

Question per week answered by Justice C.V.Wigneswaran -

10.02.2021

Question: Hon' Gajendrakumar Ponnambalam has used the word "Genocide" in Parliament yesterday. Both Government and Opposition MPs objected to such a strong word being used. As a Lawyer, Law Lecturer, Judge and Politician what have you to say?

Response: Due to logistical reasons I could not attend Parliament yesterday. Otherwise I would certainly have supported young Gajendrakumar, whose father was my contemporary at Royal. I congratulate him on his performance.

As stated by him "Genocide" is not mere killing of a racial, national, religious or ethnic group. No doubt the word comes from the Greek word "Genos" which means race and Latin term "Caedere" which means to kill. But the definition in Law has now enlarged to encompass many instances of deliberate extermination of a human group.

Raphael Lemkin, Polish Lawyer of Jewish descent, said "the crime of genocide should be recognized as a conspiracy to exterminate national, religious or racial groups. The overt acts of such a conspiracy may consist of attacks against life, liberty or property of members of such groups merely because of their affiliation with such groups". Jews are well aware of what the Germans under Hitler did! What Lemkin foresaw is what is happening to the North Eastern Tamils in Sri Lanka – attacks against life, liberty and properties of the Tamils.

The Convention on the Prevention and Punishment of the Crime of Genocide adopted by the UN General Assembly on 09.12.1948 that came into effect on 12.01.1951 states that any of the following acts committed with intent to destroy

in whole or in part a national, ethnical, racial or religious group as such viz. (i) Killing members of the group (ii) Causing serious bodily or mental harm to members of the group, (iii) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or part (iv) imposing measures intended to prevent birth within the group and (v) forcibly transferring children of the group to another group (Article 2 of CPPCG) constitutes genocide.

In our Genocide Resolution passed unanimously in the Northern Provincial Council on 10.02.2015 we prepared the Resolution under the above said headings setting out the various ways by which successive Sinhala majority Governments conspired to exterminate the Tamils. This Resolution sought an UN Inquiry to investigate the genocide of the Tamil people in Shree Lanka by successive Shree Lankan Governments and direct appropriate measures at the International Criminal Court outlining that the Tamil people had no faith in any domestic commissions of inquiry.

Today is the sixth Anniversary of our Genocide Resolution. This Resolution claimed that the genocide of Tamils became synonymous with the Country's Policies since it gained independence and Tamils across the Island particularly in the North East have been subject to gross and systematic human rights' violations culminating in the mass atrocities committed in 2009. It pointed out Sri Lanka's historic violations included over 60 years (1948 - 2009) of state sponsored anti - Tamil pogroms, massacres, sexual violence and acts of cultural and linguistic destruction perpetrated by the State. We alleged that those atrocities had been perpetrated with the intent to destroy the Tamil people and therefore constituted genocide. Many matters were highlighted in our Resolution. They included Disenfranchisement of Indian Origin Tamils in 1949 which stripped them of citizenship, the Sinhala Only Act which drove away Tamils from State Service

and the ensuing anti Tamil pogrom in 1956 and 1958, Standardization in Higher Education in 1971 which deprived many deserving Tamil students their Higher Education, the International Tamil Conference event in 1974 where State's agents killed Tamils in the audience, the burning of Jaffna Library by Sinhala Politicians in 1981 destroying over 95000 books and manuscripts, the anti Tamil pogroms in 1977 and 1983 all of which occurred before the rise of an organized Tamil Military struggle.

As an Octogenarian. I could say the intent to undermine the Tamils had started even before 1948. But the intent to exterminate the Tamils may have been from the date of Independence from the British when State power got transferred to the Sinhalese. A Tamil (Mr.Nadarajah) was the Chairman of the Urban Council of Anuradhapura for over 17 years, when I lived in Anuradhapura before 1948. The Old Town of Anuradhapura had considerable population of Tamils. The Plan to build up a New Town and jettison the Old Town with its Tamil influence was hatched even before the date of Independence.

After the 1956 and 1958 pogroms there was considerable exodus of Tamils from the South. They moved mainly towards the Capital, Colombo, and the North Eastern Provinces. After 1983 many went abroad. Now the Government intends to Sinhalacise and Budhisticise North and East on dubious **nay false** historical and archaeological claims. The Tamil Buddhist remains from a period anterior to the birth of the Sinhala Language in the 6th or 7th century AD is foisted on the Sinhalese calling them Sinhala Buddhist archaeological remains. When the original inhabitants of this Island, the Tamils, were Buddhists, there was no Sinhala language born then and therefore no Sinhalese existed.

A very surreptitious act has taken place, after Independence, in this Country. All the Tamil names of villages and place names in the North and East were quickly translated or nomenclature changed into Sinhala and now the Buddhist Priests have a habit of saying the original names of these North Eastern villages and places were in Sinhalese and the Tamils changed them to Tamil in recent times. History demands these Priests to show any Sinhala inscriptions before the 6th or 7th Century referring to such Sinhala names since there was no Sinhala language before 6th or 7th Century AD nor Sinhala people before that time. An attempt is made to refer to *Prakrit* words or phrases which later came into the Sinhala language to show Sinhalese language existed then. Those words and phrases may have existed during the time of *Prakrit* but they were not Sinhala words nor phrases. It only shows those words and phrases were in use then. But certainly they were not Sinhalese words. They were either Pali, *Prakrit*, Tamil or dialects of that time. The attempt to show *Atta Katha* as a Sinhalese book is a feeble attempt of this nature. *Atta Katha* was not in Sinhalese. It may have been in *Prakrit* but not Sinhalese. The first Grammar in Sinhala the *Sidath Sangaraya* was written in the 13th Century AD.

The entire History of the Sinhalese needs to be rewritten. There had been attempts, I am told, to insert some references in the old Sinhala language into *Olas* of yore and into Books written by foreigners. This is to show the Sinhalese speaking existed prior to the 6th or 7th Century AD. I remember how Russian Ballet was introduced into Sinhala Dance forms and Sinhalese thereafter claiming these were original Sinhala Dance forms.

The Sinhalese need not suffer under any inferiority complex. The best is to accept what they are historically, culturally and socially and proceed from there. If the Sinhalese Buddhists realize what their language and culture mean to them would

be what other linguistic, racial, religious groups will feel about their heritages themselves, the Country could certainly move on the path of reconciliation and goodwill. Otherwise we would all perish. Giving over three Islands off Jaffna to a Chinese Company might be the start for the rot!

Of course those who have committed genocide which is a heinous crime would have to pay according to the simple saying of the Sinhala villager - *Kala kala dey pala pala whey*. By genocide one does not mean war casualties. It is the deliberate killing of a group of human beings merely because of their affiliation to such group. Gajendrakumar used the correct word for what has been taking place to the Tamils and what is taking place to them in Shree Lanka then and now.

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