

The Tamil Referendum v The APRC Proposals

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As a citizen of the United Kingdom (I live in Liverpool) I followed the ‘Tamil Referendum GB’ held on the 30th/31st of January 2010 with much interest. When working on the Northern Ireland peace process (I lived in Belfast then) there was a considerable lack of understanding of what was really going on in Northern Ireland in the USA. There many American’s of Irish descent continued to support the Irish Republican Army (IRA) and their aspiration for a united Ireland with little knowledge or appreciation of the power sharing arrangements negotiated under the terms of the Belfast Agreement. Similarly, I wondered, did the Tamil Diaspora in the UK really understand what was going on in Sri Lanka and the efforts of the All Party Representative Committee (APRC) to find a constitutional solution to their country’s problems?

In the Tamil Referendum members of the Tamil community were provided with the following statement:

‘I aspire to the formation of the independent and sovereign state of Tamil Eelam in the contiguous north and east territory of the island of Sri Lanka on the basis that the Tamil speaking people in the island of Sri Lanka make a distinct nation, have a traditional homeland and have the right to self determination.’

They were then asked to ‘Mark a cross (X) in the appropriate box’ which provided for only a ‘Yes’ or a ‘No’ response. The result of this referendum was very clear with 99.71% voting ‘Yes’ and just 0.29% voting ‘No’. Similar polls were also held in Canada, Denmark, France, Germany, Italy, Netherlands, Norway and Switzerland for a total turnout of 200,163 votes cast out of a possible 308,500 to produce a combined result of 99.7% for the Tamil Eelam proposition and only 0.3% against (Table 1). There are more polls expected in Australia and elsewhere.

Table 1. Results of the Tamil Referendum

| Country | Total Polled | ‘Yes’ per cent | ‘No’ per cent |
|--------------|----------------|----------------|---------------|
| Canada | 48,583 | 99.82 | 0.18 |
| Denmark | 4,147 | 99.49 | 0.51 |
| France | 31,148 | 99.86 | 0.14 |
| Germany | 23,089 | 99.41 | 0.59 |
| Italy | 3,680 | 98.79 | 1.21 |
| Netherlands | 2,750 | 99.67 | 0.33 |
| Norway | 5,633 | 99.11 | 0.89 |
| Switzerland | 16,441 | 99.80 | 0.20 |
| UK | 64,692 | 99.71 | 0.29 |
| Total | 200,163 | 99.70 | 0.30 |

It was very important that the Belfast Agreement was put to the people of both Northern Ireland and the Republic of Ireland (the South of Ireland) in a referendum to give the peace agreement political legitimacy. In that referendum held on May 22nd 1998, 71% of the people of Northern Ireland voted ‘Yes’ and in a public opinion poll I conducted on behalf of the parties in the negotiations, just 2 weeks before the

agreement was signed by the British and Irish governments on Good Friday 1998, 77% said they would support the agreement. The opposition of the Democratic Unionist Party (DUP), who were able to get their members to vote against it, can explain the drop of 6% between the results of the poll and the referendum. So the poll was very accurate.

Table 2. The APRC proposals in summary form, as they existed in February 2009.

1. **The Structure of the State** – Powers will be divided between the centre and the provinces under a unitary state.
2. **The Powers of the Centre and Provinces** – These powers will be clearly defined in two separate lists. One for the Centre and one for the Provinces.
3. **The Parliament** - Will consist of two houses. The House of Representatives directly elected by the people and the Senate elected by the Provincial Legislators with each Province having the same number of Senators.
4. **Amending the Constitution** – Amendments affecting the powers of the Provinces can only be made if a majority of Senators from each of the Provinces votes in favour together with not less than two thirds of a joint session of both houses. Amending certain specific articles will also require approval by the people at a referendum.
5. **The Powers of the President** – The Executive Presidency will cease to exist at the end of the incumbent's term and be replaced by the Westminster system with a Prime Minister enjoying majority support in the House of Representatives.
6. **The Powers of Local Authorities** – The Local Authorities will have powers to make by-laws in respect of subjects listed separately in the Constitution.
7. **Language Rights** – The Tamil and Sinhala languages will have parity of status as national and official languages and as languages of the courts. English can also be used for official purposes where it is expedient to do so. Sinhala and Tamil shall be the medium of instruction at the school level as well as English if facilities are available. Sinhala, Tamil and English shall be used at institutes of higher education.
8. **Religious Rights** – Buddhism shall have 'pride of place' with religious freedom for all citizens being guaranteed.
9. **Fundamental Rights** – Individual and Group Rights will be recognized including the equality of all citizens and the protection of all persons before the law.
10. **Electorate System** – The House of Representatives and Provincial Legislators will be elected on a mixed system of first past the post and proportional representation.
11. **The Judiciary** – Will be independent of the Executive. The Court of Appeal will function with Divisions in the Provinces along with the Provincial High Courts.
12. **Public Service** – There will be separate services for the Centre and the Provinces with certain categories of officers classified as all island services. The Village, Divisional and District levels of administration will all come under the Provinces. As far as is practical the Public Service will reflect the composition of the population and it will be independent.
13. **Safeguards against secession** – The Constitution will provide for adequate safeguards against attempts by any Province to secede from the State.
14. **Law and Order** - There will be a Sri Lanka police officers service consisting of senior officers from all ethnic groups. Policing will be devolved to the Provinces with certain powers retained by the centre. National security will be the responsibility of the centre.

