently prevailing in Tamil Nadu in South India. They hope and pray that the next Government in India would not be Congress led.

It must be understood by these people that embarrassing the Government of a Country and taking up arms against it only aggravate feelings. The death, damage and destruction caused by feelings of animosity in the recent past have been colossal. If we understand the fear, distrust and consequent hatred, feelings of insecurity and complex feelings of inferiority complex and motives of selfishness and self aggrandizement that drive the leaderships among States to act in the most brutal manner towards their brethren in the same Country, we would pity them rather than hate them. Mahatma Gandhi and

Thanthai Chelva in their days had understood this background. Hence they have in effect said - Do not hate the enemy. But do not cow down to the wrongs perpetrated by them. Even at the expense of your pain and predicament try to educate the wrongdoers of the right course of action so that they will change their views. It must be remembered that violence gives opportunity to the State to destroy the lives and properties of those seeking justice. They are able to justify their actions by referring to such violence on the part of those clamouring for justice. Therefore a path of Ahimsa and Satyagraha was recommended by them.

Hence it appears the Sri Lankan Tamils have reached a critical stage in their life where they need to assess the present situation properly. The plus point we have is the fact that International Community appears to have realised what had been taking place and more particularly what **is** taking place in Sri Lanka. They have realized the diabolical double-tongued display of those who are at the helm of affairs in this Country. But merely by Internationalising our predicament we could not possibly bring favourable results. Our agitations for internal self determination must proceed simultaneously.

But for that, our minus point is that the Tamil speaking people in Sri Lanka are disunited. We still continue to think selfishly and are bent on continuing to tread the beaten path. The path

of parochialism; the path of exclusivism; the path of separatism; the path of chauvinism; has been our way. It is time to remember that our spirit of exclusivism which relegated an inferior and insulting position to a section of our people, in its Karmic boomerang gave power and weight to individuals hailing from various stratas of our society to whip us with, in recent times. What has taken place has forced more and more of our people to leave our shores and seek solace elsewhere. The schism created in our society and its adverse effects on account of two charismatic political leaders of the past G.G. and Thanthai Chelva, even several years after their demise, had been humourous if not disgraceful. We Tamils must realize that sooner we achieve a reconciliation of our diverse views the better it is for us. Let us disagree by all means but let us not allow those disagreements to spoil our unity. This applies to the unity we maintained with the Muslims during Thanthai Chelva's time which needs to be renewed. We need them and they need us. We must accept the fact that injustice was caused to the Muslims when they were forcibly sent out of their places of residence in the North. We need to stand with the Muslims now when they are being shabbily treated by the powers that be. I am glad the leader of the TNA spoke up for the suffering Muslims recently.

What prevents unity is self oriented thinking, and the machinations of the scheming. Our people must stand firm

against not only their personal biases but also the inevitable and insidious means by which divisions would be brought upon them – they will appeal to your religion, region, caste and tempt you with bribes. But we should stand firm.

Can anyone deny the fact that it is the desire to retain their individual importance as a Party and thereby themselves that has presently given rise to differences of opinion among the constituent Parties of the TNA? While talking of Tamil rights and Tamil aspirations, retaining personal or Party benefits is what drives us. But we could learn from our past. Did the Militants who had carefully built and nurtured monuments for their dead brethren only a few years ago ever dream what might happen to them and to the monuments in a few years' time? We must realise we reap what we sow. And this is a universal principle articulated in the Holy Bible. Therefore it is my view that we must purify our means and have pure thoughts about our ends too. Tainted means would usher in tainted ends. Though the youngsters tried violence as a means for their ends it was put down by violence – may be greater violence!

Our future lies in the salvaging of what is left after the massive destruction that overtook us, and protecting them for the future. What has gone is gone. But we have got to face up to the marginalisation that is rapidly taking place -the hurried

social assimilation that is being foisted on us. We have to look at the situation in all its dimensions and perspectives and ask ourselves the question what should be our individual and collective contribution thereto. All of us, individuals or Political Parties, have a part to play. We have got to formulate a collective approach. We have to think pragmatically and strategically as to the multi dimensional approach needed. We should focus on the most vulnerable among us - those who have no homes, those who have no access to their properties and those without livelihoods. Legal challenges, despite the slim chance of success in the current environment, to illegal State ventures should be mounted. It is vital that the education of the Tamil children shackled by the so-called standardisation and brutalised by the war, are restored to its former glory. Justice for those who lost all during the war and accountability for those who caused it must be pursued. As it is clear that the State will not do anything to curb the repression and violence unleashed on all those who show dissent, these issues must be Internationalised. We should endeavour to get members of our Diaspora to contribute to the development, ensuring of course that their respective governments guarantee their security when they visit here. The revisionist history project must be countered –to do this archaeological finds must be preserved, newer methods such as DNA evidence used, careful record of current modifications maintained and formal Research Centres

established. It is imperative that we engage with the Sinhalese people and educate them about our shared history and make them aware of the injustices meted out to the Tamils. May be the publishing of English and Sinhala language daily Newspapers in the North might be an option to be pursued. But our manner of approach must be with love and understanding. We need not tread the path of combative hostility. We should make them realise that we love the red fertile sands of the North as much as they love the verdant green of the West, that we love the white sands of the East as much as they love the golden sands of the South and that the Tamil Speaking people of this country are co-owners of this land, not tenants.

Even in an atmosphere of hopelessness what could give us courage is that we are to rearrange and reassert our means in a non violent manner. We shall hold no enmity towards those who are attempting to destroy an ancient civilization and its universally acclaimed Classical Language, due to their ignorance and inability to understand life and its ways. Let us follow a path of non-violence, but firmly convinced that our struggle for emancipation is a just cause. We owe it to the millions of our forefathers who lived in the Northern and Eastern provinces for centuries with their own culture, religions and language, indeed even before the Sinhala language saw the light of day in the sixth century after Christ, that we continue their way of life devoid of the negative effects that have been introduced

among us in recent times but taking confidence in the credo set forth in the **Purananooru**, a product of the Sangam Literature period, two thousand years ago – *Yaathum Oore;Yaawarum kelir;Theethum nandrum pirarthara Vaara-* which meant All villages are ours; All of humanity our brethren; What happens to us is the consequence of our own actions! Thank You.

Justice C.V.Wigneswaran