In much the same way the APRC proposals (Table 2) were tested against public opinion in Sri Lanka in March 2009 but at that time, before the end of the war, it was not possible to run our poll in the Northern Province. With the war now over the poll was run again in March 2010 and with the benefit of a sample from all the Provinces, including the Northern Province, it was now possible to produce a sample that was representative of Sri Lanka as a whole. At 25% 'essential', 34% 'desirable', 22% 'acceptable', only 7% 'tolerable' and only 3% 'unacceptable' this is an excellent

result for the proposals taken together as a ‘package’ with only 8% ‘Don’t Know’ (Table 3).

Table 3. Sri Lanka response to the APRC proposals (March 2010)

| Sri Lanka per cent | Essential | Desirable | Acceptable | Tolerable | Unacceptable | DK |
|---|-----------|-----------|------------|-----------|--------------|----|
| 1. The Structure of the State | 29 | 38 | 15 | 2 | 9 | 7 |
| 2. The Powers of the Centre and Provinces | 26 | 37 | 15 | 4 | 11 | 8 |
| 3. The Parliament | 23 | 33 | 17 | 5 | 10 | 12 |
| 4. Amending the Constitution | 26 | 35 | 17 | 4 | 5 | 12 |
| 5. The Powers of the President | 28 | 32 | 12 | 4 | 17 | 7 |
| 6. The Powers of Local Authorities | 21 | 32 | 20 | 7 | 11 | 9 |
| 7. Language Rights | 54 | 29 | 8 | 3 | 4 | 2 |
| 8. Religious Rights | 54 | 23 | 6 | 3 | 11 | 2 |
| 9. Fundamental Rights | 60 | 28 | 7 | 1 | 1 | 2 |
| 10. Electoral System | 24 | 30 | 19 | 5 | 9 | 13 |
| 11. The Judiciary | 42 | 36 | 13 | 2 | 2 | 6 |
| 12. Public Service | 25 | 37 | 19 | 5 | 4 | 11 |
| 13. Safeguards against secession | 41 | 29 | 13 | 4 | 5 | 8 |
| 14. Law and Order | 41 | 31 | 11 | 3 | 7 | 6 |
| 15. All of the reform proposals taken together as a ‘package’ | 25 | 34 | 22 | 7 | 3 | 8 |

Similarly when asked a simple ‘Yes/No’ question regarding support for the constitutional package the results for Sri Lanka as a whole, at 83% ‘Yes’, 9% ‘No’ and 8% ‘Don’t Know’, are very encouraging (Table 4). The most important points to note here are that Sinhala and Sri Lanka Freedom Party support has shifted from the ‘Don’t Know’ column before the war in March 2009 to the ‘Yes’ column after the war in March 2010 (the SLFP is the President’s party). Critically, even the Northern Tamils and the supporters of the Tamil National Alliance (TNA) will accept the proposals at 77% and 78% ‘Yes’ respectively.

Table 4. ‘Would you support a package of constitutional reforms for Sri Lanka as outlined here?’

| March 2010 | Sri Lanka | Sinhala | Tamil | UC Tamil | Muslim | Eastern Tamil | Northern Tamil | Other Tamil | SLFP | UNP | JVP | TNA | SLMC |
|------------|-----------|---------|-------|----------|--------|---------------|----------------|-------------|------|-----|-----|-----|------|
| Yes | 83 | 83 | 84 | 86 | 80 | 89 | 77 | 90 | 87 | 80 | 69 | 78 | 74 |
| No | 9 | 9 | 7 | 12 | 13 | 0 | 15 | 4 | 6 | 11 | 27 | 17 | 14 |
| DK | 8 | 9 | 8 | 2 | 8 | 11 | 8 | 6 | 7 | 9 | 4 | 5 | 12 |

| March 2009 | Sri Lanka | Sinhala | Tamil | UC Tamil | Muslim | Eastern Tamil | Northern Tamil | Other Tamil | SLFP | UNP | JVP | TNA | SLMC |
|------------|-----------|---------|-------|----------|--------|---------------|----------------|-------------|------|-----|-----|-----|------|
| Yes | - | 67 | 86 | 92 | 90 | - | - | - | 68 | 85 | 83 | 90 | 88 |
| No | - | 12 | 4 | 0 | 1 | - | - | - | 10 | 3 | 4 | 2 | 5 |
| DK | - | 21 | 10 | 8 | 9 | - | - | - | 22 | 12 | 13 | 7 | 7 |

The results for the test of the APRC proposals in Sri Lanka are certainly as good as if not better than the results for the Belfast Agreement poll, and in Northern Ireland the people there were able to make peace on the strength of those results. Hopefully, now that the elections are over in Sri Lanka the new government will take steps to bring the APRC proposals into constitutional law. With effective implementation all the people of Sri Lanka can reasonably expect to share in all the benefits that will inevitably flow from the peace and stability that these reforms can bring. Referendums that only offer the options of independence for Tamil Elam or the status

quo can't achieve this. Neither of these two options is what is wanted in Sri Lanka now. The people there are prepared to move on. However, it remains an open question as to whether or not the political leadership in Sri Lanka will take this opportunity to resolve the 'national question' once and for all. As far as the people are concerned this door is open. Given the unprecedented electoral mandate handed to the President and his government by the people they are now in an exceptionally strong position to lead them through.